

CITY OF DENTON CITY COUNCIL MINUTES

October 9, 2018

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, October 9, 2018 at 1:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Council Member Briggs, Council Member Duff, Mayor Pro Tem Ryan, Council Member Armintor, Council Member Meltzer, and Mayor Watts.

ABSENT: Council Member Hudspeth

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 October 9, 2018.

Council Member Meltzer noted that he would be recusing himself from Item F and asked for a presentation on Item I.

3. Work Session Reports

A. ID 18-1623 Receive a report, hold a discussion, and give staff direction on filling the Municipal Judge position and the recruitment process.

Mayor Watts stated that there would be a Closed Session discussion on this item at end of the scheduled Closed Meeting.

Council Member Hudspeth arrived at the meeting.

Carla Romine, Director of Human Resources, presented options for consideration on how to fill the Municipal Judge position. She noted the Executive Search firms that had provided quotes for a search.

Council discussed whether an internal candidate could apply if a search firm were used.

Council consensus was to hire the Springsted Water firm to conduct a search and that internal candidates could apply through the search firm.

B. ID 18-1634 Receive a report, hold a discussion, and give staff direction regarding the proposed agreement with Keep Denton Beautiful, Inc.

Bryan Langley, Deputy City Manager, presented information on non-profit agreement milestones. He noted the City's relationship with Keep Denton Beautiful (KDB) since 1987 detailing the programs that the City partnered with KDB. Budget information for the City to KDB and the KDB, Inc. budget were noted. The roles and responsibilities were not clear for KDB programming. The intent of a new agreement was presented along with the key components of the proposed agreement and contract terms. Feedback received from KDB, Inc. in terms of key areas of concern of the proposed agreement were noted.

Council discussion included:

- KDB feedback was coming from their legal counsel and not the membership
- What the deadline was for KDB to return their redline version of the agreement
- Whether there was a misunderstanding between KDB and the City regarding the proposed agreement
- Continue with the negotiations as the City was a partner with KDB

Langley continued with a summary of options which included #1 to take no action which was not in compliance with audit recommendations and #2 clarify whether KDB wanted to be an advisory board of the City or a nonprofit operating under an agreement with complied with audit recommendations.

Council discussed:

- This was a normal process of detailing roles and clarifications of a proposed agreement
- A decision from the KDB Board was needed in order to continue with the proposed agreement
- Whether funds provided to KDB via the City were being used for their outside counsel in this matter
- The attorney retained represented KDB, Inc. and not the city of Denton KDB
- A clear understanding was needed in regards to the two entities and their respective roles
- Concern that KDB, Inc. would have control over city employees
- Monitoring should continue at a close level during negotiations until the agreement was finalized
- No other organization had direct City employees working for them rather they had funding to hire their own employees
- Representation from KDB, Inc. was that they wanted to direct City staff
- How other cities structured their Keep Beautiful organizations
- A first step was to get the redlined version of the agreement from KDB, Inc. to see their position on the proposed agreement
- Continue discussion with board members and city staff
- Assume moving forward with KDB, Inc. as a non-profit agency and move forward with the provisions of an agreement
- Whether the Council should hear from the KDB attorney or the Board President

City Manager Hileman noted that the issue was the expenditure of public funds to an outside agency. He suggested creating a simple agreement with certain duties noted for City staff to assist KDB, Inc. or provide funding for KDB, Inc. to hire their own staff. Comingling of city assets was not a good practice and there should be two clear paths.

Ali Silva, KDB Board President, felt that there was a fundamental misunderstanding of the issue and that more discussion was needed. She noted that the redesign of the other three nonprofit organizations was different from KDB. KDB was not a fundraising arm for the City. She noted that the funding for their attorney was paid through their own funds and that no funds received from the City were used.

Council continued their discussion noting:

- The main differences of the KDB fundraising from other nonprofit organizations
- KDB's understanding of the relationship with city staff and how that might change moving forward. Silva stated that City staff was facilitating the work of the non-profit and that the job descriptions noted that. They did a strategic plan and the employees carried out that plan. They did not have rights to direct city staff.

Consensus of the Council was to continue discussion with the KDB, Inc. Board, receive the redlined version and bring that information back to Council. Included would be to clarify the roles and responsibilities of each organization in accordance with audit recommendations.

Council Member Hudspeth noted that whatever solution was reached it needed to be universal or easy to apply to other organizations. He requested to see the funding from the other nonprofit organizations.

- C. ID 18-1695 Receive a report from staff, hold a discussion, and give staff direction regarding the design and construction of Industrial Park.

Gary Packan, Director of Parks and Recreation, presented an update on the proposed park at Industrial. He noted the location of the park, the options that were presented for the proposed park design; major areas of focus; and tree replacement.

Council discussed:

- Removal of the trees was not an option and was a problem with the plan
- The purpose of removing the mature trees and planting new trees in the same area
- Consider not having as much concrete in the area to avoid removing so many trees
- The preferences of citizens were natural areas as opposed to a build in area

Packan continued with the proposed scenario that integrated public input into the development of the park. He noted the estimated construction costs along with the next steps in the process. Options to consider were to maintain the park as it currently was and install the retaining wall to improve drainage; move forward with the construction as presented; or amend the proposed concept with suggestions.

Council discussed:

- The proposed design was not child friendly
- There was no nice park facility in the downtown area
- Consider Option 1 with the condition that adjacent businesses and residences be consulted with the design of the retaining wall
- Consider Option 1 with improved drainage
- Keep more natural areas with less concrete and not overdeveloped

Consensus of the Council was Option 1 with the retaining wall and the possibility of planting more trees.

- D. ID 18-1707 Hold a discussion to review Council's action and concerns related to the September 25, 2018 approval of an SUP ordinance for a multifamily use located south of

Loop 228 on the east side of Brinker Road, and related to the Council's discussion at its October 1, 2018 Special Called Meeting in connection with Agenda Item ID: 18-1645, including a discussion on forming a set of Council "best practices" to deal with this type of situation in the future.

Council Member Meltzer felt that the comments from the Mayor at the prior meeting were not the same as his version of the events before and after the consideration of the proposal. He felt the Mayor in their conversation was trying to persuade him to ask for reconsideration. He reviewed the chain of events from his perspective of the issue and felt that the Mayor had presented inconvenient facts in order to get to a reconsideration. He did not feel the Mayor had been fair minded and noted that the Mayor had affordable housing units that would be in competition with these housing units. That to him was the appearance of undisclosed conflicts. In terms of best practices he suggested Council not having private meetings with developers with projects coming before the Council.

Mayor Watts felt that Council Member Meltzer had a misrepresentation of facts and that facts had been left out of the scenario. His concern was that Council Member Meltzer's amendment did not get into the motion as Council Member Meltzer had intended. He presented his version of the events.

Council discussed:

- Consider future agenda postings and wording on those agendas
- There now was an ethics ordinance for complaints if one existed
- Consider a best practice that meeting with a developer to get clarity or questions answered was fine before a vote. After a vote, a tie vote or reconsideration no meeting with a developer
- It was an abuse of power to use reconsideration to get a vote changed.
- When meeting with a developer one on one, it was a meeting with one of 7 but a 4-3 vote changed that and under a best practice it was not a good idea

City Manager Hileman stated that a developer who felt he might lost a vote might say anything to get that vote and it was easy to get caught up in the process with possible misrepresentation. In his past cities, a log was maintain when meeting with a developer. It set a new tone on how to behave and what the rules would be for developers. He urged Council to adopt some kind of process to have a staffer when meeting with a developer to document the process or Council know when individuals were having meetings. There needed to be transparency and consistent guidance to developers and the only way to deal with it was through reporting.

Council consensus was to have the City Manager present options for a reporting mechanism or procedures with reporting mechanisms for Council meeting with those who would have business before the Council.

Council noted that:

- Reconsideration of votes had no checks or balances. It was a greater advantage to vote yes and then bring everything back and that after a meeting everyone's position was known. Until there was some type of fix for reconsideration, the problem would not be fixed.
- The rules needed to be amended to require reconsideration based on either something in the session such as a procedural or a material development that everyone had shared.

- Phone conversations after the vote were one of the problems

City Manager Hileman noted that a motion for reconsideration needed the ability to rely on input and consistency of behavior and direction being important. If it was not possible to rely on votes taken, the problem could not be fixed.

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

1. Closed Meeting:

- A. ID 18-1272 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.

Receive information from staff, and discuss, deliberate and provide direction regarding plans for the current and future operations of the Gibbons Creek Steam Electric Station owned by the Texas Municipal Power Agency in connection with the Joint Operating Agreement ("JOA") between the City of Denton and TMPA. Consultation with the City's attorneys regarding legal issues associated with the current and future operations of the Gibbons Creek Steam Electric Station and JOA 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.

- C. ID 18-1685 Consultation with Attorneys - Under Texas Government Code Section 551.071.

Consult with the City's Attorneys on the status, strategy, and potential resolution of litigation styled, Knabe v. City of Denton, Cause No. 17-3526-211, currently pending in the 211th District Court of Denton County, Texas.

- B. ID 18-1389 Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Deliberate and discuss the evaluation, duties, discipline, procedures, and contracts of the Municipal Judge and City Auditor.

The following item was added as a Closed Meeting discussion:

- A. ID 18-1623 Receive a report, hold a discussion, and give staff direction on filling the Municipal Judge position and the recruitment process.

Regular Meeting of the City of Denton City Council at 6:30 p.m. in the Council Chambers at City Hall.

PRESENT: Council Member Hudspeth, Council Member Briggs, Council Member Duff, Mayor Pro Tem Ryan, Council Member Meltzer, and Mayor Watts.

ABSENT: Council Member Armintor.

1. PLEDGE OF ALLEGIANCE

The Council and members of the audience recited the Pledge of Allegiance to the U.S. and Texas flags.

2. PROCLAMATIONS/PRESENTATIONS

A. ID 18-1612 Peterbilt Pride & Class Day

Mayor Watts presented the proclamation for Peterbilt Pride and Class Day.

B. ID 18-1614 First Christian Church of Denton 150th Anniversary

Mayor Watts presented the proclamation for First Christian Church of Denton 150th Anniversary.

Council Member Armintor arrived at the meeting.

C. ID 18-1691 Public Power Week

Mayor Watts presented the proclamation for Public Power Week.

3. PRESENTATION FROM MEMBERS OF THE PUBLIC

A. Review of procedures for addressing the City Council.

B. Receive Scheduled Citizen Reports from Members of the Public.

1. ID 18-1581 Pat Smith regarding New Market Tax Credits.

Pat Smith spoke on New Market Tax Credits. He noted the background information on the New Market Tax Credit Program and suggested that Council consider using this program.

2. ID 18-1603 Dorothy Kuhn regarding Smart City Denton for all Dentonites.

Dorothy Kuhn presented information on Smart City Denton and the details of the program which solved community problems such as solutions to enhance quality of life in Denton and what was important to citizens.

C. Additional Citizen Reports

Craig Clifton spoke on the proposed SRO on Normal Street and Scripture. He was concerned about the parking requirements for the proposed development. He noted that the visitor parking requirement needed to be amended.

Willie Hudspeth spoke on a possible fire training center to encourage more African American firefighters. He presented his definition of "white privilege".

4. CONSENT AGENDA

Mayor Pro Tem Ryan motioned, Council Member Briggs seconded to approve the Consent Agenda and accompanying ordinances and resolutions with the exception of Item F and I to be considered individually. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Council Member Armintor "aye", Council Member Meltzer "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance 18-1451

- A. ID 18-1451 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation authorizing the City Manager, or his designee, to execute an agreement with the Denton Independent School District for participation in the Advanced Technology Complex Practicum of Law, Public Safety, Corrections, and Security Program for the 2018-2019 school year; for the purpose of providing a student internship assignment; and providing an effective date.

Ordinance 18-1483

- B. ID 18-1483 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 POWER Engineers, Inc., to provide services for Capital Improvement Projects where design or relay and control commissioning has been initiated; for providing North American Reliability Corporation (NERC) required periodic relay and protection system testing for two substations; for meeting obligations of the Texas Municipal Power Agency (TMPA) Transmission Operator, Maintenance, and Construction Services Agreement; for providing a contingency for unforeseen engineering support requirements; and for providing a contingency for emergency relay and control system support; providing for the expenditure of funds therefor; and providing an effective date (File 6861 - awarded to POWER Engineers, Inc., in the not-to-exceed amount of \$776,600). The Public Utilities Board recommends approval (5-0).

The minutes noted below were approved.

- C. ID 18-1582 Consider approval of the minutes of August 25, August 28, September 11, and September 18, 2018.

Ordinance 18-1613

- D. ID 18-1613 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home rule municipal corporation, authorizing the City Manager to expend funds for payment by the City of Denton to the Texas Commission on Environmental Quality for the annual Consolidated Water Quality Fee for operation of the Pecan Creek Water Reclamation Plant; and providing an effective date. (Consolidated Water Quality Fee in the total not-to-exceed amount of \$115,000.00). The Public Utility Board recommends approval (5-0).

Ordinance 18-1648

- E. ID 18-1648 Consider approval of a resolution of the City of Denton, Texas, authorizing the donation of surplus library books and materials to the Friends of the Denton Public Libraries; providing procedures for disposition of such property; providing an effective date.

Ordinance 18-1424

- G. ID 18-1424 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract through the Department of Information Resources (DIR) Cooperative Purchasing Network Contract Number DIR-TSO-4158 for the supply of software maintenance for the City of Denton Human Capital Management software; providing for the expenditure of the funds therefor; and providing an effective date (File 6876 - awarded to Oracle America, Inc. for one (1) year, with the option for two (2) additional one (1) year extensions, in a total not-to-exceed amount of \$422,460 for all years).

Ordinance 18-1678

- H. ID 18-1678 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 Airport Sewer Line with Dickerson Construction Company, Inc., for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (RFP 6681- awarded to Dickerson Construction Company, Inc., in the not-to-exceed amount of \$91,534).

The items pulled for separate consideration were considered.

Ordinance 18-1303

- F. ID 18-1303 Consider adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, authorizing the City Manager to execute an Interlocal Cooperative Purchasing Agreement with the University of North Texas System for the purchase of Internet Services; authorizing the expenditure of funds therefor; and declaring an effective date (File 6860- Interlocal Cooperative Purchasing Agreement with University of North Texas System in a not-to-exceed amount of \$30,000).

Council Members Armintor and Meltzer recused themselves from deliberation/vote on this item.

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

Council Members Armintor and Meltzer returned to the meeting.

Resolution 18-1696

- I. ID 18-1696 Consider approval of a resolution concerning the transportation of spent nuclear fuel and high level radioactive waste through the City of Denton; and declaring an effective date.

Kenny Banks, General Manager of Utilities, presented the background information on the resolution concerning the transportation of spent nuclear fuel and high level radioactive waste through Denton. The transportation of these materials would probably be done via rail which would move through Denton. He noted the pros and cons of the transport issue. He detailed the provisions of the resolution for Council consideration.

Willie Hudspeth spoke in favor of the resolution.

Council discussion included:

- Consider adding wording that the City did not want this and request that the license be denied
- There was a training/education component of the different materials being transported in terms of First Responders
- When considering future expansion of city facilitates the fact that the current Police Department was currently cut off from the rest of the City in an emergency
- Construction of the container and effect of a possible breach of the container
- Whether there were rail routes that would not go through Denton

Council Member Armintor motioned, Council Member Briggs seconded to approve the resolution with added wording that Council requested denial of the license and that the materials remain at their current locations as it was not necessary to move them at this time due to no permanent facility being available.

Mayor Pro Tem Ryan suggested two separate resolutions. One against the licensing of the facilities and one on the transportation of the materials.

Council Member Hudspeth suggested tabling the item until more information was determined on which application was under consideration.

Council Member Hudspeth motioned, Council Member Duff seconded table the item until later in the meeting so that the resolution could be revised. On roll call vote, Council Member Hudspeth "aye", Council Member Duff "aye", and Council Member Meltzer "aye". Council Member Briggs "nay", Mayor Pro Tem Ryan "nay", Council Member Armintor "nay", and Mayor Watts "nay". Motion failed with a 4-3 vote.

Mayor Pro Tem Ryan motioned, Council Member Briggs seconded to approve the resolution. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Mayor Pro Tem

Ryan "aye", Council Member Armintor "aye", Council Member Meltzer "aye", and Mayor Watts "aye". Council Member Duff "nay". Motion carried with a 6-1 vote.

5. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. ID 18-1544 Consider nominations/appointments to the City's Boards and Commissions: Health & Building Standards Commission; Library Board; and Zoning Board of Adjustment.

Jennifer Walters, City Secretary, noted that current vacancies. Mayor Pro Tem Ryan had nominated Eric Horton to the Zoning Board of Adjustment and Council Member Meltzer nominated Tim Stoltzfus to the Health and Building Standards Commission.

Mayor Pro Tem Ryan motioned, Council Member Meltzer seconded to approve the nominations. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Council Member Armintor "aye", Council Member Meltzer "aye", and Mayor Watts "aye". Motion carried unanimously.

- B. ID 18-1686 Consider amending a resolution that authorized the creation of the Oak Gateway Steering Committee, by reducing the number of appointed Steering Committee members and establishing standing appointed representatives; and providing an effective date.

Ron Menguita, Principal Planner, stated that the proposed resolution would reduce the number of members on the Committee in order to meet quorum requirements. The number of members would be reduced to 17 and would establish standing appointed representatives.

Vanessa Reams, 401 Normal, Denton - spoke in favor.

Council discussed whether there was a current DCTA representative. Menguita stated that currently there was no DCTA representative and he had received no follow-up from them after asking for a replacement.

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

Ordinance 18-1689

- C. ID 18-1689 Consider adoption of an ordinance of the City of Denton ("City") authorizing the City Manager, or his designee, to execute a Contract of Sale by and between Donald V. Radke and Candice R. Harris (collectively "Owner"), and the City, regarding the sale and purchase of fee simple to an approximate 0.276 acre tract, more or less, situated in Eugene Puchalski Survey, Abstract No. 996, Denton County, Texas for the purchase price of One Hundred Sixty Thousand Dollars and No Cents (\$160,000.00), as prescribed in the Contract of Sale; authorizing the expenditure of

funds therefor; authorizing relocation expenditures; providing for severability and an effective date. (Bonnie Brae Street project - Phase 4 - Parcel 27 - 400 N. Bonnie Brae)

Council Member Hudspeth recused himself from deliberation/vote on this item.

Paul Williamson, Real Estate Manager, presented the details of items C and D in terms of location of the properties, the owners had inquired if the City was interested in purchasing the property; and the contract prices of the properties.

Kim McKibben, 1306 W. Hickory, Denton - spoke regarding fairness on the purchasing of the properties.

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

Ordinance 18-1690

- D. ID 18-1690 Consider adoption of an ordinance of the City of Denton ("City") authorizing the City Manager, or his designee, to execute a Contract of Sale by and between Donald V. Radke and Candice R. Harris (collectively the "Owner"), and the City, regarding the sale and purchase of fee simple to an approximate 0.302 acre tract, more or less, situated in Eugene Puchalski Survey, Abstract No. 996, Denton County, Texas for the purchase price of One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00), as prescribed in the Contract of Sale; authorizing the expenditure of funds therefor; authorizing relocation expenditures; providing for severability and an effective date. (Bonnie Brae Street project - Phase 4 - Parcel 28 - 404 N. Bonnie Brae)

This item was discussed with Item C.

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

Council Member Hudspeth returned to the meeting.

6. 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 Armintor

- City sponsored public meeting regarding the proposed SRO at Normal and Scripture

Council Member Briggs

- Friday Report regarding an update on the tree/landscape code

Mayor Pro Tem Ryan

- Resolution for next week's agenda regarding disapproval/not wanting CISS licenses to be approved
- Committee on the Environment bring information on recycling of nuclear waste and how that might determine a future resolution for Council consideration

Council Member Duff

- Work Session discussion on the definition of a SRO

B. Possible Continuation of Closed Meeting topics, above posted.

There was no continuation of the Closed Meeting.

With no further business, the meeting was adjourned at 8:34 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS