

**MINUTES
OF A
REGULAR COUNCIL MEETING
OF THE
CITY OF DALWORTHINGTON GARDENS
CITY COUNCIL
THURSDAY, MARCH 17, 2005**

A regular meeting of the City Council was held at **7:00 P.M.** in the Council Chambers of City Hall, 2600 Roosevelt Drive. The following items of business were considered, discussed and acted upon as appropriate:

Officials Present:

Albert A. Taub- Mayor
Guy Snodgrass- Mayor Pro tem
Mike Pettke- Councilman
Ken Wallace- Councilman
Max Stewart- Councilman
Michael Tedder- Councilman

Staff Present:

Melinda Brittain- City Administrator
Bill Waybourn- Chief of Public Safety
Stan Wilkes- City Attorney
Greg Saunders- City Engineer

CALL TO ORDER: There being a quorum present, the Mayor called the meeting to order at 7:00p.m.

I. CITIZEN COMMENTS

J. W. Mullins, 3312 Roosevelt Drive, suggested that solid waste containers should be enclosed; requested 3 stop signs at Santa Fe Circle; and asked that the comprehensive plan designate both sides of Bowen Road for single-family residences.

Dr. Phil Bailey, 4100 Bowen Road, spoke against the amending of the concept plan for Bowen Road and Pleasant Ridge Road to include a gas station/convenient store.

Charles Miller, 4 Heathrow Court, spoke against further changes in the Bowen Road and Pleasant Ridge concept plan.

Bob Bergin, 3608 Gardenia Drive, spoke in favor of a termination of the moratorium on non-residential development.

Lyndon Boone, 12 Hemingsford Court, spoke against further changes in the Bowen Road and Pleasant Ridge concept plan.

Steve Crudup, 10B Twin Lakes Court, spoke against further changes in the Bowen Road and Pleasant Ridge concept plan.

Keto Bailey, 2704 Oak Trail Court, spoke concerning further changes in the Bowen Road and Pleasant Ridge concept plan and asked if a survey was conducted to find out what the citizens of the City want.

Mary Holly, who owns land on Bowen Road, spoke on changing the comprehensive plan designation on Bowen Road to accommodate commercial uses.

Steve Lowe, 2816 Park Drive, spoke in favor of a change in the Bowen Road and Pleasant Ridge concept plan to permit a Quick Trip gas station.

Jim Fallon, 3613 Orchid Lane, addressed the requested change in the Bowen Road and Pleasant Ridge concept plan, stated that he called 20 to 25 citizens who said they were indifferent concerning the issue.

2. Agenda Item I. MAYOR- COUNCIL COMMENTS

Councilman Wallace- asked how long Bergin's project has been delayed by the moratorium on non-residential development.

Councilman Stewart- stated that the majority of citizens responding to his e-mail poll stated that they were in favor of the development.

3. Agenda Item VI. OLD BUSINESS: The Mayor stated that this agenda item would be taken up next, out of agenda order.

1. TABLED ITEM: Ordinance 05-02: Authorize modification of the concept plan for the planned development as contained in Ordinance 01-14 at the Northwest corner of Pleasant Ridge and Bowen Road to revise the list of permissible uses.

MOTION: Councilman Pettke made the motion to take off the table consideration of a requested amendment to Ordinance 04-03 so that the term "convenience store with gas" be moved from the list of prohibited uses contained in sub-paragraph 3 to the list of permitted uses in sub-paragraph 1 of Paragraph D

in Ordinance No. 04-03. Councilman Stewart seconded the motion. The motion carried by a vote of 5 ayes and no nays.

MOTION: Mayor Pro Tem Snodgrass made the motion to approve the requested amendment to the concept plan. Councilman Stewart seconded the motion. After discussion, The motion passed with 4 ayes and 1 nay, Councilman Pettke voting nay. Thereafter, the Mayor recognized the following persons to address council questions on the motion:

Brad Bowen, the co-applicant; Jim Billman of North Richland Hills, a representative of Quick Trip, and Steve Walker of Highland Village, a representative of Quick Trip.

After discussion, on motion by Mayor Pro Tem Snodgrass to amend his motion to include the testing and monitoring of the storm drain traps and that all columns be made of stone, seconded by Councilman Pettke, the following ordinance was adopted by a vote of 5 ayes and 0 nays.

ORDINANCE NO. 05-03

AN ORDINANCE AMENDING THE CONCEPT PLAN ADOPTED BY ORDINANCE NO. 04-03

WHEREAS, the City Council has heretofore, by its Ordinance 04-03, changed the zoning classification on 7.9331 acres of land at the northwest corner of Bowen Road and Pleasant Ridge Road in the City, which change was subject to a "PD" overlay and conditions of a concept plan; and

WHEREAS, the applicant for zoning change and PD approval has requested that the City Council amend its Ordinance 04-03 so as to change that portion of the concept plan captioned "Planned Development Notes"; and

WHEREAS, the City Council has heretofore amended the said concept plan by its Ordinance 05-02 adopted on February 17, 2005; and

WHEREAS, the City Council, after hearing from the applicant and from numerous citizens in attendance at the city council meeting held on March 17, 2005, has determined that an additional change is appropriate and in the best interest of the City; NOW THEREFORE

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF
DALWORTHINGTON GARDENS, TEXAS:**

1.

That sub-paragraph 1. of paragraph D. of Ordinance No. 04-03 is hereby amended so that it shall read as follows:

"1. Allowable uses The Property shall be limited to the following allowable uses typically found in community shopping centers: pharmacy with drive windows, grocery with drive windows, retail stores (beauty supply, clothier, shoe, florists, video rental), service retail (tailor, shoe repair, cleaners, hair/nail salon, phone store), restaurants with drive window, food service (coffee and pastry, sandwich shop, ice cream shop), convenience store with gas pumps, automotive (including tire sales, new auto parts sales and auto lubrication center), professional office uses (optical, dental, medical, financial services, insurance, legal, real estate, engineer, architect), banking institution with drive window."

2.

That sub-paragraph 3. of paragraph D. of Ordinance No. 04-03 is hereby amended so that it shall read as follows:

"3. Prohibited uses The PD Final Plan may include any of the B-3 commercial uses listed in 1. above and no others. The plan shall not include the following specifically prohibited uses: wholesale bakery or confectionery, cold storage plant, auto paint and body repair shop, outside storage, government offices, utility company office, philanthropic institution, school, club, gymnasium, dance hall, dance hall, flea market, body art parlor, bingo parlor, game arcade, gambling establishment, head shop, second hand consignment shop, manufacturing business of any type, car lot, self service laundry."

3.

That sub-paragraph 10.a. of paragraph D. of Ordinance No. 04-03 is hereby amended by the addition thereto of the following:

"Roof structures shall be pitched, and columns supporting canopies or roofs of unwallled structures shall be covered with the materials used for the building exterior, as approved in the Final Plan."

4.

That the Final Plan shall include the location of storm drain filtration systems and the requirement of periodic maintenance of the same.

That in all other respects Ordinance No. 04-03 shall remain in full force and effect as originally enacted and as heretofore amended.

Agenda Item III. ORGANIZATIONAL MATTERS

4. Agenda III. 1. Minutes of the February 17, 2005 City Council Meeting.

MOTION: Councilman Stewart made the motion to approve the minutes of the February 17, 2005 Meeting with the typo corrected on #6, Resolution 05-19. Councilman Wallace seconded the motion. Motion carried by a vote of 5 ayes and no nays.

5. Agenda III. 2. Departmental Reports and February Financial Report.

MOTION: Councilman Pettke made the motion to approve the departmental reports and February financial report. Councilman Tedder seconded the motion. Motion carried by a vote of 5 ayes and no nays.

6. Agenda IV., 2. Resolution 05-26: Approve Contracts with Tarrant County for the construction of Clover Lane, Michigan Avenue and Park Drive.

MOTION: Councilman Pettke made the motion to approve Resolution 05-26. Councilman Wallace seconded the motion. Motion carried by a vote of 5 ayes and no nays

RESOLUTION NO. 05-26

A RESOLUTION APPROVING THE CONTRACTS WITH TARRANT COUNTY FOR THE CONSTRUCTION OF CLOVER LANE, MICHIGAN AVENUE, AND PARK DRIVE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That the Mayor is hereby authorized to execute contracts with Tarrant County for the construction of Clover Lane, Michigan Avenue, and Park Drive, a copy of the contracts being appended to this resolution.

2.

That the City Secretary is hereby authorized to attest the execution of the contracts and to affix the seal of the City thereto.

7. Agenda Item V. 1. PUBLIC HEARING on updated comprehensive plan as prepared by MPRG with recommendations by the Planning and Zoning Commission.

Barry Hudson of Municipal Planning Resources Group presented to the City Council a proposed comprehensive plan containing recommendations from the Planning and Zoning commission. Lee Brown, chairman of the Planning and Zoning Commission, addressed the city council concerning the commission's recommendations.

The Mayor opened the Public Hearing on the proposed plan and the following persons addressed the city council.

Forrest Johnson, 2312 Michigan Court.
Laura Barber, 3606 Gardenia Circle.
Gay Smith, 3405 Roosevelt Drive.
Cathy Stein, 2622 Clover Lane.
Steve Crudup, 10B Twin Lakes Court.
Kathy Price, 2820 Whisperwood Trail.

There being no other persons present asking to address the City Council on this subject, the Mayor declared the Public Hearing to be closed.

8. Agenda Item V. 2. Resolution 05-27: Approve updated comprehensive plan.

MOTION: After discussion of the plan and suggested changes to it, Councilman Stewart made the motion to approve the comprehensive plan submitted by the Planning and Zoning Commission with the discussed revisions by the adoption of Resolution 05-27. Councilman Wallace seconded the motion. Motion carried with 5 ayes and 0 nays.

RESOLUTION NO. 05-27

A RESOLUTION ADOPTING AN UPDATED COMPREHENSIVE PLAN FOR THE CITY

WHEREAS, in accordance with state law the City has heretofore adopted a comprehensive plan for the growth and development of the City; and

WHEREAS, the City Council has heretofore commissioned the firm of Municipal Planning Resources Group, Inc. to assist the City in making such revisions to the comprehensive plan as may be necessary or desirable in order for the plan to reflect the present state of the City; and

WHEREAS, the City and its consultant have conducted duly-advertised forums for the input of citizens of the City concerning potential plan revisions; and

WHEREAS, the Planning and Zoning Commission of the City has conducted a public hearing on the plan and has made its recommendations to the City Council concerning it; and

WHEREAS, the City Council has conducted its public hearing after receipt of the Planning and Zoning Commission's recommendations and has determined to adopt an updated comprehensive plan for the City; NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That the document captioned "Dalworthington Gardens, Texas Comprehensive Plan" prepared by Municipal Planning Resources Group, Inc. and dated March 17, 2005, is hereby adopted as the comprehensive plan of the City.

2.

That a copy of the Plan shall be maintained on file in the office of the City Secretary

9. Agenda V. 3. Resolution 05-28: Award base bid for Sanitary Sewer Improvements for Twin Springs and Twin Lakes project to Skyline Excavation in the amount of \$164,694.00 and a contract time of 90 calendar days.

MOTION: Councilman Tedder made the motion to approve the Resolution 05-28. Councilman Wallace seconded the motion. Motion carried with 5 ayes and no nays.

RESOLUTION NO. 05-28

A RESOLUTION AWARDING A CONTRACT FOR SANITARY SEWER IMPROVEMENTS FOR TWIN SPRINGS DRIVE AND TWIN LAKES COURT.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That the Mayor is hereby authorized to execute on behalf of the City an agreement with Skyline Excavation in the amount of \$164,694.00 for Sanitary Sewer Improvements for the Twin Springs and Twin Lakes project and a contract time of 90 calendar days.

2.

That the City Secretary is hereby authorized to attest the execution of the agreement and to affix the seal of the City thereto.

10. Agenda V. 4. Resolution 05-29: Approve well permit 3401 Sieber.

MOTION: Councilman Stewart made the motion to approve Resolution 05-29. Councilman Tedder seconded the motion. Motion carried with 5 ayes and no nays.

RESOLUTION NO. 05 – 29

A RESOLUTION GRANTING A WELL PERMIT AT 3401 SIEBER.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

That a well permit shall be and is hereby granted for the premises located at 3401 Sieber.

11. Agenda V. 5. Resolution 05-30: Approve Rate Application of Atmos Energy

MOTION: Councilman Tedder made the motion to approve Resolution 05-30. Councilman Pettke seconded the motion. Motion carried with 5 ayes and no nays.

RESOLUTION NO. 05-30

A RESOLUTION BY THE CITY OF DALWORTHINGTON GARDENS, TEXAS AUTHORIZING INTERVENTION BEFORE THE RAILROAD COMMISSION OF TEXAS IN GAS UTILITIES DOCKET (GUD) NO. 9530; AUTHORIZING PARTICIPATION WITH OTHER CITIES SERVED BY ATMOS ENERGY CORPORATION, FORMERLY KNOWN AS TXU GAS COMPANY, IN ADMINISTRATIVE AND COURT PROCEEDINGS INVOLVING A GAS COST PRUDENCE REVIEW RELATED TO A FILING MADE IN SEPTEMBER OF 2004 AS REQUIRED BY THE FINAL ORDER IN GUD NO. 8664; DESIGNATING A REPRESENTATIVE OF THE CITY TO SERVE ON A STEERING COMMITTEE; REQUIRING REIMBURSEMENT OF REASONABLE LEGAL AND CONSULTANT EXPENSES

WHEREAS, the City Council of the City of Dalworthington Gardens, Texas is a customer of Atmos Energy Corporation, formerly known as TXU Gas Company, (Atmos/TXU Gas) and a regulatory authority with an interest in the rates and charges of Atmos/TXU Gas; and

WHEREAS, Atmos/TXU Gas made a filing at the Railroad Commission of Texas on or about September 24, 2004, now docketed as GUD No. 9530, for a gas cost prudence review of \$2.2 billion in previously incurred and billed gas costs; and

WHEREAS, the filing made by Atmos/TXU Gas was required by the terms of the Final Order of the Railroad Commission in GUD No. 8664; and

WHEREAS, ratepayers of Atmos/TXU Gas, including the City of Dalworthington Gardens and its residents would be entitled to a *pro rata* portion of a refund associated with any costs found to have been unreasonable; and

WHEREAS, the City of Dalworthington Gardens and its residents could benefit from coordination with other Cities in a review of the reasonableness of the gas costs of Atmos/TXU Gas and the joint participation in the Railroad Commission proceedings and any subsequent litigation or appeal related to those gas costs; and

WHEREAS, the reasonable costs associated with the participation of Cities in this ratemaking proceeding are reimbursable from the Company; NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1. Intervention is hereby authorized in GUD No. 9530 and/or any successor docket at the Railroad Commission of Texas.

2. The City is authorized to cooperate with other Cities within the Atmos/TXU Gas system and hereby designates Melinda Brittain as a representative to a Cities' Steering Committee that shall direct the efforts of counsel and consultants and the course of settlement and/or litigation before the Railroad Commission or of an appeal to any court regarding any matter related to the gas cost prudence review filing made by Atmos/TXU Gas in 2004.

3. Atmos/TXU Gas shall promptly reimburse the City's reasonable costs associated with the City's participation in GUD No. 9530 or any subsequent proceeding.

12. Agenda V. 6. Public Hearing- Ordinance 05-04: Approve revision to text of the comprehensive zoning ordinance, Section 17.8.01. Special exceptions, #14 Motor Vehicle sales.

The Mayor opened the Public Hearing on the ordinance amendment. There being no persons present asking to address the City council on this subject, the Mayor declared the Public Hearing to be closed.

MOTION: Mayor Pro tem Snodgrass made the motion to approve Ordinance 05-04. Councilman Wallace seconded the motion. Motion carried with 5 ayes and no nays.

Ordinance 05 - 04

AN ORDINANCE OF THE CITY OF DALWORTHINGTON GARDENS AMENDING THE CITY CODE, TITLE 17: "ZONING": BY AMENDING: 17.8.01 THEREOF, CREATING CERTAN SPECIAL EXCEPTIONS AND PRESCRIBING THE CONDITIONS THEREFOR, BY AMENDING SUB-PARAGRAPH 14, "MOTOR VEHICLE SALES" AS A SPECIAL EXCEPTION IN THE "LI" DISTRICT; PRESCRIBING A PENALTY FOR THE VIOLATION HEREOF; MAKING THIS ORDINANCE CUMULATIVE OF OTHER ORDINANCES ON THE SUBJECT; REPEALING ORDINANCES IN CONFLICT HEREWITH; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR PUBLICATION; AND, NAMING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That Paragraph C, Authorized special exceptions, of Section 17.8.01, "Special Exceptions", of Chapter 17.8, SPECIAL EXCEPTIONS AND OTHER PERMITS, of Title 17: ZONING, of the Code of the City of Dalworthington Gardens, Texas, be amended by amending sub-paragraph 14 thereof so that hereafter it shall be and read as follows:

"14. "Motor vehicle sales"
LI

2.

That this ordinance shall repeal any provision of prior ordinances in conflict herewith.

3.

That this ordinance is hereby made cumulative of all other ordinances of the City not in conflict herewith.

4.

That if any section, subsection, sentence, clause or phrase of this ordinance or the code provisions hereby amended is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The council hereby declares that it would have passed this title and each section, subsection, sentence, clause and phrases hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared or had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances shall be in full force and effect.

5.

That any person violating the provisions of this ordinance shall be deemed guilty of a misdemeanor and shall be punished by a fine not exceeding \$500.00 and for each day that such violation shall continue, there shall be deemed a separate offense.

6.

That the caption and penalty clause of this ordinance shall be published in the Commercial Recorder, a newspaper of general circulation within the City.

7.

That this ordinance shall be in full force and effect from and after the date of its passage and publication as required by law.

13. Agenda V. 7. Resolution 05-31: Approve participation in the North Central Texas Regional Strategy for Managing Storm Water during FY 2005.

MOTION: Councilman Wallace made the motion to approve Resolution 05-31. Councilman Tedder seconded the motion. Motion carried with 5 ayes and no nays.

RESOLUTION NO. 05-31

A RESOLUTION AUTHORIZING PARTICIPATION IN THE NORTH CENTRAL TEXAS REGIONAL STRATEGY FOR MANAGING STORM WATER DURING FY 2005

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

1.

That the City shall participate in the North Central Texas Regional Strategy for Managing Storm Water during the FY 2005 at a cost to the City of \$500.00.

2.

That the Mayor and City Secretary are hereby authorized to sign all documents necessary to the City's participation.

14. Agenda V. 8. Resolution 05-32: Continuation or Termination of Moratorium on development and construction for all non-single family uses.

MOTION: Mayor Pro tem Snodgrass made the motion to approve Resolution 05-32. Councilman Tedder seconded the motion. Motion carried with 4 ayes and 1 nay from Councilman Pettke.

RESOLUTION NO. 05-32

A RESOLUTION TERMINATING MORATORIUM ON NON-RESIDENTIAL DEVELOPMENT IN THE CITY.

WHEREAS, by its Resolution No. 05-09, the City Council has adopted a temporary moratorium on non-residential development in the City; and

WHEREAS, the City Council has completed the process giving rise to the moratorium - i.e., the updating and revision of the City's comprehensive plan; NOW THEREFORE

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS:

It is hereby determined that the moratorium on non-residential development in the City imposed by Resolution No. 05-09 be and the same is hereby terminated, effective immediately.

15. Agenda V. 9. Resolution 05-33: Approve annual City Clean Up date for June 18, 2005.

MOTION: Councilman Wallace made the motion to approve Resolution 05-33. Councilman Tedder seconded the motion. All voted in favor. Motion carried with 5 ayes and no nays.

RESOLUTION NO. 05 – 33

A RESOLUTION DECLARING JUNE 18, 2005 TO BE THE ANNUAL CITY CLEAN UP DAY FOR 2005.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
DALWORTHINGTON GARDENS, TEXAS:

That June 18, 2005 is hereby declared to be the annual City Clean Up Day for 2005.

7. Future Agenda Items.
Draft of the Revised Comprehensive Plan with the changes stated in #2 of
New Business.

Agenda VI. ADJOURN

There being no further business before the city council, at 12:45 am on
Friday, March 18, 2005. Councilman Stewart made the motion to adjourn.
Councilman Tedder seconded the motion. Motion carried with 5 ayes and
no nays.