

MINUTES
PUBLIC UTILITIES BOARD

February 22, 2016

After determining that a quorum of the Public Utilities Board of the City of Denton, Texas is present, the Chair of the Public Utilities Board will thereafter convene into an open meeting on Monday, February 22, 2016 at 9:01 a.m. in the Service Center Training Room at the City of Denton Service Center, 901 A Texas Street, Denton, Texas.

Present: Chair Randy Robinson, Vice Chair Phil Gallivan, Charles Jackson, Barbara Russell, and Brendan Carroll

Absent: Susan Parker and Lilia Bynum

Ex Officio Members: George Campbell, City Manager; Howard Martin, ACM Utilities

CLOSED MEETING

A. PUB16-031 - CONSULTATION WITH ATTORNEYS - Under Texas Government Code, Sec. 552.071; CERTAIN PUBLIC POWER UTILITIES: COMPETITIVE MATTERS - Under Texas Government Code, Sec. 551.086.

Consult with the City's attorneys regarding the present status of the Denton Municipal Electric-Energy Management Organization operations regarding EEI contract negotiation, ISDA contract negotiation, and other related contracting issues; discuss, deliberate and provide the City's attorneys and staff with direction. A public discussion of this legal matter would conflict with the duty of the City's Attorneys to the City of Denton, Texas under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

B. PUB16-032 - CONSULTATION WITH ATTORNEYS - Under Texas Government Code, Sec. 551.071.

Consult with the City's attorneys regarding the present status of the implementation of a new Pole Attachment License Agreement, a new City Right-of-Way Agreement, possible ancillary agreements and the status of claims for unpaid pole attachment fees by Verizon; discuss deliberate and provide the City's attorneys with direction and any recommendations regarding such legal matters. A public discussion of this legal matter would conflict with the duty of the City's Attorneys to the City of Denton, Texas under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

C. PUB16-033 - CONSULTATION WITH ATTORNEYS - Under Texas Government Code, Sec. 551.071.

Consult with the City's attorneys regarding the present status of pending litigation entitled: The City of Denton, Texas v. NRG Power Marketing, LLC, et al, CauseNo. 15-01404-16, now pending before the 16th Judicial District Court in and for Denton County, Texas; discuss, deliberate and provide the City's attorneys with direction and any recommendations regarding such legal matter. A public discussion of this legal matter would conflict with the duty of the City's Attorneys to the City of Denton, Texas under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

OPEN MEETING

CONSENT AGENDA

- A. PUB16-025** - Consider recommending approval to award a purchase agreement in the amount not to exceed \$875,000, for a term of thirty-six (36) months, for the purchase of residential refuse and recycling carts and replacement parts, to Rehrig Pacific Company through the State of Texas's HGAC Cooperative Purchasing Program. (File 5997)

Pulled for questions by Board Member Russell. Russell asked if this is in the budget, Kemler answered it is in the budget. Russell then stated it seems high, have other sources been investigated. Kemler answered the carts average \$50 a piece which is about half of retail. They have researched other avenues and this is the best.

There was a motion by Board Member Russell to approve this item and a second by Board Member Jackson. Vote 5-0 approved

- B. PUB16-030** - Consider recommending approval of a Sponsored Research Agreement by and between the City of Denton, Texas and Southern Methodist University providing for the investigation of enhanced methane generation in the bioreactor landfill facility at the City of Denton, Texas, in an amount not-to-exceed \$169,655; providing for the expenditure of funds therefor.

Pulled for questions by Board Member Carroll. Carroll asked for further information on this item. Kemler answered it is a slow process to produce methane. The City of Denton is one of two landfills in the State of Texas that got approval to enhance the production using a basic addition of water. This will increase the production for use and the gas collection system collects the gas. Staff wants to use up all the organic waste as fast as possible so that we gain air space and better control emissions. SMU has a working relationship with the US Corps of Engineers research laboratory. This is a good investment for short turn return and reduce environmental risks. Carroll asked how soon should we expect their work to start producing results. Kemler answered within 12 months. Russell added that she would like to see this money spent in Denton, could UNT or TWU do this same kind of work. Kemler answered UNT was trying to add an Environmental Science Program on the engineering side not policy. Before it went to the state, the program was cancelled. They do not have anyone with the expertise and are not capable at this point. Gallivan asked if the UTA contract is different and does not compliment this contract. Kemler answered no, it is separate.

There was a motion by Board Member Russell to approve this item and a second by Board Member Carroll. Vote 5-0 approved.

- C. PUB16-037** - Consider recommending adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract through the Buy Board Cooperative Purchasing Network for the acquisition of one (1) Caterpillar model 953D track loader for the City of Denton Drainage Department; and providing an effective date (File 6070-awarded to Holt Cat in the amount of \$213,950)
- D. PUB16-038** - Consider making a recommendation that the City Council approve a 3 year contract with Schweitzer Engineering Laboratories (SEL) for the purchase of SEL protective relay, control, monitoring, metering, software, integration, accessories, and devices which are available from only one source in the amount not to exceed \$2,240,000. Chapter 252.022 of the Texas Local Government Code exempts such purchases from the requirements of competitive procurement. (File 6046)

Pulled for questions by Board Member Jackson. Jackson stated that the AIS says approval of the sole source designation, and if a motion was made, what would be approved. Robinson

answered it would be approval of a three year contract and a sole source. Campbell added that the caption that was posted is what is to be followed legally.

Carroll asked why it is sole sourced. Chuck Sears, Engineering Division Manager, answered protection equipment is only used by utilities so there are not a huge number of manufacturers. They also tend to be proprietary. When you go to a computer based system that is integrated that is a whole new level. Most relay producers only do business through their own set of representatives. If this company cannot repair the equipment they replace it.

There was a motion by Board Member Jackson to approve this item and a second by Board Member Gallivan. Vote 5-0 approved.

- E. **PUB-16-040** - Consider a recommendation of approval of a concurrent ordinance with the Cities of Bryan, Garland and Greenville, Texas electing the provisions of Subchapter C-1 of Chapter 163, Texas Utilities Code, providing for alternative governance of the Texas Municipal Power Agency; providing findings of fact; defining the boundaries of the agency; designating the name of the agency; and designating the number, place, terms, and manner of appointment of directors of the agency; providing a savings clause; providing a severability clause; providing for retroactive ratification, confirmation and approval thereof.

Pulled for questions by Board Member Russell. Russell just ask for further explanation. Phil Williams answered there was a session on this in January that was discussed. This addresses the legislation that was passed last session that will allow the cities to change the Article that created TMPA.

There was a motion by Board Member Russell to approve this item and a second by Board Member Jackson. Vote 5-0 approved.

- F. **PUB16-041** - Consider a recommendation of approval of a second supplemental and amended engagement letter with the law firm of David A. Portz, P.C., Attorney, Houston, Texas, for professional legal services to be provided to the Energy Management Organization of Denton Municipal Electric; in the not-to-exceed amount of \$50,000; aggregating a total of not-to-exceed \$175,000 (File No. 5554).
- G. **PUB16-042** - Consider a recommendation of approval of a second supplemental and amended engagement letter with Lloyd Gosselink Rochelle & Townsend, P.C. for Professional Legal Services relating to the pending litigation entitled the City of Denton, Texas v NRG Power Marketing, LLC, et al; authorizing the expenditure of funds therefor; providing an effective date (File No. 5771 - in the additional amount of not-to-exceed \$800,000, aggregating not-to-exceed \$1,395,000).
- H. **PUB16-043** - Consider a recommendation of approval of a first supplemental and amended engagement letter with the law firm of Herrera & Boyle, PLLC, Austin, Texas, regarding professional legal services pertaining to issues regarding pole attachment license agreements, right-of-way agreements, Verizon pole attachment collections and possibly additional agreements in the not-to-exceed amount of \$65,000, aggregating a total of not-to-exceed \$130,000 (File No. 5592).

There was a motion by Board Member Russell to approve C, F, G and H and a second by Board Member Gallivan. Vote 5-0 approved.

ITEMS FOR INDIVIDUAL CONSIDERATION

A. **PUB16-028** - Consider recommending approval of the Public Utilities Board Meeting minutes of February 8, 2016

Approved as circulated.

B. **PUB16-020** - Receive a report, hold a discussion, and give staff direction concerning the revised Utilities Financial Strategies document.

Kenneth Banks gave this presentation. This financial document has been discussed for many years with the PUB during budgets. The formal developed in 2011. Substantial revision presented in 2014 and approved with budget. Revised document presented in 2015 and approved with budget. Serves as a guide for policy / management decisions. Intended to improve fiscal performance and resiliency. Staff has added new information to the current challenges section. The major theme from the Black and Veatch 2015 snapshot was the need to improve resiliency. The top five issues include: Aging infrastructure, managing operational costs, aging workforce and increasing regulations. The objectives are unchanged from last year with the exception of minor edits.

Water and wastewater System Capital and Reinvestment includes revenue funded infrastructure replacement policies that are unchanged.

Water: 100 percent of annual transmission and distribution system replacement costs; 25 percent of estimated annual treatment plant replacement costs.

Wastewater: 100 percent of annual interceptor and collector system replacement costs; 25 percent of annual treatment plant replacement costs

Reserve Targets contain prior research for Water and Wastewater reserve targets using 2011 and 2012 American Water Works Association (AWWA) Benchmarking Study. The 2013 (latest available) AWWA study was reviewed. Staff also reviewed the "Fitch Ratings: U.S. Water and Sewer Revenue Bond Rating Criteria, September 2015" for comparison.

The AWWA and the "Denton Method" calculation of cash on hand was reported.

Banks introduced and discussed the performance metrics benchmark information that was handed out to the Board Members. This dashboard information included water, wastewater, solid waste and electric.

Martin added that the reserve fund has ranges included. The question at the staff level is, are those ranges appropriate or should they be greater.

Martin stated there is always a discussion regarding where we are in terms of revenue funding our replacement capital. Staff is also trying to look at that and how it works into and is a part of the whole equation.

Banks added this document will be brought back in the budget process, the revisions will be incorporated will brought back in the late summer time.

C. **PUB16-026** - Receive a report and hold a discussion regarding the Fiscal Year 2017 Solid Waste & Recycling Materials Forecast, which is utilized in preparing the FY 2017 Solid Waste & Recycling Annual Budget and FY 2017 - 2021 Capital Improvement Program.

Tyler Hurd, Planning and Public Outreach Manager Solid Waste, made the presentation. Hurd started with the residential refuse and recycling actuals and projections. They are expected to continue on an increase. Residential collection services is also expected to increase in 2017.

Commercial Collection Services is on a steady small incline in refuse and recycling. Other revenue sources include Pratt Recycling Agreement, Public Education Fees, Tenant Agreements, Denton Power LLC, CNG Fuel Station and Soil and Rock Sales. Lastly Hurd went over the solid waste and recycling material forecast summary. Carroll asked for the building materials recovery, is there resale involved. Hurd answered there is no resale only recycle at this point.

- D. **PUB16-039** - Receive a report, hold a discussion, and give staff direction regarding a recommendation that the City Council approve a contract with Walsh's Hawk Construction Company, LLC, a limited liability corporation, Princeton, Texas, for constructing precast concrete security/screening fences, in an amount not to exceed \$5,900,000 over the course of a three year period. (RFP #5963)

Chris Lutrick, Engineer IV DME, gave the presentation for this item. Within the last three years DME has brought five individual projects to this Board to construct the security and screening walls for the substations. The presentation included CIP substation project requiring fence construction, summary of proposals, and completed projects constructed by Hawk. A map of 13 CIP Substation Projects was shown. There was three qualified respondents to the RFP. A BAFO was requested of Hawk and they lowered their price and was awarded the contract which was not to exceed \$5.9 million.

Hawk has completed three major projects for DME which included Cooper Creek Substation (2013), McKinney Substation (2015) and Pockrus Substation (2014). The Linda McNatt Animal Shelter wall was also constructed by Hawk with volume pricing.

Gallivan asked if this is for the next three years or all 13 substations. Lutrick answered it is for all thirteen stations.

There was a motion by Board Member Russell to approve this item and a second by Board Member Gallivan. Vote 5-0 approved.

- E. **PUB16-029** ACM Update
1. Matrix

Matrix no change

CONCLUDING ITEMS

Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the Public Utilities Board 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.

Gallivan asked if the method of paying utility bills could be improved. On-line is cumbersome. Chuck Springer answered the credit card data cannot be saved on the system. Staff hopes to have reoccurring payments from credit cards at a future time. The system will be updated in the next month or two. Bryan Langley added you can set up auto-draft one time and it will continue to draft from your account. Russell asked if there could be an update on the consultant for the Renewable Denton Plan. Russell would also like information on the Bonnie Brae relocation of Mr. Rivas.

Adjournment 10:53 a.m.