

MINUTES
PUBLIC UTILITIES BOARD

June 27, 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, June 27, 2016 at 9:00a.m. in the Service Center Training Room at the City of Service Center, 901 A Texas Street, Denton, Texas.

Present: Chair Randy Robinson, Vice Chair Phil Gallivan, Barbara Russell, Lilia Bynum, Charles Jackson and Susan Parker

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

Absent: Brendan Carroll

CLOSED MEETING

- A. PUB16-120** - Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; Consultation with Attorneys - Under Texas Government Code, Section 551.071.

Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to certain real property interests located in the R. Longbottom Survey, Abstract Number 775, City of Denton, Denton County, Texas, and generally located on the east line of Virginia Street, north of U.S. Highway 380 (University Drive). Consultation with the City's attorneys regarding legal issues associated with 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 Public Utility Board 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. (Prescott Property).

- B. PUB16-127** - Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff, discuss, deliberate, and provide staff with direction regarding the potential acquisition of real property interests generally located in the Gibson Myers Survey, Abstract No. 843, The Johnson, Green, Myers, and Brummell Survey, Abstract No. 1699, the Moses H. Davis Survey, Abstract No. 377, and the William Wilburn Survey, Abstract No. 1419, located in the City of Denton, Denton County, Texas, for the possible construction of an electric generation facility where deliberation in an open meeting would have a detrimental effect on the position of a governmental body in negotiations with a third party. Consultation with the City's attorney's regarding legal issues associated with the acquisition 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.

**C. PUB16-132 - DELIBERATIONS REGARDING CERTAIN PUBLIC POWER UTILITIES:
COMPETITIVE MATTERS - Under Texas Government Code §551.086**

Receive competitive public power information and competitive financial information from staff in the form of the draft operating budget for Denton Municipal Electric (“DME”) for FY 2016-2017, including without limitation, revenues, expenses, and commodity volumes; and discuss, deliberate, provide staff with direction regarding such matters, consider and make a recommendation regarding approval of the FY 2016-2017 DME operating budget to City Council.

OPEN MEETING

CONSENT AGENDA

- A. PUB16-114 -** Consider recommending approval of the FY 2016-2017 Utilities Financial Strategies document.

Board Member Parker wanted to commend staff on putting together the performance metrics that are very important on managing the utilities moving forward.

Board Member Russell motioned to approve item A (PUB16-114). There was a second by Board Member Parker. Vote 6-0 approved.

- B. PUB16-122 -** Consider recommending approval of Contract Amendment #2 to the Professional Services Agreement for Architect or Engineer by and between Teague Nall and Perkins, Inc. and the City of Denton for engineering and surveying services associated with the FY 2015-2016 Wastewater Collection System Improvements Project, in a not-to-exceed amount of \$93,600.00.
- C. PUB16-124 -** Consider adoption of an ordinance authorizing the City Manager, or his authorized designee to execute an agreement or agreements by and between the City of Denton, Texas and the Texas Municipal Power Agency (TMPA), that provides for terms and conditions under which the parties will be jointly manage the responsibility of the operations of TMPA, in substantial conformity with the attached exhibits; authorizing the expenditure of funds therefor; and providing an effective date.
- D. PUB16-128 -** Consider a recommendation that the City Council adopt an ordinance finding that a public use and necessity exists to acquire fee simple title to a 117.145 acres comprised of a 113.417 acre tract of land situated in the Gibson Myers Survey, Abstract No. 843 and the Moses H. Davis Survey, Abstract No. 377, City of Denton, Denton County, Texas, and being a part of a called 691.64 acre tract of land described in a Deed to Eagle Farms, Inc. and John Porter Auto Sales, Inc., as recorded in Document No. 93-077959 of the Real Property Records of Denton County, Texas and a 3.728 acre tract of land situated in the Johnson, Green, Myers and Brummett Survey, Abstract No. 1699 and the Moses H. Davis Survey, Abstract No. 377, City of Denton, Denton County, Texas, and being a part of a called 691.64 acre tract of land described in a Deed to Eagle Farms, Inc. and John Porter Auto Sales, Inc., as recorded in Document No. 93-077959 of the Real Property Records of Denton County, Texas (“Property Interests”), for the public use of, expansion, construction, maintenance, operation, and improvement of an electric power generation facility, transmission and distribution lines, ancillary facilities and structures, including substations and switch stations; authorizing the City Manager, acting City Manager, or his designee, to make initial and final

offers to execute a contract of sale, between the City of Denton, Texas ("City"), as buyer, and Eagle Farms, Inc., a Texas Corporation, and John Porter Auto Sales, Inc., a Texas Corporation, ("Owner"), as seller, to acquire fee title to the Property Interests for the purchase price of \$2,928,625.00, and other consideration; authorizing the filing of eminent domain proceedings to acquire the Property Interests if the final offer is not accepted; authorizing the expenditure of funds; and providing an effective date.

- E. PUB16-134** - Consider a recommendation for the approval of RFP #6094 for Fisher-Poirer Construction to enter into a contract with the City of Denton for the amount of \$127,750 to provide construction and renovation services for the Industrial Pretreatment building at the Pecan Creek Water Reclamation Plant, 1100 S. Mayhill Road, Denton, Texas.

Board Member Russell asked about the large variances in the estimates. Martin answered this is one of the original buildings at the WWTP and has gone through many modifications and changes over the years and housed many different departments. Some of the variations would be due to the various modifications and what it will take to make it a useable building. David Hunter stated when the best and final offer was extended staff asked about the variations, the vendors answered some of the cost were allocated differently. Purchasing does have more extensive information and is available. Kenneth Banks added that some has to do with how they deploy and stage on site.

Board Member Russell motioned to approve item E. There was a second by Board Member Parker. Vote 6-0 approved.

- F. PUB16-138** - Consider recommendation of an ordinance regarding settlement of the pending litigation entitled: The City of Denton, Texas v NRG Power Marketing, LLC, et al., Cause No. 15-01404-16 in the 16th Judicial District Court in and for Denton County, Texas; discuss, deliberate and provide staff with direction.

Board Member Bynum motioned to approve items B, C, D, and F. There was a second by Board Member Gallivan. Vote 6-0 approved.

ITEMS FOR INDIVIDUAL CONSIDERATION

- A. PUB16-135** - Consider recommending approval of the Public Utilities Board Meeting minutes of June 13, 2016

Approved as circulated

- B. PUB16-123** - Consider recommending approval of the FY 2016-2017 Water operating budget and the FY 2017-2021 Water Capital Improvements Plans (CIP).

Howard Martin stated this item is listed for any questions. There were no questions.

Board Member Russell motioned to approve this item. There was a second by Board Member Parker. Vote 6-0 approved.

- C. PUB16-125** - Consider recommending approval of the FY 2016-2017 Wastewater operating budget and the FY 2017-2021 Wastewater Capital Improvements Plans (CIP).

Howard Martin stated this item is listed for any questions. There were no questions.

Board Member Parker motioned to approve this item. There was a second by Board Member Bynum. Vote 6-0 approved.

D. PUB16-131 - Consider a recommendation of approval of the FY 2017-2021 Electric Capital Improvement Program (CIP).

Howard Martin stated this item is listed for any questions. There were no questions.

Board Member Bynum motioned to approve this item. There was a second by Board Member Russell. Vote 6-0 approved.

E. PUB16-133 - Consider recommending approval of the proposed on the Fiscal Year 2016-2017 Solid Waste & Recycling Services Operating Budget and the Fiscal Years 2017-2021 Capital Improvement Program (CIP) Budget.

Howard Martin stated this item is listed for any questions. **Board Member Parker asked if there was any change with TCEQ regarding the numbers for mining the landfill.** Kemler answered there has been no change at this point.

Board Member Russell motioned to approve this item. There was a second by Board Member Bynum. Vote 6-0 approved.

F. PUB16-136 ACM Update

1. Matrix

Matrix no changes

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.

This was the last meeting for City Manager, George Campbell. There were several recognitions and good wishes to him.

Adjournment 10:08 a.m.