



**CITY OF DENISON
CITY COUNCIL MEETING
MINUTES**

Monday, August 5, 2024

Announce the presence of a quorum.

Mayor Robert Crawley called the meeting to order at 6:00 p.m. Council Members present were Mayor Pro Tem, Teresa Adams, Michael Courtright, James Thorne, Joshua Massey, Spence Redwine and Aaron Thomas. Staff present were Interim City Manager, Bobby Atteberry, Assistant City Manager, Renee Waggoner, City Attorney, Julie Fort, City Clerk, Christine Wallentine, and Deputy City Clerk, Karen Avery. Department Directors and members of the media were also present.

1. INVOCATION, PLEDGE OF ALLEGIANCE AND TEXAS PLEDGE

Gene Amerson, Pastor of New Beginning Fellowship gave the invocation which was followed by the Pledge of Allegiance and Texas Pledge led by members of Denison Scout Troop 605.

2. PUBLIC COMMENTS

Mayor Crawley called for any public comments at this time and reminded those wanting to comment of the guidelines established by the City Council. Christine Wallentine, City Clerk, confirmed there were no Request to Speak Cards received by this point in the meeting. Therefore, no public comments were received.

4. CONSENT AGENDA

- A. Receive a report, hold a discussion and take action on approving the Minutes from the Special Called City Council Meeting (Budget Workshop) held on June 28, 2024, and the Regular City Council Meeting held on July 15, 2024.
- B. Receive a report, hold a discussion, and take action on a Resolution providing support for the installation and operation of four automatic license plate reader (ALPR) cameras within the Texas Department of Transportation (TXDOT) right-of-way and authorization to enter into a multiple use agreement (MUA) with TXDOT allowing the placement of the ALPRs.
- C. Receive a report, hold a discussion and take action on the appointment of Janet Gott-Douglass, as a new member, to the Board of Directors for the Business and Industrial Corporation of Denison, Inc., dba Denison Development Alliance, to fill an unexpired three-year term.

- D. Receive a report, hold a discussion and take action on the reappointment of Holly Jenkins to Place No. 8 on the Texoma Community Center Board of Trustees to serve a two-year term, effective September 1, 2024, to August 31, 2026.
- E. Receive a report, hold a discussion and take action on adopting a resolution authorizing the City to implement the Grant Procurement Policy which ensures compliance with State and Federal grant regulations.
- F. Receive a report, hold a discussion and take action on adopting a resolution authorizing the City to implement the Grant Management Policy which ensures compliance with State and Federal grant regulations.
- G. Receive a report, hold a discussion and take action on the appointment of Nathan Petri as a new member to the Community Development Steering Committee (CDBG) to serve the remainder of an unexpired two-year term, effective upon appointment and expiring on December 31, 2025.

Council Action

On motion by Council Member Redwine, seconded by Council Member Thorne, the City Council unanimously approved Resolution No. 4158, "A RESOLUTION OF THE CITY OF DENISON, TEXAS IN SUPPORT OF APPROVING, AUTHORIZING, AND FUNDING TO ENTER INTO AN AGREEMENT WITH THE TEXAS DEPARTMENT OF TRANSPORTATION FOR THE PLACEMENT TO PERMIT THE CONSTRUCTION, MAINTENANCE, AND OPERATION OF A PUBLIC AUTOMATED LICENSE PLATE RECOGNITION SYSTEM ON THE HIGHWAY RIGHT OF WAY AT FOUR LOCATIONS AT THE 3300 BLOCK OF FM 120, AT THE 2800 BLOCK OF WEST MORTON STREET (FM 120), AT THE 200 BLOCK U.S HIGHWAY 69, AND ON THE STATE HIGHWAY 75 AT THE OKLAHOMA BORDER; PROVIDING A SAVINGS/REPEALINGS CLAUSE; PROVIDING A SEVERABILITY CLAUSE; DETERMINING COMPLIANCE WITH THE TEXAS OPEN MEETINGS ACT; AND PROVIDING AN EFFECTIVE DATE"; **Resolution No. 4159**, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, ADOPTING A GRANT PROCUREMENT POLICY FOR ALL FEDERALLY FUNDED PROJECTS AND PURCHASES FOR THE CITY OF DENISON, TEXAS; PROVIDING A SAVINGS AND REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE"; **Resolution No. 4160**, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS, ADOPTING A GRANT MANAGEMENT POLICY FOR ALL FEDERALLY FUNDED PROJECTS AND PURCHASES FOR THE CITY OF DENISON, TEXAS; PROVIDING A SAVINGS AND REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE"; and the rest of the Consent Agenda as presented.

4. PUBLIC HEARINGS

- A. Receive a report, hold a discussion, conduct a public hearing, and take action on a resolution adopting the Community Development Block Grant 2024 Annual Action Plan.

Council Action

Mary Tate, Director of Development Services, state that the item before the Council for consideration is part of the five-year Consolidated Action Plan for the Community Development Block Grant, which is through the Department or the Housing and Urban Development of the federal government. During each fiscal year of the five-year plan, of which this is our last, they determine a formula in which they provide an allocation to all of the entitlement communities across the country. This year, our allocation is \$266,630.00, which is about \$12,000 less than last year. Each year we have seen a significant decrease in the allocation amount. The proposed uses include the following:

- Minor/Emergency Rehabilitation: \$30,000 (not a whole lot to do much with for this program)
- Section 108 Loan Payment: \$188,107 (a loan was taken out in 2017 through HUD for road repairs in low-income areas and we still have about 4 payments left over the next two years)
- Code Compliance: \$24,675 (this supplements half of a salary for one of the Code Compliance officers – which is an allowable use through the CDBG Program)
- Program Administration: \$23,848 (this is for all of staff’s time that goes into writing reports, etc. – with this being a federal program there is a lot of reporting required and this covers staff time. With this being a federal program, we are allowed to have up to 20% in admin costs, but staff felt this was too high – so we try to target about 10%)

There is also a public hearing and a public comment period requirement. This meeting covers the public hearing portion. We have also posted the annual action plan on the website and there has been a notice published in the newspaper and copies at City Hall and other City facilities. The public comment period is from July 14, 2024, through August 14, 2024, but in order to meet the deadline of August 16 for which the plan and required documentation need to be filed by, we needed to hold the public hearing this evening. If Council chooses to accept the annual action plan, the motion will need to reflect that approval is contingent upon the closing of the public comment period on August 14, 2024

Mayor Crawley then asked if there was anyone present who wished to speak on this agenda item, to which there were none. With that, the Mayor closed the public hearing.

There was no discussion or questions from Council.

On motion by Council Member Massey, seconded by Council Member Redwine, the City Council unanimously approved Resolution No. 4161, contingent upon the closing of the public comment period on August 14, 2024, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DENISON, TEXAS ADOPTING AND AUTHORIZING SUBMISSION OF THE ANNUAL ACTION PLAN FOR THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM FOR PROGRAM YEAR 2024-2025;

PROVIDING FOR SAVINGS AND REPEALING CLAUSES; AND PROVIDING AN EFFECTIVE DATE.”

- B. Receive a report, hold a discussion, conduct a public hearing, and take action on an Ordinance for a Conditional Use Permit for Lot 19, Block 46 of The Original Town Plat of Denison, an addition of to the City of Denison, Grayson County, Texas according to the deed recorded in Volume 28, Page 362 Deed Records of Grayson County, Texas; being commonly known as 127 W. Main Street, GCAD Property ID No. 143076, located within the Central Area (CA) and Commercial Historic Overlay District (CH) for the operation of a bar for Black Sheep Cigar Lounge. (Case No. 2024-071CUP)

Council Action

Dianne York, Planner, introduced this agenda item and stated that this request is for a Conditional Use Permit for 127 W. Main Street to operate a Bar for the operations of Black Sheep Cigar Lounge. Ms. York stated that this request may be familiar to some of the Council Members as the Applicant came through for a Conditional Use Permit a couple of months ago for property located at 202 W. Main Street. Ms. York stated that that meeting was held on May 6, 2024, and City Council did approve that Conditional Use Permit, however, given that the Applicant wishes to move from 202 W. Main Street to 127 W. Main Street, a new Conditional Use Permit is required. Ms. York stated that the subject property is zoned Central Area and does fall within the Commercial Historic Overlay District. Per the project narrative, Black Sheep Cigar Lounge will offer a space for the enjoyment of both cigars and cocktails. Similar to their project narrative they presented for 202 W. Main Street, they are going to initiate a complete internal remodel of the space to include, but not limited to, sub flooring, flooring, painting of the walls and ceiling, and adding spaces such as bathrooms and a humidor so they may properly store the cigars. Additionally, the Applicant will install a ventilation system as well as air purifiers in order to mitigate the cigar smoke. The future Land Use Plan depicts this subject property to fall within the City's Downtown Center. Per the Comprehensive Plan, Denison's Downtown Center should be engaged in mixed use activities with retail, restaurants, entertainment spaces, offices, and some medium density residential units. Ms. York stated that permitting the use of bar is compliant with the Comprehensive Plan. There are no parking requirements within the Central Area Zoning District. However, there is adequate on-street and off-street parking provided via Main Street and public parking lots located near the space. Staff recommends approval of this request, and the Planning and Zoning Commission recommended approval of the request at their meeting held on July 23, 2024. Ms. York reiterated there were no other requests presented within this Conditional Use Permit application – it is the exact same as it was with the 202 W. Main Street application – only the street address is different.

Mayor Crawley then asked if there was anyone present who wished to speak on this agenda item, to which there were none. With that, the Mayor closed the public hearing.

Council Member Massey stated that he has one recommendation and that is to have staff see if the Applicant is willing to have the building set up as a Conditional Use Permit

because it may make it easier in the future to not have it associated with the business inside. Mr. Massey stated that it's not because he does not have any expectations the Applicant will not be successful, but sometimes it makes it easier for future applications. Ms. York stated she would speak with the Applicant after the meeting.

There was no further discussion or questions from Council.

On motion by Council Member Redwine, seconded by Council Member Thomas, the City Council unanimously approved Ordinance No. 5364, "AN ORDINANCE OF THE CITY OF DENISON, TEXAS, PROVIDING FOR SPECIFIED CHANGES IN THE OFFICIAL ZONING MAP OF THE CITY OF DENISON, TEXAS; PROVIDING FOR A CONDITIONAL USE PERMIT FOR A BAR ON PROPERTY LOCATED IN THE CENTRAL AREA DISTRICT, THE AUSTIN AVENUE OVERLAY DISTRICT, AND THE COMMERCIAL HISTORIC OVERLAY DISTRICT; BEING LEGALLY DESCRIBED AS LOT 19, BLOCK 46, ORIGINAL TOWN PLAT, DENISON, GRAYSON COUNTY, TEXAS; AND BEING MORE COMMONLY KNOWN AS 127 W. MAIN STREET, CITY OF DENISON, GRAYSON COUNTY, TEXAS; PROVIDING A PENALTY CLAUSE; PROVIDING REPEALER, SEVERABILITY AND SAVINGS CLAUSES; PROVIDING FOR PUBLICATION AND AN EFFECTIVE DATE."

5. PROJECT UPDATES

- A. Receive a report and hold a discussion regarding Vape/Smoke Shop Proposed Ordinance.

Council Action

Mary Tate, Director of Development Services, stated staff is seeking guidance from the Council on how to handle a situation that has come across staff's desk and has caused maybe some increasing concern as to the placement of vape shops, including vape, CBD and tobacco. We are covering all of that with the term "vape shop". Ms. Tate provided a map showing 10 locations currently considered to be vape, tobacco, CBD shops. The current ordinance, within the use chart, does not have a use for this area at all. So, they are falling into the category of Retail which is permitted in all zoning districts. Ms. Tate also pointed out on the map yellow stars marking the schools from all of the school districts. It does not include churches or daycares. Staff within the Planning Department as well as the Chief of Police and some of his department, are concerned about the placement. So, we want to be intentional about where we are allowing these kinds of shops, primarily due to the health hazards, but also to the ease of accessibility to our youth. Staff is looking for guidance on where to place them and if we should restrict the zoning districts they are in, or if we should eliminate them altogether. After doing some research and consulting the City Attorney, we came up with two options. We looked at ordinances from several other cities across the state, and we settled on the City of Lavon and the City of Sugar Land. The City of Sugar Land prohibits vape shops throughout their city limits. This raises a few concerns for us, due to the lack of case law at this point in time, because it is a newer topic for cities to be handling. So, we are not totally sure

about what this could look like. This option could bring risk of litigation from current owners or potentially future shop owners if we were to eliminate the use altogether. Option two requires staff to determine certain zoning districts for which vape shops would be allowed, and also put into the regulation the requirement for a conditional use permit (CUP) that would allow staff to make sure and build in other conditions the Council may want to see and hold them accountable to other things we would build into the language. Regardless of which option, if the Council should choose one of these options, or maybe there's something else that comes to mind, we do want to ensure we add language to make sure we are talking about the public health and safety issues staff sees. There is a lot of scientific data to support that at this point in time. Regardless of which option, there are significant zoning noticing requirements that will have to be met, such as notifying all of the existing shop owners and business owners currently that these uses would become non-conforming, but they would be allowed to stay in operation until something triggered either a change of use or a huge expansion or something like this, which would require them to get back into compliance. At that time, we would have to come up with a different solution. Staff would also be required to contact and notice, just like we do for zoning cases, as this is essentially a zoning case, all the property owners, but it is a little more extensive than contacting the property owners within a certain radius. It would include all of the property owners within that district. So, there is some significant staff time that might have to be involved with a certain change, but staff did want to bring this to your attention, because we continue to see certificates of occupancy being applied for on a very regular basis, and it does give staff some hesitancy in how many we are allowing and where we are allowing them. So, staff really needs some guidance from the Council as to what your concerns are and what you think is appropriate. We have discussed, similarly to TABC, they require all liquor licenses to be within a certain distance from schools and churches, and so we sign off on that. Maybe this is an approach we consider.

Council Member Massey asked what the School's position on this is and if 1,000 feet is enough distance. Ms. Tate responded that she has not spoken with them about this. Staff wanted to seek direction from the Council and then start to develop the ordinance. Council Member Massey asked if we were addressing the tobacco product and is guessing this does not include the various other things such as delta eight. Ms. Tate confirmed this is included. Council Member Massey added we can solve some of this through the ordinance. Ms. Tate replied we do not define any of these definitions. So, we would have to come back and define each of these. So, tobacco, vape, CBD, THC – all of this and be very explicit in the definition. Council Member Massey stated that we as adults should have the right to do the things we want to do, as long as it doesn't impact somebody else. In that vein, eliminating tobacco smoking in public has certainly had health benefits for those who do not smoke tobacco. Vapes are not the perfect solution, but they are a good segue into, ultimately, potentially eliminating tobacco. Council Member Massey wonders how much focus we as a community need to make into the presentation of health benefits. This is something we are trying to make sure the kids don't do. Ms. Tate said when you have a gateway into the community and you see multiple vape shops, it might send a message. Council Member Massey said he likes the idea of matching the City's TABC conditional use permit process. It seems like low

hanging fruit for what we could easily put into an ordinance. Ms. Tate clarified that these cases don't come before Planning and Zoning. This is something the City Clerk operates out of her office. The Fire Marshal, Planning Department and Chief Building Official all review and certify there are certain stipulations they are meeting in order to sell liquor.

Council Member Courtright added there needs to be a distance away from schools and thinks it is a good point to start with the Superintendent. Do we want to make it down the corridors, such as Highway 75, Austin Avenue, Main Street? These are restricted areas, possibly and then in other areas require a CUP. Council Member Courtright said he does not want to see a vape shop along Highway 75, Austin Avenue, Main Street, these areas.

Council Member Massey pointed out that we don't allow tattoo parlors downtown, in the Central Area, because we want a particular clientele. Council Member Massey added some of the buildings he owns the tenant have restrictive covenants in their lease agreements stating they can't have something next to them, etc.

Council Member Thomas asked about option one, where it would be a complete ban, if the existing owners would be grandfathered in. Ms. Tate confirmed they would be. Council Member Thomas then asked if a change of ownership count as a transaction that would require the new owner to find a different business. Ms. Tate replied that if the current owner wanted to sell to another vape shop owner, this would be allowed. Council Member Thomas confirmed the number was currently 10 vape shops in existence. Ms. Tate responded this was correct, but she failed to mention there are 33 convenience stores and eight liquor stores that also sell these items. So, it is significantly higher than just the vape shops. This would give us the ability to put something into our use, to define it and help us to be intentional. Ms. Tate does not think it is right to tell people they can't operate a business necessarily. However, we do want to be strategic and intentional about where they are and making sure we are working with the current business owners in the current neighborhoods, as well to make sure we are doing the things they want to see or don't want to see.

Council Member Massey asked if step one would be to create a new category in our zoning that is retail, with a subcategory of tobacco sales. Ms. Tate confirmed this was the case. The use chart would show a "P" if it is permitted in a certain district or "C" if it requires a CUP. This is what guidance staff is seeking. If the Council does not want to ban them completely, then staff can start looking at CUP requirements to include 1,000 feet away from churches, schools, and the appropriate districts Council feels they should be located in. Such as not in residential, but maybe in light industrial, etc. Wherever the Council feels this use is appropriate.

Council Member Thomas asked what the estimated population is right now. Ms. Tate stated it is right around 30,000. Council Member Thomas asked if it would be possible to divide this number by 10 and say we can only have one shop per 3,000 people and if our population grows, we can add another one. The City Attorney confirmed this type of

restriction is not possible. Council Member Thomas added that at 30,000 people, he felt 10 vape shops is enough.

Council Member Massey commented that if we are going to have vape shops at all, you want to win the best that are here, the ones that will survive, the ones that have good customer service, the ones that present well. The others will go out of business if there is competition marketplace. Council Member Massey said he does not want to restrict somebody's behavior. He is not a smoker, but he is going to go to a cigar lounge and likes the fact that we have a cigar lounge available for that service. His wife at the hospital says these babies will ruin your lungs, the crystals in the vape, and can put you in the hospital. Don't do it, especially when you are kids. So, he is on board with restrictions.


Council Member Thomas asked Police Chief, Mike Gudgel, if there is a direct correlation between the more shots, we have with 21 being the age limit now, it is no longer 18, are there more individuals that are having paraphernalia they should not have. Police Chief, Mike Gudgel responded yes, they are. We talk about the Delta and different things like that. Be aware there is also vape THC, and it's the real deal. So, we see that quite often, unfortunately. Chief Gudgel is hopeful none of the shops we have here would be dealing with these kinds of things, but I know there's a state just north of us that does. So, we have to think about that. Chief Gudgel added that just from being the husband of a schoolteacher at one of our local schools, it is an issue. Chief Gudgel sees more of it than he needs to. It's more concerning for him, for the children, and that is the big thing. It is a concerning fact right now that kids are getting a hold of these things, and it's the cool thing to do, right.

Mayor Crawley stated, based on the conversation, it appears the Council is leaning toward Option 2, with a conditional use permit. Ms. Tate stated this gives staff a good starting point and will present the Council with an update once there is a draft of the ordinance and Council can provide feedback.

There was not further discussion or questions from the Council.

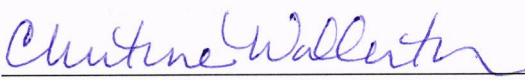
No action taken. Informational presentation only.

There being no further business to come before the Council, the meeting was adjourned at 6:28 p.m.



ROBERT CRAWLEY, Mayor

ATTEST:



Christine Wallentine, City Clerk

