

CITY OF DENTON CITY COUNCIL MINUTES

February 12, 2019

After determining that a quorum was present, the City Council of the City of Denton, Texas convened in a Work Session on Tuesday, February 12, 2019 at 11:30 a.m. in the Council Work Session Room at City Hall, 215 E. McKinney Street, Denton, Texas.

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

ABSENT: None.

WORK SESSION

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 February 12, 2019.

Council Member Armintor requested the Consent Agenda Item J be pulled for individual consideration.

3. Work Session Reports

- A. ID 19-209 Receive a report, hold a discussion, and give staff direction regarding a mid-year update on the Denton Chamber of Commerce, the Denton Convention and Visitors Bureau, and the Denton Chamber of Commerce's Office of Economic Development.

Caroline Booth, Director of Economic Development, introduced Eric Clark, Chairman of the Denton Chamber of Commerce. He provided an overview of the Chamber. Annual Budget was \$481,562 from memberships and services. Activities included ribbon cuttings and ground breakings; events and programs; the Women in Commerce group; and Leadership Denton.

Hank Dickenson provided an overview of the Convention and Visitors Board. Annual Budget was \$1.3 million from HOT funds; \$132,500 from publications, co-ops, and events; and \$201,750 from Welcome Center sales and sponsorships. Activities included sales to meetings and convention groups; marketing activities, including web and social media; operation of the Discover Denton Welcome Center and DentonRadio.com.

Marty Rivers provided an overview of the Office of Economic Development. Annual Budget was \$238,829 from the City of Denton contract and \$75,006 from investors in the Economic Development Partnership. Activities included business recruitment; marketing activities, including web and social media; and management of the Economic Development Partnership Investor Program. Rivers asked for a joint meeting of the EDP Board and the City Council.

- B. DCA18-0009 Receive a report, hold a discussion, and provide staff direction on the Denton Development Code Update and Draft Zoning Map.

Scott McDonald, Development Services, presented the item. He reviewed key changes in Subchapter 1 – General Standards, Subchapter 2 – Administration and Procedures, Subchapter 3 - Zoning Districts, Subchapter 4: Overlay & Historic District, Subchapter 5: Use Regulations, Subchapter 6: Development Standards, Subchapter 7: Subdivisions, and Subchapter 8: Definitions.

- C. ID 19-289 Receive a report, hold a discussion, and give staff direction regarding the Solid Waste department's residential and commercial recycling operations.

Ethan Cox, Director of Solid Waste, presented the item. He stated the objective was to reduce per capita waste disposal. He provided the Committee on the Environment recommendations – Implement compliance and enforcement processes and replace recycling containers in parks and public areas to reduce contamination. Increase participation by evaluating implementation of a mandatory recycling ordinance for multifamily and commercial customers. The COE also recommended improving education and outreach by hands on education for schools, improved signage on containers, targeted education on plastic bags and plastics accepted by the program, and proactively “right size” under/over utilized containers.

- D. ID 19-312 Receive a report, hold a discussion, and give staff direction regarding an ordinance governing the use of the City of Denton's Right of Ways for construction purposes and the processes and procedures implementing it.

Todd Estes, City Engineer, presented the item. He stated that staff had been working to craft a comprehensive right-of-way use ordinance. In the process, two primary categories of use were identified. The first category was construction activities within the right-of-way, and second was the use of the right-of-way. Use of the right-of-way was a more complex issue than construction and would be covered in separate work sessions after adoption of the construction portion of the right-of-way ordinance. Staff proposed to reach out to the development community through various private developments and design professional organizations enabling those external stakeholders to provide feedback on the ordinance. Feedback would also be solicited from internal stakeholders (i.e., water department, Denton Municipal Electric, etc.) and external franchise utilities. Staff recommended moving forward with a right-of-way ordinance for construction purposes only and related processes and procedures.

Consensus of Council was to move forward with the right-of-way use ordinance for construction purposes.

Following the completion of the Work Session, the City Council convened in a Closed Meeting to consider the item listed below.

1. Closed Meeting.

- A. ID 19-317 Consultation with Attorneys - Under Texas Government Code Section 551.071; Deliberations regarding Personnel Matters - Under Texas Government Code Section 551.074.

Consult with the City's attorneys on legal considerations, status and strategy, in advance of a proposed mediation before the Equal Employment Opportunity Commission, relating to

the pending charge of former employee Shandrian Jarvis and any potential settlement, and to receive legal advice regarding same, where the City's Attorneys' duties to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflict with Chapter 551 of the Texas Open Meetings Act. This closed session also concerns deliberations involving a public officer or employee, under circumstances allowing closed session under section 551.074 of the Texas Open Meetings Act.

Following the completion of the Closed Meeting, the City Council convened in an Open Meeting to consider the following items.

1. CONSENT AGENDA

Council Member Briggs motioned, Council Member Hudspeth seconded to approve the Consent Agenda and accompanying ordinances and resolutions with the exception of Item J. 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 (7-0).

Ordinance No. 19-034

- A. ID 19-034 Consider adoption of an ordinance of the City of Denton, approving a City sponsorship in an amount not to exceed \$330 of in-kind services for the Tails and Trails to be held on Saturday, March 30, 2019, from 9:30 a.m. to 11:00 a.m., at the North Lakes Park; and providing an effective date.

Resolution No. 19-227

- B. ID 19-227 Consider approval of a Resolution of the City of Denton, Texas evidencing support for the proposed new construction of Riva Denton apartments in Denton to provide affordable and market rate rental housing; and providing for an effective date.

Ordinance No. 19-265

- C. ID 19-265 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 a contract through the Buy Board Cooperative Purchasing Network Contract Number 571-18 for the acquisition one (1) Pierce Enforcer Heavy Rescue Light and Air Truck; providing for the expenditure of funds therefor; and providing an effective date (File 6995 - awarded to Siddons-Martin Emergency Group, LLC, in the amount of \$702,960.51)

Resolution No. 19-287

- D. ID 19-287 Consider approval of a resolution of the City of Denton, Texas in support of proposed amendments to Chapter 460 of the Texas Transportation Code related to governance of Denton County Transportation Authority (DCTA); supporting legislation adopting said amendments; authorizing the Mayor, City Manager and the City Manager's designee to represent and communicate the City's position; and authorizing the Mayor and City Manager to sign all letters, petitions, and/or other documents on behalf of the City to promote the City's position.

Ordinance No. 19-297

- E. ID 19-297 Consider adoption of an ordinance of the City of Denton, 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-3965 with Johnston Technical Services, Inc., for the Motorola radio tower modifications; providing for the expenditure of funds therefor; and providing an effective date (File 6983 - awarded to Johnston Technical Services, Inc., in the not-to-exceed amount of \$65,012.80).

Ordinance No. 19-314

- F. ID 19-314 Consider adoption of an ordinance of the City of Denton, Texas amending the Fiscal Year 2018-19 Budget and Annual Program of Services of the City of Denton to allow for increases to the Roadway Impact Fee Fund of \$4,250,000 for the purpose of funding roadway improvements; declaring a municipal purpose; providing a severability clause; providing an open meetings clause; and providing for an effective date.

Ordinance No. 19-325

- G. ID 19-325 Consider adoption of an ordinance authorizing the settlement of litigation styled City of Denton, Texas v. Tommy R. Holamon and Sharlet Y. Holamon, Cause No. PR-2018-00005, currently pending in the Probate Court of Denton County, Texas, regarding the acquisition of fee and easement interests required for the Bonnie Brae Widening and Improvements project and the Hickory Creek Sanitary Sewer Interceptor - Phase II project in the total settlement amount of One Hundred Fifty Thousand Dollars and No Cents (\$150,000.00); authorizing the City Manager and City Attorney to effectuate the settlement; authorizing the expenditure of funds therefor; providing a savings clause; and providing an effective date.

Ordinance No. 19-334

- H. ID 19-334 Consider adoption of an ordinance of the City Council of the City of Denton, Texas, a Texas home-rule municipal corporation, authorizing the City Manager to execute an agreement with SCM Fireside, LLC, a Texas Limited Liability Company, for the City's participation in the oversizing of sewer mains for the City of Denton; providing for the expenditure of funds therefor; and providing an effective date (awarded to SCM Fireside, LLC in the not to exceed amount of \$68,786).

Ordinance 19-351

- I. ID 19-351 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Professional Services Agreement with HDR Engineering, Inc., for the Hickory Creek Road Realignment street improvement project as set forth in the agreement; providing for the expenditure of funds therefor; and providing an effective date (RFQ 6590-049 - Professional Services Agreement for design services awarded to HDR Engineering, Inc., in the not-to-exceed amount of \$3,342,509).

Item J which was pulled from the Consent Agenda was considered.

Ordinance No. 19-367

- J. ID 19-367 Consider adoption of an ordinance of the City of Denton authorizing the City Manager to execute and deliver a First Amendment to Lease of City Property between the City of Denton and VOW 221 E HICKORY, LLC, correcting the Lessee name and confirming the remaining terms of the Agreement; and providing an effective date.

Council Member Hudspeth motioned, Mayor Pro Tem Ryan seconded to adopt the ordinance. On roll call vote, Council Member Hudspeth "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Council Member Meltzer "aye", Mayor Watts "aye", and Council Member Briggs "nay", and Council Member Armintor "nay". Motion carried (5-2).

2. ITEMS FOR INDIVIDUAL CONSIDERATION

Resolution No. 19-028

- A. ID 19-028 Consider approval of a resolution of the City of Denton, Texas, supporting legislation to create the "Cole Ranch Improvement District No. 1 of Denton County, Texas"; and providing an effective date.

The Mayor called items A, B and D.

Bryan Langley, Deputy City Manager, presented the items. Approval of the resolutions for Items A and B provided the City's written consent for the legislation, but did not constitute the City's specific consent to the creation of the MMD – the City specifically reserves the right to consent to the MMD and impose conditions on the district through three documents: the City Ordinance, the MMD Operating Agreement, and the Developer Agreement. If the project continued to move forward, these three documents would be negotiated concurrently and voted on by the Council at the same time; the three documents all must be approved, or the district could not be created.

Comment cards for Item A and Item B was submitted by Kim McKibben, 1306 W. Hickory in opposition.

Langley stated that Item D was for the escrow agreement, and with that the developers agreed to pay and reimburse the City for the time, costs and expenses of staff and all of its professional advisory and consulting fees, costs and expenses, including but not limited to legal, financial advisor and engineering costs, incurred in connection with or related to the preparation of, and analysis of the financial and supporting documents necessary for the execution of the consent agreement, MMD operating agreement, developer agreement, or other necessary documents to establish the MMDs and for the potential issuance of bonds. After execution of the agreement, a sum of \$50,000 would be delivered to the escrow agent, and additional increments of \$50,000 will be delivered when the amount on deposit was reduced to \$10,000. The City would send invoices to the escrow agent and the developers for payment. The City had no obligation to execute any project documents, to establish the MMDs, or to issue any bonds or other indebtedness, and nothing contained within the escrow agreement created such an obligation. The developers' obligation to pay the City's expenses would exist independent of whether the MMDs or bonds or other indebtedness were approved.

Mayor Pro Tem Ryan motioned, Council Member Duff seconded to approve the resolution for Item A. On roll call vote, Council Member Hudspeth "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Mayor Watts "aye", Council Member Briggs "nay", Council Member Armintor "nay", and Council Member Meltzer "nay". Motion carried (4-3).

Resolution No. 19-332

- B. ID 19-332 Consider approval of a resolution of the City of Denton, Texas, supporting legislation to create the "Hunter Ranch Improvement District No. 1 of Denton County, Texas"; and providing an effective date.

Mayor Pro Tem Ryan motioned, Council Member Duff seconded to approve the resolution for Item B. On roll call vote, Council Member Hudspeth "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Mayor Watts "aye", Council Member Briggs "nay", Council Member Armintor "nay", and Council Member Meltzer "nay". Motion carried (4-3).

Ordinance No. 19-328

- D. ID 19-328 Consider adoption of an ordinance of the City Council of Denton, Texas authorizing the Mayor to execute an escrow agreement regarding reimbursement of City expenses related to municipal improvement districts; and providing an effective date.

Council Member Duff motioned, Mayor Pro Tem Ryan seconded to adopt the ordinance for Item D. On roll call vote, Council Member Hudspeth "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Mayor Watts "aye", Council Member Briggs "nay", Council Member Armintor "nay", and Council Member Meltzer "nay". Motion carried (4-3).

Ordinance No. 19-163

- C. ID 19-163 Consider adoption of an ordinance of the City of Denton, a Texas home-rule municipal corporation, authorizing the City Manager to execute a Professional Services Agreement with James R. Kirkpatrick Architect, Inc., dba Kirkpatrick Architecture Studio for architectural design services for the City of Denton Fire Station 8 to be located at 3131 Colorado Blvd., Denton, TX 76210 as set forth in the contract; providing for the expenditure of funds therefor; and providing an effective date (RFQ 6910 - awarded to James R. Kirkpatrick Architect, Inc., dba Kirkpatrick Architecture Studio, in the not-to exceed amount of \$410,907).

Council Member Briggs recused herself.

Kenneth Hedges, Fire Chief, provided a brief background of Fire Station 8 to be built at 3131 Colorado Blvd.

Mario Canizares, Assistant City Manager, reviewed the process for selecting the architect. Based on qualifications, past performance and experience, Kirkpatrick Architecture Studio was selected.

Mayor Pro Tem Ryan motioned, Council Member Armintor seconded to adopt the ordinance. On roll call vote, Council Member Hudspeth "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Council Member Armintor "aye", Council Member Meltzer "aye", and Mayor Watts "aye". Motion carried (6-0).

Ordinance No. 19-327

- E. ID 19-327 Consider adoption of an ordinance approving a settlement agreement and release between the City of Denton, a Texas home rule municipal corporation and American Bio Source, LLC, a Texas limited liability company, regarding issues and disputes related to a lease agreement approved under ordinance no. 2014-020 and authorizing the City Manager, or his designee, to execute the same; approving the expenditure of funds therefor; and declaring an effective date.

Ethan Cox, Director of Solid Waste presented the item. The initial term of the agreement expired on December 31, 2018, and the City Council elected not to renew the agreement for an additional term. Upon notification of non-renewal, American Bio Source requested that the City of Denton consider extending the lease term to March 31, 2019 to allow the firm time to shut down operations and transport their assets to the business' new location. In exchange the firm would agree to a settlement agreement and mutual release of claims.

Mayor Pro Tem Ryan motioned, Council Member Armintor 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 (7-0).

- F. ID 19-353 Consider a motion to reconsider the February 5, 2019 denial of an ordinance for a Specific Use Permit (File ID S18-0008g) to allow for a multi-family residential use as part of a mixed-use development on an approximately 31-acre site, generally located on the north side of Windsor Drive, east of the I-35 N Frontage Road, in the City of Denton, Denton County, Texas; providing for a penalty in the maximum amount of \$2,000.00 for violations thereof; providing for severability; and establishing an effective date (S18-0008g, Windsor Drive Apartments, Hayley Zagurski).

Mayor Watts motioned to reconsider the item, Mayor Pro Tem Ryan seconded. On roll call vote, Council Member Hudspeth "aye", Council Member Briggs "aye", Council Member Duff "aye", Mayor Pro Tem Ryan "aye", Mayor Watts "aye", Council Member Armintor "nay", and Council Member Meltzer "nay". Motion carried (5-2).

- G. ID 19-356 Consider nominations/appointments to the City's Boards, Commissions, and Committees: Animal Shelter Advisory Committee, Health & Building Standards Commission, Library Board, Traffic Safety Commission, and Committee on Persons with Disabilities.

Council Member Briggs motioned, Council Member Meltzer seconded to approve the nomination of Jean Greenlaw to the Library Board. 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 (7-0).

3. 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 Briggs asked staff to schedule a joint meeting with the Economic Development Partnership Board.

Council Member Briggs asked staff to consider extending the yellow light pilot for red light cameras to another intersection to see if it has a similar effect and provide accident data prior to and after the launch of the April 2018 pilot at the intersection of Carroll and Oak.

Council Member Meltzer asked for a report on the goals and key principles of the Denton Plan 2030.

Council Member Armintor asked for a discussion on changing the rules of procedure and allowing residents to speak more than once during a public hearing.

Council Member Armintor asked for information on citizenship requirements for committees.

Mayor Pro Tem Ryan asked for a report from Legal regarding the current reconsideration process, including an interpretation of the “next scheduled meeting” and if it included Monday luncheons and any potential impacts from the 72-hour posting requirement.

With no further business, the meeting was adjourned at 6:10 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JANE RICHARDSON
ASSISTANT CITY SECRETARY
CITY OF DENTON, TEXAS