

## CITY OF DENTON CITY COUNCIL MINUTES

January 26, 2016

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, January 26, 2016 at 1:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Council Member Roden, Council Member Johnson, Council Member Hawkins, Council Member Briggs, Mayor Pro Tem Gregory, Council Member Wazny and Mayor Watts,

ABSENT: None.

### 1. Citizen Comments on Consent Agenda Items

There were no citizen comments on Consent Agenda Items.

### 2. Requests for clarification of agenda items listed on the agenda for January 26, 2016.

Council Member Wazny stated that she had questions regarding Consent Agenda Items A and D and requested Item D be considered individually.

Mayor Watts stated that he had the same questions regarding Consent Agenda Item A regarding the lease as Council just received it on Monday.

City Manager Campbell stated that staff had more information on the lease for Council either during the Work Session or the Closed Session.

Mayor Watts stated that he had received several emails on the Consent Agenda Item D and would be more comfortable with clarification from the consultant regarding the fees.

### 3. Work Session Reports

- A. ID 16-036 Receive a report, hold a discussion, and give staff direction regarding efforts to ensure reliable and affordable access to high-speed Internet services for our citizens and businesses.

Melissa Kraft, Director of Technology Services, presented information on the progress made identifying additional Internet services. She detailed information on broadband basics definition, consumer grade connections in terms of DSL, and cable and wireless connections. Business grade Internet access service definitions and background information on requests for this type of service were noted. Staff had discussions with several providers on how to improve their service throughout the City. Those providers included Zayo, Verizon Wireless, and Charter.

The staff recommendations were to develop a communication plan, continue working with Internet Service providers and initiate conversations with Frontier Communications to address potential improvements to residential services.

Council discussion included what size business needed high speed internet, what was on the horizon in 5 years from now in terms of needed speed, continued discussions with providers for Internet connectivity for those not able to afford it, have the City work with providers to make sure

lower income neighborhoods had Internet connections, and consider a committee to study the issue,

- B. ID 16-079 Receive a report and hold a discussion on the status of the Enhanced Right-of-Way Maintenance Program.

Lancine Bentley, Community Improvement Services Division Manager, stated that the objective of her presentation was to provide an update on the Enhanced Right-of-way maintenance program including past accomplishments, upcoming Consent Agenda items and future plans. She showed before and after photos of areas they had worked on and reviewed the Green Ribbon Program that Community Improvement Services was involved with.

Upcoming Consent Agenda items for maintenance contracts and agreements with TxDOT and Union Pacific were reviewed. Future plans included a contractor's meeting, daily monitoring, assess feasibility of other ROW projects, solicit community feedback, the Rail Yard project and providing Council updates.

Council discussed tree trimming on private property versus public property and how to determine who was responsible for the maintenance of those areas, concerns regarding sustainability over the years to maintain areas, and what other cities were doing for sustainability of the maintenance.

- C. ID 16-082 Receive a report, hold a discussion, and give staff direction regarding the creation and implementation of Small Area Plans and the creation of a Small Area Plan for the Fry Street area.

Sophie Huemer, Associate Planner, presented information on the Denton Plan 2030 and small area planning plus the growing need for a small area plan in the Fry Street area. She reviewed the background of small area planning in the Denton Plan 2030 which included the importance of the process, importance of the implementation, and Fry Street being identified as the first area to participate in the Small Area Plan under Denton Plan 2030. Information on the street area in the plan and goals for the Fry Street Plan were presented. The small area plan process included community vision which included a steering committee selection, the setting of goals and expectation of the process, and holding a neighborhood meeting. The next steps were to select the committee, hold the first committee meeting and begin kickoff.

Council discussed what would be done in the interim before the committee was formed and the process completed, whether this would add another layer to a development process, how the plan would help a developer know what was expected in a certain area, whether neighborhood involvement would include inside and outside the boundary of the plan area, the fact that makeup of the committee would be very important, that there were competing interests in the area, that the plan would not be a regulatory document, the boundaries of the plan and whether they were appropriate, the importance of involving the property owners at the front end of the process to ensure success at the end of the process, and thoughts regarding the makeup of the committee

- D. ID 16-102 Receive a report and hold a discussion regarding an amendment to the Rayzor Ranch Overlay District Amendment, Public Hearing item ID 16-045.

Aimee Bissett, Director of Development Services, stated that the discussion would center on an amendment that would align the goals of the Rayzor Ranch Town Center vision presented to Council January 6, 2015 with the Concept Plan. She showed the difference between the original and proposed concept plan and the proposed changes in some of the subareas within the plan. The Bubble Plan would be removed because it was not a regulatory document. The Concept Plan was the document that set the boundaries for the subareas. An amendment would also be proposed to clarify the criteria for approval for site plans.

Council discussed the notification process and how in this instance it did not involve many residents.

- E. ID 16-119 Receive a report, hold a discussion and provide staff direction on a proposal to renovate the Old Central Fire Station and examine surface parking options for downtown.

John Cabrales, Assistant City Manager, presented an update on the status of parking at the old Central Fire Station. He reviewed the current conditions and use, and discussed the site development options in terms of a low, medium, high and hybrid option. There had been a prior discussion regarding the use of the facility for Our Daily Bread but at this time, they did not have a firm proposal. Staff was recommending Option 3.

Council discussion included (1) keeping the rock walls in place as an amenity for landscaping when considering the parking lot construction, (2) Option 3 was too expensive at this time as it was not known what would happen with City Hall West, (3) whether to go with Option 2 or Option 3, (3) where the funding would be coming from for the two options, (4) not taking all of the funding from the General Fund, and (5) consider using TIF funds for part of the funding. Consensus of the Council was to proceed with Option 3.

- F. ID 16-092 Receive a report, hold a discussion, and give staff direction on the Denton Renewable plan and activities related to the future power supply plans to meet the City's growth and needs.

Phil Williams, General Manager - DME, reviewed the public question and answer session that was held on Saturday, January 23rd. He went through the Renewable Denton Plan in terms of what it would do for Denton and the support by the conclusions from the various sources.

Council comments included reasons for moving ahead with this project at this time, the level of citizen participation was high, consideration of an outside consultant to review the proposal and provide options for consideration and the cost involved. Council questioned what type of consultant would be hired and what would be the purpose for the consultant; the mission of the consultant and what it would be trying to address. It was noted that consultants had been used in the in past when staff did not have the time or expertise in an area but in this case staff had the time and the expertise for the proposal. A consultant report that suggested using natural gas generation would not be supported by the public and would be said to be biased and flawed.

Council discussed that hiring a consultant might bring the community together to confirm which direction to proceed and that before hiring a consultant, have staff provide more specific answers

to questions that might be lingering. Natural gas was the bridge from fossil fuels to other renewables. It was felt that there were three outstanding issues (1) a need for a definitive plan, (2) RFPs out on renewable energy to see those before making a decision, and (3) decide what to do with TMPA. The need was for responses to those issues before voting on a resolution with a critical question on what to do with TMPA. A suggestion was to pick a consultant within two weeks and complete the study by March/April.

Williams stated that there would be a need to have someone familiar with ERCOT in order to present a good study of any proposal.

Consensus of the Council was by February 2<sup>nd</sup> to have options on how to proceed with a consultant such as purchasing requirements; to be very clear on the scope and what types of options either what had been proposed or what else might be considered; and include the criteria to meet the goals expressed by Council that were to increase renewables at affordable rates and that maintained reliability. The need was to be specific on the scope of work, show the work that already had been done, whether it was flawed, whether there was a better conclusion and was that the right amount of money to spend.

City Manager Campbell stated that staff would need time to research what consultants were available, what was the scope and how long it would take. He felt that it might be ready for Council discussion by February 16<sup>th</sup>.

Following the completion of the Special Called Work Session, the City Council convened in a Special Called Closed Meeting to consider the specific items listed below under the Closed Meeting section of this agenda.

1. Closed Meeting:

- A. ID 16-107 Consultation with Attorneys - Under Texas Government Code Section 551.071. Consult with City's attorneys regarding ID 16-098 of the January 26, 2016 Consent Agenda, as it concerns legal issues associated with that item where a public discussion of this legal matter would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.
- B. ID 16-091 Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086. Receive a presentation from Denton Municipal Electric staff ("DME") regarding public power competitive and financial matters pertaining to plans, strategies, opportunities, and developments for generation improvements to the DME system; discuss and deliberate strategies regarding same; discuss and deliberate opportunities and strategies for the City to acquire purchased power and enter into agreements regarding the same, in order to meet its future energy needs. Discuss, deliberate and provide Staff with direction.

This item was not considered.

- C. ID 16-097 Deliberations Regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code

Section 551.071. Receive information from staff, discuss, deliberate and provide staff with direction regarding the potential acquisition, exchange, lease or value of real property located generally in the 200 block of West Hickory and the 200 block of West Mulberry in the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the potential real property matter where a public discussion of these legal matters would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation.

- D. ID 16-132 Consultation with Attorneys - Under Texas Government Code Section 551.071. Consult with City's attorneys regarding legal issues associated with the Rayzor Ranch Overlay District zone where a public discussion of these legal matters would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

Special Called Meeting of the City of Denton City Council at 6:30 p.m. in the Council Chambers at City Hall.

## **1. PLEDGE OF ALLEGIANCE**

The Council and members of the audience recited the Pledge of Allegiance to the U. S. and Texas flags.

## **2. CONSENT AGENDA**

Council Member Wazny asked that Item D be pulled for separate consideration.

Council Member Hawkins noted that Items A, E, and F would be pulled from consideration.

Council Member Hawkins motioned, Mayor Pro Tem Gregory seconded to approve the Consent Agenda and accompanying ordinances and resolutions with the exception of Item D which would be considered separately and Items A, E and F which would not be considered. On roll call vote, Council Member Roden "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", Council Member Briggs "aye", Mayor Pro Tem Gregory "aye", and Council Member Wazny "aye". Motion carried unanimously.

- A. ID 16-096 Consider adoption of an ordinance of the City of Denton, Texas approving an Office Lease between the City of Denton and 4SR Mulberry, LLC, related to the properties located at 215 West Hickory Street and 216 West Mulberry Street, Denton, Texas, 76201; providing authority for the City Manager to execute the agreement subject to final language approval by the City Attorney; and providing an effective date.

This item was not considered.

Resolution No. R2016-002

- B. ID 16-109 Consider approval of a resolution of the City of Denton, Texas authorizing the prohibition of open carrying handguns into meeting rooms during certain open meetings and providing for an effective date.

Ordinance No. 2016-015

- C. ID 16-085 Consider adoption of an ordinance of the City of Denton, Texas, prohibiting left turns for any vehicle, except school buses, travelling southbound on Swisher Road at its intersection with Pockrus Paige Road on school days from 7:00 AM until 8:00 AM and from 2:30 PM until 3:30 PM; providing an exception for Denton Independent School District buses; providing a repealer clause; providing a savings clause; providing a penalty not to exceed \$500 for violations of this ordinance; providing that violations of this ordinance shall be governed by Chapter 18 of the Code of Ordinances of the City of Denton; and providing for an effective date. The Traffic Safety Commission recommends approval (5-0).
- E. ID 16-158 Consider adoption of an ordinance of the City of Denton, Texas approving a Right of First Refusal between the City of Denton and 4SR Mulberry, LLC, related to the properties located at 215 West Hickory Street and 216 West Mulberry Street, Denton, Texas, 76201; providing authority for the City Manager to execute the agreement subject to final language approval by the City Attorney; and providing an effective date.

This item was not considered.

- F. ID 16-159 Consider adoption of an ordinance of the City of Denton, Texas approving a Subordination, Non-Disturbance and Attornment Agreement between the City of Denton, 4SR Mulberry, LLC, and the National Bank of Texas at Fort Worth, related to the properties located at 215 West Hickory Street and 216 West Mulberry Street, Denton, Texas, 76201; providing authority for the City Manager to execute the agreement subject to final language approval by the City Attorney; and providing an effective date.

This item was not considered.

Item D was considered.

Ordinance No. 2016-016

- D. ID 16-098 Consider adoption of an ordinance of the City of Denton, Texas, repealing Ordinance No. 2013-248 and enacting a new ordinance relating to planning and development fees as it concerns; gas well drilling and production in the City of Denton and its extraterritorial jurisdiction; road damage remediation fee calculations due to damage to City of Denton roadways from gas well drilling and production activities in the city; assessment of penalties and interest; and setting an effective date.

Aaron Leal, First Assistant City Attorney, clarified the action to be taken on this agenda item. The fee related to site plans for an initial review for the first two years and a second fee for following

that first two years. This was not a fee reduction. The fees represented the City's anticipated cost for recovery of the services provided for the site plans. Fees could not exceed the amount of providing the service. It was anticipated that there would be more applications in the first two years in clusters rather than the third year of the fee schedule.

Mayor Pro Tem Gregory motioned, Council Member Johnson seconded to adopt the ordinance. On roll call vote, Council Member Roden "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", Council Member Briggs "aye", Mayor Pro Tem Gregory "aye", and Council Member Wazny "aye". Motion carried unanimously.

### **3. PUBLIC HEARINGS**

#### Ordinance No. 2016-017

- A. ID 16-045 Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, amending the procedural and development standards for the Rayzor Ranch Overlay District by superseding the previously approved Rayzor Ranch Overlay District classification and amending Chapter 35, Subchapter 7.15 of the City of Denton Development Code. The approximately 410 acre site is generally located on the north and south sides of US HWY 380 (University Drive), between I-35 and Bonnie Brae St.

The Mayor opened the public hearing.

Aimee Bissett, Director of Development Services, stated that this was a city initiated request. The purpose was to eliminate ambiguities between concept plan subareas and uses as well as amend any exhibits that conflict with past site plans. The amendment would align the goals of the Rayzor Ranch Town Center vision presented to Council on January 6, 2015 with the concept plan. She reviewed the history of the current plan and the summary of amendments. The Bubble Plan would be removed because it was not a regulatory document. The Concept Plan was the document that set the boundaries for the subareas. Density zone plan was being modified but there would be no changes to the density or number of units. The site plan exhibit had been modified to reflect the current built outs. There were also amendments to clarify the criteria for approval for site plans. The Planning and Zoning Commission as well as staff recommended approval.

No one spoke during the public hearing.

The Mayor closed the public hearing.

Council Member Johnson motioned, Mayor Pro Tem Gregory seconded to adopt the ordinance. On roll call vote, Council Member Roden "aye", Council Member Johnson "aye", Mayor Watts "aye", Council Member Hawkins "aye", Council Member Briggs "aye", Mayor Pro Tem Gregory "aye", and Council Member Wazny "aye". Motion carried unanimously.

### **4. CONCLUDING ITEMS**

- A. Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the City Council or the public with specific factual information or recitation of policy,

or accept a proposal to place the matter on the agenda for an upcoming meeting and Under Section 551.0415 of the Texas Open Meetings Act, provide reports about items of community interest regarding which no action will be taken, to include: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen; a reminder about an upcoming event organized or sponsored by the governing body; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; or an announcement involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

Council Member Wazny asked that the cell phone policy be revisited.

B. Possible Continuation of Closed Meeting topics, above posted.

There was no continuation of the Closed Meeting.

With no further business, the meeting was adjourned at 7:05 p.m.

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CHRIS WATTS  
MAYOR  
CITY OF DENTON, TEXAS

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JENNIFER WALTERS  
CITY SECRETARY  
CITY OF DENTON, TEXAS