

CITY OF DENTON CITY COUNCIL MINUTES

July 15, 2014

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, July 15, 2014 at 1:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Mayor Pro Tem Engelbrecht, Council Member Gregory, Council Member Hawkins, Council Member Roden, Council Member Ryan, and Mayor Watts.

ABSENT: Council Member Johnson

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 July 15, 2014.

City Manager Campbell indicated that Item BB on the Consent Agenda would be pulled and not consider at this meeting.

Mayor Watts asked about the bid on the airport taxiway in terms of the bid price per square yard.

Chuck Springer, Director of Finance, stated that the item was bid out earlier and awarded by Council. Any individual item over \$250,000 would come back to Council for approval.

Council Member Johnson arrived at the meeting

Mayor Watts indicated that before the item on the agenda for Citizen Comments, the item for Council Comments would be considered to allow for the reading of a proclamation for David Barrow.

Mayor Watts asked for Council consensus that prior to the public meeting on the fracking ordinance, a time would be provided for Council to make comments. Council did not have an objection to that procedure.

3. Work Session Reports

- A. ID 14-0298 Receive a report, hold a discussion, and give staff direction regarding a development agreement per subchapter 212.172 of the Texas Local Government Code providing for development regulations and an annexation schedule for a property currently located in the City of Denton Extra-Territorial Jurisdiction. The subject property is approximately 82.50 acres generally located on the south side of Ryan Road, approximately 380 feet west of Montecito Drive and 900 feet east of Forrestridge Drive.

Council Member Johnson left the meeting with a potential conflict of interest.

Brian Lockley, Director of Planning and Development, presented the details of the proposal. The request was for staff direction on negotiating a development agreement providing for development regulations and an annexation schedule for property in the ETJ. He presented a location map of the property, zoning map, and future land use map. The Texas Government Code allowed the City to enter into an agreement regarding development of property in the

Extraterritorial Jurisdiction of the City. The purpose of this agreement would be to allow a single family subdivision and elderly housing to be constructed per City Codes while in the ETJ and provide for annexation at a future date. He outlined nine areas for the agreement.

Council Member Roden asked if the agreement would come to Council as a public hearing.

City Attorney Burgess stated that a public hearing was not required.

Council Member Roden stated that one could be held if desired.

City Attorney Burgess stated that a courtesy public hearing could be held should Council desire one.

Council Member Gregory asked if the agreement could be constructed in such a way that it would provide for a public hearing.

City Attorney Burgess stated that State law indicated what would have to go into the agreement but the Council could provide for a method of procedure. The Council could not put a stipulation for a public hearing in the agreement.

Mayor Watts stated that several years ago the City went through an extensive annexation process with large portions of vacant land that were not included in the annexation process. He was concerned even if safeguards were built into the agreement that it was desirable to have the property in the city limits. The development agreement could have different standards such as provisions for the gas well. He was concerned about the lack of public input if a public hearing was not held.

Lockley reviewed the concept plans for the proposal. The petition for annexation and rezoning process procedures were discussed. The developer's agreement would not require the use of the lengthy annexation process. The advantages and disadvantages of the process were presented.

Council Member Roden asked what could be done currently without annexation in terms of standards and what could be done in terms of standards with the agreement.

Lockley stated that without the agreement there would be no standards, only platting authority.

Council Member Roden asked what the advantages were from the developer's perspective to go this route.

Lockley stated the applicant would have assurance and predictability in development and that the property could be developed in the manner they wanted such as housing sizes, density, etc.

Council Member Hawkins questioned how city services worked if the property was not annexed.

Lockley stated that the City would not supply services if the property was not annexed but could determine how the property was connected to the services.

Mayor Pro Tem Engelbrecht asked if the property was part of the Ryan property and commented that the density of the preliminary plan looked like there were small lots.

Lockley replied that the property was part of the Ryan tract and that the density was probably NR-4.

Mayor Pro Tem Engelbrecht stated that he was not comfortable proceeding without a public hearing.

Council Member Gregory stated that the advantage was in the permit and conducting building inspections of the homes. He questioned if the County had the same building standards as the City.

Lockley stated that there were several different building codes and the standards were dependent on which code the County had adopted.

Mayor Watts stated that he was not in support of the developer's agreement. He felt that the time frame was not too different from the regular process.

Mayor Pro Tem Engelbrecht questioned if the agreement was completed and the annexation done with zoning, at what point did the developer's agreement disappear.

Aaron Leal, Deputy City Attorney, stated that would depend on the specific terms of the development. Upon annexation the agreement would expire and then there might be a non-conforming use depending on the terms of the agreement

Council Member Johnson returned to the meeting.

- B. ID 14-0303 Receive a report, hold a discussion, and give staff direction regarding project recommendations from the Citizens Bond Advisory Committee for the November 2014 bond election.

Bryan Langley, Assistant City Manager, presented an update on the proposal and wording of the ballot issues. He reviewed the history of the Citizens Bond Advisory Committee, the meetings that were held, committee charge and recommendations. The tax rate increase assumed up to a 3 cent tax rate increase based on 8% growth in 2014-15 and 4% growth thereafter. The proposal also included public art funding; however, the actual public art projects were not yet identified. There was a plan to have the Public Art Committee make recommendations consistent with the master plan. Funding would be restricted to these uses, but not to a specific project location.

Council Member Roden asked if the amounts for public art were included in the projects.

Lockley stated correct that there would be a separate issue for public art but it would be included in the funding amount for the various proposals.

Council Member Roden asked about the spray park concept and matching funds. If the issue went to the voters, was \$200,000 enough to put in a splash park and would it be contingent on private donations of \$100,000.

Emerson Vorel, Director of Parks and Recreation, stated that it became a question of size. The \$200,000 would build a splash park and it might qualify for CDBG funds. It was just a question of how big and how extensive.

Mayor Watts felt that some of the funding might be moved up to other projects, such as Bonnie Brae and Morris Street; the Ruddell expansion and some of the other projects. He questioned if the bond expenditures were legally tied to specific projects.

Langley stated that the proposition and ballot language had up to a certain amount of dollars for transportation and as long the expenditure was in the proposition, it would be acceptable. Staff would communicate to the public a list of the projects that were proposed. The Oversight Committee would provide supervision on the projects.

Council Member Johnson wanted to make sure there was flexibility such as using drainage or transportation funds for a sewer project.

Langley replied correct provided it was authorized in the proposition.

Council Member Gregory stated that if projects were moved around as suggested by the Mayor, the total dollar amount would remain the same but there just would not be as much in the categories such as the parks category and more in streets.

Langley replied correct if that was what Council wanted to do.

Council Member Hawkins asked how much would realized if the Planning and Zoning Commission recommendation were followed and the tax increase was 3.5 cents.

Langley stated it would be about \$10 million.

Council Member Hawkins questioned what that would mean to the average homeowner.

Langley replied about \$8.

Council discussed the recommendations from the Committee, possible changes to those recommendations, reallocation of funds once approved, ballot language, and proposition language.

Council Member Gregory stated that he was reluctant to set aside the recommendation from the Committee regarding the water park as he wanted the Committee to continue to support the bond program. He would be open to a half cent more for roads if it was felt that it might be passable in November.

Mayor Watts stated that he was pleased with the Bond Committee recommendation and their work but did not feel some changes would affect how the Committee viewed the passage.

Council Member Hawkins stated that he would like more money for roads but was not sure if an increase in the tax rate would be the way to do it.

Council discussed the changing of projects such as funding the water park.

- C. ID 14-0337 Receive a report, hold a discussion and give staff direction regarding aesthetics related to the 35Express Project.

John Cabrales, Assistant City Manager, presented an update on the 35Express Aesthetic and public art update. The proposals included public art and other aesthetics for the roadway and bridge elements. In 2011 NHTB was hired by TxDOT to develop aesthetic design guidelines. In 2012-2014 staff began meetings with AGL and TxDOT to discuss public art and other aesthetic opportunities. The last CIP bond program approved by voters allocated \$400,000 for public art on the 35Express.

TxDOT had a basic design for the roadway but allowed additional aesthetic design enhancements. North Texas Blvd. was the only bridge Denton would have at this time for these enhancements. He displayed three base designs for the project and how the bridge would look at base design. That design did not have not separation barriers for the pedestrian walkways. Denton could add enhancements such as a small separation wall between the roadway and pedestrian walkway.

Landscaping opportunities were also available such a native grasses and shrub masses. Maintenance would be responsibility of the City. There were also were options for decorative sidewalks, banner poles and pedestrian lighting. The base TxDOT walls had no graphics associated with the main walls. Public art opportunities such as a repeating patterns for the walls were presented. Single patterns could also be used.

Mayor Watts noted that he did not see anything associated with TWU, only UNT. He wanted to be careful that the City was not favoring one over the other.

Cabrales noted that when the Dallas Drive bridge was done, TWU could be included in that design.

Mayor Pro Tem Engelbrecht suggested not using a logo or specific school colors on the bridge as they might change over the years. He would prefer something that would not change such as music or an equestrian element.

Cabrales stated that the Public Art Committee was interested in the medallion concept with metal rather than other materials. These would be attached to the concrete and have some sort of back lighting.

Council Member Roden asked if the \$400,000 would cover all of the cost on the corridor.

Cabrales stated that the funding was not intended to be for the entire cost of the project. Funds would be used for other projects as the project moved north up I35. Some of the funding should be saved for other projects on the roadway.

Council discussed the design applications for not just bridges but also for other structures. Consensus was to proceed with a discussion with UNT and the consultants to identify aesthetic opportunities on the North Texas Blvd. bridge.

Mayor Watts asked about the cost for traffic control.

Mark Nelson, Director of Transportation, stated that that they had asked TxDOT to maintain conformity on bridge color.

Mayor Pro Tem Engelbrecht asked what would be painted on the Mayhill bridge.

Cabrales stated that the columns and beams would be painted.

Mayor Watts asked for Council consensus on the items presented by staff. Consensus on the first item was to continue negotiations with TxDOT. Council discussed accommodations for pedestrian traffic/bike accommodations associated with Item 2 with the consensus to move forward with adding some enhancements to the area. Consensus of the Council was agreement with the Public Art Committee concerning the medallion style art attached to the bridge.

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

1. Closed Meeting:

- A. ID 14-0335 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the T. Toby Survey, Abstract Number 1288, in the City of Denton, Denton County, Texas, being 2.493 acre tract of land located generally north of Hercules Street along the east side of North Locust Street, for the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, substation facilities, and related improvements. Consultation with the City's attorneys regarding legal issues associated with the potential proceedings against 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 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. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project Parcels: C13 - North Locust Properties, L.L.C.) [ID 14-0342]
- B. ID 14-0336 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the T. M. Downing Survey, Abstract Number 346, in the City of Denton, Denton County, Texas, being 1.127 acre tract of land located generally in the 2500 block of east McKinney Street, for the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, substation facilities, and related improvements. Consultation with

the City's attorneys regarding legal issues associated with the potential proceedings against 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 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. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project Parcels: P4 - William Lee Tyson, II, Rosemarie Virginia Tyson, Robert John Tyson, Barbara Ann Wittwer, and Dwane Douglas Tyson) [ID 14-0344]

- C. ID 14-0340 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in the J. Coltart Survey, Abstract Number 288, and the D. Culp Survey, Abstract No. 287, in the City of Denton, Denton County, Texas, being a 10.45 acre fee tract of land, a 0.802 acre and 3.338 acre tracts of land for electric easement, and a 0.521 acre and a 1.227 acre tracts of land for temporary construction easement, located generally on the north and south sides of Loop 288 north of Kings Row Road, for the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, substation facilities, and related improvements. Consultation with the City's attorneys regarding legal issues associated with the potential proceedings against 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 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. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project Parcels: C1, C2, and C3 -Brown Development I, Ltd., a Texas Limited Partnership) [ID 14-0347 and 14-0348]
- D. ID 14-0334 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property interests located in T. Toby Survey, Abstract Number 1285, City of Denton, Denton County, Texas, and generally located at the north east corner of Airport Road and Masch Branch Road. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition of 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 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. (Denton Enterprise Airport Fee Acquisitions) [ID 14-0345 & 14-0346]
- E. ID 14-0287 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; Deliberations regarding Consultation with the City Attorney -

Under Texas Government Code, Section 551.071; Deliberations regarding Economic Development Negotiations - Under Texas Government Code, Section 551.087. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the acquisition of real property interests to acquire fee simple to a parcel of land lying and being generally situated south of the 2300 block of West Oak Street in the City of Denton, and County of Denton, State of Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property interests referenced above where a public discussion of these 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. (Hickory substation) [ID 14-0289]

- F. ID 14-0288 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; Deliberations regarding Consultation with the City Attorney - Under Texas Government Code, Section 551.071; Deliberations regarding Economic Development Negotiations - Under Texas Government Code, Section 551.087. Discuss, deliberate, and receive information from staff and provide staff with direction pertaining to the acquisition of real property interests to acquire fee simple to a parcel of land lying and being generally situated south of the 2300 block of West Oak Street in the City of Denton, and County of Denton, State of Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition or condemnation of the real property interests referenced above where a public discussion of these 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. (Hickory substation companion to ID 14-0287) [ID 14-0290]
- G. ID 14-0329 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 the potential purchase of certain real property interests located in the J. Haney Survey, Abstract Number 515, in the City of Denton, Denton County, Texas, being a fee interest in land, regarding a certain 15.037 acre tract of land located generally south of FM 1173 and east of Masch Branch Road, for the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines facilities, and structures, as well as substations. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition of 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 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. (Masch Branch Substation Re-construction-Denton Municipal Electric) [ID 14-0331]

- H. ID 14-0338 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, receive information from staff and provide staff with direction pertaining to the potential exchange and/or sale of certain real property interests located in the Robert Beaumont Survey, Abstract Number 31, in the City of Denton, Denton County, Texas, being 1.6598 and 0.613 acre tracts of land, and located in the N.H. Meisenhamer Survey, and Abstract Number 810, in the City of Denton, Denton County, Texas, being a 0.3278 acre tract of land. Consultation with the City's attorneys regarding legal issues associated with the potential proceedings against 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 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. (North Lakes Park Boundary Adjustment - Parks)
- I. ID 14-0357 Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086; Consultation with Attorneys - Under Texas Government Code Section 551.071. 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 2014-2015, including without limitation, revenues, expenses, commodity volumes, and commitments; and discuss, deliberate, provide staff with direction regarding such matters, consider and make a recommendation regarding approval of the FY 2014-2015 DME operating budget. [ID 14-280]
- J. ID 14-0364 Deliberations regarding Real Property - Under Texas Government Code, Section 551.072; and Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, and receive information from staff and provide staff direction pertaining to a license agreement with DART regarding a three inch sanitary sewer force main line near Lakeview Drive for the benefit of the Classic of Denton development. Consultation with the City's attorneys regarding legal issues associated with the license agreement where a public discussion of these legal matters would conflict with 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. [ID 14-0366]
- K. ID 14-0294 Deliberations regarding Consultation with Attorneys - Under Texas Government Code, Section 551.071. Discuss, deliberate, and receive information from the City's attorneys pertaining to the negotiation and legal consequences of meet and confer agreements with the Police and Fire Associations, and provide the City's attorneys with direction, 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 proceedings or potential litigation.

- L. ID 14-0341 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; and Consultation with Attorneys - Under Texas Government Code Section 551.071. Discuss, deliberate and receive information from staff and provide staff with direction pertaining to the potential purchase of certain real property located at 301 E. McKinney St., Denton, Denton County, Texas. Consultation with the City's attorneys regarding legal issues associated with the acquisition of the real property interests referenced 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.

- M. ID 14-0351 Consultation with Attorneys - Under Texas Government Code Section 551.071. Consult with and provide direction to City's attorneys regarding legal issues and strategies associated with Gas Well Ordinance regulation of gas well drilling and production within the City Limits and the extraterritorial jurisdiction, including: Constitutional limitations, statutory limitations upon municipal regulatory authority; statutory preemption; impacts of federal and state law and regulations; impacts of gas well drilling upon protected uses and vice-versa; moratorium on drilling and production; other concerns about municipal regulatory authority or matters relating to enforcement of the Gas Well Ordinance; and legal matters associated with a citizen's initiative regarding hydraulic fracturing where a public discussion of these legal matters would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

- N. ID 14-0362 Consultation with Attorneys - Under Texas Government Code Section 551.071 Consultation, discussion, deliberation, and receipt of information from the City's attorneys involving legal matters concerning Item No. 3.A. of the July 15, 2014 Work Session Agenda, where a public discussion of this legal matter would conflict with the duty of the City's attorneys under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

Regular Meeting of the City of Denton City Council at 6:30 p.m. in the Council Chambers at City Hall, 215 E. McKinney Street.

1. PLEDGE OF ALLEGIANCE

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

7. CONCLUDING ITEMS

Mayor Watts stated that this item would be moved up from the end of the agenda to allow for the presentation of a proclamation.

Mayor Watts presented a proclamation for David Barrow Day.

2. **CITIZEN REPORTS**

1. ID 14-0282 Receive a citizen report from Brian McCarter regarding the creation of a Zero Waste Team in Denton.

Mr. McCarter was not present at the meeting.

Mayor announced that Agenda 4A had been withdrawn and would not be considered

3. **CONSENT AGENDA**

Mayor Watts indicated that Items BB, Y and Z were pulled from consideration.

Council Member Gregory motioned, Council Member Hawkins seconded to adopt the Consent Agenda and accompanying ordinances and resolutions with the exceptions of Items BB, Y and Z. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2014-194

- A. ID 14-0221 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager, or his designee, to enter into an Interlocal Agreement with Denton County for the County to provide Property Tax Billing and Collections Services for the City of Denton; providing a savings clause; and providing an effective date.

Ordinance No. 2014-195

- B. ID 14-0301 Consider adoption of an ordinance of the City of Denton, Nunc pro Tunc, correcting an inadvertent mistake in Ordinance No. 2010-042, relating to the acceptance of eligible non-annexation agreements for agricultural, wildlife management or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas, generally identified as PAA3, located on the south side of Ganzer Road, north and south of Barthold Road, north of FM 1173, west of I-35, and more specifically identified in Exhibits "A" and "B" attached hereto; specifically by including two parcels of land that were inadvertently excluded from Ordinance No. 2010-042 even though the parcels were subject to a signed non-annexation agreement; providing for savings clause; and providing an effective date.

Ordinance No. 2014-196

- C. ID 14-0302 Consider adoption of an ordinance of the City of Denton, Texas, Nunc pro Tunc, correcting an inadvertent mistake in Ordinance No. 2010-119 relating to the annexation of an area of land to the City of Denton, Texas, generally identified as PAA3, located on the south side of Ganzer Road, north and south of Barthold Road; north of FM 1173, west of I-35, and more specifically described and depicted in Exhibits "A" and "B"; specifically by excluding two parcels of land that were inadvertently annexed notwithstanding that the parcels were subject to signed non-

annexation agreements for agricultural, wildlife management or timberland use; providing for a correction of the city map to exclude the inadvertently annexed lands; providing for a savings clause; and providing for an effective date.

Ordinance No. 2014-197

- D. ID 14-0304 Consider adoption of an ordinance of the City of Denton, Nunc Pro Tunc, correcting an inadvertent mistake in Ordinance No. 2012-362, relating to the acceptance of eligible non-annexation agreements for agricultural, wildlife management or timberland use properties within an area of land adjacent to and abutting the existing city limits of the City of Denton, Texas, generally identified as DH-9, located north of Pockrus Page Road, north, south and northeast of Edwards Road, and more specifically identified in Exhibit "A" and "B" attached hereto; specifically by including two parcels of land that were inadvertently excluded from Ordinance No. 2012-362 even though the parcels were subject to a signed non-annexation agreement; providing for savings clause; and providing an effective date.

Ordinance No. 2014-198

- E. ID 14-0305 Consider adoption of an ordinance of the City of Denton, Texas, Nunc Pro Tunc, correcting an inadvertent mistake in Ordinance No. 2013-096 relating to the annexation of an area of land of approximately 298 acres to the City of Denton, Texas, generally identified as DH-9, located north of Pockrus Page Road, north, south and northeast of Edwards Road, and more specifically described and depicted in Exhibits "A" and "B" attached hereto; specifically by excluding two parcels of land that were inadvertently annexed notwithstanding that the parcels were subject to signed non-annexation agreements for agricultural, wildlife management or timberland use; providing for a correction of the city map to exclude the inadvertently annexed lands; providing for a savings clause; and providing for an effective date.

Approved the minutes listed below.

- F. ID 14-0310 Consider approval of the minutes of: June 2, 2014 June 3, 2014 June 10, 2014 June 17, 2014

Ordinance No. 2014-199

- G. ID 14-0313 Consider adoption of an ordinance authorizing the City Manager to execute an Interagency Agreement with the North Central Texas Council of Governments (NCTCOG) under Section 791.001 of the State of Texas Government Code, to authorize the City of Denton to participate in the NCTCOG Geographic Information Systems Planimetric Mapping Update; authorizing the expenditure of funds therefor; and providing an effective date (File 5590-Interagency Agreement with the North Central Texas Council of Governments in the not-to-exceed amount of \$43,000).

Ordinance No. 2014-200

- H. ID 14-0318 Consider adoption of an ordinance of the City Council of the City of Denton, Texas authorizing the City Manager to approve and execute a "Second Amendment to the Tower/Ground Lease Agreement" by and between the City as

Lessor, and New Cingular Wireless PCS, LLC., as Lessee, for the lease of tower space on the McKenna Park Tower and on the grounds; authorizing the expenditure and receipt of funds therefor; and providing an effective date.

Ordinance No. 2014-201

- I. ID 14-0319 Consider adoption of an ordinance authorizing the City Manager to execute a Professional Services Agreement (PSA) with C.T. Brannon Corporation for aquatic engineering and design services relating to the renovation of the City of Denton Civic Center Pool; and providing an effective date (File 5489-awarded to C.T. Brannon Corporation in the not-to-exceed amount of \$145,000).

Ordinance No. 2014-202

- J. ID 14-0320 Consider adoption of an ordinance accepting competitive bids and awarding a public works contract for the construction of Wastewater Collection System Improvements for the Sherman Drive/Holiday Park/Longfellow Drive project; providing for the expenditure of funds therefor; and providing an effective date (Bid 5515-awarded to the lowest responsible bidder meeting specification, Quality Excavation, Ltd. in the amount of \$917,524.50). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-203

- K. ID 14-0322 Consider adoption of an ordinance accepting competitive bids and awarding a public works contract for the construction of aircraft ramps as part of the Taxilane Quebec Hangar Project at Denton Enterprise Airport; providing for the expenditure of funds therefor; and providing an effective date (RFP 5241-awarded to Floyd Smith Concrete, Inc., in the not-to-exceed amount of \$579,067.88).

Ordinance No. 2014-204

- L. ID 14-0323 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving the purchase of a twenty-five (25) NTX-220 Substation Controller Remote Terminal Units (RTU) for Denton Municipal Electric, which are available from only one source and in accordance with Chapter 252.022 of the Texas Local Government Code such purchases are exempt from the requirements of competitive bidding; and providing an effective date (File 5526 awarded to Advanced Control Systems in a not-to-exceed amount of \$480,000). The Public Utilities Board recommends approval (5-0).

Ordinance No. 2014-205

- M. ID 14-0324 Consider adoption of an ordinance awarding a contract for the purchase of security products and related services for Denton Municipal Electric (DME) substations and storage facilities as awarded by the State of Texas Department of Information Resources (DIR) through the Go DIRect Program, Contract Number DIR-SDD-1722; providing for the expenditure of funds therefor and providing an effective date (File 5233 awarded to STS 360, LLC in a not to exceed amount of \$180,000).

Ordinance No. 2014-206

- N. ID 14-0328 Consider adoption of an ordinance releasing, abandoning, and vacating (a) a 0.131 acre Public Drainage Easement granted to the City of Denton, Texas, by Holigan Development, Ltd. on November 3, 2005 and recorded as Instrument No. 2005-140640, Real Property Records, Denton County, Texas, and (b) a 1.1844 acre Public Drainage Easement granted to the City of Denton, Texas, by Holigan Development, Ltd. on November 3, 2005, and recorded as Instrument No. 2005-140641, Real Property Records, Denton County, Texas (the 0.131 acre Public Drainage Easement and the 1.1844 acre Public Drainage Easement are collectively referred to as the "Drainage Easements" and are located in the Gideon Walker Survey, Abstract No. 1330, Denton County, Texas); declaring an effective date.

Ordinance No. 2014-207

- O. ID 14-0331 Consider adoption of an ordinance of the City of Denton, Texas authorizing the City Manager or his designee to make an offer to purchase and execute a Contract of Sale, by and between McKee-Krum Properties, LLC, (the "Owner"), its successors in interest, or any others with an ownership interest, and the City of Denton regarding the sale by Owner and purchase by the City of a fee interest in land consisting of 15.037 acres, being situated in the J. Haney Survey, Abstract No. 515, in the City of Denton, Denton County, Texas, located generally south of FM 1173 and east of Masch Branch Road, for the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, facilities, and structures, as well as substations for the purchase price as prescribed in the Contract of Sale; authorizing the City Manager, or his designee, to make an offer to purchase the property interest from Owner for such purchase price, and execute and deliver any and all other documents necessary to accomplish closing of the transaction contemplated by the Contract of Sale; authorizing the expenditure of funds, therefor.

Ordinance No. 2014-208

- P. ID 14-0342 Consider adoption of an ordinance of the City of Denton, Texas for the purchase of a 2.493 acre tract of land being generally situated in the T. Toby Survey, Abstract Number 1288, City of Denton, Denton County, Texas, ("Property Interests") for the public use of expansion, construction, operation, maintenance, augmentation, and improvement of electric transmission and distribution lines, facilities, structures, and substations for the amount of Four Hundred Thirty Four Thousand Three Hundred Eighty Dollars and No Cents (\$434,380.00), from North Locust Properties, L.L.C., a Texas limited liability company ("Owner"); authorizing the City Manager, or his designee, to execute the necessary agreement and documents for the purchase; authorizing the expenditure of funds; and providing an effective date. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project Parcels: C13 - North Locust Properties, L.L.C.)

Resolution No. 2014-026

- Q. ID 14-0343 Consider approval of a resolution of the City Council of the City of Denton, Texas, appointing an alternate member as an official voting representative

to the North Central Texas Council of Governments Regional Transportation Council ("RTC"); and providing an effective date. The Mobility Committee recommended approval of Option 1, (2-0).

Ordinance No. 2014-209

- R. ID 14-0344 Consider adoption of an ordinance of the City of Denton, Texas for the purchase of a 1.127 acre tract of land being generally situated in the T. M. Downing Survey, Abstract Number 346, City of Denton, Denton County, Texas, ("Property Interests") for the public use of expansion, construction, operation, maintenance, augmentation, and improvement of electric transmission and distribution lines, facilities, structures, and substations for the amount of Sixteen Thousand Five Hundred Dollars and No Cents (\$16,500.00), from William Lee Tyson, II, Rosemarie Virginia Tyson, Robert John Tyson, Barbara Ann Wittwer, and Dwane Douglas Tyson; authorizing the City Manager, or his designee, to execute the necessary agreement and documents for the purchase; authorizing the expenditure of funds; and providing an effective date. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project Parcels: P4 - William Lee Tyson, II, Rosemarie Virginia Tyson, Robert John Tyson, Barbara Ann Wittwer, and Dwane Douglas Tyson)

Ordinance No. 2014-210

- S. ID 14-0345 Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Contract of Sale, by and between the City of Denton, Texas ("City"), as buyer, and Everett F. Cook and Joy L. Walters (the "Owner"), as seller, to acquire fee simple to a 5.89 acre tract situated in the T. Toby Survey, Abstract No. 1285, located in the City of Denton, Denton County, Texas; for the purchase price of Six Hundred Two Thousand Nine Hundred Thirty Four Dollars and No Cents (\$602,934.00), and other consideration, as prescribed in the Contract of Sale (the "Agreement"), as attached to the ordinance and made a part thereof as Exhibit "A"; authorizing the expenditure of funds; and providing an effective date. (Denton Enterprise Airport - Cook/Walters Acquisition)

Ordinance No. 2014-211

- T. ID 14-0346 Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Contract of Sale, by and between the City of Denton, Texas ("City"), as buyer, and Dorothy Nell Cook n/k/a Dorothy Nell McDuff (the "Owner"), as seller, to acquire fee simple to a 10.154 acre tract situated in the Thomas Toby Survey, Abstract No. 1285, located in the City of Denton, Denton County, Texas; for the purchase price of One Million One Hundred Five Thousand Seven Hundred Seventy Dollars and No Cents (\$1,105,770.00), and other consideration, as prescribed in the contract of sale (the "Agreement"), as attached to the ordinance and made a part thereof as Exhibit "A"; authorizing the expenditure of funds; and providing an effective date. (Denton Enterprise Airport - Walters/McDuff Acquisition)

Ordinance No. 2014-212

- U. ID 14-0347 Consider adoption of an ordinance of the City of Denton, Texas for the purchase from Brown Development I, Ltd., a Texas Limited Partnership ("Owner"), of a (1) a 10.45 acre tract in fee; (2) a 0.802 acre tract for an electric easement; and (3) a 0.521 acre tract for temporary construction easement, each of which is generally situated in the J. Coltart Survey, Abstract Number 288, and/or the D. Culp Survey, Abstract No. 287, City of Denton, Denton County, Texas ("Property Interest"), for the public use of expansion, construction, operation, maintenance, augmentation, and improvement of electric transmission and distribution lines, facilities, structures, and substations, ("Project"), for the amount of Eight Hundred Fifty Nine Thousand Five Hundred Sixty Seven and No Cents (\$859,567.00) to Brown Development I, LTD., a Texas Limited Partnership (the "Owner"); authorizing the City Manager, or his designee, to execute the necessary agreement and documents for the purchase; authorizing the expenditure of funds; and providing an effective date. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project Parcels: C1, C2 -Brown Development I, Ltd., a Texas Limited Partnership)

Ordinance No. 2014-213

- V. ID 14-0348 Consider adoption of an ordinance of the City of Denton, Texas for the purchase from Brown Development I, Ltd., a Texas Limited Partnership ("Owner") of (1) a 3.338 acre tract for an electric easement; and, (2) a 1.227 acre tract for a temporary construction easement, both of which are generally situated in the J. Coltart Survey, Abstract Number 288, City of Denton, Denton County, Texas ("Property Interests"), for the public use of expansion, construction, operation, maintenance, augmentation, and improvement of electric transmission and distribution lines, facilities, structures, and substations, ("Project"), for the amount of Two Hundred Forty Seven Thousand Seven Hundred Sixteen Dollars and Fifty Two Cents (\$247,716.52); authorizing the expenditure of funds; and providing an effective date. (Denton Municipal Electric 69kV Spencer to Denton North Interchange Transmission Line Upgrade Project Parcels: C4 -Brown Development I, Ltd., a Texas Limited Partnership)

Ordinance No. 2014-214

- W. ID 14-0353 Consider adoption of an ordinance authorizing the City Manager to execute a Professional Services Agreement for indefinite delivery survey services on a work order basis for various City of Denton departments; providing for the expenditure of funds therefor; and providing an effective date (File 5597-awarded to Teague Nall and Perkins, Inc. in an amount not-to-exceed \$500,000).

Ordinance No. 2014-215

- X. ID 14-0355 Consider adoption of an ordinance of the City of Denton authorizing the City Manager, or his designee, to execute on behalf of the City of Denton an acceptance of an offer from the Texas Department of Transportation relating to a grant for the Evers Park Bridge and Trail Project; authorizing the City Manager to expend funds provided for in the grant program; and declaring an effective date.

This item was not considered.

- Y. ID 14-0289 Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Contract of Sale by and between Hickory Med, LLC, as owner, and any others having an ownership interest, and the City of Denton, Texas, as buyer, to acquire fee simple to a tract or parcel of land lying and being situated in the City and County of Denton, State of Texas, and being all of Lots 3 and 4 of the Whitten Addition, an addition as shown of record in Volume 7, Page 12 of the Plat Records of Denton County, Texas, for the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, facilities, and structures, as well as substations, for the purchase price of Six Hundred Thirty-Two Thousand Two Hundred Fifty and No/100 US Dollars (\$632,250.00) and other good and valuable consideration, as described in the Contract of Sale and ordinance attached as Exhibit One; authorizing the expenditure of funds therefore; and providing an effective date.

This item was not considered.

- Z. ID 14-0290 Consider adoption of an ordinance authorizing the City Manager or his designee to execute a Contract of Sale by and between Oak Med Park, LLC, as owner, and others having an ownership interest, and the City of Denton, Texas, as buyer, to acquire fee simple to a tract or parcel of land lying and being situated in the City and County of Denton, State of Texas, and being all of Lots 5 and 6 of the Whitten Addition, an addition as shown of record in Volume 7, Page 12 of the Plat Records of Denton County, Texas, for the public use of expansion, construction, maintenance, operation, and improvement of electric transmission and distribution lines, facilities, and structures, as well as substations, for the purchase price of Six Hundred Thirty-Two Thousand Two Hundred Fifty and No/100 US Dollars (\$632,250.00) and other good and valuable consideration, as described in the Contract of Sale and ordinance attached as Exhibit One; authorizing the expenditure of funds therefor; and providing and effective date.

Ordinance No. 2014-216

- AA. ID 14-0280 Consider adoption of an ordinance considering all matters incident and related to the issuance, sale and delivery of up to \$32,500,000 in principal amount of "City of Denton General Obligation Refunding Bonds, Series 2014" (including up to \$13,500,000 for Electric Fund activities and up to \$19,000,000 for Water Fund activities); authorizing the issuance of the Bonds; delegating the authority to certain City officials to execute certain documents relating to the sale of the Bonds; approving and authorizing instruments and procedures relating to said Bonds; and enacting other provisions relating to the subject. The Audit/Finance Committee recommends approval (3-0).

This item was not considered.

- BB. ID 14-0366 Consider adoption of an ordinance of the City of Denton, Texas approving and authorizing the City Manager, or his designee, to execute a License Agreement between the City of Denton and Dallas Area Rapid Transit for the purposes of constructing, installing, maintaining and operating one 3-inch sanitary sewer line within one 8-inch steel casing crossing the Northwest Denton Line

approximately 1,700 feet northwest of Lakeview Blvd; and declaring an effective date.

4. PUBLIC HEARINGS

- A. S14-0001 Hold a public hearing and consider adoption of an ordinance regarding a Specific Use Permit (SUP) to allow a "Kindergarten, Elementary School" use on an approximately 7.11 acre property generally located at the southeast corner of Teasley Lane and Pennsylvania Drive within a Neighborhood Residential 2 (NR-2) zoning district; and providing for a penalty in the maximum amount of \$2,000.00 for violations, thereof, severability and an effective date. (S14-0001) The Planning and Zoning Commission recommended denial of this request (4-0). A supermajority vote by Council is required for approval.

Mayor Watts noted that this item had been withdrawn by the applicant and would not be considered.

- B. S12-0001 Hold a public hearing and consider adoption of an ordinance regarding a Specific Use Permit (SUP) to allow wrecker services and impound lots use on a property located in an Employment Center Industrial (EC-I) zoning and use district on approximately 1.3 acres. The subject property is generally located south of Smith Street, east of Dallas Drive, and north of Teasley Lane; and providing for a penalty in the maximum amount of \$2,000.00 for violations, thereof, severability and an effective date. (S12-0001) The Planning and Zoning Commission recommended approval of this request subject to conditions (6-0).

Brian Lockley, Director of Planning and Development, stated that at the request of applicant, the public hearing would be opened and the item continued to the next meeting.

The Mayor opened the public hearing.

Mayor Pro Tem Engelbrecht motioned, Council Member Gregory seconded to continue the public hearing to the August 5th Council meeting. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

- C. S13-0008 Hold a public hearing and consider adoption of an ordinance regarding a Specific Use Permit (SUP) to allow the installation of a telecommunication tower on a property located in an Industrial Center General (IC-G) zoning and use district on approximately 6.88 acres. The subject property is generally located south of McKinney Street, approximately 1700 feet west of Trinity Road; and providing for a penalty in the maximum amount of \$2,000.00 for violations, thereof, severability and an effective date. (S13-0008) The Planning and Zoning Commission recommended approval of this request with conditions (6-0).

Brian Lockley, Director of Planning and Development, stated that this request was by Atmos Energy to allow telecommunication tower. He presented the location map, zoning map, land use map, site plan and elevations. The Planning and Zoning Commission and the Development Review Committee recommended approval.

The Mayor opened the public hearing.

Jeff Hargrave, representing Atmos, spoke in favor.

The Mayor closed the public hearing

Council Member Hawkins motioned, Mayor Pro Tem Engelbrecht seconded to adopt the ordinance with the conditions as indicated in the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

- D. ID 14-0349 Hold a public hearing and consider adoption of an ordinance of the City Council of the City of Denton, Texas, amending Chapter 16, "licenses, permits, and business regulation," of the Code of Ordinances of the City of Denton, Texas, by adding a new Article VII, "prohibition of hydraulic fracturing," generally providing that hydraulic fracturing operations are prohibited in the City of Denton; making findings; providing a repealer clause; providing a severability clause; providing for a penalty; and providing for publication and an effective date.

Mayor Watts commented on the background of how this item came to City Council and how the public hearing process would be conducted for this item.

The Mayor opened the public hearing

The following individuals spoke during the public hearing:

Bobby Jones, 1824 South Bonne Brae, Denton and Randy Sorrells, 3501 Roselawn, Denton – opposed-presented a petition in support of fracking
Pastor J. C. Thomas, representing Lon Burnam, District 90 – Tarrant County – support
Tom Phillips, former Texas Supreme Court Chief Justice, currently representing Baker Botts law firm and the Texas Oil and Gas Association
Ed Ireland reading comments from Dr. Ray Perryman, - opposed
John Tintera, former Executive Director of the Railroad Commission – opposed

Council Member Roden stated that one of the issues dealt with the close proximity wells were drilled to established neighborhoods and he asked if that was acceptable in Tintera's opinion.

Tintera stated that the Railroad's regulations were focused on the mineral state and there were extensive regulations for the operators. If all of the regulations were followed, there should be no problems with accidents. The Railroad Commission did not had authority or regulation that were involved with setbacks from surface features. Local government was responsible for determining those types of regulations.

Council Member Gregory asked how the Railroad Commission ensured producers followed regulations; how many inspectors the Commission had and how many wells were around the State.

Tintera stated that he was retired from the Railroad Commission and was not speaking for that agency. However, he did know the procedures that were followed. There were probably 100+ inspectors who focused on priority wells. The agency operated 24/7 with emergency phone numbers available. Inspectors were outriders stationed in the communities. The Commission was responsive to complaints and requests for inspectors.

Council Member Gregory asked from Tintera's experience, how many times per year were gas wells inspected in an urban area.

Tintera stated that he did not know but if there were a complaint of a well, it would be inspected immediately. Some operations had higher priorities than other wells.

Mayor Watts questioned that to Tintera's knowledge there were no Commission regulations on setbacks of wells to uses.

Tintera stated that those did not exist in the Railroad regulations.

State Senator Craig Estes- opposed

Council Member Gregory stated that the Council was in a conflicting position between the property rights of mineral owners and surface owners. He asked if Senator Estes had suggestions on how to make that balance more level as it seemed that the mineral rights were more important than surface rights on the State level.

Senator Estes replied that he was ready to work with Council to work out compliance rights. However, he felt an outright ban was an over reach.

Council Member Roden asked about the reference Senator Estes made about compliance problems.

Senator Estes replied that he understood that Denton had an ordinance and that certain operators were not working within the current ordinance.

Council Member Hawkins encouraged the State to help with this issue and not leave cities alone to cope with the issue.

David Martineau, Dallas - opposed

Maile Bush, 4501 Lacewood, Argyle, 76226 – support

State Representative Myra Crownover - pledged to work with Council on this issue

Council Member Gregory felt that the reason for this meeting and the reason for the petition was that Denton citizens felt Council did not do enough to protect the quality of life in neighborhoods where gas wells were located near their homes. He looked forward to working with the State and asked that as the process went forward, the State legislature recognize municipalities needed

authority to balance the unequal balance of mineral rights over surface rights. He asked Rep. Crownover to help get information to cities if the Legislature was thinking of dialing back local authority even more in this area.

Rep. Crownover stated that she had worked on a bill to get oil and gas companies to clean up their debris after completing a well.

Council Member Gregory asked Rep. Crownover if she could help get information from the Railroad Commission on inspection efforts from the Commission.

Rep. Crownover stated that she had worked in the last session to get \$25 million to the Railroad Commission to use towards that means. That was on her radar for the next session.

Mayor Watts stated that the City had crafted an ordinance in 2013 but was unable to enforce part of it due to State regulations and was looking forward to working the Senator Estes and Representative Crownover for a solution.

Rhonda Love, 1920 Hollyhill, Denton, 76205 – support

Council Member Gregory stated that he was curious about the definition of fracking contained in the petition using the wording of water in the process and questioned Love about what her perspective was on what would be banned.

Love replied that the intention was to ban all fracking.

Adam Briggie, 1315 Dartmouth, Denton, 76201 – support

Council Member Roden asked how the ban of fracking would affect the existing producing wells.

Briggie stated it would not turn off producing wells but rather restrict the refracking of those wells at a future date.

Council Member Roden questioned what Briggie was seeing in terms of talking to people on this issue.

Briggie stated that it was not partisan issue but one concerning the health and welfare of citizens.

Mayor Pro Tem Engelbrecht asked Briggie at what point the issue turned from a point of providing information to working towards a ban.

Briggie stated that it was continued fracking in the City with no controlling regulations.

Sharon Wilson, 101 N. Greenville, Allen 76002 - support

Council Member Roden questioned Wilson's statement that legal assistance would come to the City. This issue would likely cause the City to incur a costly fight and asked for more detail of her claim of support.

Wilson replied that she could not be specific as attorneys had commitments but other cities had received support.

Cathy McMullen, 805 Ector, Denton, 76201 – support

Mayor Pro Tem Engelbrecht asked McMullen how many times she had gone to testify at the Legislature regarding this issue.

McMullen replied six-seven times at her own expense.

Mayor Pro Tem Engelbrecht asked how many emails she had sent on this issue with information relative to this issue.

McMullen stated thousands.

Mayor Watts questioned McMullen if she was saying that this was the only way to have this done in order to get relief.

McMullen replied that she felt they had done every avenue possible to solve this issue.

James Herbison, 2205 Belmont Park Place, Denton, 76210 - opposed

Marshall Smith, 2616 Redwood, Denton, 76209 - support

Marty Allday, Executive Director of the Texas Chapter of Consumer Energy Alliance, 2211 Norfolk, #410, Houston, 77098 – opposed

Mayor Watts stated that he understood Allday's comments on holding operators to a higher standard and that was why they were where they were now. The City was unable to do that due to a large degree in the current regulations. There was a need to do more than voluntary compliance.

Brent Greenfield, 2210 Mid Lane #111, Houston, 77027 – opposed

Council Member Roden stated that Greenfield had quoted a number of economic revenue references in his comments and questioned where he had obtained that information.

Greenfield stated that he could provide that information to Council.

Mayor Pro Tem Engelbrecht stated that the amount of revenue the City received from gas industry was very small compared to the total budget. The economic impact was small for the city of Denton. He asked Greenfield about Southgate Resources.

Greenfield stated that it was a small organization that worked with oil and gas companies.

Mayor Pro Tem Engelbrecht questioned why he had come to Denton about this issue.

Greenfield stated that he was concerned about the impact of legislation in Denton was it was a state-wide issue.

Chris Faulkner, CEO Brighton Energy, 1910 Pacific Ave, Dallas 75201 – opposed

Council Member Gregory stated that there were bad players in the industry and those actions generated bad faith. He questioned if there were any standards within the industry regarding self-regulation or dealing with bad players who tended to hurt those who were playing by the rules.

Faulkner stated that industry was only as good as the worst member of the industry. The Railroad Commission did a good job regulating oil and gas in the state. He felt there was a lot of room from regulation to a fracking ban and that it was a large step.

Sharon Spiess, 7501 Stallion, Denton, 76208 – support
Tricia Davis, 1122 Colorado, Austin, 78701 - opposed
Hatice Salih, 300 Northridge, Denton, 76201 - support
Vicki Oppenheim, 600 Windfield, Denton, 76209 – support

Council Member Roden questioned when Oppenheim was on the task force if there were any proposals for all out ban of fracking.

Oppenheim replied no.

Council Member Roden indicated that she thought it could be done without a ban of fracking.

Oppenheim replied correct that she had done everything she could do and now felt a ban was needed.

Mark Michalic, 600 Windfield, Denton, 76209 - support
Betty Farmer, 9475 Hilltop Road, Argyle, 76226 - opposed
Linda Cole, 6376 Jim Christal Road, Denton, 76207 – opposed
Bill Stevens, 1001 Fannin, Houston, 77002 – opposed

Council Member Gregory asked Stevens what would be a reasonable setback from homes.

Stevens stated that horizontal drilling could go a long distance from a structure.

Council Member Roden questioned what a solution might be.

Stevens stated that it was a harder position than in 2002 but that a ban was not a solution. He felt the issue should be negotiated but he was not sure what would look like.

Richard Knight, 3617 Lipizzan, Denton, 76210 – opposed
Jack Fleet, 13911 Lake Michigan, Houston, 77044 – opposed

Mayor Pro Tem Engelbrecht stated that there were operators who wanted to place a well right next to a home and questioned if Fleet had a solution to that problem.

Fleet stated that the mineral estate took precedence over surface estate.

Jack Black, 2505 Karbia Lane, Denton, 76201 – opposed
Steven Shannon, 1901 Warwick Crescent, Denton, 76205 – opposed
John Rollinson, John F. Kennedy Center, Fort Bragg, North Carolina - opposed
John and Batavia Russell, 2302 Jacqueline, Denton, 76205 - support
Phillip Sweet, 9713 Grandview, Denton, 76207 – opposed
Jack Esparanza, 700 E. 11th, Austin, 78701 - opposed
John Siegmund, 1820 Stonegate, Denton, 76205 – opposed
Gena Felker, 2017 Parkside, Denton, 76201 – support
Baileigh Poston, 201 Inman, #10208B, Denton, 76201 – opposed
Patrick Handren, 4112 Nappa Court, Flower Mound, 75022 - opposed
George Hastings, 7030 Northhaven, Dallas 75230 - opposed
Janice Bigby, 1105 Sandpiper, Denton, 76205 – support
Brandon Waltens, 716 Dewtuns Path, Colleyville, 76035 – opposed
Patricia Andrews, 3033 Country Club Road, Denton, 76201 - support
Will Weaton, 2200 block Westwood, Denton, 76201 - support
Alyse Ogletree, 3401 Buckthorne, Argyle, 76226 – support
Sandy Maddox, 4008 Vineyard, Argyle, 76226 – support
Matthew Fry, 1600 Highland Park Road, Denton, 76205 - support
Jim McKinney, 2019 Crestwood Place, Denton 76209 – support
Jerry Simmons, 5 West 6th Street, #2626, Tulsa, OK, 74119 – opposed
Todd Ellis, 3437 Crisoforo, Denton 76207 – support
Alison Trapp, 3437 Crisoforo, Denton, 76207 – support
Sara Bagheri, 3201 Westgate, Denton, 76207 – support
Naomi Meier, 1400 Lay Mirada, Denton, 76201 – support
Dave Smith, PO Box 222, Denton, 76202 – opposed
Tara Hunter, 804 West Hickory, Denton, 76201 – support
Ed and Carol Soph, 1620 Victoria, Denton, 76209 – support
Pauline Raffestin, 2015 Bowling Green, Denton, 76201 – support
Mike Sutton, 912 Cordell, Denton, 76201 – support
Kelsey Fryman, 701 Fort Worth Drive, Denton, 76201 – support
Kati Trice, 2307 Fowler, Denton, 76209 – support
Michael Briggs, 2311 Houston Place, Denton, 76201 - support
Angie Holliday, 224 Bryan, Denton, 76201 – support
K Foster, 105 Peach, Denton, 76201 – support
Kelli Barr, 701 W. Sycamore, Denton, 76201 – support
Janelle Burch, 4478 Country Club Road, Denton, 76210- opposed
Jonathon Vann, 1803 Wayne, Denton, 76209 – support
Christopher Furman, 2924 Longfellow, Denton, 76209 – support
Robert Oehlschlager, 321 Panhandle, Denton, 76201 - support
Martina Salins, 4137 Alamo, Fort Worth, 76107 – support
Alfred Sanchez, 711 Jackson, Denton, 76206 – support
Barbara Owens, 2931 Lipizzan, Denton, 76210 – support
Kory Gabrielsen, 529 Northridge, Denton, 76201 – support
Kim Feil, 409 N. Elm, Arlington, 76011 - support
Marc McCord, 616 South Colorado, Celina, 75009 – support
Scott McDonald, 1200 Amherst, Denton, 76201 – opposed
Sammy Bryan, 2002 Shawnee, Denton – opposed
John Holden, 7 Turtle Creek Bend, Dallas, 75204 – opposed

Angel Brabo, 2269 W. Oak, B1, Denton, 76201 – support
Rebecca Williams, 7219 Peden, Azel, 76020 - support
Riley Briggs, 3108 Broken Bow, Denton, 76209 – support
Michael Lassa, 2106 Preston Place, Denton, - support
Laura Davis, PO Box 2671, Denton - support
Jennifer Lane, 1526 Willowwood, Denton – support
Courtney Crow, 1126 Vine, Denton, 76209 - support
Justin Luggers, 2204 Wildwood Lane, Denton - opposed
Kealey Briggs, 3108 Broken Bow, Denton – support

Mayor Watts noted that the Comment Cards submitted would be a part of the official record. Those comments cards are attached as Exhibit A.

The Mayor closed the public hearing.

Council Member Roden motioned to approve the ordinance. Motion died for lack of a second.

Council Member Hawkins motioned to deny as he wanted the issue to go to the voters in November.

Council Member Johnson stated that he had heard during his campaign process that citizens were tired of the Council making decisions without citizens being able to vote on items. He felt it was important to educate the citizens of Denton regarding this issue. He seconded the motion to deny.

Council Member Gregory stated that the choices tonight were to approve the ban as presented or send it to the voters. Had he thought about it faster, he might have seconded the initial motion to approve the ordinance. He was concerned about the misleading and inaccurate information that was presented by those who were against the ban. There were no suggestions from the industry tonight on solutions to the issue.

Council Member Johnson stated that he would withdraw his second to the motion if Council Member Gregory felt he did not have enough time to consider the initial motion to approve the ordinance.

Council Member Gregory felt that it would not affect the outcome of the vote to do that but wanted a thorough discussion at this point among Council regarding options.

Council Member Roden questioned what the Charter allowed in this case if the Council was to adopt the ban with the mindset of looking for a better option with the ban not necessarily as the end game. The initiative petition required the Council to either vote for the proposed ordinance or put it for an election. If Council voted for the ordinance at this meeting and then found a better route, he questioned if the Council would have the ability to repeal the ordinance in the future.

City Attorney Burgess stated that Council would not be limited with regard to usual options for an ordinance. It could be repealed, amended or replaced in part. All of those options would remain.

Council Member Roden felt that this would not be a citizen vote; it would be national politics with the funding of the industry and would not be a level playing field.

Council Member Hawkins hoped that the vote in November would be a fair vote. He made the motion for all of Denton to weigh in on the issue.

Mayor Pro Tem Engelbrecht asked for the expiration date of the current moratorium.

City Attorney Burgess stated that the current moratorium was set to expire on September 9th.

Mayor Pro Tem Engelbrecht asked if there was anything precluding Council from extending it through or even beyond the election date.

City Attorney Burgess stated that the moratorium was enacted to give staff time to look at some of the issues under the current gas well drilling provisions. That review was not complete and it was not known at this time if it would be completed by September 9th.

Mayor Pro Tem Engelbrecht stated that there were a number of industry representatives tonight who wanted to come to the table and be part of the process. He felt that extending the moratorium would provide time for them come to table. Between now and the election it would give some indication to the public in Denton where the industry was at in terms of participating in rulemaking to protect citizens.

Council Member Johnson stated if there was an opportunity to see how the State representatives and the industry representatives reacted to their promise to come to the table and the issue was sent to voters but there was no reaction as promised, could the Council propose an ordinance exactly as what was proposed this evening and not wait until an election.

City Attorney Burgess stated that Council would not be limited to enact whatever regulations they felt were appropriate. Council could also wait and see what happened in the November election and after that make independent determinations as far as what the Council felt would be appropriate for the community.

Council Member Johnson felt this might be an opportunity to see if industry followed through and not take a legal risk of lawsuits. If the State legislators and the industry did not follow through, the Council could move forward with an ordinance.

Council Member Gregory stated that as a citizen, he would probably vote for the ban but as a councilmember he would probably vote against the ban due the enormous cost it would involve. He felt it would best be a decision made by the voters.

Mayor Pro Tem Engelbrecht stated that at the beginning of meeting he was in favor of sending the issue to the voters but was having second thoughts after hearing some of the speakers at this meeting. He felt the moratorium could be extended to see how committed the State officials and industry representatives were to help shift though these issues.

Council Member Roden stated that in that scenario, the Council would have to call the election and then if the Council did not like what they were seeing with this dialog process it could adopt

the ban pre-vote but the issue would still be on the ballot. It made an interesting situation where the Council might pass an ordinance but the citizens vote it down. He questioned which ordinance would prevail.

City Attorney Burgess stated that typically the later approved ordinance would prevail.

Council Member Roden stated that if the Council approved this ban, it would create a high stakes situation. It might create a situation where the industry worked with the City to create a better ordinance that everyone could live with.

Council Member Johnson stated that regardless of what happened, the Council would still have the ability to modify the ordinance at a later date.

City Attorney Burgess replied correct that the ordinance could be modified at a later date.

Council discussed the options of sending the issue to the voters or enacting the ban at this meeting. A concern was expressed to have a fair election and the issues of vested rights was still a concern. Council also considered the fact that there was a bond election also proposed for the November election and any effect this election might have on it.

Council Member Johnson felt that all voters deserved to weigh in on the decision to ban fracking.

Council Member Hawkins motioned, Council Member Johnson seconded to deny the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member Ryan "aye", Council Member Gregory "nay", Council Member Roden "nay" and Mayor Watts "aye". Motion to deny carried with a 5-2 vote.

5. ITEMS FOR INDIVIDUAL CONSIDERATION

Ordinance No. 2014-218

- A. ID 14-0350 Consider adoption of an ordinance ordering an election to be held in the City of Denton, Texas, on November 4, 2014, for the purpose of determining whether to adopt an ordinance of the City Council of the City of Denton, Texas, amending Chapter 16, "licenses, permits, and business regulation," of the Code of Ordinances of the City of Denton, Texas, by adding a new Article VII, "prohibition of hydraulic fracturing," generally providing that hydraulic fracturing operations are prohibited in the City of Denton; making findings; providing a repealer clause; providing a severability clause; providing for a penalty; and providing for publication and an effective date.

City Attorney Burgess stated that the required date to call this election was a uniform election date. That date would be November 4, 2014.

Mayor Pro Tem Engelbrecht motioned, Council Member Gregory seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Engelbrecht "aye", Council Member Gregory "aye", Council Member Hawkins "aye", Council Member Johnson "aye", Council Member

Roden "aye", Council Member Ryan "aye", and Mayor Watts "aye". Motion carried unanimously.

6. CITIZEN REPORTS

There were no citizen reports for this section of the meeting.

7. CONCLUDING ITEMS

Mayor Pro Tem Engelbrecht asked the City Attorney to discuss the limits of the role of council members in the upcoming election.

City Attorney Burgess stated that the council members are prohibited in engaging in electioneering now that the Order of Election had passed.

Council Member Roden asked for a discussion on the length of the current moratorium and options to extend it past November.

With no further business, the meeting was adjourned 2:58 a.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JENNIFER WALTERS
CITY SECRETARY
CITY OF DENTON, TEXAS