

CITY OF DENTON CITY COUNCIL MINUTES
October 10, 2017

After determining that a quorum was present, the City Council of the City of Denton, Texas convened in a Work Session on Tuesday, October 10, 2017 at 2:00 p.m. in the Council Work Session Room at City Hall.

PRESENT: Council Member Hudspeth, Council Member Briggs, Council Member Duff, Council Member Ryan, Council Member Gregory, Mayor Pro Tem Bagheri, and Mayor Watts.

ABSENT: None.

1. Citizen Comments on Consent Agenda Items

There were no citizen comments regarding Consent Agenda items.

2. Requests for clarification of agenda items listed on the agenda for October 10, 2017.

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

Council Member Ryan – clarification on Consent Agenda Item C and subsequently pulled for individual consideration

Council Member Hudspeth - pull Consent Agenda Item E for individual consideration

Council Member Gregory – clarification on Consent Agenda Item D

3. Work Session Reports

- A. ID 17-1351 Receive a report, hold a discussion, and give staff direction regarding the establishment of a steering committee as part of the Small Area Plan and Implementation Strategy.

Ron Menguita, Long Range Planning Administrator, stated that Council had approved a contract for the development of a Small Area Plan and Implementation Strategy. As development occurred and land uses changed, key challenges affecting the area of the study included traffic, parking, and building compatibility in terms of scale, use, character and intensity. Small Area Planning allowed long-term planning for specific areas in the city and allowed for community members and stakeholders to provide input, create a shared vision, and influence future development policies for a specific area.

Menguita stated that a steering committee was necessary to work with staff and the consultant to guide the planning process. The steering committee could be a 21-24 member committee with residents, property owners, neighborhood associations, group liaisons, business owners, UNT administrative staff members, UNT students, local builders, bicyclists, and other stakeholders.

The Council discussed their preference for appointing members and the general consensus was for each Council Member to provide three members for consideration by the November 7 meeting.

- B. ID 17-1401 Receive a report, hold a discussion, and give staff direction regarding the Water Works Park wave pool and concession stand project and preliminary end of season numbers.

Laura Behrens, Assistant Director of Parks and Recreation, briefed the Council on the Water Works Park 2017 season. She stated that there were 86 days of total operation of the park and 46 days of operation for the wave pool with 77,371 total attendance for the season, which was 4,651 over last season. This came out to 88 patrons per day average increase in attendance after the wave pool opening. She stated that for FY 2016-17 they were anticipating a net profit of \$34,808.

Council asked about promotions done on the wave pool.

- C. ID 17-1406 Receive a report, hold a discussion, and give staff direction regarding a policy and application process to review housing tax credit requests.

Sarah Kuechler, Assistant to the City Manager, stated that there were two types of Housing Tax Credit programs available: a 4% (non-competitive) and a 9% (competitive) program. Current policy from the TDHCA required that developers receive resolutions of support or no objection from the municipality in which the project was located. Staff had briefed the City Council on processes used by other municipalities and presented a draft application and policy for discussion. Council provided feedback on the application and asked if staff could develop a point system to evaluate the applications. Staff also stated they would review a draft with the Denton Housing Authority (DHA) to ask for their comments.

Staff had met with the Denton Housing Authority and although the DHA opposed any city processes being instituted, staff tried to incorporate some of their feedback where possible.

Staff revised the application and policy by condensing and streamlining the checklist and submittals, eliminated some duplicate questions that would be addressed through planning and zoning review; and recommended adjusting to have the 9% applications on an established deadline but allowing the 4% applications to be accepted year-round. Staff had some difficulties and challenges in establishing a point/ranking system due to the potential subjectivity of not having a policy document off which to base evaluation or scoring categories. Other municipalities researched - El Paso had a point system method; however, it was linked to the City's value statements and affordable housing policies.

Staff recommended two options: Option 1 - Application and Policy with general criteria/factors for consideration. Option 2 – Application and Policy with City Council policy preferences. Some examples could be those projects that pay property taxes, projects that serve a certain population (e.g. senior housing or homeless), projects that have a certain ratio of affordable and market rate units, and projects that redevelop an existing property.

Mayor Watts stated that before they decided on the criteria, he wanted a joint work session with the Denton Housing Authority.

Council Member Gregory stated that distribution of the housing projects throughout the city would be favorable as well.

- D. ID 17-1419 Receive a report, hold a discussion and give staff direction regarding the Texas Open Meetings Act as it relates to Section 3.B. ("Receive Scheduled Citizen Reports from Members of the Public") items of the City Council's Regular Meeting agenda.

Aaron Leal, Interim City Attorney, stated that some citizens had expressed concern regarding Section 3.B. of the Council's Regular Meeting Agenda. There were some misconceptions that these items could be acted upon. He cautioned the Council that deliberating and taking action on 3B items would be contrary to the Texas Open Meetings Act.

The Council discussed different modifications to the video and legal posting. General consensus of the Council was that the current video was somewhat in conflict with the current legal posting and to clean that up and also add wording so that a Council Member could ask for that item to be placed on an agenda and incorporate all aspects of Government Code Section 551.042.

Mayor Watts also asked that in three or four months they look to see how that was working.

Following the completion of the Work Session, the City Council convened in a Closed Meeting at 3:57 p.m. to consider specific items listed below under the Closed Meeting section of this agenda.

1. Closed Meeting:

- A. ID 17-1133 Deliberations regarding Personnel Matters - Under Government Code Section 551.074. Review and discuss the evaluation, duties, discipline, procedures, and contract for the City Manager.
- B. ID 17-1422 Deliberations regarding Personnel Matters - Under Government Code Section 551.074. Discuss and deliberate regarding the evaluation of candidates and the appointment/employment of a City Attorney.
- C. ID 17-1432 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 various tracts in the City of Denton, Denton County, Texas, generally located on the west side of the 2000 block to the 2600 block of South Mayhill Road, Denton, Texas, for City infrastructure improvements. Consultation with the City's attorneys regarding legal issues associated with the potential acquisition or release of real property interests in the tracts described above, and the status and strategy of litigation styled City of Denton, Texas v. Robert P. Donnelly, Cause No. 17-5939-158, currently pending in the 158th District Court of Denton County, Texas, 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 litigation.

- D. ID 17-1433 Consultation with Attorneys - Under Texas Government Code, Section 551.071 Receive a report, consult, discuss and deliberate with the City's attorneys regarding legal issues associated with an investigation as to the internal operations of the City of Denton Parks and Recreation Department and as to the business relationship between the City of Denton and the Denton Parks Foundation, where a public discussion associated with these legal matters would clearly conflict with the duty of the City's attorney's to the City of Denton and the Denton City Council under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

Council Member Briggs left the meeting at 7:00 p.m.

Following the completion of the Closed Meeting, the City Council convened in a Special Called Meeting at 7:55 p.m. to consider the following items:

1. CONSENT AGENDA

Council Member Bagheri motioned, Council Member Gregory seconded to adopt the Consent Agenda and accompanying ordinances and resolutions with the exception of Item C and E which would be considered individually. On roll call vote, Council Member Hudspeth "aye", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "aye", Mayor Pro Tem Bagheri "aye" and Mayor Watts "aye". Motion carried (6-0).

Ordinance No. 2017-289

- A. ID 17-1175 Consider adoption of an ordinance of the City of Denton, Texas authorizing the approval of a second amendment to a contract between the City of Denton and Deloitte & Touche, LLP to perform a Fiscal Year 2017-18 benchmark analysis and risk assessment of the City of Denton Energy Maintenance Organization (EMO) in the amount of \$145,000, amending the contract approved by Purchasing staff on May 25, 2017 in the amount of \$26,000 and a First Amendment approved by the City Manager on July 25, 2017 in the amount of \$60,000; providing for the expenditure of funds therefor; and providing an effective date (File 6469-providing for an additional expenditure amount not-to-exceed \$145,000, with the total contract amount not-to-exceed \$231,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2017-290

- B. ID 17-1271 Consider adoption of an ordinance of the City of Denton, Texas authorizing the approval of a first amendment to a contract between the City of Denton and Enterprise Risk Consulting, LLC (ERC) to assist the City of Denton in developing a Power Supply Hedge Strategy and implement a Risk Management Process in the not-to-exceed amount of \$200,000, amending the contract approved by the City Manager on August 23, 2017 in the amount of \$99,000; providing for the expenditure of funds therefor; and providing an effective date (File 6560-providing for an additional expenditure amount not-to-exceed \$200,000, with the total contract amount not-to-exceed \$299,000). The Public Utilities Board recommends approval (6-0).

Ordinance No. 2017-291

- D. ID 17-1320 Consider adoption of an ordinance of the City Council of the City of Denton, Texas, approving the FY18 Annual Audit Plan and providing for an effective date.

Council considered the items pulled for separate consideration.

- C. ID 17-1317 Consider approval of a resolution nominating members to the Board of Directors of the Denton Central Appraisal District; and declaring an effective date.

Deputy City Manager Bryan Langley stated that the Denton Central Appraisal District (DCAD) had notified the City that the term for members on the current DCAD Board of Directors expired December 31, 2017. DCAD was seeking nominations from taxing jurisdictions in the district. The City Council could make up to five nominations for the Board of Directors. Once nominations from all taxing jurisdictions were received by DCAD, a ballot would be sent to the City. The City Council would then cast their vote to elect a member at the December 5, 2017 City Council meeting.

Council discussed submitting nominations of non-elected officials.

Council Member Gregory motioned to approve the resolution as presented.

The motion died for lack of a second.

Mayor Watts suggested that next time would be a good time to take a more in-depth look at other nominations and appointments, but to do it earlier in the process.

Council Member Ryan motioned, Council Member Hudspeth seconded not to submit any names. On roll call vote, Council Member Hudspeth "aye", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "nay", Mayor Pro Tem Bagheri "nay" and Mayor Watts "nay". Motion failed (3-3).

Mayor Pro Tem Bagheri nominated Robert Gallagher and Mike Haslett, Council Member Hudspeth seconded. On roll call vote, Council Member Hudspeth "aye", Council Member Duff "nay", Council Member Ryan "aye", Council Member Gregory "nay", Mayor Pro Tem Bagheri "aye" and Mayor Watts "nay". Motion failed (3-3).

The Mayor stated that since no action could be taken at the next meeting to meet the deadline, this agenda item was done.

Ordinance No. 2017-292

- E. ID 17-1348 Consider adoption of an ordinance accepting competitive proposals and awarding a public works contract for construction of the Cedar Street parking lot to be located at the southwest corner of Cedar and McKinney Streets; providing for the expenditure of funds therefor; and providing an effective date (RFP 6481C-awarded to Quality Excavation, Ltd. in the not-to-exceed amount of \$792,991.20).

Mark Nelson, Director of Transportation/Aviation, stated that the objective of this contract was to reconstruct the parking lot to meet community needs and enhance safety and aesthetics. The

Council had directed staff to move forward with the demolition of the fire station and had approved funding for temporary paving.

Mayor Watts stated that the reason this item was pulled and stated that his preference was to take this to the Downtown TIF Board and see if the board would recommend any funds towards this project.

Council Member Gregory asked if the money had already been allocated for this project.

Nelson stated that COs had been issued in 2016 and the bonds had already been sold.

Council Member Hudspeth motioned to postpone the item and let the Downtown TIF Board look at the project.

Motion died for lack of a second.

Council Member Gregory motioned to approve the ordinance, Council Member Duff seconded. On roll call vote, Council Member Hudspeth "nay", Council Member Duff "aye", Council Member Ryan "aye", Council Member Gregory "aye", Mayor Pro Tem Bagheri "aye" and Mayor Watts "nay". Motion carried (4-2).

2. ITEMS FOR INDIVIDUAL CONSIDERATION

Ordinance No. 2017-293

- A. ID 17-1423 Consider adoption of an ordinance approving an employment agreement for the City Attorney and authorizing the Mayor to execute said Agreement setting the compensation and terms of that employment; authorizing expenditures and actions; and providing an effective date.

Carla Romine, Director Human Resources, handed out an ordinance and employment agreement related to this item.

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

3. CONCLUDING ITEMS

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

governing body that was attended or is scheduled to be attended by a member of the governing body or an official or employee of the municipality; or an announcement involving an imminent threat to the public health and safety of people in the municipality that has arisen after the posting of the agenda.

Mayor Pro Tem Bagheri asked that there be different high priority items presented to the Downtown TIF Board at their next meeting.

Council Member Ryan asked that Council Members be notified when public meetings were going to be held like the meeting on the Development Code. None of the Council Members were notified.

Council Member Hudspeth asked that investigations and the like be transparent and asked for a discussion on the process.

Mayor Watts reminded Council to have their nominations ready for the steering committee for City Hall West.

Mayor Watts asked for a work session on the Development Code related to conveyance plats.

Mayor Watts asked for a joint work session with the Denton Housing Authority to go over the housing tax credit policy.

With no further business, the meeting was adjourned at 8:45 p.m.

CHRIS WATTS
MAYOR
CITY OF DENTON, TEXAS

JANE RICHARDSON
CITY SECRETARY
CITY OF DENTON, TEXAS