



MEMORANDUM

DATE: Sept. 29, 2017
TO: The Honorable Mayor Watts and Council Members
FROM: Todd Hileman, City Manager
SUBJECT: Friday Staff Report

I. Council Schedule

A. Meetings

1. Closed Meeting of the City Council on **Monday, October 2, 2017 at 11:00 a.m.** in the City Council Work Session Room.
2. Agenda Committee Meeting on **Wednesday, October 4, 2017 at 3:30 p.m.** in the City Manager's Conference Room.
3. Council Airport Committee on **Thursday, October 5, 2017 at 9:00 a.m.** in the City Hall Conference Room.

II. General Information & Status Updates

- A. Development Services – Please be informed that Munal Mauladad submitted her resignation this week as the City's Development Services Director due to personal reasons. Scott McDonald, Deputy Director/Chief Building Official, has been named the Interim Department Director. Scott recently joined the organization with more than 25 years of experience in the building industry. Scott can be reached at (940) 349-8539 or Scott.McDonald@cityofdenton.com. Staff contact: Todd Hileman
- B. US Conference of Mayors – At the September 19 Council meeting, Mayor Watts requested that the information provided to him in advance of a recent US Conference of Mayors Energy Committee meeting be shared with the rest of Council. DME staff provided an ERCOT quick fact sheet, an American Wind Energy Association fact sheet, and a summary of wind and renewable energy for ECROT and Denton. Please see **attached**. Staff contact: Bryan Langley
- C. Solid Waste Specific Use Permit – During the Citizen Comments portion of the August 15, 2017 and September 19, 2017 City Council meetings, resident Robert Donnelly raised concerns about the Solid Waste Department not being in

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November 9 and there is very limited availability for a November date based upon other events, meetings, and the Civic Center. December is not recommended due to the holidays. Staff will look for a January date and believes can still meet the feedback and request. Staff contact: Sarah Kuechler

- I. Department Sponsorships – Following Denton Municipal Electric's recent presentation to the City Council regarding department sponsorships, Solid Waste staff identified similar sponsorship expenses within the department's budget. Among those sponsorships, staff found that the department will be sponsoring the upcoming October 1st Twilight Tunes event at the Courthouse on the Square. Staff is unaware of any additional commitments, and prior to any further sponsorships being approved, the department will seek direction from the Public Utilities Board and the City Council. Presentations to the Board and Council are currently planned for October. Staff contact: Ethan Cox
- J. Open Meetings Act Question Regarding Section 3.B. of the Council's Regular Meeting Agenda – There have been questions raised by several citizens as to whether the Texas Open Meetings Act ("TOMA") allows Council to deliberate and take action on "Section 3.B." Public Comments on the Council's Regular Meeting Agenda. As you know, Section 3.B. states, "Receive scheduled citizen reports from member of the public," followed by the name of the citizen and a brief description of the subject matter. This type of agenda item posting significantly differs from the rest of the Regular Meeting agenda item postings where Council deliberates and takes action. The latter type of postings, commonly referred to as "action items", consistently use the word "consider" in connection with "adoption or approval" of a certain item. Also, the action items include Staff reports, ordinances and other documents germane to the item. This has been the City's custom for many years in providing notice to the public, as required by the TOMA, of items that will be considered for deliberation and action. This custom establishes an expectation by the public about the subject to be acted upon at the meeting.

Straying away from this custom exposes the Council to a potential TOMA violation. In one case, the San Antonio Court of Appeals concluded that the San Antonio ISD Board of Trustees violated TOMA when it deliberated upon an item that was only noticed as "Discussion" rather than the usual and customary "Discussion and Action" language that it routinely used for its regular meeting agenda action items. The school's district's posting was not sufficient to alert the general public that action would be taken.

In the City's case, deliberating and taking action on Section 3.B. Public Comment items would be identical to what occurred in the San Antonio ISD Board of Trustees case, because the Council would be departing from its customary practice of alerting the general public that deliberation and action may take place. This risk is further increased because of the customary practice of including agenda back up materials for each action item, and as the Council has observed on occasion, some speakers have strayed from the posted Section 3.B. Public Comment captions. Staff contact: Aaron Leal