



**City of Denton
MINUTES
PUBLIC UTILITIES BOARD**

City Hall
215 E. McKinney Street
Denton, Texas
www.cityofdenton.com

Monday, November 12, 2018

9:00 am

Council Chambers

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, November 12, 2018 at 9:00 a.m. in the Council Chambers at City Hall, 215 E. McKinney Street, Denton, Texas

Board Members: Vice Chair Brendan Carroll, Charles Jackson, Allen Bishop, Karen DeVinney and Billy Cheek

Ex Officio Members: Todd Hileman, City Manager and Mario Canizares, Assistant City Manager

Absent: Chair Susan Parker and Lilia Bynum

CLOSED MEETING

- A. **PUB18-209** - Deliberations Regarding Certain Public Power Utilities: Competitive Matters – Under Texas Government Code Section 551.086; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Discuss and deliberate strategies and opportunities for the City to acquire solar energy and enter into agreements regarding the same including a Power Purchase Agreement with Samson Solar Energy LLC. and ENGIE Long Draw Solar LLC.; receive a presentation from staff regarding public power competitive and financial matters pertaining to the purchase of solar energy; consultation with the City's attorneys regarding legal issues associated with the agreement described above where discussion of these legal matters in an open meeting would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

REGULAR MEETING

1. CONSENT AGENDA

- A. **PUB18-215** - Consider recommending adoption of an Ordinance of the City of Denton authorizing the City Manager, or his designee, to execute and administer a wireline crossing agreement with Union Pacific Railroad, and execute ancillary documents related thereto, for electrical wirelines over the existing railroad track at mile post 719.95; authorizing the expenditure of funds; and providing an effective date.
- B. **PUB18-216** - Consider recommending adoption of an ordinance of the City of Denton, Texas authorizing the expenditure of funds for payment by the City of Denton to Texas Commission of Environmental Quality for waste disposal fees; and providing an effective date (waste disposal fee in the total amount of \$280,000).

- C. **PUB18-217** - Consider recommending adoption of an ordinance of the City of Denton, Texas, a Texas home-rule municipal corporation, authorizing the City Manager to execute a contract with Protech Service Company, LLC, for the provision of maintenance services at the City of Denton's automated truck and car wash facility; providing for the expenditure of funds therefor; and providing an effective date (IFB 6877 - awarded to Protech Service Company, LLC, for one (1) year, with the option for two (2) additional one (1) year extensions, in the total three (3) year not-to-exceed amount of \$234,000).

Board Member DeVinney motioned to approve all Consent items second by Board Member Jackson. Vote 5-0 approved.

2. ITEMS FOR INDIVIDUAL CONSIDERATION

- A. **PUB18-208** - Consider approval of the Public Utilities Board Meeting minutes of October 22, 2018.

Board Member Cheek motioned to approve the minutes, second by Board Member Jackson. Vote 5-0 approved.

- B. **PUB18-210** - Consider recommending adoption of an Ordinance of the City of Denton, a Texas home rule municipal corporation ("Denton"), providing for, authorizing, and approving the execution by the City Manager, or his designee, of a Power Purchase Agreement ("PPA") between Denton and Samson Solar Energy, LLC, a Delaware limited liability company ("Samson Solar"); approving and authorizing the acceptance and approval by the City Manager, or his designee, of guaranties and letters of credit issued on behalf of Samson Solar to Denton for the benefit of Denton; approving the execution of such other and further related documents deemed necessary to effectuate the transactions allowed under this agreement by the City Manager, or his designee, which are incident to or related to the PPA; finding that Texas Government Code §252.022(a)(15) applies to the PPA and excepts the procurement of electricity from the requirements of competitive bidding; finding that the purchase of capacity and energy made by Denton under the terms of the PPA are in the public welfare; authoring the expenditure of funds; determining that specific information contained in documents involved in the transaction pertain to a "competitive electric matter" as set forth under the provisions of §§551.086 and 552.133 of the Texas Government Code, as amended; allowing the public to inspect and reproduce the PPA as redacted; providing an effective date.

George Morrow gave the presentation regarding the proposed "Samson" Solar Project.

RFP Submittals

Denton participated with four other municipalities in a Solar RFP issued by New Braunfels. There were 37 unique companies that submitted a proposal.

Recommended Project

Project called "Samson" was proposed and developed by Invenergy that is located in northeast Texas. Delivery point is the ERCOT 'North Hub' with a projected in-service date of June 2022. This is a 15-year project with attractive pricing. DME is proposing to purchase 75MW and partnering with Garland and Bryan.

Morrow mentioned that there is a redacted version attached to this agenda item if the public would like to view it.

Requested Action

To recommend adoption of an Ordinance approving a Renewable Energy Purchase Agreement with Samson Solar Energy, LLC.

Jackson stated on one of the slides it had Congestion is positive, then asked what is congestion. Morrow answered it is the point of delivery and the service area, and ensures there will be no problem with delivery during the tough times in the summer.

Board Member Bishop motioned to approve this item, second by Board Member DeVinney. Vote 5-0 approved.

C. PUB18-211 - Consider recommending adoption of an Ordinance of the City Council of the City of Denton, a Texas home-rule municipal corporation (“Denton”), providing for, authorizing, and approving the execution by the City Manager, or his designee, of a Power Purchase Agreement (“PPA”) between Denton and ENGIE Long Draw Solar, LLC, a Delaware limited liability company (“Long Draw Solar”); approving and authorizing the acceptance and approval by the City Manager, or his designee, of guaranties and letters of credit issued on behalf of Long Draw Solar further securing the obligations of Long Draw Solar to Denton for the benefit of Denton; approving the execution of such other and further related documents deemed necessary to effectuate the transactions allowed under this agreement by the City Manager, or his designee, which are incident to or related to the PPA; finding that Texas Government Code §252.022(a)(15) applies to the PPA and excepts the procurement of electricity from the requirements of competitive bidding; finding that the purchase of capacity and energy made by Denton under the terms of the PPA are in the public welfare; authorizing the expenditure of funds; determining that specific information contained in documents involved in this transaction pertain to a “competitive electric matter” as set forth under the provisions of §§551.086 and 552.133 of the Texas Government Code, as amended; allowing the public to inspect and reproduce the PPA as redacted; providing an effective date.

George Morrow gave this presentation as well, talking about a second Solar Project.

RFP Submittals

This item was in the same RFP submittals as the last agenda item.

Denton participated with four other municipalities in a Solar RFP issued by New Braunfels.

There were 37 unique companies that submitted a proposal.

Recommended Project

Project called “Longdraw” Solar was proposed and developed by Engie Development that is located in west Texas. Delivery point is the adjacent ERCOT project ‘node’ with a projected in-service date of June 2020. This is a 15-year project with attractive pricing.

DME is proposing to purchase 75MW and partnering with New Braunfels, Garland and Kerrville.

Requested Action

To recommend adoption of an Ordinance approving a Renewable Energy Purchase Agreement with Engie Long Draw Solar, LLC.

Board Member Jackson motioned to approve this item, second by Board Member Cheek. Vote 5-0 approved.

D. PUB18-218 - ACM Update:

1. Future Agenda Items
2. Matrix

3. ITEMS FOR INDIVIDUAL CONSIDERATION – EMINENT DOMAIN

A. **PUB18-212** – Consider recommending adoption of an ordinance of the City of Denton determining the public use, need, and necessity for the acquisition of various permanent easements and temporary construction easements generally located along the southbound I-35 Service Road, north of the old right-of-way line of Jim Christal Road, running north approximately three hundred feet (300') then east under I-35 to the northwest corner of Lot 1, Block 4 of the Rayzor Ranch South Addition and being situated in the B.B.B & C.R.R. Survey, Abstract No. 192, City and County of Denton, Texas, and with the use, purpose, and legal descriptions of each easement being more particularly described in the attached Exhibit "A" (the "Property Interests"); authorizing the City Manager and the City Attorney, or their respective designees, to acquire the Property Interests by agreement including making all offers required by law; and authorizing the City attorney or his designee to file Eminent Domain Proceedings if necessary; authorizing the expenditure of funding; makings findings; providing a savings clause; and providing an effective date. (Scripture to I-35 Water Transmission Project)

Paul Williamson gave the presentation showing various maps of the project. There are temporary and permanent easements associated.

Staff is asking this Board to recommend adoption of the ordinance to Council to acquire these easements.

Carroll asked if any of the easements that the City is pursuing acquire the entire property or prevent use of the property. Williamson answered the temporary easements are for work space and have terms and will expire once the project is complete. The permanent easement is only for what we are putting in the ground which is a water transmission line. It does encumber the property.

Jackson asked about the easements with I-35 and what the City has to do for TxDOT. Williamson answered we have to get a permit from TxDOT and it has be an encased bore.

Carroll asked if staff will come back if eminent domain proceedings move forward. Williamson answered if a lawsuit has to be filed, it will come back to this Board and to Council.

Board Member Bishop motioned to approve this item, second by Board Member Jackson. Vote 5-0 approved.

B. **PUB18-213** – Consider recommending adoption of an ordinance of the City of Denton determining the public use, need, and necessity for the acquisition of various permanent easements and temporary construction easements generally located along the southbound I-35 Service Road, from US 380 (University Drive) south to the south lot line of Lot 1, Block 2 of the Caliber Collision Addition, running due east to the northbound I-35 Service Road along the western and northern boundaries of Lot 10R-2, Block A, Rayzor Ranch Town Center Addition, with US 380 being the northern boundary line, and being situated in the B.B.B & C.R.R. Survey, Abstract No. 192, City and County of Denton, Texas, and with the use, purpose, and legal descriptions of each easement being more particularly described in the attached Exhibit "A" (the "Property Interests"); authorizing the City Manager and the City Attorney, or their respective designees, to acquire the Property Interests by agreement including making all offers required by law; and authorizing the City attorney or his designee to file Eminent Domain Proceedings if necessary; authorizing the expenditure of funding; makings findings; providing a savings clause; and providing an effective date. (HWY 380 - I-35 Water Transmission Project)

Paul Williamson gave the presentation stating this is a very similar project as the previous item just to the north, showing various maps of the project. These easements are mostly temporary that effect commercial property.

Staff is asking this Board to recommend adoption of the ordinance to Council to acquire these easements.

Board Member Jackson motioned to approve this item, second by Board Member DeVinney. Vote 5-0 approved.

C. PUB18-214 - Consider recommending adoption of an ordinance of the City of Denton determining the public use, need, and necessity for the acquisition of various permanent easements and temporary construction easements generally located along John Paine Road, north of Park Place Drive, and along Allred Road, from John Paine to South Bonne Brae Street, and being situated in the B.B.B & C.R.R. Survey, Abstract Nos. 158 and 159, City and County of Denton, Texas, and with the use, purpose, and legal descriptions of each easement being more particularly described in the attached Exhibit "A" (the "Property Interests"); authorizing the City Manager and the City Attorney, or their respective designees, to acquire the Property Interests by agreement including making all offers required by law; and authorizing the City attorney or his designee to file Eminent Domain Proceedings if necessary; authorizing the expenditure of funding; makings findings; providing a savings clause; and providing an effective date. (Allred and John Paine Road Water Transmission Project)

Paul Williamson gave the presentation stating this is another water line transmission project, showing various maps of the project. There is one property owner with three tracts.

Staff is asking this Board to recommend adoption of the ordinance to Council to acquire these easements.

DeVinney asked if this is temporary or permanent easements. Williamson answered these are permanent easements and temporary construction easements.

Board Member Jackson motioned to approve this item, second by Board Member DeVinney. Vote 5-0 approved.

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

DeVinney – Asked about getting dumpsters removed from West Oak sidewalks around UNT.

Adjournment: 9:42am

Approved 12/10/18