

MINUTES
RICHARDSON CITY COUNCIL
WORK SESSION AND SPECIAL CALLED MEETING
MONDAY, AUGUST 6, 2012

WORK SESSION – 6:00 P.M.

• **Call to Order**

Mayor Townsend called the meeting to order at 6:03 p.m. with the following Council members present:

Bob Townsend	Mayor
Laura Maczka	Mayor Pro Tem
Mark Solomon	Council member
Scott Dunn	Council member
Kendal Hartley	Council member
Steve Mitchell	Council member
Amir Omar	Council member

The following staff members were also present:

Dan Johnson	City Manager
David Morgan	Deputy City Manager
Michelle Thames	Assistant City Manager Administrative Services
Cliff Miller	Assistant City Manager Development Services
Samantha Woodmancy	Management Analyst
Aimee Nemer	City Secretary
Kent Pfeil	Director of Finance
Gary Beane	Budget Officer

A. Visitors

Mr. William McCalpin, 1400 Cheyenne Drive, addressed Council and provided a handout from Rumorcheck.org, a website that he administers. Mr. McCalpin's comments were in response to a citizen's comments from a previous Council Meeting in which that citizen stated that the Richardson City Charter was in violation of State law with regard to the process of electing the Mayor. Mr. McCalpin's statement sought to clarify state law and assert that the City is in compliance. A copy of Mr. McCalpin's statement is included with these Minutes as *Exhibit A*.

B. Consider Resolution No. 12-15, supporting Collin County's prioritization of proposed RTR funded transportation projects on behalf of the cities of Allen, Frisco, McKinney, Plano, Prosper and Richardson, Texas.

Staff Comments:

City Manager Johnson gave a brief history of the Regional Transportation Council (RTC) reminding Council that the City has been an active participant in the RTC with Mayor Pro Tem Maczka serving as the City's representative. Assistant City Manager Miller gave Council a history of the Regional Toll Revenue (RTR) funding and explained that the City has submitted two projects for funding; Project #1 – Routh Creek Parkway/Infocom, which has been ranked number three by Collin County, and Project #2 – East Infocom, which has been ranked number thirteen by Collin County. Mr. Miller stated that it is very likely that the Routh Creek project will be funded. Mr. Miller explained that all Collin County cities have been asked to submit a formal City Council resolution approving the projects and ranking. He stated that after approval of the resolution, the next step would be to submit the projects to the Surface Transportation Technical Committee (STTC) for a review of the complete list of projects and then to the RTC for approval.

Council Discussion:

Mayor Pro Tem Maczka provided additional information to Council stating that the ranking matrix is the first time this has been done with all participating cities coming together to agree on the projects and ranking for a united submittal to the RTC.

Councilmember Mitchell asked if Collin County Commissioner Williams has been involved in the process. Ms. Maczka and Mr. Johnson confirmed that both Commissioner Webb and Commissioner Williams have been involved and very supportive.

Councilmember Mitchell confirmed with Mr. Johnson that the developer would be required to fund the local match when the development at Routh Creek begins. Mr. Mitchell also commented that this development would be the prime opportunity to rename Infocom. Mr. Johnson confirmed that staff is currently addressing this issue with the developer.

Action Taken:

Mayor Pro Tem Maczka moved to approve Resolution No. 12-15; supporting Collin County's prioritization of proposed RTR funded transportation projects on behalf of the cities of Allen, Frisco, McKinney, Plano, Prosper and Richardson, Texas. Councilmember Hartley seconded the motion. A vote was taken and passed, 7-0.

C. Present and Discuss the City Manager's Proposed Budget and the Proposed Tax Rate of \$0.63516 per \$100 Valuation (Same as Current 2011 – 2012 Rate) for Fiscal Year 2012 – 2013

Staff Comments:

City Manager Johnson presented the proposed FY 2012-2013 Budget explaining that the budget continues to implement the City Council's Goals and Near-Term Action Items. He explained that the budget is an ongoing process that Council and staff actively participate in throughout the year with a specific focus on the budget beginning at the Budget Retreat which was held in July. Mr. Johnson explained that

the theme that developed from the Retreat that reflects the goals of this year's budget is "Charting the Course," which conveys the variety of planning and assessment efforts that are currently under way and will continue to give direction to the City in 2012-2013 and beyond. He stated that the proposed budget requires no new property tax rate change. In addition to reviewing the revenues and expenditures of each fund, Mr. Johnson highlighted the following:

Property Tax

- No tax rate change is proposed. The current \$0.63516 rate has been applied in budget development.
- 1 penny equals \$1,000,000.
- 1% of Tax Roll equals \$638,000 impact.
- With no upward pressure in residential property values, the Senior Exemption's current \$55,000 value amount will maintain the 30% protection objective for 2012-2013.
- Property Taxes provide about 37% of the entire General Fund resources.

Sales Tax

- This 2012-2013 estimate of \$25.5 million uses a 2% growth factor.
- This revenue provides about 26% of the entire General Fund resources.

Rates & Fees

Water/Sewer Utility

- The ability to absorb District water rate changes were exhausted during the spring of 2012, and the City Council authorized a 9% rate change for June billings.
- It was advised that this was a "catch-up" adjustment and did not factor the expected additional rate changes from NTMWD related to the significant Texoma water pipe capital program and other District CIP plans.
- The NTMWD wholesale water rate is projected to increase by about \$0.21 every year for the next several years. The City must move to considering an annual "pass-through" format to these wholesale rate adjustments to maintain our financial policies.
- For 2012-2013, a city utility rate adjustment of 13% is proposed to begin with the new fiscal year.

Solid Waste Rates

- Based on operating cost pressures and a flat performance in commercial revenues to help subsidize the residential customers, an increased revenue requirement is needed in this fund. These rates were last adjusted in 2008-2009.

- To allow for the orderly consideration of any rate adjustment in the context of the findings from the HDR study currently underway, the 2012-2013 budget will be developed with the use of a non-recurring rate stabilization funding supplement of \$625,000.
- The Solid Waste study is scheduled for completion before the end of this year. Rate adjustments will be directed as an outcome of that study report and/or the next fiscal year budget development.

Drainage Utility Fee

- This 2012-2013 budget will be the first full fiscal year for this fee, which was enacted during 2011-2012 and the City began revenue receipts in February 2012.
- Recall that Richardson was one of the few remaining cities in the DFW area that had not established this fee, even as our General Fund has absorbed the mandates of the State's Storm Water Quality Management regulations.
- With the adopted plan, about \$910,000 of current General Fund expenses related to this program (engineering, enforcement, inspection, etc.) will be supported by the new Drainage Utility Fund. Additionally, about \$1.385 million in annual storm water/drainage capital improvements will be funded.
- The use of these funds is reflected in the Drainage Utility Fund as well as a transferred portion to the General Fund for specific cost allocated support.

Debt & Capital Program

- Following the approval of the \$66 million 2010 G.O. Bond program and related debt-assigned \$0.06 tax rate change, the current focus is on active implementation of the program.
- Debt service requirements now reflect these recently added obligations, and are handled in 2012-2013 through the multi-year debt plan that was developed.
- Cash Defeasance - The City plans to payoff approximately \$2.0 million of callable debt in February, 2013. This defeasance removes a portion of a 2004 taxable general obligation refunding issue that has eight years of payments remaining. By removing, or paying off, this debt prior to the scheduled maturity dates the City will realize approximately \$437,000 in savings over the next eight years.
- For 2012-2013, \$8.62 million across all funds is proposed for the Series 2013 C.O. debt program. This will cover the annual capital replacement requirements and the Utility Fund C.I.P. needs:
 - \$2.9 million for General Fund capital equipment
 - \$0.755 million for Fire Equipment
 - \$0.750 million for Fire Training Center for Emergency Management Operations

- \$1.215 million for Solid Waste equipment
- \$3.0 million for Utility Fund C.I.P.

Staffing & Compensation

- Personal Services comprise the largest expense category of the General Fund. Staff continues to hold vacant positions and to understaff to assist in managing these expenses. Overall staffing remains below the level of 2001-2002.
- Currently, 15 positions are frozen for 2012-2013. Understaffing factors will also be utilized for budget efficiency.
- Significant adjustments in the City's employee health insurance program are under review. The current 2011-2012 year has seen large claim impacts of the insurance fund, and a year ending transfer is required. 2012-2013 is the last year that the city can utilize a "grandfather/exemption" provision of the new national health care mandates before coverage changes and other plan features must be revised.
- A proposed compensation adjustment plan is included to remain regionally competitive with other communities and key labor markets.
- Support for compensation steps (5%) is proposed for the 48% of employees still within ranges. For those at the top of range, a 3% adjustment to the top range is proposed. By design, an employee will receive only one of these adjustments.
- An adjustment from the current 9-step plan to a 7-step plan is proposed for both Police and Fire.
- Staffing adjustments are proposed to respond to the new recreation facility activation and the reactivation of the Heights Park pool.
- An allocation of \$250,000 has been made for parks maintenance contracts to respond to contract inflation provisions and new service areas.
- Staffing supplements are proposed in selective areas, based on workload factors:
 - **Animal Services** – conversion of a part time Kennel Attendant to a full time Kennel Attendant
 - **Eisemann Center** – conversion of a part time marketing position to a full time Assistant Marketing and Development Manager
 - **Facilities Services** – reactivate a frozen Sr. Maintenance Technician and adding 3 Custodial positions in response to the opening of new facilities later this year.

In summary of the budget presentation, Mr. Johnson stated that Council should set the public hearing dates in order to receive public input prior to the adoption of the budget on September 10th.

Council Discussion:

Councilmember Omar inquired if the transaction fees for bond refunding and defeasance are detailed in the budget. Mr. Johnson explained that the budget reflects the fees in the transaction costs and are netted out.

Councilmember Mitchell noted that although the General Fund expenditures have increased by 1.4%, that rate is not near the National inflation rate.

Councilmember Dunn asked if the reduction in land lines has decreased the franchise fees. City Manager Johnson explained that franchise fees come from all utility companies who use the City's right-of-way. Assistant City Manager Thames further explained that although land lines may have decreased, internet access and cell phone usage has increased and franchise fees are received from those providers. Mr. Johnson also explained that many of the franchisees are energy based and may vary due to climate.

Councilmember Omar asked why the Business and Personal Property rate (BPP) has decreased. Mr. Johnson explained that this was due to the early years of telecommunication with the size, cost, and number of providers being less now with the economy and newer technology.

There was extensive Council discussion regarding the Pay Range Plan Adjustment.

Councilmember Mitchell asked for clarification of the Police and Fire Step Plans being compressed from 9 to 7 steps and if this would impact new employees or tenured employees. Mr. Johnson explained that new hires can come in and move through the steps at a quicker pace, but will not surpass tenured employees. Mr. Mitchell asked what would trigger the plan to be a rolling plan; or an adjustment to the entire Pay Plan. Mr. Johnson explained that if a market review was done and concluded that market adjustments were needed across the board, then a rolling plan would be evaluated.

Mayor Pro Tem Maczka and Councilmember Omar inquired what percentage of employees would be potentially affected. Assistant City Manager Thames stated that 44% in the Police Department and 57% in the Fire Department are topped out.

Councilmember Omar commented that he did not want to create an unintended negative consequence by creating a 7-Step Plan for new hires but no adjustments for tenured employees. Mr. Johnson explained that the cost for a rolling plan would be \$400,000 versus \$150,000 for the proposed 7-Step Plan. Councilmember Omar stated that correcting the problem completely would be worth the additional funds required.

Mayor Pro Tem Maczka inquired about the turnover rate. Mr. Johnson responded that there have been three in the Fire Department and one in the Police Department. Ms. Maczka stated that the City has to start somewhere and this is a great start. She commented that the City has to fix what can be fixed moving forward with the current

resources. She went on to say that the City's goal is to have a balance of being competitive while providing experienced employees with a long tenure.

Councilmember Mitchell also stated he wanted to ensure equality.

Councilmember Solomon stated that the City has responded to the employees across the board and believes this is a good recommendation from staff.

RECESS

Mayor Townsend called for a recess at 8:26 p.m.

RECONVENE

Mayor Townsend reconvened the meeting at 8:41 p.m.

The budget discussion resumed with a review of the Water and Sewer Fund. City Manager Johnson handed out an Alternative Rate Strategy detailing a partial use of the Rate Stabilization Fund as requested by Council at the July 30th meeting.

Councilmember Solomon stated that he had met with staff and can support the proposed 13% rate increase.

Councilmember Dunn stated he also supports the 13% increase.

Mayor Townsend stated he is still of the opinion that the Rate Stabilization Funds should be used to decrease a rate increase to residents because that is why the fund was established.

Mayor Pro Tem Maczka stated she was hesitant to use stabilization funds for fees the City should be passing on. She stated she is concerned with using funds without a plan to replace those funds. Ms. Maczka said she is reluctant to increase rates by 13%, but the increase is not in the City's control due to increased costs from the North Texas Municipal Water District (NTMWD).

Councilmember Mitchell requested that the City communicate to the residents the reasons for the increase. He also requested that the City continue to discuss and review a strategy to eliminate the Rate Stabilization Fund.

City Manager Johnson stated that this is a growth time for the district (NTMWD) and believes this is the right strategy at this time with respect to the Solid Waste Services Fund. He explained that the HDR study of solid waste services will give further direction in the future as the study is finalized.

Regarding the Eisemann Center debt, Councilmember Mitchell inquired how many years were left. Mr. Johnson stated there are ten years left.

Regarding the Golf Fund, Mayor Pro Tem Maczka asked why the City is continuing to absorb the sales tax. Mr. Johnson explained that other operational and fee changes are anticipated in 2013 and staff felt that making one comprehensive change would be better than a piecemeal approach.

D. Consider Setting Public Hearings on August 20 and August 27, 2012, on the Proposed Tax Rate of \$0.63516 per \$100 Valuation for Fiscal Year 2012 – 2013

Action Taken:

Councilmember Solomon moved to set Public Hearings on August 20 and August 27, 2012, on the Proposed Tax Rate of \$0.63516 per \$100 Valuation for Fiscal Year 2012 – 2013. Councilmember Dunn seconded the motion. A vote was taken and passed, 7-0.

E. Consider Setting Public Hearing on August 20, 2012, on the Proposed 2012 – 2013 City of Richardson Municipal Budget

Action Taken:

Councilmember Solomon moved to set a Public Hearing on August 20, 2012, on the Proposed 2012 – 2013 City of Richardson Municipal Budget. Councilmember Dunn seconded the motion. A vote was taken and passed, 7-0.

F. Report on Items of Community Interest

- Councilmember Hartley commented that the tilt walls on the gymnastics center are going up.
- Councilmember Omar commented that he recently participated in the Heroes Camp, which is a program that focuses on children with special needs around the metroplex. He stated that 400 families were served this year with families traveling from as far as Tyler and Waco.
- Councilmember Mitchell reported on the monthly meeting of the Dallas Regional Mobility Coalition (DRMC) and stated that there was a speaker who talked about the proposal to construct railways in medians for transporting containers using the I-35 and I-45 corridors.

ADJOURNMENT

With no further business, the meeting was adjourned at 9:49 p.m.


MAYOR

ATTEST:


CITY SECRETARY

Visitors Section – August 5, 2012

My name is William Joseph McCalpin and I live at 1400 Cheyenne Dr.

Good evening Mayor Townsend, Mayor Pro Tem Macska, members of the Council, City Manager Johnson, city staff, and visitors.

I am the Editor at RumorCheck.org, a website devoted to confirming or debunking local political rumors.

A week ago, a Richardson resident came before this meeting and made a number of claims, one of which was that the Charter of the City of Richardson violates State law by selecting the mayor from the Council. Some time ago at a League of Women Voters forum on the question of direct election of the mayor, Judge (and former Mayor) Ray Noah was asked what State law said about how the mayor should be elected, and his answer was "Likely nothing". Although this same Richardson resident objected and tried to disrupt the meeting until he was told to sit down, it turns out that the Judge was quite correct.

What the Judge was referring to was the fact that home rule municipalities in the State of Texas have broad discretion to organize their own governments. According to Sections 26.021 and 26.041 of the Texas Local Government Code, a municipality may

- (1) choose the form of government it wants,
- (2) create offices for that government,
- (3) determine the method for selecting officers for that government, and
- (4) prescribe the qualifications, duties, and tenure of office for officers of that government.

Since the positions of Council members, Mayor Pro Tem, and Mayor are considered "offices", it is clear from Section 26.041 that the State gives the municipality the power to select the mayor from the Council or elect the mayor directly or pick the mayor any other way not inconsistent with other parts of State law.

"But", you can hear that resident exclaim, "what about that entry in the State Constitution that says that voters shall have the right to vote for the mayor and the Council?" As I demonstrated 10 months ago at RumorCheck.org (see <http://www.rumorcheck.org/DirectElectionofMayor.html>), the language that appeared to suggest that the mayor be elected by the people was actually part of a larger section that allowed cities to limit votes on debt issues only to property owners but ensured that all voters could vote for municipal officers. The purpose of this latter concept was to ensure that the freed slaves – remember that this was right after the end of the Civil War - would still be able to vote for their municipal officers.

Article VI, Section 3 of the 1876 Texas Constitution

"SEC. 3. All qualified electors of the State, as herein described, who shall have resided for six months immediately preceding an election within the limits of any city or corporate town, shall have the right to vote for mayor and all other elective officers; but in all elections to determine expenditure of money or assumption of debt, only those shall be qualified to vote who pay taxes on property in said city or incorporated town; provided, that no poll tax for the payment of debts thus incurred, shall be levied upon the persons debarred from voting in relation thereto."

(see <http://www.rumorcheck.org/DirectElectionofMayor.html>)

There is no doubt that this is what the original language was intended to mean – indeed, it was explicitly documented in the official journal of the 1868 Reconstruction Convention which provided the background for the Texas Constitution of 1876.

In 1997, someone in the 75th State Legislature noticed that this language permitting the cities to prevent non-property owners from voting on debt issues was still in the Constitution. In a bill entitled

"A JOINT RESOLUTION

1-1 proposing a constitutional amendment relating to eliminating

1-2 duplicate numbering in and **certain obsolete provisions** [emphasis mine] of the Texas

1-3 Constitution."[

<http://www.capitol.state.tx.us/Search/DocViewer.aspx?K2DocKey=odbc%3a%2f%2fTLO%2fTLO.dbo.vwArchBillDocs%2f75%2fR%2fH%2fJR%2f00104%2f5%2fB%40TloArchBillDocs2&QueryText=104&HighlightType=1>]

the references to debt issues was removed, leaving only the original language – whose purpose was still to make sure that freed slaves would not be prevented from voting for municipal officers.

And how do we know that the people who made this change in 1997 didn't intend to change the meaning of this language to require direct election of the mayor? It's simple – you ask them. There are still plenty of the members of the State Legislature from 1997 who are still with us, including one who is very well known to all of you. Ask him if he intended to change the meaning of the law to put the Richardson Charter out of compliance with State law. His response – when I asked him – was simple: he was just voting to delete obsolete language from the Constitution and did not have any intention of changing the meaning of any language that remained.

The Texas Open Meetings Act largely forbids this Council from responding to questions or statements raised in the Visitors Section. However, you can restate the City's policy on an issue. In this case, your policy is clear: The City is NOT breaking the law, because (1) the Texas Local Government Code which governs home-rule cities like Richardson permits the City to select the mayor from the Council, (2) it is the City's policy that freed slaves should still be able to vote in Richardson, despite attempts to redefine the meaning of the Constitution's language, and (3) we know the language referring to the voting rights of non-property-owning ex-slaves has this meaning because the last people to work

on that section -- who are still with us -- had no intention of changing the original meaning.

Despite assertions to the contrary, this City is in compliance with State law and has been for all of its 56 year history as a home-rule municipality -- this is a message that the people deserve to hear.

