

CITY OF DENTON CITY COUNCIL MINUTES

June 7, 2016

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, June 7, 2016 at 1:00 p.m. in the Council Work Session Room at City Hall.

Members of the Public Utilities Board of the City of Denton attended and participated in Work Session Item 3A and Closed Meeting item 1A.

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

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 June 7, 2016.

City Manager Campbell stated that a written request from the developer for 7C had been received to open and then continue the item to the June 21st meeting. If there were speakers on that item, they could be allowed to speak and then continue the Public Hearing to June 21st.

Mayor Pro Tem Roden asked about Individual Item C, nominations to the Zoning Board of Adjustment. He questioned if the practice was to automatically move an alternate member up to a regular position.

City Attorney Burgess stated that as a matter of practice, there was an attempt to move alternates to regular positions. However, these were nominations by individual council members with the approved of the whole Council. It was not mandatory but had been the practice in the past.

Mayor Watts asked about Consent Agenda Item E, the TMPA joint operating agreement. There had been a draft at the TMPA Board and he questioned how much expenses had been incurred so far and why was it anticipate that more money would be needed.

City Attorney Burgess stated that the outstanding bill had not yet been paid. This request would cover the finishing touches on the project.

3. Work Session Reports

- A. ID 16-641 Receive a report, hold a discussion, and give staff direction regarding the study and analysis by Brattle Group, Inc. of the Renewable Denton Plan and activities related to the future power supply for Denton.

City Manager Campbell stated that this item had also been posted for Closed Session if needed. He presented background information on the Denton Renewable Plan detailing the direction of the Plan, public meetings and scope of the work for the Brattle Group. The Council had received an Executive Summary of the report with the final report to be completed by the end of the week.

Ira Shavel, Brattle Group, reviewed the scope of the project which included analysis of the RDP, alternative options and an independent economic feasibility assessment of the RDP. He detailed the information concerning the RDP consisting of renewable purchase power agreements and the Denton Energy Center.

Council discussed a qualified scheduling entity, an energy management operation, how to benchmark savings moving forward, definitions of ancillary services, length of contracts, and number of units needed.

Shavel continued with the analysis of the RDP. He stated that the analysis compared three potential power supply strategies and used two different scenarios for future power prices. The analysis confirmed that the RDP DEC strategy was the most cost effective option among the three strategies. The conclusion was that the RDP should lower customer costs, reduce fossil fuel consumption and reduce air emissions compared to the status quo. Twelve units were the best size for DEC from both the operational and economic perspectives and the Study recommended the plan as proposed. He noted the timing was ripe for this project due to the economy to proceed with the facility.

Council convened in Closed Meeting at 3:20 p.m. to consider the following:

- A. ID 16-645 Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086. Receive a presentation from Brattle Group, Inc regarding the Renewable Denton Plan, including 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.

Council reconvened in Open Session at 4:30 p.m. and continued discussion of Work Session 3A.

Council discussed air emissions and air quality.

Mayor Pro Tem Roden asked if staff was ready to move forward with the proposal.

City Manager Campbell stated that an additional Work Session could be scheduled if needed on June 14th plus a Closed Meeting with a recommendation on June 21st or consideration of Notice of Intent to move forward.

Consensus of the Council was to move forward with the Renewable Plan, determine what funding mechanism was going to be used; or modify the RDP plan into another format; maintenance of the units; and the wording on a resolution concerning renewables.

- B. ID 16-677 Receive a report, hold a discussion and give staff direction regarding the amendment of Chapter 18, Section 18-38, of the Code of Ordinances, Use of Wireless Communication Devices While Driving.

Lee Howell, Police Chief, presented the proposal to prohibit all wireless communication devices in the City in any location. He reviewed background information on how the issue got to this point and provided information on wireless device crash factors.

Council discussed the difficulty of talking on the phone vs texting and the burden of proof, ticketing for crashes was not always possible, enforcement of this specific issue as opposed to other distractions in a car, and the need to provide for specific areas in the city prohibiting wireless devices rather than city-wide. Council requested data from other cities that had bans and how effective they were.

Following the completion of the Work Session, the City Council convened in a Closed Meeting at 5:45 p.m. to consider the specific items listed below under the Closed Meeting section of this agenda.

1. Closed Meeting:

- B. ID 16-639 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 and discuss, deliberate, and provide staff with direction regarding the potential acquisition of real property interests related to the location and siting of electric transmission lines in an area bounded by Fort Worth Drive and Elm St. (western boundary), Robertson Street (northern boundary), the DART/D.C.T.A rail corridor (eastern boundary), Inman St. with an easterly projection to Spencer Rd. (southern boundary) and being located within the W. Loving Survey, Abstract No. 759; the H. Sisco Survey, Abstract No. 1184; the S. Hiram Survey, Abstract No. 616; the W. Teague Survey, Abstract No. 1266; the M. Austin Survey, Abstract No. 4; the J. Taft Survey, Abstract No. 1256; the R. Hopkins, Abstract No. 1694; and the A. Hill Survey, Abstract 623, lying within the City of Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition of the real property interests described above where a discussion of these legal matters in an open meeting 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, or where discussions had, deliberation, and direction given, by the Denton City Council in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third party. [Spencer to Locust Transmission Route]

- C. ID 16-657 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 and discuss, deliberate, and provide staff with direction regarding the potential acquisition of real property interests located between Western Blvd. and Lot 1, Block 1, of the R D Wells Interchange Addition, an Addition to the City of Denton, Denton County, Texas according to plat recorded at Page 169, Cabinet Y, Plat Records of Denton County, Texas; discussions had, deliberation, and direction given, by the Denton City Council in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third party. Consultation with the City's attorneys regarding legal issues associated with the acquisition of the real property interests described above; discussion of these legal matters in an open meeting 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. [Easement related to the R.D. Wells Substation]

- D. ID 16-668 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 pertaining to the potential acquisition of real property interests in the Hiram Sisco Survey, Abstract No. 1184, Denton County, Texas, and generally located in area bounded to the north by East Hickory Street; to the south by East Prairie Street; to the west by South Bell Avenue; and to the east by the Pecan Creek tributary, City of Denton, Texas. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition or condemnation of the real property interests described above 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. (Downtown Denton property tracts) [no action item]

Council Member Hawkins left the meeting.

Regular 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. PROCLAMATIONS/PRESENTATIONS

- A. ID 16-608 Presentation to retiring Police Department officer, Virginia Nichols, from the Children's Advocacy Center.

Dan Leal, Children's Advocacy Center, made the presentation to Virginia Nichols.

- B. ID 16-638 Colonel Wesley C. Reed Day

Mayor Watts presented the proclamation for Colonel Wesley C. Reed Day.

- C. ID 16-689 Youth Peace Day International

Mayor Watts presented the proclamation for Youth Peace Day International.

Mayor Watts announced that Public Hearing 7C had been continued to the June 21st meeting. The public hearing would be opened and citizens would be allowed to speak.

3. PRESENTATION FROM MEMBERS OF THE PUBLIC

- A. Review of procedures for addressing the City Council. B. Receive Scheduled Citizen Reports from Members of the Public.

- 1. ID 16-662 Ed Soph regarding residential electric rates.

Mr. Soph did not make his citizen report.

- 2. ID 16-663 Larry Beck presenting citizen letters opposing the proposed gas plants.

Mr. Beck spoke on the Brattle Group study presented at the Work Session. He submitted citizen letters opposing the proposed gas plants.

- 3. ID 16-669 Max Folmar regarding traffic conditions in the City and Customer Service billing procedures.

Mr. Folmar spoke on practices by Customer Service and notices regarding rate changes. He suggested including them in billing statements for those customers who do not take the local paper or use the Internet. He also suggested a category of customers for retired/disabled with a fixed due date.

- C. Additional Citizen Reports

- 1. Ken Gold spoke on the RDP and having citizens vote on the plan.

4. CONSENT AGENDA

Council Member Gregory motioned, Mayor Pro Tem Roden seconded to adopt the Consent Agenda and accompanying ordinances and resolutions. On roll call vote, Council Member Briggs "aye", Council Member Wazny "aye", Mayor Watts "aye", Mayor Pro Tem Roden "aye", Council Member Gregory "aye", and Council Member Bagheri "aye". Motion carried unanimously.

Approved the minutes listed below.

- A. ID 16-623 Consider approval of the minutes of March 1, March 3, March 22, March 28 Forum, April 4, April 4 Forum, April 5, April 6 Forum, April 12, April 21 Forum, April 23 Forum, April 25 Forum, and April 26, 2016.

Resolution No. R2016-013

- B. ID 16-628 Consider approval of a resolution by the City of Denton, Texas, authorizing the City Manager to sign and submit to the Department of Housing and Urban Development a 2016 Action Plan for Housing and Community Development with appropriate certifications, as authorized and required by the Housing and Community Development Act of 1974, as amended, and the National Affordable Housing Act of 1990, as amended; and providing for an effective date.

Ordinance No. 2016-150

- C. ID 16-664 Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and Denton County Friends of the Family for the purpose of shelter and outreach services; providing for the expenditure of funds therefor; and providing for an effective date. (\$400)

Ordinance No. 2016-151

- D. ID 16-670 Consider adoption of an ordinance authorizing the City Manager to execute a Cooperative Purchasing Program Agreement with the City of Watauga, Texas under Section 271.102 of the Local Government Code, to authorize City of Denton contracts for the purchase of various goods and services; authorizing the expenditure of funds therefor; and declaring an effective date (File 6141-Cooperative Purchasing Program Agreement with the City of Watauga).

Ordinance No. 2016-152

- E. ID 16-671 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager to execute a Second Supplement to a Professional Services Agreement by and between the City of Denton, Texas and the law firm of Cole Schotz, P.C., Dallas, Texas for legal services relating to transactional and regulatory work pertaining to the Texas Municipal Power Agency; providing for additional expenditure authority of not-to-exceed \$150,000; providing an effective date. (File 5380 in the additional amount not-to-exceed \$150,000, aggregating a total not-to-exceed \$399,500). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2016-153

- F. ID 16-672 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for Landscape and Sod Replacement Services for various City departments; providing for the expenditure of funds therefor; and providing an effective date (RFP 6098-awarded to Classic Landscapes, Inc. in the three (3) year not-to-exceed amount of \$500,000).

Ordinance No. 2016-154

- G. ID 16-673 Consider adoption of an ordinance accepting competitive proposals and awarding a contract for plumbing services for City of Denton; providing for the expenditure of funds therefor; and providing an effective date (RFP 6004-awarded to CBS Mechanical Services, Inc. in a three (3) year amount not to exceed \$450,000).

Ordinance No. 2016-155

- H. ID 16-676 Consider adoption of an ordinance of the City Council of the City of Denton, Texas, authorizing the City Manager to execute a Professional Services Agreement for architectural design services for the design of the City of Denton Regional Public Safety Training Facility Project outside training facility additions including a burn tower, outdoor training classroom, concrete pads for the Flash Chamber, Class A burn props and a propane tank to be located at 4201 Vintage Parkway; providing for the expenditure of funds therefor; and providing an effective date (File 6140 awarded to Pierce Goodwin Alexander and Linville, Inc. dba PGAL in the not-to-exceed amount of \$192,060).

Ordinance No. 2016-156

- I. ID 16-681 Consider adoption of an ordinance of the City of Denton, Texas approving a second amendment to a Non-Annexation Agreement between the City of Denton, Jean Ann Baker and Ryan Capital Partners, Ltd.; and providing an effective date.

Ordinance No. 2016-157

- J. ID 16-697 Consider adoption of an ordinance approving an agreement between the City of Denton and Dallas MTA, L.P. d/b/a Verizon Wireless regarding an in building wireless installation at 608 E. Hickory St., Suite 128 ("Rail Yard Business Incubator Project"); and providing an effective date.

5. ITEMS FOR INDIVIDUAL CONSIDERATION - CONSIDERATION OF THE USE OF EMINENT DOMAIN TO CONDEMN REAL PROPERTY INTERESTS

6. ITEMS FOR INDIVIDUAL CONSIDERATION

Ordinance No. 2016-158

- A. ID 16-472 Consider adoption of an ordinance of the City of Denton, Texas, on second reading to involuntarily annex approximately 2.1021 acres of land, contained in one (1) of the fifteen (15) annexation areas, specifically land located within DH14; providing for a penalty in the maximum amount of \$2000.00 for violations thereof, severability and an effective date.

Aimee Bissett, Director of Development Services, presented background information on the ordinance. This was a second reading of the ordinance for involuntary annexation. The property was being annexed as it was an isolated tract completely surrounded by the City. She read the ordinance caption into the record.

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

Ordinance No. 2016-159

- B. ID 16-675 Consider adoption of an ordinance of the City of Denton, Texas, on second reading to involuntarily annex approximately 712 acres of land, contained in one (1) of the fifteen (15) annexation areas, specifically land located within PAA4; providing for a penalty in the maximum amount of \$2000.00 for violations thereof, severability and an effective date.

Aimee Bissett, Director of Development Services, presented the background information on the second reading of the annexation ordinance. A non-annexation agreement was offered to the property owner but the owner did not sign the agreement. She read the ordinance caption into the record.

Council Member Gregory motioned, Mayor Pro Tem Roden seconded to adopt the ordinance. On roll call vote, Council Member Briggs "aye", Council Member Wazny "aye", Mayor Watts "aye", Mayor Pro Tem Roden "aye", Council Member Gregory "aye" and Council Member Bagheri "nay". Motion carried with a 5-1 vote.

- C. ID 16-688 Consider nominations/appointments to the City's Boards and Commissions: Parks, Recreation and Beautification Board; Public Art Committee; and Zoning Board of Adjustment.

Council Member Bagheri nominated Ed Steele for the Public Art Committee. Council Member Wazny nominated David Higgins for the Zoning Board of Adjustment.

Willie Hudspeth spoke regarding the appointments. He felt diversity was needed on the boards/commissions.

Mayor Pro Tem Roden motioned, Council Member Wazny seconded to approve the nominations. On roll call vote, Council Member Briggs "aye", Council Member Wazny "aye", Mayor Watts "aye", Mayor Pro Tem Roden "aye", Council Member Gregory "aye", and Council Member Bagheri "aye". Motion carried unanimously.

7. PUBLIC HEARINGS

Ordinance No. 2016-160

- A. ID 16-429 Hold a public hearing and consider adoption of an ordinance granting approval, in accordance with Chapter 26 of the Texas Parks and Wildlife Code, of the

non-park use of a part of North Lakes Park for the purpose of installing and maintaining an electric transmission, distribution, and communication line for the City's Electric Utility Infrastructure Upgrade Project; providing for a notice by the City of Denton, Texas of non-park use for installation and maintenance of electric transmission, distribution, and communication line and reservation of easement in the event of sale of park; and providing an effective date. The Parks, Recreation and Beautification Board recommends approval (5-0).

The Mayor opened the public hearing.

Jim Mays, Superintendent of Planning and Construction, presented the details of the ordinance which would grant approval of a non-park use of a part of North Lakes Park. The purpose would be for installing and maintaining an electric transmission, distribution, and communication line for the Electric Utility Infrastructure Update Project. Chapter 26 of the Texas Parks and Wildlife Code required the public hearing.

Willie Hudspeth spoke in opposition.

The Mayor closed the public hearing.

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

Ordinance No. 2016-161

- B. ID 16-650 Hold a public hearing and consider adoption of an ordinance granting approval, in accordance with Chapter 26 of the Texas Parks and Wildlife Code, of the non-park use of a part of Northpointe Park for the purpose of installing and maintaining an electric transmission, distribution, and communication line for the City's Electric Utility Infrastructure Upgrade Project; providing for a notice by the City of Denton, Texas of non-park use for installation and maintenance of electrical transmission, distribution, and communication line and reservation of easement in the event of sale of park; and providing an effective date. The Parks, Recreation and Beautification Board recommends approval (5-0).

The Mayor opened the public hearing.

Jim Mays, Superintendent of Planning and Construction, presented the details of the ordinance which would grant approval of a non-park use of a part of North Lakes Park. The purpose would be for installing and maintaining an electric transmission, distribution, and communication line for the Electric Utility Infrastructure Update Project. Chapter 26 of the Texas Parks and Wildlife Code required the public hearing.

Willie Hudspeth spoke in opposition.

The Mayor closed the public hearing.

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

- C. Z16-0003a Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, regarding a rezoning request from Neighborhood Residential 3 District (NR-3) to Neighborhood Residential 6 District (NR-6) on approximately 0.6 acres, located on the northeast corner of North Bell Avenue and East Windsor Drive; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing a severability clause and an effective date. The Planning and Zoning Commission recommends approval 4-2. (Z16-0003).

The Mayor opened the public hearing and noted that the item would be moved to the June 21st meeting.

No one spoke during the public hearing.

Council Member Gregory motioned, Council Member Wazny seconded to postpone the item to the June 21st meeting. On roll call vote, Council Member Briggs "aye", Council Member Wazny "aye", Mayor Watts "aye", Mayor Pro Tem Roden "aye", Council Member Gregory "aye", and Council Member Bagheri "aye". Motion carried unanimously.

8. PRESENTATION FROM MEMBERS OF THE PUBLIC

- A. Review of procedures for addressing the City Council. B. Receive Scheduled Citizen Reports from Members of the Public.
 1. ID 16-661 William Jones regarding trespassing by Code Enforcement and Environmental Services personnel.

Mr. Jones presented a photo of their trailer that was torn down and requested consideration from Council.

2. ID 16-629 Willie Hudspeth regarding the lack of hiring black firefighters, the ethics ordinance, and the hiring of a city auditor.

Mr. Hudspeth spoke against speakers at the end of the council meetings and the lack of hiring of African American firefighters.

9. 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 Gregory requested an Informal Staff Report regarding hiring requirements for the Fire Department and when changes went into effect.

Council Member Gregory asked about amending the procedures for speaking at the meetings with no presentations at the end of meetings and no open mic segments.

Council Member Briggs asked about the regulations for speaking at the end of meetings.

Council Member Briggs requested a report on economic development incentives to local small businesses.

Council Member Wazny questioned when the compensation study would be forwarded to Council.

Council Member Wazny requested that the ethics ordinance be placed back on an agenda.

Council Member Wazny requested consideration of a property tax freeze for individuals over 65.

Mayor Watts requested Customer Service contact Mr. Folmar regarding the due date on his bill and report on due date changes.

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 8:14 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS