

CITY OF DENTON CITY COUNCIL MINUTES

May 8, 2018

After determining that a quorum was present, the City Council of the City of Denton, Texas convened in a Work Session on Tuesday, May 8, 2018 at 12:00 p.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton.

PRESENT: Council Member Hudspeth, Council Member Briggs, Council Member Duff, Council Member Ryan, Council Member Gregory, Mayor Pro Tem Bagheri, 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 May 8, 2018.

Staff responded to the Council's requests for clarification on the following items:

Council Member Briggs - Consent Agenda item A

Council Member Briggs asked that Consent Agenda item D be pulled for individual consideration as she would have to recuse herself. Council Member Briggs asked that Consent Agenda items E and F be pulled for individual consideration.

Mayor Pro Tem Bagheri announced this was her last meeting and thanked everyone.

3. Work Session Reports

- A. ID 18-652 Receive a report, hold a discussion, and give staff direction regarding the contract administration audit findings and recommendations from Crawford and Associates, P.C.

Bryan Langley, Deputy City Manager, introduced the consultants who presented their audit findings. They conducted on-site kickoff meetings with City staff from Finance, the City Manager's Office, and Procurement and Compliance. In addition to discussing the overall scope of work, Compliance personnel provided information from departmental interviews regarding contract administration and a master list of city-wide contracts. Contracts include procurement contracts (goods and services), leases, memorandums of understanding, interlocal agreements, construction contracts, hedging agreements, and other various types of agreements. From the provided list of 868 contracts, they requested supporting documentation for 62 varying types of agreements, which was provided from Procurement, City Secretary, and/or departmental records.

Crawford and Associates recommended the following improvements be made to the City's contract administration:

1. Develop formal policies concerning overall contract management (roles and responsibilities, binding authority, recordkeeping, and contract templates).

2. Develop formal policies regarding federal awards to ensure compliance with Title 2 U.S. Code of Federal Regulations (CFR) Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements.
3. Review current written policies to ensure compliance with Uniform Guidance requirements outlined in 2 CFR 200.317-.326.
4. Implement a routine training program for City employees who work with contracts and grants.
5. Implement a review process to ensure Council approved contracts are executed for the same amounts.
6. Implement a routine review of the contract administration process of all City departments to ensure best practices of proper documentation, monitoring, and compliance.
7. Implement a system for tracking all City contracts.
8. Implement a formal process for the Legal department to timely notify other appropriate City departments when a contract needs to be updated with new legal language.

City Management agreed with the reported findings and acknowledged there had been deficiencies in the contract administration process.

- B. ID 18-651 Receive a report, hold a discussion, and give staff direction regarding the City's Compliance and Procurement program and initiatives.

Cassey Ogden, Director of Procurement and Compliance, stated that the department was created at the beginning of Fiscal Year 2017-18. Contract administration was identified as one of the top five risks to the City. An outside firm was hired to conduct a contract administration audit. Staff compiled a master list of all City contracts, both procurement and non-procurement. Compliance conducted departmental interviews which identified several issues including inconsistencies in contract templates, confusion about roles, responsibilities, processes, and approvals; lack of centralized document storage for non-procurement contracts.

Ogden stated that Compliance and Purchasing personnel were currently working on the following initiatives to further mitigate contract risk: performing risk assessments of current procurement contracts; conducting peer reviews of contract documentation prior to Council consideration; utilizing an agenda checklist to ensure consistency between the contract and ordinance before Council consideration; and conducting an additional Compliance review process, in conjunction with the City Attorney's Office, for large procurement contracts over \$2 million.

The following accomplishments have been achieved in quarters one and two of fiscal year 17/18: Compliance has interviewed departments regarding contracts and current contract administration processes; completed training and certification as Leadership Professionals in Ethics & Compliance; purchased a contract management software solution to improve contract compliance, track contract expenditures, and manage not-to-exceed amounts; assisted Crawford and Associates, P.C. with contract administration audit; developed an ethics policy for all City employees, in conjunction with Human Resources and the City Manager's Office; and developed and facilitated ethics training classes for supervisors.

Procurement has implemented a non-disclosure/conflict of interest process and evaluation team diversity standards; completed training on alternative delivery methods with attorney Tim

Matheny; completed contract administration training; and reorganized the Distribution Center to include Denton Municipal Electric logistics staff, consolidating resources, creating efficiencies, and cross-training staff.

- C. ID 18-720 Receive a report from staff and the Denton Parks Foundation, hold a discussion, and give staff direction regarding 1) the implementation of recommendations related to a review of the relationship between the Parks Foundation and the City of Denton, and 2) potential options for future partnership opportunities between the Foundation and City.

Bryan Langley, Deputy City Manager, introduced Tim Smith and Molly Tampke with the Denton Parks Foundation. He stated that they wanted to discuss the status of some of the findings of the Parks Foundation review and some of the conversations that staff had been having with the Foundation.

The City did not have a policy on how it was to conduct business with the Parks Foundation. There was concern regarding “blurred lines” between the Foundation and City operations. City staff supported Foundation operations in several capacities, but the exact details of this work was not measured or explicitly authorized in an operating agreement. Recommendations were made in four categories – accounting for Youth Sports Association fees, City operations, Foundation operations, and Agreement with the Foundation/clarification of boundaries (assuming Foundation and City move forward together).

The recommendation for Accounting for Youth Sports Association fees was that payments should be remitted for field enhancements per the agreement or develop a new agreement with the associations. Langley stated that task was completed and Council approved an ordinance in February 2018. In April 2018, the Foundation voted to transfer all YSA funds held to the City.

The recommendation for City operations was to implement a code of conduct policy; complete annual conflict of interest disclosures for Council and department heads that focused on transparency regarding with whom the City did business; and establish procedures for receipt and expenditure of donations. Langley stated that those tasks were completed. A City employee ethics policy was adopted by Council and the Council had adopted an ethics ordinance. Conflicts of interest were required to be disclosed before the evaluation of formal solicitations. Donations and related expenses were entered into Parks recordkeeping software and a sponsorship policy had been drafted.

The recommendation for Foundation operations was to implement controls for cash handling and procurement; develop conflict of interest and code of conduct policies; implement more timely entry of financial transactions (within one to two weeks); set up procedures to ensure recording and tracking of pledges; and enter addresses of its vendors in accounting software to identify potential COI. Langley stated that those tasks were completed. The Foundation Board had approved new Donor, Accounting, Conflict of Interest, and Code of Conduct policies in April. A Foundation policy was approved to enter financial transactions within three business days of receipt.

The recommendations for an agreement with the Foundation and clarification of boundaries were to evaluate relationship periodically; develop an agreement which set out the understanding of the

relationship with the Foundation and City, clearly defining roles and expectations for each party; develop policies and procedures around the interactions between the City and Foundation; define how ROI or other metrics of performance should be calculated; and define a reporting mechanism for communication and coordination purposes for the Executive Director of the Foundation to the City. Implementation of these recommendations was dependent upon any future agreement between the City and Foundation.

Langley stated that staff was seeking direction from City Council on whether there was an interest in proceeding with developing an agreement with the Foundation to address short-term issues identified – to accept and allow the Foundation to allocate donated funds for Youth Summer Scholarships; permission to continue acting as the pass-through organization for the Youth Sports Enhancement Fees; to allow the Foundation to continue acting as the pass-through and financial oversight organization for civic organizations that utilize city facilities for their seasonal events (i.e. Cinco de Mayo, Juneteenth); and to allow the Foundation to facilitate a 3-way Memorandum of Understanding (MOU) for any donations that were made for specific improvements to city parks and recreation department facilities or property that should be approved and/or reviewed by City Council.

Council discussion included administrative support for the Foundation, function of the Foundation; return on investment; clarify the blurred lines; to see proformas in the future; foundation raised money but needed input from City as to how to spend it.

- D. ID 18-739 Receive a report, hold a discussion, and give staff direction regarding the 2017 Reliability Indices for the electric distribution system and DME's actions taken to improve reliability.

George Morrow, General Manager of DME, introduced Jerry Fiedler, Division Engineering Manager of Distribution, who in turn introduced Brad Watts, Rowdy Patterson, and Sam Bridges, Superintendents for DME operations. He stated that DME had a responsibility to provide reliable service so when issues arose, response was quick to restore service. There were three emphases in a reliability study: the number of events, the amount of time, and the customers affected. For the study period, the top five causes to outage events were: small animals—mainly squirrels, maintenance, decay/age of material/equipment, lightning, and material or equipment failure.

DME was looking for ways to improve its system reliability as a continual process. There would always be worst performing feeders. DME was committed to continually look for new products or applications that minimized the effects of causes that were out of their control, such as squirrels and lightning.

Electric distribution systems would be capable of increased performance and reduced outage time through distribution automation, or as it was commonly called the smart grid. DME was reviewing all of its field control devices on the distribution system, and when appropriate, preparing them to be Intelligent Electric Devices (IED's) capable of real-time data transmission and event monitoring back to a head-end system called an Advanced Distribution Management System (ADMS). These were the systems that would make Denton's "self-healing grid" possible. A simplistic approach to ADMS' value was it would minimize the amount of time customers experienced an outage (restored service to as many as possible while isolating the cause of the fault); could increase the

efficiency (and lower the cost of energy) of the distribution system operation by applying counter measures to operational issues such as power factor and low voltage; and give DME engineers, system operators, and maintenance staff real-time data on the overall health of the system.

- E. ID 18-275 Receive a report, hold a discussion, and give staff direction regarding the City of Denton's special event processes, application requirements, common issues, and recommendations for potential solutions.

Sarah Kuechler, Director of Public Affairs, stated that Council had requested a work session on the City's policy and practices for special events. The current process was: over 80 special event applications were reviewed each year; event applications were submitted to the Community Events Coordinator in Parks & Rec at least six weeks prior to an event; currently 6 ordinances related to special events (parades, food, fire code, amplified sound, alcohol in parks, and street closures). Internal staff team has reviewed process, researched other municipalities, and developed recommendations.

Kuechler stated that goals were to improve customer service, increase transparency, create efficiencies, and ensure consistency between events. Recommendations were to adopt a special events ordinance to establish policy, streamline the application, improve coordination of event review, issue a special event permit to applicants clearing stating their event approval and any contingencies that must be met; implement a single point of payment for applicants. The draft ordinance included the following - increase insurance requirement; consistent submission timeframe; request a parking plan and notification plan; clarify traffic responsibilities; repeal of parade ordinance; in-kind service requests and reporting; revocation of a special event permit; and exempted events.

Kuechler stated that aspects of a special event ordinance that required further discussion and direction from Council included –

Appeals – Staff had included in the draft ordinance that all appeals of denials or revocations of a special event permit be sent to the City Manager.

First Amendment Activity – Staff had proposed in the draft ordinance that individuals wishing to hold a demonstration related to First Amendment activity be required to submit a special event application and receive a permit prior to the demonstration.

Block Parties – Staff had proposed that neighborhood block parties be required to submit a special event application, but would not be subject to fees or insurance requirements for the event.

City Council Approval – Another area of discussion was whether a special event permit would need City Council approval if it met certain conditions.

Consensus of council was they were ok with staff approval of special events.

Following the completion of the Work Session, the City Council convened in a Closed Meeting to consider the following items.

1. Closed Meeting:

- A. ID 18-777 Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086; Consultation with Attorneys - Under Texas Government Code Section 551.071. Discuss and deliberate strategies and opportunities for the City to acquire solar energy and enter into agreements regarding the same including a Power Purchase Agreement with Bluebell Solar II, LLC.; receive a presentation from staff regarding public power competitive and financial matters pertaining to the purchase of solar energy; consultation with the City's attorneys regarding legal issues associated with the agreement described above where 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.
- B. ID 18-812 Consultation with Attorneys - Under Texas Government Code, Section 551.071. Receive information from, consult with, deliberate, and provide direction to the City's attorneys regarding monies paid by the City to the University of Texas at Arlington ("UTA") related to (i) UTA's Solid Waste Institute for Sustainability; and (ii) UTA's research related to and/or at the City's ECO-W.E.R.C.S. Resource Recovery Park. 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.
- C. ID 18-836 Deliberate regarding Real Property - Under Texas Government Code 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071 Discuss, deliberate, receive information from staff, and provide staff with direction regarding the potential purchase or condemnation of various fee simple tracts, utility easements, drainage easements, and temporary construction easements in the City of Denton, Denton County, Texas for the Bonnie Brae Street Widening and Improvements project, generally located along Bonnie Brae Street, north of Interstate Highway 35East, and south of Scripture Street. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition of real property interests in the tracts 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.
- D. ID 18-837 Deliberate regarding Real Property - Under Texas Government Code 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071 Discuss, deliberate, receive information from staff, and provide staff with direction regarding the potential acquisition of one or more real estate interests in a tract generally located in the G. Walker Survey, Abstract No. 1330a, East of South Mayhill Road and North of Edwards Road, in the City of Denton, Denton County, Texas which is related to both the Mayhill St. Widening Project and the promotion of tree preservation in accordance with the Denton Development Code and Denton Plan. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition of the tract 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.

Following the completion of the Closed Meeting, the City Council convened in a Special Called Meeting to consider the following items.

1. CONSENT AGENDA

Council Member Ryan motioned, Council Member Gregory seconded to approve the Consent Agenda and accompanying ordinances with the exception of Items E and F. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "aye", Mayor Pro Tem Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 18-284

- A. ID 18-284 Consider adoption of an ordinance of the City Council of the City of Denton, a Texas home-rule municipal corporation, nunc pro tunc, correcting an inadvertent mistake in Ordinance No. 2016-172, relating to the dollar amount reflected in back up provided for RFP Number 5641, awarded to Genuine Parts Company, d.b.a. NAPA Auto Parts; and providing for an effective date.

Ordinance No. 18-335

- B. ID 18-335 Consider adoption of an ordinance approving a pipeline crossing contract by and between the City of Denton, Texas and the Kansas City Southern Railway Company relating to the location of a City water pipeline within the railroad right-of-way, located at the railroad's intersection with South Bonnie Brae at Mile Post D103.24 Alliance Subdivision, within the County and City of Denton, Texas; authorizing the City Manager to execute the Agreement; authorizing the expenditure of funds therefore; and providing an effective date. (North-South 42-inch Water Transmission Main project - Phase 2) The Public Utilities Board recommends approval (5-0).

Ordinance No. 18-549

- C. ID 18-549 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Professional Services Agreement with Teague Nall and Perkins, Inc., for engineering and architect services, for the investigation of existing pavement failures on selected concrete streets as set forth in the contract; providing for the expenditure of funds therefor; and providing an effective date (RFQ 6590-001- Professional Services Agreement awarded to Teague Nall and Perkins, Inc., in the not-to-exceed amount of \$173,400).

Ordinance 18-559

- D. ID 18-559 Consider adoption of an ordinance of the City of Denton, Texas amending the Fiscal Year 2017-18 Budget and Annual Program of Services of the City of Denton to allow for increases to: (A) the General Fund of \$2,190,291 for the purpose of funding the Vela Soccer Complex project, and (B) the Capital Improvement Program of \$7,643,619 for the purpose of funding drainage, streets and parks capital projects; declaring a municipal

purpose; providing a severability clause; providing an open meetings clause; and providing for an effective date.

Ordinance No. 18-756

- G. ID 18-756 Consider approval of a resolution of the City Council of the City of Denton, Texas approving a policy and application to review housing tax credit requests; and providing an effective date.

Ordinance No. 18-833

- H. ID 18-833 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, to amend Ordinance No. 18-551 Passed and Approved on April 17, 2018 for administrative clarity in reflecting the vote submitted by each council member as either Aye, Nay, Abstain, or Absent.

Item E was considered.

Ordinance No. 18-583

- E. ID 18-583 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, accepting competitive proposals and awarding a public works contract for the construction of the G. Roland Vela Athletic Complex for the City of Denton; providing the expenditure of funds therefor; and providing an effective date (RFP 6671-awarded to North Rock Construction, LLC, in the not-to-exceed amount of \$5,692,727).

Council Member Gregory motioned, Council Member Ryan seconded to adopt the ordinance. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "nay", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "aye", Mayor Pro Tem Bagheri "nay", and Mayor Watts "aye". Motion carried (5-2).

Item F was considered.

Ordinance No. 18-584

- F. ID 18-584 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Professional Services Agreement with Freese & Nichols, Inc., to perform construction project management for the G. Roland Vela Athletic Complex; and providing an effective date (RFQ 6590-002-Professional Services Agreement for project management awarded to Freese & Nichols, Inc. in the not-to-exceed amount of \$188,909).

Council Member Gregory motioned, Council Member Ryan seconded to adopt the ordinance. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "nay", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "aye", Mayor Pro Tem Bagheri "nay", and Mayor Watts "aye". Motion carried (5-2).

2. ITEMS FOR INDIVIDUAL CONSIDERATION

Ordinance No. A18-0001a

- A. A18-0001a Consider adoption of an ordinance of the City of Denton, Texas, setting a date, and place for two public hearings on the proposed annexation of certain property generally located on the south side of E. Ryan Road, east of the intersection of E. Ryan Road and Andrew Avenue by the City of Denton, Texas, authorizing and directing the City Secretary to publish notice of such public hearings.

Richard Canone, Director of Development Services, stated that this item set the annexation schedule for this property. This property was part of a pre-annexation development agreement from 2016.

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

Ordinance No. 18-283

- B. ID 18-283 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Professional Services Agreement for engineering and architectural design for various City of Denton parking lots; providing for the expenditure of funds therefor; and providing an effective date (RFQ 6581- awarded to Teague, Nall, and Perkins, Inc., in the not-to-exceed amount of \$300,050).

Mario Canizares, Assistant City Manager, stated that this was for a professional services agreement for engineering services for the reconstruction of City-owned parking lots due to poor pavement condition. Request for Qualifications were conducted to select an engineering firm and Teague, Nall & Perkins had been selected. He reviewed the list of parking lots that had been identified – City Hall East, Denia Recreation Center, Civic Center, Service Center, and an alternative bid for the McKinney Street parking lot.

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

Ordinance No. 18-588

- C. ID 18-588 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, accepting competitive bids and awarding a public works contract for asphalt and concrete street repair services for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (IFB 6730- awarded to Jagoe-Public Company, in the one (1) year not-to-exceed amount of \$10,000,000).

Todd Estes, Director of Capital Projects/City Engineer, stated that this was a contract for asphalt and concrete street repair services. The contract would have a term of one year with a not-to-exceed amount of \$10,000,000. Invitations were sent to 407 contractors and only 2 responded. Staff recommended a one-year contract to the lowest qualified bidder, Jagoe-Public.

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

Ordinance No. 18-645

- D. ID 18-645 Consider adoption of an ordinance of the City of Denton, Texas, providing for, authorizing, and approving the expenditure of Hotel Occupancy Tax funds for public art in the amount of \$45,000 awarded to artist Paula Collins (File 6607) which is available from only one source and in accordance with Chapter 252.022 of the Texas Local Government Code such purchases are exempt from the requirements of competitive bidding and 2014 Bond funds for public safety-related public art in the amount of \$9,300 awarded to Kirkpatrick Architecture Studio for its professional services (File 6796) for the purchase and installation of two brick sculptures depicting the history of the Denton Police Department to be displayed on the exterior of City Hall East; authorizing the City Manager to execute any agreements required under Files 6607 and 6796; and providing an effective date. The Public Art Committee recommends approval (4-3).

Council Member Briggs recused herself.

Caroline Booth, Director of Economic Development, stated that this was about a public art project at the Denton Police Department Facility. Over the past year the Public Art Committee has held discussions on a public art project for the exterior of the Denton Police Department Facility. After a review of the committee's minutes, staff determined that no formal recommendation had been made from the Public Art Committee to the Council regarding the project. Work on the project was placed on hold in March so that the correct recommendation and approval process could be followed.

Booth reviewed the background of this item. In April 2017, the Public Art Committee had the initial discussion of the Denton Police Department's request to commission artist Paula Collins for exterior brick sculptures and possible funding sources. No vote was documented in the meeting minutes. In May 2017, \$45,000 for the project was included in the PAC's HOT funds application for FY17-18. In August 2017, the HOT Committee approved the PAC application and Council approved the HOT Committee recommendation.

In November 2017, the City entered into a contract with Paula Collins for the sculptures. In December 2017, the PAC discussed an additional funding request from the Denton Police Department for engineering services to install the brick sculptures. No vote was documented in the meeting minutes. In March 2018, the project was placed on hold to be taken through the correct PAC recommendation and Council approval process.

In April 2018, staff presented PAC with options, including stopping work with the current artist and opening up the project for an RFQ process or proceeding with the current artist and taking the project through the correct approval process. Several PAC members expressed concerns about the project being procured through sole source instead of RFQ. Members requested staff assurance that proper procurement and recommendation/approval processes would be followed with future projects. Other members felt that due to time, research, and work already performed by the artist,

it was best to proceed with the project as-is. The PAC recommended approval of the use of HOT Funds for the brick sculpture and 2014 Bond funds for the engineering services project (4-3).

The ordinance would approve the expenditure of \$45,000 from the FY 2017-2018 HOT Funds to the artist Paula Collins and \$9,300 from the 2014 Bond Funds–Public Art–Public Safety (Kirkpatrick Architecture Studio).

Council Member Gregory motioned, Council Member Hudspeth seconded to adopt the ordinance. On roll call vote, Council Member Hudspeth "aye", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "aye", Mayor Pro Tem Bagheri "nay", and Mayor Watts "aye". Motion carried (5-1).

Ordinance No. 18-776

E. ID 18-776 Consider adoption of an ordinance of the City Council of the City of Denton, a Texas home-rule municipal corporation, providing for, authorizing, and approving the execution by the Mayor of a Power Purchase Agreement ("PPA") between the City of Denton, a Texas home-rule municipal corporation ("Denton"), and Bluebell Solar II, LLC, a Delaware limited liability company ("Bluebell Solar II"); approving and authorizing the acceptance and approval by the City Manager, or his respective designee, of guaranties and letters of credit issued by Bluebell Solar II and NextEra Energy Capital Holdings, Inc., a Delaware corporation ("NextEra Holdings"), further securing the obligations of Bluebell Solar II to the City for the benefit of the City; approving the execution of such other and further related documents deemed necessary to effectuate this transaction by the City Manager, or his designee, which are incident or related to the PPA; finding that the PPA, as redacted, pertains to a "competitive electric matter" as set forth under the provisions of §§551.086 and 552.133 of the Texas Government Code, as amended; finding and determining that the Texas Government Code §252.022(a)(15) applies to said Purchase Power Agreement, exempting the procurement of electricity from the requirements of competitive bidding; finding that the purchase of capacity and energy made by Denton under the terms of the PPA are in the public welfare; authorizing the expenditure of funds; providing an effective date.

George Morrow, General Manager of DME, stated that the City had issued a Request for Proposals to purchase solar and/or wind energy for an extended term. As per the RFP, proposed projects were evaluated based on price, location (i.e. congestion impacts), hourly production profile, and past performance/experience on projects of similar magnitude/complexity. The Bluebell Solar II, LLC. project proposal by NextEra Energy Capital Holdings was judged to be the highest ranking of the respondents. Bluebell Solar II was a subsidiary created by NextEra Energy to own and operate their proposed project. This project would be located adjacent to the Bluebell Solar I project that was under construction and committed to the City of Denton. The Bluebell Solar I project was scheduled to produce energy by December 31, 2018 for a twenty year term.

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

Ordinance No. 18-844

- F. ID 18-844 Consider adoption of an ordinance authorizing the execution of a settlement agreement between the City of Denton and the Board of Regents of the University of Texas System on behalf of the University of Texas at Arlington ("UTA") related to monies paid by Denton to UTA for solid waste research and related activities at Denton's ECO-W.E.R.C.S. resource recovery facility and including Denton's membership in UTA's Solid Waste Institute of Sustainability; authorizing the City Manager and City Attorney to effectuate the settlement; and, providing for an effective date.

Ethan Cox, Director of Solid Waste, stated that since 2009, the City of Denton had been involved in a series of four interagency agreements with UTA in which the University performed research projects at the City's landfill. The projects focused on the performance monitoring of various landfill systems. In 2015, the City entered into a \$400,000 agreement with UTA to provide research and consulting services related to Solid Waste's landfill mining program. Also in 2015, the City's Solid Waste department began participating as a charter member of UTA's Solid Waste Institute of Sustainability (SWIS).

During the past year, there has been a concentrated effort by City staff to review the business practices, programs, and budgeting methodology at the Solid Waste Department. As part of these efforts, the staff briefed the City Council in September 2017 regarding the feasibility and financial impact of the department's landfill mining operation. The Council elected to discontinue the mining program to avoid projected annual losses in the range of \$1 to \$1.5 million.

Following the discontinuation of the mining program, staff performed an audit of the UTA agreement as part of an effort to eliminate all mining program costs from the Solid Waste budget. During this review, it was determined that payments had been remitted to UTA for work that could not have been completed, as the landfill mining program had yet to be implemented. Shortly thereafter, City staff engaged UTA to negotiate the return of unexpended funds from the agreements, projects, and SWIS membership.

The settlement agreement attached for Council's consideration provides for the immediate return of unexpended funds totaling \$600,000 along with the potential return of an additional \$26,000 following the financial closeout of the final agreement. As part of this settlement, the City of Denton and UTA release one another from any disputes, claims, or demands related strictly to these agreements, projects, and/or SWIS membership.

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

3. 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 stated that Cycle with the City ride was Wednesday at 6 p.m.

Council Member Briggs asked for an update on the SUP landscaping plan for the landfill.

Council Member Briggs requested a staff report on the potential use of leaf trucks.

Council Member Briggs asked that staff reach out to the bike coordinator regarding the sidewalk along Mingo Road.

Council Member Briggs asked when the Fire Station 4 ribbon cutting would be held and when Medic 4 would be operational.

Council Member Briggs asked what was going to be done with the Kings Row Substation property.

Council Member Hudspeth announced that the new splash park was opening on May 12.

Council Member Duff asked about voting locations for the runoff election.

Mayor Watts read a Resolution of Appreciation for Mayor Pro Tem Bagheri. The Council roasted Mayor Pro Tem Bagheri.

With no further business, the meeting was adjourned at 5:27 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JANE RICHARDSON
ASSISTANT CITY SECRETARY
CITY OF DENTON, TEXAS