

CITY OF DENTON CITY COUNCIL MINUTES

November 19, 2013

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, November 19, 2013 at 2:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Mayor Burroughs, Mayor Pro Tem Kamp, Council Member Engelbrecht, Council Member Gregory, Council Member King, Council Member Roden, Council Member Hawkins

ABSENT: None

WORK SESSION

1. Citizen Comments on Consent Agenda Items

There were no citizen comments presented on Consent Agenda items.

2. Requests for clarification of agenda items listed on the agenda for November 19, 2013.

Council Member Gregory stated that he would like to pull consent item A and consider it under Items for Individual Consideration.

City Manager George Campbell advised the Council that consent items P through T would be pulled from the Consent Agenda and would not be considered.

Council Member Engelbrecht stated that consent item C on the revision to the Investment Policy, there was no definition for long term and short term debt. He asked if those definitions could be included in the document.

Council Member Engelbrecht asked that the Council adhere to the 6:30 p.m. timeframe for the start of the regular meeting. He stated that the Council could come in after the regular meeting to finish the Work Session.

3. Receive a report, hold a discussion, and provide staff with direction regarding the proposed 2014 Bond Program.

Bryan Langley, Assistant City Manager, stated that this agenda item was an additional opportunity for Council to ask any questions they might have regarding establishing the bond committee or the charge for the committee.

Council Member Gregory asked if there would be another opportunity to make appointments after this meeting.

Langley stated yes, the first meeting of the bond committee was scheduled for December 12 and there would be another Council meeting where nominations could be made.

5. Receive a report, hold a discussion, and give staff direction regarding a proposed Taxilane Quebec Hangar Development at Denton Enterprise Airport.

Quentin Hix, Director of Aviation, stated that last week Airport staff briefed the Council Airport Committee on a hanger development project. The Council Airport Committee directed staff to

present this project to the entire Council. He stated that staff was seeking direction on the next steps. Hix stated that Airport staff was approached in September 2012 by an engineering firm interested in developing hangars at the Airport. Airport staff determined through surveying current Airport hangar management firms that there was a waiting list of aircraft owners prepared to lease new hangar space if it was made available.

Airport staff worked with Materials Management and issued an RFP to solicit proposals for the development of aircraft hangars either independently or in partnership with the City to build hangars on property at the Airport that was adjacent to the new taxilane. The only proposals received were for design build which Airport staff recommended to the Council be rejected. Council subsequently rejected those bids and started with a build-to-suit approach for this hangar development.

Airport staff had worked with Aguirre-Roden Engineers to develop a conceptual design and financial analysis to determine the economic feasibility of funding construction of hangars at the Airport. Hangar space was proposed to be constructed through a competitive bidding procedure. These hangars would be leased to a professional management company for sub-lease to individual aircraft owners.

Aguirre-Roden Engineers would develop construction specifications, support the City's Purchasing Department to solicit competitive construction bids and provide Construction Management services for the project. The proposed hangar development was Phase I of a planned development of approximately 22 acres of taxilane access property in the southeast area of the Airport. Phase I would be constructed in five units of nested T-hangars and four small box hangars. The construction schedule would be scoped to allow discontinuation of development if each unit was not substantially leased prior to completion. The schedule for completing Phase I was mid July 2014.

Hix stated that the total cost of \$1.75 million would be funded using the Airport Fund to pay the debt service. If the Council recommended moving forward with the project, a separate Council action would be presented to consider a Fiscal Year 2013-14 Budget Amendment and a reimbursement ordinance for current project funding.

Council Member Gregory asked what the current occupancy rate was.

Hix replied it was 100% occupancy and currently 107 people were waiting for hangars.

General consensus of the Council was to move forward with the project.

4. Receive a report, hold a discussion, and give staff direction regarding a proposed Hotel/Convention Center.

Jon Fortune, Assistant City Manager, stated that he would paraphrase the key elements of the agreements. He stated that Julie Partain with Bracewell & Giuliani, had been instrumental in consolidating all the comments by the various parties involved and had assisted in drafting these documents. He stated that Charlie Jackson with UNT, and Kim Phillips with the Convention & Visitors Bureau were also present.

Fortune stated that he would review the following documents - Master Development Agreement, Preliminary Site Plan, City-UNT Land Lease, City-OHPD Convention Center Sublease, UNT-OHPD Land Lease and Professional Services Agreement.

He reviewed the Convention Center feasibility and timeline. He stated that upon approval of all the agreements that would trigger the Design Development Phase and architectural drawings would be created. Once the City approved those drawings, they would solicit proposals for construction and evaluate the price. If the City felt the price was within the budget, those contracts would be approved contingent upon future funding becoming available. The budget would be finalized and the City would receive the franchise and funding commitment from O'Reilly Hospitality Partners Denton.

Fortune stated that this would initiate the creation of the TIRZ and final evaluation of the overall project feasibility. The City Council would initiate the bond sale process and publish notice of intent. The City would issue the debt. OHPD and the City would close on respective financing commitments. Once the funding became available, the final design would be completed and the creation of the TIRZ would be finalized. Once this final design was approved the construction phase would begin.

Fortune reviewed the preliminary draft of the Master Development Agreement and some of the definitions – Approved Franchise/Approved Franchisor – initial franchise would be 18 years with an Embassy Suite Hotel. Comparable Convention Centers / Comparable Hotel Properties – maintain a standard for the facilities that we were going to be building. These are going to be high-quality structures. Fully functional with all the amenities that you typically see in a full service hotel and a very large convention center.

Council Member Engelbrecht stated that as he understood that a full service hotel included food service. He felt if it was a first class hotel it should have a full service restaurant and a full service bar. He stated that he would like to see how that was all tied together.

Fortune stated that Convention Center / Hotel – this would be at least a 9-story building with 275 guest rooms and could be as high as an 11-story building with 318 guest rooms. Upscale Condition – with respect to the hotel, the condition of the hotel would be held to the standard of a Three Diamond Rating – asking for a standard that clearly define what certain hotel amenities would qualify for. He reviewed definitions for – OHPD (O'Reilly Hospitality Partners Denton) Service-Hotel; OHM (O'Reilly Hospitality Management) Services to the City. Think of it as OHPD as the owners of the hotel. They would hire a management company – OHM, and they would help OHPD create the design, develop the architectural specifications, and solicit their guaranteed max price contracts. The City was also hiring OHM to help with the design and construction of the convention center. He stated the City wanted to make sure there was as much consistency in the development of the design of the two facilities and in the construction and coordination that was necessary for the construction of those two facilities.

He reviewed Project Feasibility – during this phase, drawings would be made available to the City for approval and this would be where the City would be able to make sure the convention center was what we had been told we were getting and was actually what we were anticipating getting. We would take a look at the preliminary budget at this time. Financing Viability – discussed the specific interest rate level that was kind of a threshold, identified as 6%, so that if we got to a point where we were ready to issue bonds and for whatever reason interest rates were

way beyond 6% – then this would be an opportunity to say it might not be the best time to do this project. Hotel Franchise Agreement – mentioned the ability to operate the hotel without a franchise agreement. Tax Increment Reinvestment Zone – wanted to remind everyone that if these documents were approved, the TIRZ was not automatically created; that was another step.

Fortune reviewed Construction Activities – Payment and Performance Bonds; Construction Phase. Financing of the Project – Private Financing Contribution; Financing Viability Deadline; City Financing Contribution; City Financing Contribution Limitation. He reviewed Purchasing Services –FF&E Schedule and Specifications. He reviewed Additional Obligations of OHPD – Transfer Lease Assignment; Conditions to Transfers. He reviewed the definitions for Cost Savings and Expense Requirements. He also reviewed the Naming Rights and stated that the City would maintain control of the naming rights.

Council Member Roden asked if there was a way to put in the agreement what the City wanted to see, what UNT wanted to see, and what O'Reilly wanted to see.

Fortune stated that those elements were in the agreement. He stated that he had been working with the City Manager and Legal to work out details in an effort to protect the City.

Fortune reviewed the City–UNT Land Lease, City-OHPD Convention Center Sublease, UNT-OHPD Land Lease, and the Professional Service Agreements.

Fortune stated that the following were pending items: need receipt of OHPD-OHM Convention Center Management Agreement; reviewing dates and time requirements for accuracy; reviewing references and definitions, review of insurance and default provisions for consistency, and finalize minor elements based on continued discussions.

Fortune reviewed the schedule for consideration of approval. November 19 – City Council review; November 26 – UNT Regents Facility Committee Review; December 2 – Joint Presentation to City Council / DISD Trustees; December 3 – Presentation to EDPB–informational only; December 3 – City Council review; December 5 – UNT Regents consider approval; December 10 – City Council consider approval.

General consensus of the Council was to proceed with the next steps.

The City Council convened in a Closed Meeting at 4:09 p.m. to consider the following:

1. Closed Meeting:

A. Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

1. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the James Perry Survey, Abstract No. 1040, John Scott Survey, Abstract No. 1222, John Bacon Survey, Abstract No. 1541, and the John Davis Survey, Abstract No. 326, City of Denton, Denton County, Texas, and generally located along Western Boulevard between Airport

Road and Jim Christal Road. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition and condemnation of the real property 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.

2. Discuss, deliberate and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located (1) in the O.S. Brewster Survey, Abstract No. 56, located generally in the 1700 block of South Bonnie Brae Street; and (2) in the James Edmonson Survey, Abstract No. 400, Denton County, Texas, located generally in the 3100 Block of South Bonnie Brae Street, all property interests within the 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. (Bonnie Brae Widening)
3. Discuss, deliberate and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the B.B.B. & C.R.R Co. Survey, Abstract No. 196, and the J. Withers Survey, Abstract 1343, and the A. Cannon Survey, Abstract 232, all in Denton County, Texas, and located generally along the north side of the meanders of the Hickory Creek tributary, between U.S. Highway 377 and F.M. Road 1830, and also located generally along the north side of the meanders of the Hickory Creek tributary, west of Old Alton Road, all within 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. (Hickory Creek Basin Sanitary Sewer Peak Flow Storage Facility)

B. Deliberations regarding certain public power utilities competitive matters - Under Texas Government Code, Section 551.086.

1. Receive a presentation from DME staff regarding the GreenSense Energy Efficiency Rebate Program which is authorized under the current DME rate ordinance, Schedule GFR, regarding issues relating to solar energy rebates, including re-establishing the amount of funding under such

Schedule, re-analyzing qualifying criteria for such rebates, amending the rebate amounts per solar installation, and making other amendments to the Criteria Manual for such Schedule. Discuss, deliberate and provide staff with direction.

C. Consultation with Attorney - Under Texas Government Code Section 551.071.

1. Consultation with the City's attorneys regarding legal advice concerning the leasing of land and financing of a proposed Hotel/Convention Center facility of University of North Texas property located at I-35 and North Texas Boulevard where a public discussion of this legal matter would conflict with the duty of the City's attorneys to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.
2. Consult with and provide direction to City's attorneys regarding legal issues and strategies associated with Gas Well Ordinance regulations and Fire Code regulations relating to gas well drilling and production and safety issues regarding gas well drilling and production within the City Limits and the extraterritorial jurisdiction, including Constitutional limitations, statutory limitations upon municipal regulatory authority, statutory preemption and/or impacts of federal and state law and regulations as it concerns municipal regulatory authority and matters relating to enforcement, and any contemplated litigation or settlement offers regarding drilling in the City of Denton where the duty of the City's attorneys to the City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

Following the completion of the Closed Meeting the Council reconvened in a Work Session at 6:09 p.m. to consider the following:

7. Receive a report, hold a discussion, and give staff direction regarding a sponsorship in an amount not to exceed \$13,000 of in-kind services and supplies for the 25th Annual Denton Holiday Lighting Festival to be held on Downtown Square on December 6, 2013, and providing an effective date.

Emerson Vorel, Director of Parks and Recreation, stated that the Holiday Lighting Festival Association had requested in-kind assistance for their event on December 6. The request this year was the same as last year. Vorel stated that the Mayor had a question about \$1,000 from the contingency fund but he had not had an opportunity to discuss with Legal.

Mayor Burroughs asked if the ordinance was written that it was capped at \$13,000, that his preference was that Council contingency funds not be included as part of the cap.

Vorel stated that the ordinance was written "not to exceed \$13,000 of in-kind services and supplies".

Mayor Pro Tem Kamp stated that Council contingency funds were not in-kind services and supplies.

Council Member Gregory suggested revising the ordinance to say “not to exceed \$13,700.00”.

General consensus of the Council was to make the revision.

6. Receive a report, hold a discussion, and give staff direction regarding proposed changes to the current Permit and Fee Schedule.

Kurt Hansen, Building Official, stated that the current fee schedule was adopted in 1998. The latest amendment occurred in 2008 for new permit fees for one and two-family dwellings. He stated that staff had reviewed the existing permit fees. As each fee was discussed, staff considered the following questions before making any suggestions about changing or adjusting a fee. 1) Did this fee cover the cost of our service to process, review, and inspect this item? 2) How did this fee compare with similar fees from other comparable cities? 3) Was this fee onerous for the person who was required to obtain the permit? 4) Did we keep this fee low because the value of the work being performed was also low?

Hansen reviewed some of the significant changes to consider. For One and Two-Family Dwellings, staff compared our fees to Allen, Frisco, McKinney and others, and determined that their fees were approximately double Denton’s fees. Staff recommended that the City adopt the same fee table as Allen, Frisco, and McKinney. The existing fee was a permit fee that was based on square footage.

Council Member Gregory asked what our actual cost was.

Hansen replied that a consultant would need to be used to determine the actual costs.

Mayor Burroughs stated that some of the builders were concerned about the fees versus the costs.

Mayor Burroughs stated that he would like to see an aggregate of all the fees for someone wanting to build a new house in Denton and then compare it to maybe to McKinney’s fees.

General consensus of the Council was to bring the item back with more details regarding the costs and other fees.

The City Council convened in a Regular Session at 6:42 p.m. in the Council Chambers.

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. Proclamations/Awards

1. American Diabetes Month

The Mayor presented the American Diabetes Month proclamation to Ryan Armstrong with the Diabetes Association.

2. One O'Clock Lab Band

The Mayor presented the One O'Clock Lab Band proclamation to members of the One O'Clock Lab Band.

3. **CITIZEN REPORTS**

- A. Review of procedures for addressing the City Council.
- B. Receive citizen reports from the following:

Council Member Engelbrecht requested the Citizen Reports at the end of the meeting be moved up at this time. General consensus of the Council was to move the Citizen Reports listed at the end of the meeting to the front of the meeting.

- 1. Rachel Bowers regarding gas well fracking on Bonnie Brae and Vintage Parkway.

Ms. Bowers requested a moratorium on all gas well fracking in the city of Denton until the current ordinance is enforceable for all wells. Would like the current permits for EagleRidge be revoked.

- 2. Sandy Mattox regarding gas well fracking on Bonnie Brae and Vintage Parkway.

Ms. Mattox requested a moratorium on all gas well drilling in Denton until the City eliminated the loopholes in its ordinance and the moratorium needed to be in effect until enforcement problems were corrected. She also requested the permits for the Bonnie Brae / Vintage wells be revoked until the ordinance and enforcement problems can be corrected.

- 3. Cathy McMullen regarding permits for gas well drilling on Bonnie Brae and Vintage Parkway.

Ms. McMullen requested a moratorium on all drilling activity around protected use areas in Denton.

Mark Brady regarding taxi cab licensing.

Mr. Brady requested that the misdemeanor charges be removed from the conditions for taxi cab licensing.

Ed Soph regarding gas well drilling.

Mr. Soph requested a moratorium on all drilling in Denton until an ordinance was in place that truly protected the residents of Denton.

Carol Soph regarding gas well drilling.

Ms. Soph requested a moratorium on fracking in Denton.

Adam Briggie regarding the gas well situation near the Meadows at Hickory Creek on Bonnie Brae and Vintage.

Mr. Briggles suggested revoking the Specific Use Permit for EagleRidge. He suggested that the Council ask themselves if they had done all they could regarding the fracking in this neighborhood.

Linda Alexander regarding a moratorium on well drilling.

Ms. Alexander requested a moratorium on gas well drilling in Denton.

Angie Holliday regarding the Vintage neighborhood drilling and fracking.

Ms. Holliday requested a moratorium on gas well drilling in Denton.

Kelly Higgins regarding gas drilling moratorium.

Ms. Higgins requested a moratorium on gas well drilling in Denton.

4. CONSENT AGENDA

Mayor Burroughs stated that Item A and Item K would be pulled for separate consideration. City Manager Campbell stated that Items P, Q, R, S, and T would be pulled from consideration and placed on an agenda in December and Item M would also be pulled from consideration and considered at the special meeting on Friday. City Attorney Burgess stated that Item H was to be amended to say \$13,700 of in-kind services.

Mayor Pro Tem Kamp motioned, Council Member Hawkins seconded to approve the Consent Agenda and accompanying ordinances and resolutions with the exception of Items A, K, M, P, Q, R, S, and T and a revision to Item H to read \$13,700 instead of \$13,000. On roll call vote, Council Member King "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Engelbrecht "aye", Council Member Roden "aye", Mayor Pro Tem Kamp "aye", and Mayor Burroughs "aye". Motion carried unanimously.

Resolution No. R2013-035

- B. Consider approval of a resolution revising Administrative Policy No. 403.07 "Debt Service Management"; and providing an effective date. The Audit/Finance Committee recommends approval (3-0).

Resolution No. R2013-036

- C. Consider approval of a resolution reviewing and adopting revisions to the Investment Policy regarding funds for the City of Denton; and providing an effective date. The Audit/Finance Committee recommends approval (3-0).

Ordinance No. 2013-316

- D. Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for the installation of a pre-cast concrete security/screening fence at the Cooper Creek Substation for Denton Municipal Electric; providing for the expenditure of funds therefor; and providing an effective date (RFP 5295-awarded to Walsh's Hawk Construction Co., LLC in an amount not-to-exceed \$354,971). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2013-317

- E. Consider adoption of an ordinance accepting competitive bids and awarding a public works contract for water and wastewater improvements as specified in Bid 5366 State School Interceptor II; providing for the expenditure of funds therefor; and providing an effective date (Bid 5366-awarded to the lowest responsible bidder meeting specification, Wright Construction Company, Inc. in the amount of \$2,594,780). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2013-318

- F. Consider adoption of an ordinance accepting competitive proposals and awarding contract for Janitorial Services for City of Denton buildings; providing for the expenditure of funds therefor; and providing an effective date (RFP 5317-awarded to Oriental Building Services, Inc. in the annual not-to-exceed amount of \$581,238 for a three (3) year not-to-exceed amount of \$1,743,714).

Ordinance No. 2013-319

- G. Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and the Children's Advocacy Center for Denton County, Incorporated in the amount of \$119,141; providing aid to the City of Denton Police Department in the investigation of child abuse cases; providing client and clinical services to victims of child abuse and non-offending family members; providing for the expenditure of funds therefor; and providing for an effective date.

Ordinance No. 2013-320

- H. Consider adoption of an ordinance approving a sponsorship in an amount not to exceed \$13,000 of in-kind services and supplies for the 25th Annual Denton Holiday Lighting Festival to be held on Downtown Square on December 6, 2013, and providing an effective date.

Second Reading

- I. Consider adoption of an ordinance authorizing execution of a franchise agreement with the City of Denton, acting through its electric utility, granting a franchise to maintain, and operate facilities within the City of Corinth for the delivery and sale of electricity; providing for the payment of a fee for the use of the public rights-of-way; providing that such fee shall be in lieu of other charges; setting forth the term of the franchise; providing for the ratification and retroactive approval of said agreement; and providing an effective date. (Second Reading)

Ordinance No. 2013-321

- J. Consider adoption of an ordinance approving a First Amendment to a Commercial Operator Airport Lease Agreement between the City of Denton, Texas and Nebrig Properties, L.P. for assignment to Sykes-Vaughan Investments, LLC; and providing an effective date. The Council Airport Committee recommends approval (3-0).

Ordinance No. 2013-323

- L. Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and Coats for Kids Ride, Inc.; providing for the expenditure of funds; and providing for an effective date. (\$1,100).

This item was not considered.

- M. Consider adoption of an ordinance authorizing the City Manager or his designee to execute a temporary access permit (the "Permit"), by and between the City of Denton, Texas and EagleRidge Operating, LLC, a Texas limited liability company ("EagleRidge"), granting a license to EagleRidge to temporarily access certain City owned lands located in the James Edmonson Survey, Abstract Number 401 and the James L. Harris Survey, Abstract Number 555, located generally 1,800 feet southwest of the intersection of South Bonnie Brae and Vintage Boulevard, City of Denton, Denton County, Texas, in connection with the overland transport of water for gas well operations; and providing an effective date.

Ordinance No. 2013-324

- N. Consider adoption of an ordinance of the City of Denton, Texas amending a Professional Services Agreement by and between the City of Denton, Texas and Power Engineers, Inc. for electrical transmission line design, and other engineering related consulting services for Denton Municipal Electric Capital Improvement Projects; authorizing the expenditure of funds therefor; providing an effective date (File 5174-First Amendment to Professional Services Agreement in the original not-to-exceed amount of \$1,576,050, Amendment One in the amount of \$820,492, for a total not-to-exceed amount of \$2,396,542). The Public Utilities Board recommends approval (7-0).

Ordinance No. 2013-325

- O. Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving the expenditure of funds for the purchase of thirteen (13) vertical break switch upgrade components for Denton Municipal Electric substations which are available from only one source and in accordance with Texas Local Government Code 252.022, exempt from the requirements of competitive bidding; and providing an effective date (File 5113-awarded to Keasler Sales, LLC in the not-to-exceed amount of \$175,370). The Public Utilities Board recommends approval (7-0).

This item was not considered.

- P. Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Contract of Sale (herein so called) as attached hereto and made a part hereof as Exhibit "A" by and between the City of Denton (the "City"), and Westpark Group, L.P., a Texas Limited Partnership (the "Seller"), contemplating (I) the sale by Seller and purchase by City of a 4.2218 acre tract of land, more or less, for the purchase price of Four Hundred Thirty Five Thousand Six Hundred and No/100 Dollars (435,600.00); and (II) donation of a 10.1164 acre tract of land, more or less, all of said Real Property being generally located along the east side of Western Boulevard between Airport Road and Jim Christal Road in the James Perry Survey, Abstract 1040, City of Denton, Denton County, Texas; authorizing the City Manager, or his designee, to execute, deliver any and all other documents necessary to accomplish closing of the transactions contemplated by the Contract of Sale; authorizing the expenditure of funds therefor; and providing an effective date. The Public Utilities Board recommends approval (7-0).

This item was not considered.

- Q. Consider adoption of an ordinance of the City of Denton, Texas, authorizing the City Manager or his designee to execute a Contract of Sale (herein so called), by and between the City of Denton (the "City"), and Westpark Group, L.P., a Texas Limited Partnership

(the "Seller") contemplating the sale by Seller and purchase by the City of a 3.00 acre tract of land, more or less, for the purchase price of One Hundred Eighty Thousand Nine Hundred Ninety One and 80/100 Dollars (\$180,991.80), said Real Property being generally located east of Western Boulevard and North of Airport Road, and located in the James Perry Survey, Abstract 1040, and the John Davis Survey, Abstract 326, Denton County, Texas, authorizing the City Manager, or his designee, to execute and deliver any and all other documents necessary to accomplish closing of the transactions contemplated by the Contract of Sale; authorizing the expenditure of funds therefor; and providing an effective date. The Public Utilities Board recommends approval (7-0).

This item was not considered.

- R. Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Contract of Sale (herein so called), by and between the City of Denton (the "City"), and Westpark Group, L.P., a Texas Limited Partnership (the "Seller"), contemplating the sale by Seller and purchase by the City of (I) fee simple to a 6.49 acre tract of land, more or less, and (II) a drainage easement encumbering a 1.6234 acre tract of land, more or less (collectively the "Property Interests"), for the purchase price of One Hundred and No/100 Dollars (\$100.00), said Property Interests being generally located east of Western Boulevard and North of Airport road, and located in the James Perry Survey, Abstract 1040, Denton County, Texas, authorizing the City Manager, or his designee, to execute and deliver any and all other documents necessary to accomplish closing of the transactions contemplated by the Contract of Sale ("Closing") and documents contemplated by the Contract of Sale to be executed by the City after closing; authorizing the expenditure of funds therefor; and providing an effective date. The Public Utilities Board recommends approval (7-0).

This item was not considered.

- S. Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Contract of Sale (herein so called), by and between the City of Denton (the "City"), and Westpark Group, L.P., a Texas Limited Partnership ("Westpark") and Rayzor Investments, Ltd., a Texas Limited Partnership ("Rayzor") (Westpark and Rayzor collectively, the "Seller"), contemplating the sale by seller and purchase by the City of certain Easements (herein so called) related to gas, electric, communication, and thermal commodity purposes, for the purchase price of One Hundred and No/100 Dollars (\$100.00), the Real Property being encumbered by the easements being generally located along both sides of Western Boulevard between Airport road and Jim Christal Road, and located in the John Scott Survey, Abstract 1222, the Thomas Toby Survey, Abstract Number 1285, the James Perry Survey, Abstract Number 1040, and the John Bacon Survey, Abstract Number 1541, Denton County, Texas; authorizing the City Manager, or his designee, to execute and deliver any and all other documents necessary to accomplish closing of the transactions contemplated by the Contract of Sale; authorizing the expenditure of funds therefor; and providing an effective date. The Public Utilities Board recommends approval (7-0).

This item was not considered.

- T. Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Termination Agreement (the "Agreement") between Rayzor Investments, Ltd., a Texas Limited Partnership and Westpark Group, LP, a Texas Limited Partnership (collectively, the "Seller") and the City of Denton, Texas ("Buyer"), terminating that

contract dated effective April 19, 2011, City of Denton Ordinance No. 2011-063, relating to the sale and purchase of certain real property and real property interests located generally in the vicinity of Western Boulevard, between Airport road and Jim Christal Road, Denton, Texas; and providing for an effective date. The Public Utilities Board recommends approval (7-0).

Resolution No. R2013-037

- U. Consider approval of a resolution allowing the Denton Community Theatre to be the sole participant permitted to sell alcoholic beverages at the Beaujolais and More event held on November 21, 2013, upon certain conditions; authorizing the City Manager or his designee to execute an agreement in conformity with this resolution; and providing for an effective date. Staff recommends allowing the Denton Community Theatre to sell alcohol at the Beaujolais and More event in the Civic Center.

Item A was considered.

Ordinance No. 2013-315

- A. Consider adoption of an ordinance of the City of Denton, Texas to declare the intent to reimburse capital program expenditures of the Electric Utility (\$34,595,000), Solid Waste (\$2,404,000), Streets (\$4,000,000), and General Government (\$8,500,000) with Certificates of Obligation with an aggregate maximum principal amount equal to \$49,499,000; and providing an effective date.

Tony Puente, Assistant Director of Finance, stated that this item would allow the City begin making capital expenditures for the FY 2013-14 Capital Improvement Program (CIP) Budget. This included \$34,595,000 for Electric, \$2,404,000 for Solid Waste, \$4,000,000 for Streets, and \$8,500,000 for General Government, for a total amount of \$49,499,000. These funds would be reimbursed from the sale of General Obligation Bonds to be sold in the summer of 2014.

Council Member Gregory motioned, Council Member King seconded to approve the resolution. On roll call vote, Council Member King "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Engelbrecht "aye", Council Member Roden "aye", Mayor Pro Tem Kamp "aye", and Mayor Burroughs "aye". Motion carried unanimously.

Item K was considered.

Ordinance No. 2013-322

- K. Consider adoption of an ordinance authorizing the City Manager to execute an Interlocal Agreement between the Denton County Transportation Authority ("DCTA") and the City of Denton, Texas ("CITY"), to evidence the CITY's and DCTA's agreement regarding the planting of replacement trees by DCTA in relation to the Community Enhancement Project in the Project Area along and/or within the Trail Easement so that DCTA can meet the City of Denton Development Code's Tree Mitigation requirements relating to development of the DCTA Bus Operation and Maintenance Facility, and declaring an effective date.

Ron Menguita, Development Review Committee Administrator, stated that this Interlocal Agreement would address the tree preservation requirements for the bus operation facility that was currently being constructed on Teasley.

Jim Kline and Richard Huckabee, DCTA, thanked the Council for their continued support.

Council Member King motioned, Mayor Pro Tem Kamp seconded to approve the resolution. On roll call vote, Council Member King “aye”, Council Member Hawkins “aye”, Council Member Gregory “aye”, Council Member Engelbrecht “aye”, Council Member Roden “aye”, Mayor Pro Tem Kamp “aye”, and Mayor Burroughs “aye”. Motion carried unanimously.

5. ITEMS FOR INDIVIDUAL CONSIDERATION

Resolution No. R2013-038

- A. Consider approval of a resolution creating a Special Citizens Bond Advisory Committee for the proposed 2014 Bond Election; establishing a charge for the committee; and declaring an effective date.

Bryan Langley, Assistant City Manager, stated that in October the Council had discussed forming a bond committee to consider projects to be considered by the voters in the November 2014 Bond Election. The Council had indicated preference for a 50-member Citizen Bond Advisory Committee – seven appointments for each council member and a committee chair or two co-chairs. Staff had posted a notice and application on the City’s website for citizens interested in serving on the bond advisory committee. Notice had also been distributed on social media channels as well.

Langley stated that the Council requested the Committee include the following in their recommended capital projects: the reconstruction of Fire Station No. 3 and Fire Station No. 4; the reconstruction of City streets in the minimum amount of twelve million dollars; and funding for public art. He stated that this item would formally establish the committee and the charge of the committee. The Committee would be formally dissolved on August 1, 2014.

Council Member Hawkins motioned, Council Member Gregory seconded to approve the resolution. On roll call vote, Council Member King “aye”, Council Member Hawkins “aye”, Council Member Gregory “aye”, Council Member Engelbrecht “aye”, Council Member Roden “aye”, Mayor Pro Tem Kamp “aye”, and Mayor Burroughs “aye”. Motion carried unanimously.

- B. Consider appointments to the Citizens Bond Advisory Committee for the proposed 2014 Bond Election.

Bryan Langley, Assistant City Manager, stated that this item would allow Council to make additional appointments to the committee.

Mayor Burroughs nominated Cleve Breedlove, Jim Clark, Jack Thomson, Gerard Hudspeth, Michelle Bradley, Judy Willis, and Brandon McCluskey.

Council Member Gregory nominated Linnie McAdams, and Don Edwards.

Mayor Pro Tem Kamp nominated Stephen Coffey, Emily White, and Ron Johnson.

Council Member King nominated Carol Phillips, Jean Greenlaw, and Nanci Kimmey.

Council Member Roden nominated Allison Wing, Russ Stukel, and Anyah Martinez.

Council Member Hawkins nominated Roni Beasley, and Brendan Carroll.

Council Member Engelbrecht nominated Royce Freebourn, and Claralynn Barnes.

Mayor Pro Tem Kamp nominated Randy Robinson as Chair and Tim Crouch as Co-Chair of the Committee.

Council Member King motioned, Council Member Roden seconded to approve the nominations. On roll call vote, Council Member King “aye”, Council Member Hawkins “aye”, Council Member Gregory “aye”, Council Member Engelbrecht “aye”, Council Member Roden “aye”, Mayor Pro Tem Kamp “aye”, and Mayor Burroughs “aye”. Motion carried unanimously.

Ordinance No. 2013-326

- C. Consider adoption of an ordinance of the City of Denton, Texas updating impact fees by amending Chapter 26, "Utilities," Section 26-210 through section 26-232 of the City of Denton Code of Ordinances; adopting revised land use assumptions and capital improvements plans for water and wastewater impact fees; establishing new service areas for water and wastewater impact fees; establishing new maximum impact fees per service unit and impact fees to be collected; creating schedules for the assessment and collection of impact fees; repealing conflicting ordinances and resolutions; providing for a severability clause; providing for a penalty not to exceed \$2,000 for each violation thereof; and providing an effective date.

Tim Fisher, Water Utilities Division Manager, stated that this had been presented to Council at a Work Session in October. A public hearing was held on November 5. This ordinance was consistent with direction staff had received at those meetings.

Mayor Pro Tem Kamp motioned, Council Member Engelbrecht seconded to adopt the ordinance. On roll call vote, Council Member King “aye”, Council Member Hawkins “aye”, Council Member Gregory “aye”, Council Member Engelbrecht “aye”, Council Member Roden “aye”, Mayor Pro Tem Kamp “aye”, and Mayor Burroughs “aye”. Motion carried unanimously.

- D. Consider a motion to reconsider adoption of an ordinance regarding a rezoning of approximately 75.3 acres from Neighborhood Residential 2 (NR-2) to a Neighborhood Residential 3 (NR-3) zoning district and give City staff direction regarding same. The subject property is generally located on the south of Ryan Road, north of the Kansas City Southern Railroad, approximately 950 feet east of FM1830 and approximately 800 feet west of Forrest Ridge Road. (Z13-0006) The Planning and Zoning Commission recommends approval (6-1). The City Council denied (3-3).

Council Member Engelbrecht asked for a legal interpretation that allowed this to be brought back to Council for re-consideration.

City Attorney Anita Burgess stated that this item was considered last week and failed to obtain four affirmative votes in order to pass. The vote was a 3-3 vote which caused the item to fail. Mayor Burroughs was absent from that meeting. Some of the Council Members had indicated they would like to see this item reconsidered at a subsequent meeting. The rules provide that the item be reconsidered at the next subsequent regular meeting. If the Council desired to

reconsider, legal's recommendation was to direct staff to re-publish the item and bring it back to Council after it had been re-published.

Council Member Gregory motioned, Council Member Roden seconded to reconsider adoption of the ordinance.

The following individuals spoke regarding this item:

Bob Shelton, 2308 Ranch House Drive, spoke in support
Thomas Fletcher, 5750 Genesis Court, Frisco, spoke in support
Christina Bovinette, 412 Fry Street, spoke in opposition
Kelsey Fryman, 903 McCormick Street, spoke in opposition
Angel Bravo, 2269 W. Oak, spoke in opposition
Tara Linn Hunter, 804 W. Hickory Street, spoke in opposition
Matthew Long, 804 W. Hickory Street, spoke in opposition

Comment cards in opposition were received from the following:

Elise Ridenour, 2044 W. Oak Street
Steven Friedson, 2044 W. Oak Street

On roll call vote, Council Member King "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Engelbrecht "aye", Council Member Roden "aye", Mayor Pro Tem Kamp "aye", and Mayor Burroughs "aye". Motion carried unanimously.

Ordinance No. 2013-327

- E. Consider adoption of an ordinance of the City of Denton, Texas prohibiting parking on both sides of Ponder Avenue from its intersection with Scripture Street to its intersection with Oak Street; providing a repealer clause; providing a savings clause; providing for 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.

Alison Ream, Assistant to the City Manager, stated that this would establish a no parking zone on both sides of Ponder Avenue between Scripture Street and Oak Street. This area was previously marked as a no parking zone. As part of the City's routine maintenance procedure, deteriorating signage was removed and intended to be replaced with new signage. After the original signage was removed, it was determined that the zone was not established by ordinance, so the original signage was removed but not replaced. This ordinance would establish the no parking zone. This type of item would typically come through the Traffic Safety Commission but because it was previously signed as no parking and because of the existing conditions on the street, staff felt that it was appropriate to bring it directly to Council for consideration.

Council Member Engelbrecht motioned, Mayor Pro Tem Kamp seconded to adopt the ordinance. On roll call vote, Council Member King "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Engelbrecht "aye", Council Member Roden "aye", Mayor Pro Tem Kamp "aye", and Mayor Burroughs "aye". Motion carried unanimously.

6. PUBLIC HEARINGS

Ordinance No. 2013-328

- A. Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, approving a Specific Use Permit to allow a Basic Utility; a DME electric substation, on approximately 6.21 acres of land within a Neighborhood Residential Mixed Use (NRMU) and Neighborhood Residential Mixed Use 12 (NRMU-12) zoning district classification and use designation, located on the south side of East McKinney Street, approximately 1,300 feet east of Mack Drive and 450 west of Springtree Street, within the City of Denton, Denton County, Texas; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing for a severability clause and an effective date (S13-0005). The Planning and Zoning Commission recommends approval (6-0).

Brian Lockley, Director of Planning and Development, stated that this was for a Specific Use Permit for a Basic Utility for Denton Municipal Electric. The property was located on the south side of East McKinney Street, approximately 1,300 feet east of Mack Drive and 450 feet west of Springtree Street. The current zoning of the property was a combination of Neighborhood Mixed Use and Neighborhood Residential Mixed Use 12. The applicant was in the process of acquiring an additional 1.13 acre tract needed to construct the substation. A separate SUP would be required once that tract was acquired.

Lockley stated that Subchapter 35.3.4.B.2 of the Development Code stated that SUPs should be issued only if the following conditions had been met. The proposed SUP met the criteria established in Subchapter 6 and conformed to the purpose and intent of the Denton Plan. The proposed SUP facilitates the adequate provision of transportation, water, sewer, schools, parks, and other public requirements and public convenience.

Lockley stated that the proposed SUP met the criteria set forth in Subchapter 6 and conformed to the purpose and intent of the Denton Plan in the following areas. Compatibility – properties to the east, south and west were undeveloped. It does not impede normal development – surrounding vacant properties are large enough to allow design flexibility. It provided for adequate utilities – provides enhanced electrical service to surrounding area. Safe driveways and parking – access restricted to authorized personnel. Nuisance prevention – facility will not produce odor, fumes, dust, noise or vibration. Directional lighting – it will be directed to the interior of the site and will not be visible from the outside of the substation. Provided sufficient landscaping – it meets the tree code preservation and mitigation requirements as well as the landscaping requirements.

He stated that staff had sent twelve notices to property owners within 200 feet of the property and fourteen notices to residents and property owners within 500 feet of the property. Staff did receive a neutral response. The Planning and Zoning Commission recommended approval subject to the following condition – a perimeter masonry wall shall be constructed with a minimum height of ten feet.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

Council Member Hawkins motioned, Council Member Engelbrecht seconded to adopt the ordinance. On roll call vote, Council Member King “aye”, Council Member Hawkins “aye”, Council Member Gregory “aye”, Council Member Engelbrecht “aye”, Council Member Roden “aye”, Mayor Pro Tem Kamp “aye”, and Mayor Burroughs “aye”. Motion carried unanimously.

Ordinance No. 2013-329

- B. Hold a public hearing and consider adoption of an ordinance of the City of Denton, Texas, providing for an initial district and land use classification of Neighborhood Residential 1 (NR-1) on approximately 2.39 acres of land located on the east side of Bonnie Brae Street, approximately 3,500 feet south of Vintage Boulevard and 3,500 feet north of Fort Worth Drive (U.S. 377), in the City of Denton, Denton County, Texas; and providing for a penalty in the maximum amount of \$2,000.00 for violations thereof, severability clause and an effective date (Z13-0007). The Planning and Zoning Commission recommends approval (6-0).

Brian Lockley, Director of Planning and Development, stated that this property was annexed into the City in 2010. The property was zoned Rural District 5X (RD-5X), which was not an official zoning district in the Development Code but it was a default classification applied to all property annexed in the City of Denton that were not zoned. This zoning district required a minimum lot area of five acres. At this time the applicant proposed to rezone to NR-1 to develop a single-family house on the 2.39 acre lot. The proposed zoning was compatible with the existing Future Land Use Element of the Denton Plan. The NR-1 zoning classification would protect the existing neighborhood by limiting incompatible, commercial uses currently allowed by RD-5X and permitting the average lot size for the area. The adjacent properties on the west and east were currently zoned NR-1.

Lockley stated that the property was located along Bonnie Brae Street, south of Vintage Boulevard and north of Fort Worth Drive. Staff sent six notices to property owners within 200 feet of the property and eight notices to residents/property owners within 500 feet of the property. Staff had not received any responses to these notices. The Planning and Zoning Commission recommended approval. The Development Review Committee also recommended approval.

Council Member Gregory asked whether the applicant had to pay a fee to the City.

Bryan Lockley stated that if it was a staff-initiated request, they would not require a fee to be paid to the City. This was not staff initiated request, so they would have to pay a fee to the City. Mayor Burroughs stated that he would really like to see staff use a mechanism that when a property was being annexed the property owner would have the opportunity to use a default zoning that was consistent with the neighboring properties.

The Mayor opened the public hearing.

No one spoke during the public hearing.

The Mayor closed the public hearing.

Mayor Pro Tem Kamp motioned, Council Member Roden seconded to adopt the ordinance. On roll call vote, Council Member King “aye”, Council Member Hawkins “aye”, Council Member Gregory “aye”, Council Member Engelbrecht “aye”, Council Member Roden “aye”, Mayor Pro Tem Kamp “aye”, and Mayor Burroughs “aye”. Motion carried unanimously.

7. CITIZEN REPORTS

These citizen reports were considered at the front of the meeting.

- A. Review of procedures for addressing the City Council.
- B. Receive citizen reports from the following:
 - 1. Mark Brady regarding taxi cab licensing.
 - 2. Ed Soph regarding gas well drilling.
 - 3. Carol Soph regarding gas well drilling.
 - 4. Adam Briggie regarding the gas well situation near the Meadows at Hickory Creek on Bonnie Brae and Vintage.
 - 5. Linda Alexander regarding a moratorium on well drilling.
 - 6. Angie Holliday regarding the Vintage neighborhood drilling and fracking.
 - 7. Kelly Higgins regarding gas drilling moratorium.

8. 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.

Mayor Burroughs requested that staff review the requirements for taxi cab licenses and how a misdemeanor might affect that.

Council Member Gregory requested a workshop in 2014 to discuss a way of facilitating a default zoning issue.

Council Member Gregory asked the City Manager for a staff report on the amount of time and effort it would take to make an interactive map showing gas wells and the distance from an address to a well site.

Mayor Burroughs asked if it could also identify a well site that had been vacated.

Council Member Engelbrecht asked if the agenda for Friday’s meeting had been posted.

Mayor Pro Tem Kamp invited all council members and citizens to the kickoff for the Salvation Army Red Kettle Program.

- B. Possible Continuation of Closed Meeting under Sections 551.071-551.086 of the Texas Open Meetings Act.

With no further business, the meeting was adjourned at 9:00 p.m.

MARK A. BURROUGHS
MAYOR
CITY OF DENTON, TEXAS

JANE RICHARDSON
ASSISTANT CITY SECRETARY
CITY OF DENTON, TEXAS