

City of Denton

2017 State Legislative Agenda

85th Texas Legislature

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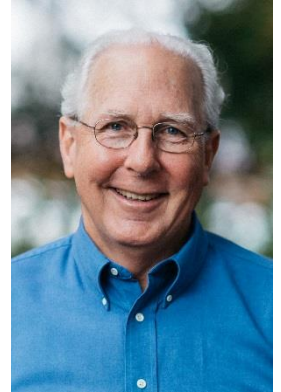
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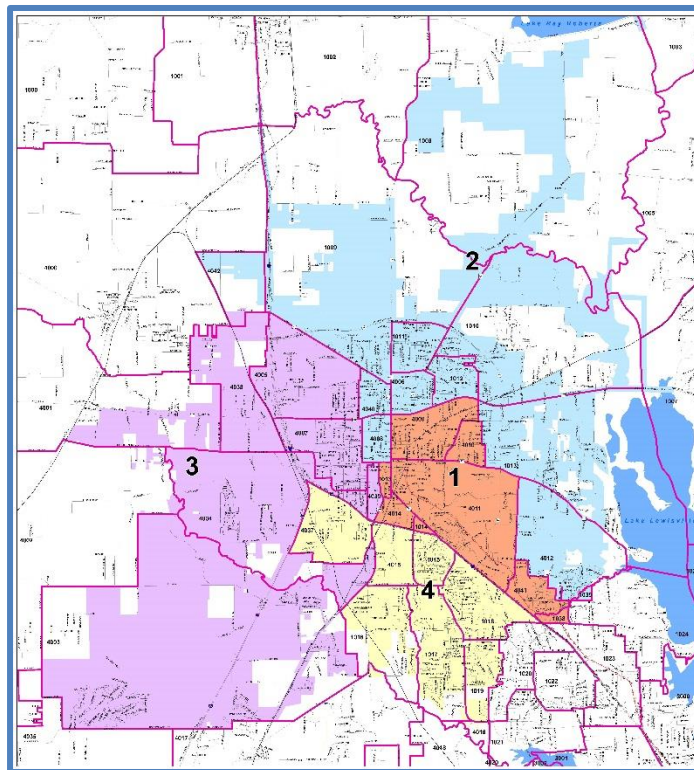
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RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF DENTON, TEXAS, ADOPTING THE CITY OF DENTON'S 2017 STATE LEGISLATIVE PROGRAM FOR THE 85th TEXAS LEGISLATURE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the 85th Texas Legislature will commence in January 2017; and

WHEREAS, appraisal caps, revenue caps, budgeting authority, revenue sources, and many other legislative issues affecting local government will be considered; and

WHEREAS, the City of Denton desires to adopt its 2017 State Legislative Program for the 85th Texas Legislature; NOW, THEREFORE,

THE COUNCIL OF THE CITY OF DENTON HEREBY RESOLVES:

SECTION 1. That the City of Denton's 2017 State Legislative Program for the 85th Texas Legislature is adopted as set forth herein and made a part of this resolution for all purposes.

SECTION 2. That the Mayor and City Council, City Manager, and the City Attorney, or their designees, shall communicate the items included in the 2017 State Legislative Program to members of the Texas Legislature.

SECTION 3. The City Manager, or his designee, is directed to draft appropriate legislation, seek a sponsor, and actively pursue passage of such legislation by providing testimony from the Mayor, City Council, and City Staff and through other appropriate means.

PASSED AND APPROVED this the ____ day of December 2016.

CHRIS WATTS, MAYOR

ATTEST:
JENNIFER WALTERS, CITY SECRETARY

BY: _____

APPROVED AS TO LEGAL FORM:
ANITA BURGESS, CITY ATTORNEY

BY: _____

GENERAL LEGISLATIVE POLICY

STATEMENT OF PURPOSE

The fundamental goal of the City's legislative activities is to produce positive outcomes for the citizens of Denton as a whole. Numerous proposals in the Texas Legislature have the potential to seriously impact the ability of the City to carry out its overall mission. By taking a proactive role in monitoring and commenting on proposals in the Texas Legislature, we are working to ensure that the citizens of Denton can continue to enjoy the quality of life they have come to expect and deserve.

STATEMENT OF PRESERVATION

As a general policy, the City will oppose any legislation viewed as detrimental to the City's strategic goals or would limit home rule authority; is contrary to the health, safety, and welfare of its citizens; mandates increased costs or loss of revenues; or would diminish the fundamental authority of the City.

The City will oppose any initiatives that seek to erode municipal authority or that otherwise have a negative impact on municipal operations, including but not limited to legislation that would:

- Erode home rule authority;
- Detrimentially affect the City's financial position by reducing revenue streams or increasing costs through unfunded mandates or other means;
- Erode the authority of Texas cities to manage and control their rights-of-way or other public property, and to be reasonably compensated for such use;
- Erode current municipal economic development authority;
- Erode the current authority of Texas cities to enact a system and set the level of impact fees for new development; and
- Further restrict cities' ability to adopt or amend zoning regulations or annex property in a city's extraterritorial jurisdiction.

STATEMENT OF SUPPORT

The City supports any legislation that would advance the City's strategic goals and interests; improve the health, safety, and welfare of its citizens; and responsibly increase revenues.

FORM COALITIONS

The City will form strategic partnerships with other cities, political subdivisions, private sector and non-profit entities, and other appropriate stakeholders that share common goals with the City of Denton. Additionally, the City will work in coordination with organizations such as the Texas Municipal League when their adopted positions are in line with the legislative objectives and goals of the City. The formation of strategic partnerships and coordinated efforts is intended to provide the City with a stronger presence in the legislative process.

PRIORITY LEGISLATIVE AGENDA

PRIORITY LEGISLATIVE ISSUES

1. Preserve Local Budgeting Authority and Revenue Sources

- *Oppose legislation that would impose a revenue cap, lower the rollback rate, or otherwise restrict the ability of the City's elected governing body to set its own budget or raise the necessary revenue to provide services to City residents and businesses.*

2. Preserve Local Control of Land Use Planning and Zoning

- *Support legislation that preserves local land use authority.*
- *Oppose legislation that would erode local land use authority by restricting the ability of cities to zone or rezone properties.*

3. Preserve Community Ownership and Operation of Denton Municipal Electric

- *Oppose legislation that would deregulate Municipally Owned Utilities or amend their governing structure.*
- *Support legislation that would preserve Municipally Owned Utilities' governing structure and ability to maintain a diversified energy portfolio.*

DISCUSSION OF PRIORITY LEGISLATIVE ISSUES

Preserve Local Budgeting Authority and Revenue Sources

The City of Denton will **oppose** legislation that would impose a revenue cap, lower the rollback rate, or otherwise restrict the ability of the City's elected governing body to set its own budget or raise the necessary revenue to provide services to City residents and businesses.

ISSUE

During the last several Texas Legislative Sessions, proposals have been set forth that would severely limit the ability of cities to set their budgets or raise adequate revenues to carry out their fundamental functions. For example, numerous proposals to "cap" local revenues and property appraisals have been filed in the Texas Legislature. Every elected official in the City of Denton is sensitive to the tax burden our citizens and businesses pay, and is accountable to the local electorate for the decisions they make. We are also mindful, however, that it takes a great deal of flexibility with our local budget to meet the unique demands for services while at the same time preserving the high standards our community expects.

PROBLEM

Revenue and appraisal caps undermine the ability of local governments to meet the individual needs and circumstances of their cities. Additionally, one-size-fits-all "caps" violate the fundamental principle of local control. Citizens and businesses have numerous opportunities to provide input to the City of Denton's budget and tax rate setting processes. Most importantly, the citizens of our City get to voice their approval or disapproval of our budgeting performance and tax rates every time we hold a municipal election.

Unfortunately, extremely low appraisal and revenue caps can produce numerous problems. For instance, appraisal caps shift the inequitable tax burden to businesses and new homeowners. This inequitable shift can produce serious long-term negative consequences for the local economy. Revenue caps, on the other hand, require the City to cut services, delay critical road and facility maintenance, delay or eliminate public safety equipment and facility upgrades, or take on more debt to fund local projects and services. These types of "caps" are particularly harmful to a city like Denton, because it prevents the City from adequately dealing with the infrastructure needs brought on by tremendous population growth.

It is inappropriate for the State of Texas to expect local governments to provide numerous public services with no funding from the State, while at the same time unduly restricting the ability of local governments to raise the necessary levels of revenue to provide the required services.

SOLUTION

If revenue caps are going to be applied to local governments, they should be applied uniformly to the state budget, as well. In short, the same rules should apply to all levels of government. The State could also supplement local government funding as other states that impose revenue caps have done.

Preserve Local Control of Land Use Planning and Zoning

*The City of Denton will **support** legislation that preserves local land use authority and **oppose** legislation that will erode local land use authority by restricting the ability of cities to zone or rezone properties.*

ISSUE

Over the past few legislative sessions various proposals have been introduced to restrict the ability of cities to enforce their traditional land use controls. Specifically, legislation that requires cities to compensate landowners any time a zoning classification change is effected (often referred to as a “downzoning”), has come dangerously close to becoming the law. Under these proposals, cities would have to compensate landowners, even if the proposed zoning changes did not interfere with the current or intended use of the property. In addition to compensating landowners for zoning changes, proposals have been considered that would require compensation for numerous types of city regulations. For example, previously proposed legislation would have required cities to compensate landowners if they restricted the ability of patrons to smoke on premises or limited the time of day that alcohol could be served. All of these types of local restrictions have been debated under the theory of “regulatory takings.”

Additional legislative proposals would have prevented cities from ever changing the zoning classification of a property if any type of basic permit or site plan has been filed with *any* governmental entity. Since 1999 the Texas Legislature has continually expanded the “permit vesting” statute to include different aspects of city land use authority. The expansion of the “permit vesting” statute is beginning to interfere with the ability of cities to impose orderly, efficient, and comprehensive land use and development plans for their communities.

PROBLEM

Restricting the ability of cities to properly regulate land uses ultimately prevents them from being able to respond to the needs and demands of their citizens. For example, land use controls are used to keep undesirable businesses from locating in neighborhood-type settings. Additionally, one of the main reasons people live in cities is to have the protection of a regulated land use system. In short, when a home or business locates in a particular city they do so, in part, to ensure that an incompatible structure will not be placed next to their property.

SOLUTION

The ability of most cities to manage growth and development is based on the Texas constitution’s home rule provisions. Cities are allowed to amend charters and pass ordinances as long as they do not conflict with the constitution or general laws enacted by the state legislature. This means that each home rule city can make its own decisions about what planning tools and techniques are most appropriate to its situation unless those tools have been proscribed by the Texas legislature. The State should be very cautious in proscribing solutions that are only applicable to individual situations because of the vast differences between cities in this large state.

Preserve Community Ownership and Operation of Denton Municipal Electric

*The City of Denton will **oppose** legislation that deregulates Municipally Owned Utilities or amends their governance authority.*

ISSUE

Recent State Legislative sessions saw bills introduced regarding partial deregulation for specific Municipally Owned Utilities (MOU). Ultimately, none of the bills passed into law. However, this type of legislative pressure toward specific MOUs can have a widespread, negative impact and unforeseen consequences on MOUs throughout the state. Municipalities owning an electric utility, such as in Denton's case, retain local regulatory authority through its main governing body, the City Council. It is the role and choice of these City Councils to determine each MOU's energy future by exercising its authority whether to opt in to the deregulated market or to retain its local authority. In April, 2001, the Denton City Council took a wait-and-see approach and exercised its authority choosing not to opt in to deregulation. To date, there has been no viable reason for Denton to enter into the deregulated market.

Requiring MOUs to participate in the retail deregulated market essentially eliminates the authority of the governing bodies of MOUs and forces them to operate under the same guidelines as investor owned utilities. Historically, DME electric rates have remained stable and competitively priced. Mandating that an MOU participate in the deregulated market not only increases its financial burden, but also ensures that the increased costs are passed through to the DME ratepayers, thus placing DME at a competitive disadvantage in the electric market. In addition, should an MOU such as that owned by the citizens of Denton be required to opt in, it mitigates the strategic measures that the local citizens have enacted such as requiring more renewable resources and higher reliability from their MOU.

PROBLEM

Austin Energy's (AE) rate issues have raised the deregulation issue and it is anticipated that legislation will be proposed to deregulate all or a portion of AE. The opt-in discussions concerning AE may be expanded to include all MOUs. For Denton to enter the deregulated market, the additional operating expense would be substantial. The current and additional operating expenses could be spread across a smaller customer base should customers exercise their "power to choose." A reduction in DME's customer base would ensure that its remaining customers would have to absorb the increased costs in the form of higher electric rates.

SOLUTION

MOUs must preserve the local authority and governing structure to provide affordable electric service and energy portfolio diversity to its ratepayers.

Preserve Community Ownership and Operation of Denton Municipal Electric

*The City of Denton will **support** legislation that preserves the governance structure and ability of Municipally Owned Utilities to maintain a diversified energy portfolio.*

ISSUE

The City of Denton is a nationally recognized environmental leader because of its continued diversification of DME's energy portfolio. At no additional cost to its ratepayers, DME provides more wind energy per capita than any other city in the United States and offers one of the largest rebates for the installation of renewable energy generation in Texas. The City of Denton and DME recognize the importance of reducing the overall dependence on fossil fuel generation, while, at the same time being fiscally responsible to its citizens and ratepayers. As part of an overall goal to increase the renewable portfolio while protecting rates and reliability, the City Council approved a plan to be 70% renewable by 2019. The plan is projected to save Denton's ratepayers \$500 million over the next 20 years, cut emissions by over 70%, and reduce natural gas usage by 37%.

PROBLEM

Any legislation that eliminates MOUs' authority to determine and maintain a diversified energy portfolio is fiscally irresponsible to the ratepayers. While some areas are more suited for specific types of renewable generation, not all utility scale generation is appropriate in all locations. For example, the cost of constructing and operating solar energy generation can be prohibitive. While solar costs have declined over recent years, the capital costs, scarcity of land, lack of electric infrastructure, and diminished levels of generation output, as compared to conventional generation, can substantially drive the cost per megawatt-hour of solar energy production upward.

It is unrealistic and cost prohibitive for the State of Texas to expect MOUs to provide economically priced electricity to its citizens, while requiring a diversified energy portfolio that includes predetermined amounts of specific renewable sources without funding from the State.

SOLUTION

MOUs must preserve the community authority and governing structure to provide affordable electric service to its ratepayers. If energy portfolio diversity becomes a requirement, MOUs should have the option to determine which renewable generation source is most suited to each MOU's service area. If a generation requirement is mandated, it should be applied uniformly to investor owned utilities, cooperatives, and MOUs. In addition, the State should supplement local government funding of the construction of utility scale renewable generation to offset the impact to the citizens of Denton.

GENERAL LEGISLATIVE AGENDA

Revenue and Taxation

- *Support* legislation that would improve the appraisal process to ensure equal and uniform application of property taxes.
- *Oppose* legislation that would restrict the ability of cities to impose and collect municipal impact fees from new developments.
- *Seek introduction and passage* of legislation that would amend the Tax Code by adding the City of Denton to the bracketed list of municipalities authorized to utilize Hotel Occupancy Tax (HOT) funds for enhancement and upgrading of city-owned and existing sports facilities or fields, which provide significant economic benefit to the community.

Land Use and Resources

- *Support* legislation that would provide municipalities the authority to regulate and enforce building codes, and property maintenance codes within the extraterritorial jurisdiction (ETJ).
- *Oppose* legislation that would reduce a municipality's authority and discretion to approve the creation of a special district within a city's incorporated area or ETJ, including the expansion of a district's boundaries or powers.
- *Oppose* legislation that would erode city annexation authority, including but not limited to the elimination or restriction of the use of limited purpose annexations or the addition of election or consent requirements.
- *Oppose* legislation that would reduce or eliminate development fees, exactions (or impact fees), or building permits.
- *Oppose* legislation that would restrict cities' ability to adopt or amend zoning regulations or the applicability of those regulations to existing projects, including but not limited to the creation of any property rights or vesting in a zoning and use classification or any restrictions regarding downzoning.
- *Support* legislation that would allow local governments to enact ordinances relating to health and safety regulations as applied to gas drilling and production activities and to reduce the effects of oil and gas development on city residents.
- *Support* legislation that would allow cities to enact ordinances regulating zoning and development free from exception/exemption, including but not limited to imposing limitations on the availability of the Freeze Law under Chapter 245 of the Texas Local Government Code.

- *Oppose* legislation that would erode local control of existing authority and regulations of gas well operations, as articulated in HB 40 (84th Legislature).

Utilities

- *Support* legislation that preserves Congestion Revenue Rights (PCRRs) assigned to municipal utilities in exchange for supporting the nodal market construct.
- *Support* legislation that preserves the Community Regulation of Municipal Electric Utilities.
- *Support* legislation that protects the ability of governmental entities to maintain confidentiality of certain critical documents and activities.
- *Support* legislation that requires market participants and Retail Electric Providers (REPs) to be properly capitalized before they are allowed to participate in the ERCOT market.
- *Support* legislation that requires proper credit requirements for the startup of Retail Electric Providers (REPs).
- *Oppose* legislation that requires municipal electric utilities to pay uplifted charges for those ERCOT Retail Electric Providers (REP) that declare bankruptcy or for any other ERCOT short pay charges.
- *Oppose* legislation that would extend electric subsidies provided by municipal utilities to four-year state universities, upper level institutions, Texas state technical colleges, or other special groups.
- *Oppose* any legislation that will increase ERCOT Fees.
- *Oppose* legislation that will restrict MOUs from building transmission infrastructure outside their service area.
- *Oppose* legislation that provides any further exemptions to the drainage fee.
- *Oppose* legislation that would impose state “tap fees” or any other type of state charge on municipal water systems.
- *Support* legislation that would raise the exemption amounts for public works projects in the Texas Engineering Practices Act.
- *Oppose* any legislation that would limit or prohibit a city's ability to make and sell compost/mulch products inside and outside of the city limits.
- *Support* legislation that would protect the ability of the City to be adequately compensated for any use of its rights-of-way.

- *Oppose* legislation that would erode the City's authority over the management and control of its rights-of-way.
- *Oppose* any legislation that would erode the City's authority to require utility companies to pay the costs of relocating their facilities in a time manner as required by current law.
- *Support* legislation that would address the failure of utility companies to relocate their facilities in a timely manner as required by current law.

Transportation

- *Support* legislation that would include solid waste collection vehicles, as well as other municipal utility vehicles, into the current Texas Move Over Law (Texas Transportation Code 545.157).
- *Support* legislation that would retain limited authority for TxDOT to enter into public-private partnerships on specific projects.
- *Support* legislation that would identify additional transportation revenue to enhance statewide and regional ability to maintain and improve transportation infrastructure, and that would provide metropolitan areas with flexible solutions to solve problems and ensure that areas contributing to transportation solutions will not be penalized with a loss of traditional transportation funding.
- *Support* legislation that would constitutionally protect all revenues in Fund 6 and discontinue the diversion of transportation revenues to non-transportation purposes, and appropriate all revenues from highway user fees and taxes to fund transportation.
- *Support* legislation that would index the motor fuels tax to reduce the decline in purchase power of transportation funding.
- *Support* legislation that would increase vehicle registration fees to address transportation funding needs.
- *Support* legislation that would enforce existing regulations and penalties of driving requirements (e.g. vehicle registrations, driver licenses, and vehicle insurance).
- *Oppose* legislation that would remove or negate the strictly voluntary nature of highway turnbacks.
- *Oppose* legislation that would create a Regional Mobility Authority in the four county area of North Central Texas including Dallas, Denton, Collin and Tarrant Counties for the purpose of administering funds received through revenue sharing agreements.
- *Support* legislation that directly benefits Denton County Transportation Authority, if such proposals do not adversely affect the City's interest.

Public Safety

- *Support* legislation that would require 100 percent reimbursement of costs incurred by cities for services provided during emergency evacuation and shelter operations resulting from an emergency evacuation ordered by the governor or the governor's Division of Emergency Management.
- *Oppose* legislation that further restricts a city's ability to implement a photographic red light enforcement system to use cameras at traffic lights and impose a civil penalty for running the light.
- *Support* legislation that would clarify regulations related to open carry in municipally owned facilities that are contractually operated by non-profit or private entities.
- *Support* legislation that would clarify where open carry is prohibited in a municipally owned court office building.
- *Support* legislation that would provide a statewide ban on the use of hand-held devices while operating a vehicle, provided more stringent city ordinances are not preempted.
- *Oppose* legislation that would restrict a city's authority to use license plate readers by law enforcement agencies.
- *Oppose* legislation that would prohibit use of Association Business Leave by authorized public safety Association members, as provided in existing meet and confer agreements.

General Government

- *Oppose* state preemption of municipal authority in the regulation of payday lenders, unless proposed legislation provides adequate protections from aggressive and harmful lending practices.
- *Oppose* legislation that would increase state regulation of local ballot language.
- *Support* legislation that heightens environmental standards, improves air and water quality, and protects the health, safety, and welfare of Texans.
- *Support* legislation that would exempt cities from any federal collective bargaining legislation that may become law in the future.
- *Support* legislation amending Section 11.1825 of the Tax Code by adding that community housing development organizations (CHDOs) must receive an exemption from taxation from any affected municipality prior to receiving a tax exempt status from the local property appraisal district.
- *Support* legislation that would provide additional state funding for local and regional initiatives related to reducing the number of homeless persons and those at risk of homelessness in our community.

- *Support* legislation that would provide state funding to assist local non-profits in providing adequate and coordinated mental health services throughout Denton County.
- *Support* legislation that would provide funding for Early Childhood Programs, including full-day service pre-kindergarten programs.
- *Support* legislation that directly benefits UNT and/or TWU, if such proposals do not adversely affect the City's interest.
- *Support* legislation that directly benefits Denton ISD, if such proposals do not adversely affect the City's interest.
- *Oppose* legislation that would further reduce funding to Denton ISD, if such proposals do not adversely affect the City's interest.