

## CITY OF DENTON CITY COUNCIL MINUTES

November 8, 2016

After determining that a quorum was present, the City Council convened in a Work Session on Tuesday, November 8, 2016 at 12:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Mayor Pro Tem Roden, Council Member Wazny, Council Member Briggs, Council Member Hawkins, Council Member Gregory, Council Member Bagheri, and Mayor Watts.

ABSENT: None.

### 1. Citizen Comments on Consent Agenda Items

Willie Hudspeth commented that there were too many Consent Agenda items which he felt was a disservice to the citizens.

### 2. Requests for clarification of agenda items listed on the agenda for November 8, 2016.

Staff responded to Council's requests for clarification of the following items:

#### Council Member Briggs – Consent Agenda Item P

Council Member Briggs also requested that Consent Agenda Items A, G and M be pulled for individual consideration.

### 3. Work Session Reports

#### A. ID 16-1407 Receive a report, hold a discussion, and give staff direction regarding single room occupancy developments.

Ron Menguita, Long Range Planning Administrator, presented the details of item. He reviewed the definition of a single room occupancy as well as zoning information for collegiate housing and multi-family housing.

Council discussed whether a developer had to declare upfront if he was planning to build a single room occupancy development; whether it was normal in the process to ask how a developer was going to lease the property; if there were different development requirements for collegiate housing and multi-family; whether there was the ability to change from a multi-family development to collegiate housing during the process; concern that there were no regulations to prevent the changing of the use of the development either during or after the process.

Menguita continued with how the housing would fit into the Denton Plan 2030. He presented information on the Neighborhood/University compatibility area which was comprised of residential and commercial areas adjacent to UNT and TWU and displayed where the majority of the collegiate housing was located. Recommendations were reviewed.

Council continued their discussion on whether the 2030 Plan suggested where student housing would be located; whether a specific use permit process might encourage development in places not conducive to walking to them; the difference between a private dorm versus an SRO; whether

limiting the size of the project per bedroom might encourage more of this type of development; and look at the definition associated with SRO related to single family housing.

Council Member Wazny stated that a SRO development was not apartments; SRO was strictly student housing. She felt the building height was incompatible with surrounding residential housing and should require a TIA for this type of housing as the discussion was already late. There was a large number of SROs currently located in Denton.

Council Member Briggs suggested specific development standards for SROs as they were not apartments.

Mayor Watts stated that the recommendations could be addressed in a multi-family development code. A SRO was an apartment by structure but was defined by the leasing structure. This was a business plan issue and not a development issue. He felt it was an over reach by government to try and regulate the market and that additional solutions could accomplish the recommendations in a multi-family category.

Council direction was to look at finding key differences between multifamily and collegiate to see if the SRO could be addressed there but if not then separate regulations would be needed. They requested staff also look at data to address parking such as parking counts; historic preservation neighborhoods in existing or future districts.

- B. ID 16-1438 Receive a report, hold a discussion, and give staff direction regarding the procurement of substation construction services.

This item was pulled for individual consideration and was presented in the Chambers. There was no discussion in the Work Session.

- C. ID 16-1446 Receive a report and hold a discussion regarding the City of Denton Code of Ordinances, Section 2-63 relating to board and commission members.

City Attorney Burgess stated that this discussion would center on when a board/commission member may be removed. The current 1966 Code allowed for removal if a member ceased to be a qualified voter of the city, had a conflict of interest and did not recuse himself, or was convicted of a felony.

Mayor Watts stated that new council members inherited appointments made by preceding council members and might want to appoint a new member to a board/commission.

City Attorney Burgess stated in that circumstance a minor tweak could be made in the ordinance if desired.

Council Member Briggs express desire to move in that direction.

Mayor Pro Tem Roden stated that sometimes Council had problems finding people to serve as this was volunteer work. It would be different if the member were guiding policy in the wrong direction. His fear was that just because of a change in election, changing appointments mid-term

would create a political nature on the Council. He felt that unless there was a problem Council was trying to solve he was in favor of keeping the procedure the way it was in respect for the people serving. A change would be ok when a term had ended but not in mid-term.

Council Member Hawkins was in favor of keeping the current procedure. It should only be changed if there was a bad member.

Council Member Bagheri felt that it would not be political to have the service at the will of the Council.

Council Member Wazny liked the at-will of each independent council member and to be able to change when elected.

Mayor Watts felt that at-will of the Council was not too political and that most of the time the members were not changed. The nomination still needed the approval of the entire Council.

Mayor Pro Tem Roden suggested restricting the process to certain types of boards as some were better served with members who had a history on some of the boards.

Consensus of the Council was to proceed with at-will for legislative nature of boards; do during the annual nomination process for newly elected council members and not board/commission members not continuing. The Public Utilities Board would not be changed due to the Charter requirement.

- D. ID 16-1467 Receive a report, hold a discussion, and give staff direction regarding the development of the City's website.

Alison Ream, Administrative Services Manager, presented an update on the city's website. The review process involved internal and external surveys, interviews and SWOT analysis. Key findings were presented along with goals, navigation and site map of the current site. She displayed the proposed website and presented next steps in the process.

Council discussed content suggestions; making it mobile compatible with the website; that the color and font were not reflective of Denton; consider updating the city of Denton branding which included wayfinding signs; and that it was more important to have an easy website that allowed the public to easily find information on the site as opposed to colors and fonts.

Consensus of the Council was to move forward with only minor modifications.

- E. ID 16-1468 Receive a report, hold a discussion, and give staff direction regarding an online message board for use by the City Council in accordance with the Texas Open Meetings Act.

Bryan Langley, Assistant City Manager, presented background and statutes on the message boards; provided city examples; and implementation considerations.

Council discussed that this would not be a site for a vote on an issue but could also be construed as Council deliberating on an issue to be voted on later; whether these were electronic meetings

that had to be posted; and the fact that not all Council might be notified that dialog was taking place on an item.

Council Member Bagheri stated that this was a recommendation by TML to post information to the citizens and was an exception to the Open Meetings Act. She felt it might shorten the length of work sessions and be viewed as a way to provide information to citizens.

Council Member Hawkins stated that he would be in favor of a message board if it was giving information but would not be in favor if it were used for deliberation or if not all members were included.

Council Member Wazny expressed concern about a walking quorum and having a discussion not in a formal meeting. Government took place in a formal meeting. This was not a method to talk to citizens but a method to talk with other council members. She was not comfortable legally with the concept.

Council Member Bagheri stated that this was legal and allowed such discussions. It was not unlawful to do this.

City Attorney Burgess noted that the State legislature created this provision as an exception to the Open Meetings Act and was not a violation. However, she was not seeing a rush into employing this technology.

Council Member Briggs stated that this was passed in 2013 and felt it was a productive communication tool and was in favor of it. She questioned if Council could ask staff questions on the message board.

City Attorney Burgess stated that Council would have to authorize specific staff members to participate in the message board either by ordinance or resolution.

Mayor Pro Tem Roden stated that at times it was hard to get information out to other council members. It could, however, have unintended consequences and rules of engagement. He was interested in seeing where it might go.

Mayor Watts did not see a need for it at this time.

Consensus of the Council was not to proceed with a message board at this time.

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

1. Closed Meeting:

Council Member Briggs left the meeting during the Closed Session.

- A. ID 16-985 Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086.

Receive a presentation from Denton Municipal Electric staff ("DME") regarding public power competitive and financial matters pertaining to plans, strategies, opportunities, and developments for generation improvements to the DME system; discuss and deliberate strategies regarding same; discuss and deliberate opportunities and strategies for the City to acquire purchased power and enter into agreements regarding the same, in order to meet its future energy needs. Take final action on a purchased power agreement with Santa Rita Wind Energy, LLC.

Council Member Gregory motioned, Council Member Wazny seconded to adopt Ordinance 2016-364 regarding a purchased power agreement with Santa Rita Wind Energy, LLC. On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member Hawkins "aye", Council Member Gregory "aye", and Mayor Watts "aye". Council Member Bagheri "nay". Motion carried with a 5-1 vote.

B. ID 16-1266 Deliberations Regarding Certain Public Power Utilities: Competitive Matters - Under Texas Government Code Section 551.086.

Receive a presentation from Denton Municipal Electric staff ("DME") regarding public power competitive and financial matters pertaining to plans, strategies, opportunities, and developments for generation improvements to the DME system; discuss and deliberate strategies regarding same; discuss and deliberate opportunities and strategies for the City to acquire purchased power and enter into agreements regarding the same, including a power purchase agreement with Las Majadas Wind Farm, LLC, in order to meet its future energy needs. Take final action on a purchased power agreement with Las Majadas Wind Farm, LLC.

C. ID 16-1351 Deliberations Regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff and discuss, deliberate, and provide staff with direction regarding the potential acquisition of real property interests located from North Lakes Substation of Denton Municipal Electric and proceeding east along Riney Rd, then turning north along Nicosia St., then east along W. Hercules Lane and terminating at the Denton North Substation of Denton Municipal Electric, in the City of Denton, Denton County, Texas; where discussion had, deliberation, and direction given, by the Denton City Council in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third party. Consultation with the City's attorneys regarding legal issues associated with the acquisition of the real property interests described above; discussion of these legal matters in an open meeting would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. [North Lakes to Denton North TM Line]

D. ID 16-1411 Deliberations Regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff and discuss, deliberate, and provide staff with direction regarding the potential acquisition of real property interests located from North Lakes Substation of Denton Municipal Electric and proceeding east along Riney Rd, then turning north along Nicosia St., then east along W. Hercules Lane and terminating at the Denton North Substation of Denton Municipal Electric, in the City of Denton, Denton County, Texas; discussion had, deliberation, and direction given, by the Denton City Council in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third party. Consultation with the City's attorneys regarding legal issues associated with the acquisition of the real property interests described above; discussion of these legal matters in an open meeting would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. [North Lakes to Denton North TM Line]

- E. ID 16-1413 Deliberations Regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff and discuss, deliberate, and provide staff with direction regarding the potential acquisition of real property interests to a 2.168 acre tract of land situated in the Gideon Walker Survey, Abstract No. 1330, in the City of Denton, Denton County, Texas; discussion had, deliberation, and direction given, by the Denton City Council in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third party. Consultation with the City's attorneys regarding legal issues associated with the acquisition of the real property interests described above; discussion of these legal matters in an open meeting would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. [Spencer to Pockrus TM Line]

- F. ID 16-1414 Deliberations Regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff and discuss, deliberate, and provide staff with direction regarding the potential acquisition of real property interests located in Lot 1, Block 2 of the Municipal Utility Addition as shown by the plat thereof recorded in Cabinet G Page 346 of the P.R.D.C.T., in the City of Denton, Denton County, Texas; where discussion had, deliberation, and direction given, by the Denton City Council in an open meeting would have a detrimental effect on the position of the governmental body in negotiations with a third party. Consultation with the City's attorneys regarding legal issues associated with the acquisition of the real property interests described above; discussion of these legal matters in an open meeting would conflict with the duty of the City's attorneys to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas, or would jeopardize the City's legal position in any administrative proceeding or potential litigation. [Brinker Substation]

G. ID 16-1430 Consultation with Attorneys - Under Texas Government Code Section 551.071.

Consult with the City's Attorneys on the status, strategy, and potential resolution of litigation styled, Esker v. City of Denton, Cause No. 14-000942-158, currently pending in the 158th District Court of Denton County, Texas.

H. ID 16-1433 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 regarding housing use classifications in the Denton Development Code, and to provide the City's attorneys with direction, where a public discussion of these legal matters would clearly 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.

I. ID 16-1456 Deliberations regarding Real Property - Under Texas Government Code Section 551.072; Consultation with Attorneys - Under Texas Government Code Section 551.071.

Receive information from staff, discuss, deliberate, and provide staff with direction pertaining to the potential acquisition of real property interests and being situated in the J.C. Baker Survey, Abstract No. 47, the A.E. Cannon Survey, Abstract No. 232, the J. Fisher Survey, Abstract No. 421, the S. Hembrie Survey, Abstract No. 643, the B. Merchant Survey, Abstract No. 800, the C. Poullalier Survey, Abstract No. 1006, the E. Pickett Survey, Abstract No. 1018, the S.A. Venters Survey, Abstract No. 1315, and the W.E. Penley Survey, Abstract No. 1729, City and County of Denton, Texas, and generally located along FM Highway 2181 (Teasley Lane) the limits of which being bounded to the north by Lillian Miller Parkway and to the south by the drive entrance to Hickory Creek Mobile Home Park. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition or condemnation of the real property interests 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. (FM Highway 2181 Utility Relocations project)

Council returned to Open Session at 4:22 p.m. Mayor Pro Tem Roden inquired whether Council Member Briggs would be returning to the meeting. If not, the items she suggested pulling for separate consideration could be discussed during this time in the Work Session.

Mayor Watts indicated that she would be returning at the Regular Session and the items should remain as suggested.

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

**1. PLEDGE OF ALLEGIANCE**

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

## **2. CONSENT AGENDA**

Council Member Hawkins motioned, Council Member Gregory seconded to approve the Consent Agenda and accompanying ordinances and resolutions with the exception of Items A, G and M to be considered individually. On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

### Ordinance No. 2016-345

- B. ID 16-1364 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving three (3) year software maintenance for continued vendor support of the Milsoft Interactive Voice Response System and associated software modules along with new hardware and software upgrades, which is 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 3881 awarded to Milsoft Utility Solutions in the three (3) year not-to-exceed amount of \$176,500).

### Ordinance No. 2016-346

- C. ID 16-1365 Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract for the acquisition of one (1) East "live-bottom" trailer for the City of Denton Solid Waste Department which is available from only one source and in accordance with Chapter 252.022 of the Texas Local Government Code, such purchases are exempt from requirements of competitive bidding; and providing an effective date (File 6265-awarded to East Manufacturing Corporation in the amount of \$68,200).

### Ordinance No. 2016-347

- D. ID 16-1367 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving a Supervisory Control and Data Acquisition System Upgrade, which is 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 4074 awarded to Open Systems International in the not-to-exceed amount of \$527,365).

### Ordinance No. 2016-348

- E. ID 16-1368 Consider adoption of an Ordinance accepting competitive proposals and awarding a contract for the purchase of a Caterpillar Model 826K refuse compactor for the City of Denton Landfill; providing for the expenditure of funds therefor; and providing an effective date (RFP 5825-awarded to Holt CAT in the amount of \$894,714).



Ordinance No. 2016-349

- F. ID 16-1388 Consider adoption of an ordinance of the City of Denton authorizing the City Manager or his designee to execute a contract through the Buy Board Cooperative Purchasing Network for the acquisition of one (1) Caterpillar 430F2 Backhoe for the City of Denton Water Distribution Department; and providing an effective date (File 6270-awarded to Holt CAT in the amount of \$123,972.77).

Ordinance No. 2016-351

- H. ID 16-1403 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving the purchase of an EMC Vplex system as awarded by the State of Texas Department of Information Resources (DIR) through the Go DiRect Program, Contract Number (DIR-TSO-2634/DIR-TSO-2542); providing for the expenditure of funds therefor; and providing an effective date (File 6271-awarded to Presidio Networked Solutions Group, LLC in the three (3) year not-to-exceed amount of \$152,209.11).

Ordinance No. 2016-352

- I. ID 16-1416 Consider adoption of an Ordinance authorizing the City Manager to execute a Interlocal Agreement with the University of North Texas under section 791.001 of the State of Texas Government Code, and to authorize the City of Denton to participate in a project to develop a digital roadmap to set a strategic vision in technology infrastructure investments, sustainability, education, and use of digital media for service delivery and citizen engagement, among other technology goals; authorizing the expenditure of funds therefor; and declaring an effective date (File 6238-Interlocal Agreement with the University of North Texas in the amount of \$20,000).

Ordinance No. 2016-353

- J. ID 16-1400 Consider adoption of an ordinance of the City of Denton, Texas providing for authorization of a building lease ("lease") and a first amendment to the building lease ("first amendment") by and between Epic Development, Inc. and the City of Denton, Texas allowing the City of Denton to use and occupy the premises as administrative office space, temporary housing, and sleeping quarters for fire personnel; authorizing the expenditure of funds therefor and providing an effective date.

Resolution No. R2016-041

- K. ID 16-1434 Consider approval of a resolution approving the 2015 Tax Increment Reinvestment Zone Number Two (Westpark TIRZ) Annual Report; and declaring an effective date.

Ordinance No. 2016-354

- L. ID 16-1435 Consider adoption of an ordinance amending Ordinance No. 2012-366, as amended by Ordinances 2014-039 and Ordinance 2015-370, relating to Tax Increment Reinvestment Zone (TIRZ) Number Two, to add to the membership of the

Board of Directors; repealing all conflicting ordinances and portions thereof; and providing an effective date.

Ordinance No. 2016-356

- N. ID 16-1440 Consider adoption of an ordinance of the City of Denton authorizing an agreement between the City of Denton, Texas and the Community Market; authorizing the expenditure of funds; and providing for an effective date (\$9,150 per year, for a four (4) year not-to-exceed amount of \$36,600).

Approved the minutes listed below.

- O. ID 16-1452 Consider approval of the minutes of August 16 and 23, 2016 and September 13, 2016.

Ordinance No. 2016-357

- P. ID 16-1453 Consider adoption of an ordinance of the City of Denton, Texas providing for, authorizing, and approving an additional cost for the Rental of Vans for the City of Denton Parks and Recreation Department Summer Camp and Summer Food Programs which is 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 6167-awarded to Capps Van and Truck Rental in the additional amount of \$17,703.96 for a total not-to-exceed amount of \$66,653.96).

The items pulled for separate action were considered.

Ordinance No. 2016-344

- A. ID 16-1363 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for electric substation construction services; providing for the expenditure of funds therefor; and providing an effective date (RFP 6085-awarded to Can-Fer Utility Services, LLC in the three (3) year not-to-exceed amount of amount of \$17,620,000).

Chris Lutrick, DME Project Manager, presented the details on the substation construction services. He reviewed the overview of the substation construction, CIP projects, summary of proposals, and projects constructed by Can-Fer Construction.

Council discussed that this project was part of the overall expansion project for DME for infrastructure and cost comparison of the next six substations compared to the six just completed;

Willie Hudspeth submitted a Speaker Card but did not speak on the substation purchase but rather spoke that there were no African Americans in leadership positions in DME.

Mayor Pro Tem Roden motioned, Council Member Hawkins seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2016-350

- G. ID 16-1401 Consider adoption of an ordinance accepting competitive bids and awarding a public works contract for the construction of the Denton WaterWorks Wave Pool and Concession to be located at 2400 Long Road, Denton Texas; providing for the expenditure of funds therefor; and providing an effective date (RFP 6221-awarded to Schmoldt Construction, Inc. in the not-to-exceed amount of \$2,630,310.70).

Council Member Briggs stated that she would not be voting for this item because she was against the fee increase.

Willie Hudspeth submitted a Speaker Card but did not speak on the wave pool contract. He spoke on the lack of African American leaders in the Parks Department.

Council Member Hawkins motioned, Council Member Gregory seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member Hawkins "aye", Council Member Gregory "aye", and Mayor Watts "aye". Council Member Briggs "nay", and Council Member Bagheri "nay". Motion carried with a 5-2 vote.

Ordinance No. 2016-355

- M. ID 16-1439 Consider adoption of an ordinance of the City of Denton authorizing the City Manager, or his designee, to execute a real estate sales contract between the City of Denton, Texas ("City"), as purchaser, and Terrano Realty, Inc., Medanzo Partners, Ltd., and NW Realty, Inc., (Collectively "Owner"), as seller, to acquire fee title to a 38.889 acre tract and easement interests in a 0.040 acre tract of land, a 0.800 acre tract of land, a 0.046 acre tract of land, a 0.642 acre tract of land, a 0.919 acre tract of land, and a 4.636 acre tract of land, all situated in the Mary Austin Survey, Abstract No. 4, located in the City of Denton, Denton County, Texas, and located generally south of Shady Oaks Drive and West of Loop 288 (Collectively the "Property Interests") for the purchase price of six million two hundred fifty thousand dollars and no cents (\$6,250,000.00), and other consideration, as prescribed in the real estate sales contract; authorizing the expenditure of funds, and providing an effective date. [Brinker Substation and TM Line]

Phil Williams, General Manager - DME, stated this was the Brinker Substation site in southeast Denton. He presented the initial offer, counter offers, and the appraised value.

Council Member Gregory questioned the revisions to the sales contract.

Larry Collister, Deputy City Attorney, stated that the changes involved the closing date and some of the easement information.

Willie Hudspeth submitted a Speaker Card but did not speak on the issue. He spoke on preservation of trees.

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

Hawkins "aye", Council Member Gregory "aye", and Mayor Watts "aye". Council Member Briggs "nay", and Council Member Bagheri "nay". Motion carried with a 5-2 vote.

**3. ITEMS FOR INDIVIDUAL CONSIDERATION - CONSIDERATION OF THE USE OF EMINENT DOMAIN TO CONDEMN REAL PROPERTY INTERESTS**

Ordinance No. 2016-358

- A. ID 16-1271 Consider adoption of an ordinance of the City of Denton finding that a public use and necessity exists to acquire easement interests to a 1.253 acre tract of land situated in the J.S Collard Survey, Abstract No. 297, City of Denton, Denton County, Texas, and of the Real Property Records of Denton County, Texas ("Property Interests"), for the public use of, expansion, construction, maintenance, and operation of an electric transmission line, ancillary facilities and structures; authorizing the City Manager, acting City Manager, or his designee, to make initial and final offers to execute an easement, between the City of Denton, Texas ("City"), as grantee, and Pensco Trust Company Custodian FBO Randall D. Smith Roth IRA, Bonnie Brae Malone County, Inc., Trustee of the COTI Property Trust, and Edward F. Wolski (Collectively "Owner"), as grantor, to acquire Property Interests for the total purchase price of \$166,859.00, and other consideration; authorizing the filing of eminent domain proceedings to acquire the Property Interests if the final offer is not accepted; authorizing the expenditure of funds; and providing an effective date. [North Lakes to Denton North TM Line]

Smith Day, Compliance Manager, presented the details of the necessity for eminent domain. He displayed the legal descriptions of the property during the making of the motion.

Willie Hudspeth submitted a Speaker Card and indicated that this item was already discussed in Closed Session. He spoke on Closed Session discussions.

Mayor Pro Tem Roden motioned "I move that the City of Denton, after having made the offers required by State law, use of the power of eminent domain, if needed, to acquire easement interests to a 1.253 acre tract of land, which is located in the J.S. Collard Survey, Abstract No. 297, City and County of Denton, Texas, and described and depicted in Exhibits "A" and "B" now being displayed on the overhead screen and in the ordinance under consideration; which is for a valid public use, necessary to provide for the expansion, construction, maintenance, operation, and improvement of electric transmission lines, facilities, and structures, to serve the public and citizens of the City." Council Member Hawkins seconded the motion.

On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2016-359

- B. ID 16-1410 Consider adoption of an ordinance of the City of Denton finding that a public use and necessity exists to acquire fee interest 1.851 acre tract of land and easement interests to a 0.851 acre tract of land and a 0.086 tract of land situated in the B.B.B.&C. R.R. Survey, Abstract No. 186, City of Denton, Denton County, Texas,

and of the Real Property Records of Denton County, Texas ("Property Interests"), for the public use of, expansion, construction, maintenance, and operation of an electric transmission lines, ancillary facilities and structures, including drainage and access; authorizing the City Manager, acting City Manager, or his designee, to make initial and final offers to execute an easement, between the City of Denton, Texas ("City"), as grantee, and J.F.S. 1992 Irrevocable Trust ("Owner"), as grantor, to acquire the Property Interests for the total purchase price of \$81,230.00, and other consideration; authorizing the filing of eminent domain proceedings to acquire the Property Interests if the final offer is not accepted; authorizing the expenditure of funds; and providing an effective date. [North Lakes to Denton North TM Line]

Smith Day, Compliance Manager-DME, reviewed the provision of the eminent domain process, the legal description of the property and the layout of the line while the motion was being made.

Willie Hudspeth submitted a Speaker Card but did not speak on the item. He spoke on the regulations of making a motion and then having speakers.

Council Member Hawkins motioned "I move that the City of Denton, after having made the offers required by State law, use of the power of eminent domain, if needed, to acquire fee interest to a 1.851 acre tract of land and easement interests in a 0.0851 acre tract of land and a 0.086 acre tract of land, which are located in the B.B.B.&C. R.R. Survey, Abstract No. 186, City and County of Denton, Texas, and described and depicted in Exhibits "A" through "F" now being displayed on the overhead screen and in the ordinance under consideration; which is for a valid public use, necessary to provide for the expansion, construction, maintenance, operation, and improvement of electric transmission lines, facilities, and structures, including access and drainage, to serve the public and citizens of the City." Council Member Gregory seconded the motion.

On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2016-360

- C. ID 16-1412 Consider adoption an ordinance of the City of Denton finding that a public use and necessity exists to acquire easement interests to a 2.168 acre tract of land situated in the Gideon Walker Survey, Abstract No. 1330, City of Denton, Denton County, Texas, and of the Real Property Records of Denton County, Texas ("Property Interests"), for the public use of, expansion, construction, maintenance, and operation of an electric transmission lines, ancillary facilities and structures; authorizing the City Manager, acting City Manager, or his designee, to make initial and final offers to execute an easement, between the City of Denton, Texas ("City"), as grantee, and Timber Links Apartments, LLC ("Owner"), as grantor, to acquire the Property Interests for the total purchase price of \$93,060.00, and other consideration; authorizing the filing of eminent domain proceedings to acquire the Property Interests if the final offer is not accepted; authorizing the expenditure of funds; and providing an effective date. [Spencer to Pockrus TM Line]

Smith Day, Compliance Manager -DME, presented the details regarding the eminent domain for the Spencer to Pockrus Transmission line. He displayed the legal descriptions and drawings while the motion was being made.

Council Member Wazny motioned "I move that the City of Denton, after having made the offers required by State law, use of the power of eminent domain, if needed, to acquire easement interests to a 2.168 acre tract of land, which is located in the Gideon Walker Survey, Abstract No. 1330, City and County of Denton, Texas, and described and depicted in Exhibits "A" and "B" now being displayed on the overhead screen and in the ordinance under consideration; which is for a valid public use, necessary to provide for the expansion, construction, maintenance, operation, and improvement of electric transmission lines, facilities, and structures, to serve the public and citizens of the City." Mayor Pro Tem Roden seconded the motion.

On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

Ordinance No. 2016-361

- D. ID 16-1450 Consider adoption of an ordinance of the City of Denton determining the public use, need, and necessity for the acquisition of various permanent easements and temporary construction easements generally located along FM Highway 2181 (Teasley Lane), the limits of which being bounded to the north by Lillian Miller Parkway and to the south by the Redbud Drive entrance to Hickory Creek Mobile Home Park and being situated in the J. C. Baker Survey, Abstract No. 47, the A. E. Cannon Survey, Abstract No. 232, the J. Fisher Survey, Abstract No. 421, the S. Hembrie Survey, Abstract No. 643, the B. Merchant Survey, Abstract No. 800, the C. Poullalier Survey, Abstract No. 1006, the E. Pickett Survey, Abstract No. 1018, the S.A. Venters Survey, Abstract No. 1315, and the W.E. Penley Survey, Abstract No. 1729, City and County of Denton, Texas, and with the use, purpose and legal descriptions of each easement being more particularly described in the attached Exhibit "A" (the "Property Interests") to the ordinance; authorizing the City Manager and City Attorney, or their respective designees, to acquire the property interests by agreement including making all offers required by law; authorizing the use of the power of eminent domain to condemn the property interests if an agreement cannot be reached; and authorizing the City Attorney, or her designee, to file eminent domain proceedings if necessary; authorizing the expenditure of funding; makings findings; providing a savings clause; and providing an effective date. (FM Highway 2181 Utility Relocations project)

Paul Williamson, Real Estate Manager, presented the details of the eminent domain proposal. He displayed the legal descriptions for the easement during the motion.

Council Member Gregory motioned "I move that the City of Denton, after having made the offers required by State law, use of the power of eminent domain, if needed, to acquire the necessary easements as defined as the Property Interests in the ordinance now under consideration, consisting of various tracts along FM Highway 2181, the limits of which being bounded to the north by Lillian Miller Parkway and to the south by the drive entrance to Hickory Creek Mobile Home Park, City

of Denton, Denton County, Texas, and being more particularly described on Exhibit "A" to the ordinance now under consideration and on the overhead screens, now being displayed to the audience, all of which are for a valid public use, necessary to provide for the construction, operation, and maintenance of both the municipal water system improvements, municipal sanitary sewer system improvements, and municipal electric improvements necessary for the FM Highway 2181 Utility Relocations project." Council Member Wazny seconded the motion.

On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

#### **4. ITEMS FOR INDIVIDUAL CONSIDERATION**

- A. ID 16-1437 Consider appointments to the Tax Increment Reinvestment Zone (TIRZ) Number Two Board of Directors.

Caroline Booth, Director of Economic Development, stated that Council adopted the ordinance defining the boundaries of TIRZ 2. The Board of Directors incorporates the current EDP Board as members. Since the last appointment, the EDP Board composition changed with the addition of a seat for the TWU President and Chancellor. Staff was requesting consideration of three new members from the EDP Board to the TIRZ 2 Board – Council Member Hawkins, Carine Feyten (TWU) and Jimmy Mejia.

Council Member Gregory motioned, Council Member Bagheri seconded to approve the appointments. On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

- B. ID 16-1457 Consider appointing a Nominating Committee to recommend an appointee to fill an unexpired term on the Economic Development Partnership Board.

Caroline Booth, Director of Economic Development stated that due to the passing of a member on the Board it was necessary to appoint a nominating committee to fill the unexpired term. The ordinance required a three member nominating committee consisting of two council members and one member of the Chamber of Commerce. Marty Rivers would be the Chamber representative.

Mayor Pro Tem Roden motioned, Council Member Bagheri seconded to appoint Council Members Gregory and Hawkins to the nominating committee. On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

- C. ID 16-1469 Consider appointments to a Charter Review Committee.

Council Member Bagheri appointed Prudence Sanchez.  
Council Member Briggs appointed Herbert Holl.

## **5. PUBLIC HEARINGS**

### Ordinance No. 2016-362

- A. Z16-0019a Hold a public hearing and consider a request to rezone approximately 2.33 acres from a Neighborhood Residential 3 (NR-3) District to a Neighborhood Residential Mixed Use 12 (NRMU-12) District with a Mixed Use Residential Protection Overlay. The subject property is generally located on the northeast corner of East Sherman Drive and Kings Row. The Planning and Zoning Commission recommends approval of the request (7-0).

Munal Mauladad, Director of Development Services, presented the background details of the request which dealt with Fire Station #4. She reviewed the location of the property, the existing zoning, proposed zoning and the overlay request. Future land use plan for the property was discussed along with public notification. The Planning and Zoning Commission recommended approval as did staff.

The Mayor opened the public hearing.

Paul Meltzer, 1914 W. Oak Street, Denton, questioned the use of the property.

The Mayor closed the public hearing.

Council Member Bagheri motioned, Council Member Briggs seconded to adopt the ordinance. On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

### Ordinance No. 2016-363

- B. AESA16-0002a Hold a public hearing and consider a request for an Alternative Environmentally Sensitive Area Plan for the Ryan Meadows Addition, Phase 2. The approximately 37.35 acre subject property is generally located on the south side of Ryan Road, approximately 2,000 feet east of Country Club Road. The Planning and Zoning Commission recommends approval with conditions (6-0).

Munal Mauladad, Director of Development Services, presented the details of the proposal, reviewing the current zoning, the environmentally sensitive area, and the Mobility Plan. She presented the detail of the mitigation that would be proposed with 25 new trees to be planted. The Planning and Zoning Commission recommended approval as did staff with conditions.

The Mayor opened the public hearing.

Thomas Fletcher, applicant, reviewed the drainage study and related issues for the change in the environmental information. Irrigation should not be a problem with the new tree plantings as the developer irrigated new areas in the development.

The Mayor closed the public hearing.



Council Member Gregory motioned, Council Member Hawkins seconded to adopt the ordinance with a requirement for irrigation and the Planning and Zoning Commission conditions for three years. On roll call vote, Mayor Pro Tem Roden "aye", Council Member Wazny "aye", Council Member Briggs "aye", Council Member Hawkins "aye", Council Member Gregory "aye", Council Member Bagheri "aye", and Mayor Watts "aye". Motion carried unanimously.

**6. CONCLUDING ITEMS**

- A. Under Section 551.042 of the Texas Open Meetings Act, respond to inquiries from the City Council or the public with specific factual information or recitation of policy, or accept a proposal to place the matter on the agenda for an upcoming meeting AND Under Section 551.0415 of the Texas Open Meetings Act, provide reports about items of community interest regarding which no action will be taken, to include: expressions of thanks, congratulations, or condolence; information regarding holiday schedules; an honorary or salutary recognition of a public official, public employee, or other citizen; a reminder about an upcoming event organized or sponsored by the governing body; information regarding a social, ceremonial, or community event organized or sponsored by an entity other than the governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; or an announcement involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda..

The Council did not have any items at this time.

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

There was no continuation of the Closed Meeting.

With no further business, the meeting was adjourned at 7:50 p.m.

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CHRIS WATTS  
MAYOR  
CITY OF DENTON, TEXAS

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JENNIFER WALTERS  
CITY SECRETARY  
CITY OF DENTON, TEXAS