

**MINUTES**  
**A REGULAR MEETING**  
**of the**  
**DALWORTHINGTON GARDENS**  
**CITY COUNCIL and the CRIME CONTROL & PREVENTION DISTRICT**  
**Regular Session: Thursday, May 21, 2009 7:00 P.M.**

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**REGULAR SESSION**

A regular meeting was held at **7:00 o'clock p.m.** on **Thursday, May 21, 2009** in the **Council Chambers of the Dalworthington Gardens City Hall, 2600 Roosevelt Drive, Dalworthington Gardens, Texas.** The following items of business were considered, discussed and acted upon, as deemed appropriate by the Council:

**MEMBERS PRESENT:**

Michael Tedder, Mayor  
Guy Snodgrass, Mayor Pro tem  
Mike Pettke, Councilman  
Steve Loe, Councilman  
Jim Piland, Councilman  
Clay Ellis, Councilman

**STAFF PRESENT:**

Melinda Brittain, City Secretary  
Stan Wilkes, City Attorney  
Dick Perkins, City Engineer  
Bill Waybourn, Chief of Public Safety  
Krysten Jeter, Deputy City Secretary

**CALL TO ORDER**

**1. Ordinance 09-06, Declare results of election**

On motion by Councilman Pettke, seconded by Mayor Pro tem Snodgrass, by a vote of 5 ayes and 0 nays, the following ordinance was adopted:

**AN ORDINANCE CONCERNING THE MAY 9, 2009 GENERAL CITY ELECTION.**

WHEREAS, the general city election was called for May 9, 2009, for the purpose of electing members to the city council; and

WHEREAS, the city secretary certified in writing that there is no proposition on the ballot, that no person has made a declaration of write-in candidacy, and that each candidate on the ballot is unopposed for election to office; and

WHEREAS, under these circumstances, pursuant to Subchapter C, Chapter 2, Election Code, the city council, at its meeting on March 19, 2009, declared the following candidates elected to office, to-wit:

Alderman Place 3: Jim Piland

Alderman Place 4: Clay E. Ellis

Alderman Place 5: Steve Loe

and thereupon adopted an ordinance canceling the election; and

WHEREAS, the city secretary caused a copy of the ordinance to be posted on election day at each polling place that would have been used in the election; and

WHEREAS, there has been, since March 19, 2009, no change in circumstances that would in any way disqualify the above-named candidates from taking office; and

WHEREAS, 20 days have elapsed since May 9, 2009; NOW THEREFORE

BE IT ORDAINED:

1. That the aldermen named in the preamble to this ordinance should each take the oath of office and make the sworn statement required by law and should thereupon take their places as aldermen on the city council of the city.

2.. This ordinance shall take effect upon its final passage, and it is so ordained.

**B. Oath of Office** Aldermen Clay E. Ellis, Steve Loe and Jim Piland each took the oath of office of alderman and made the sworn statement required of elected officials, as administered by the city secretary.

**2. Citizen comments.**

**3. Mayor and Council comments.**

**4. RESOLUTION 09-21, Departmental Reports and April Financial Report.**

DPS Report

Yearly Budget Summary

Trial Balance

TexSTAR Reports

Sales Tax History

Ad Valorem Report

General, Water & Public Works Report

Court Activity Report

TML 2007-2008 Equity Return

On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 5 ayes and 0 nays, it was:

**RESOLVED**, that the departmental reports and April financial reports be approved and placed in the records of the city.

**5. RESOLUTION 09-22, Minutes of April 16, April 30, May 7, May 14, 2009 Meetings.**

On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 5 ayes and 0 nays, it was:

**RESOLVED**, that the minutes from the April 16, April 30, May 7, and May 14, 2009 Council meetings be approved and placed in the records of the city.

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**No Tabled Items from Previous Meetings**

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**Public Hearings and Action:**

**6. ORDINANCE 09-07, An amendment to Chapter 17.6. of the Zoning Title of the City Code, providing for internet car sales in B3 – Commercial District.**

Mayor Tedder opened the public hearing at 7:20 p.m. and asked for public comments. The following persons spoke in favor of the proposed amendment:  
Craig Coleman, owner of neighboring building of the proposed location  
Steve Turnbow, 2800 Park Drive

Roger Pollard, owner of neighboring building of the proposed location

There being no further public comment, Mayor Tedder closed the public hearing at 7:22 p.m.

On motion by Councilman Loe, seconded by Councilman Piland, by a vote of 4 ayes, 0 nays, Councilman Ellis abstaining, the following ordinance was adopted:

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**ORDINANCE NO. 09- 07**

**AN ORDINANCE OF THE CITY OF DALWORTHINGTON GARDENS AMENDING TITLE 17: ZONING, OF THE CITY CODE, BY AMENDING 17.6.04 OF CHAPTER 17.6 – COMMERCIAL AND INDUSTRIAL DISTRICT REGULATIONS; PROVIDING FOR INDOOR MOTOR VEHICLE SALES IN THE B-3 DISTRICT AND PRESCRIBING THE CONDITIONS THEREFOR; REPEALING ORDINANCES IN CONFLICT HEREWITH; MAKING THIS ORDINANCE CUMULATIVE OF OTHER ORDINANCES ON THE SUBJECT; PRESCRIBING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION; AND, NAMING AN EFFECTIVE DATE.**

**BE IT ORDAINED:**

1.

That Paragraph A., Permitted uses, of Section 17.6.04, “B-3” Business District, of TITLE 17: ZONING, of the Code of the City be amended as follows:

a. By amending sub-paragraph 15. thereof so that it shall hereafter be designated as sub-paragraph 16.

b. By the addition thereto of a new sub-paragraph, designated 15., which shall be and read as follows:

15. Motor vehicle sales – indoor: Showroom wholly within a building; no vehicle display visible from outside the building; detailing for sale but no mechanical work allowed; no outside storage.

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, clause, sentence, or phrase of this ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this ordinance.

5.

That violation of the provisions of this ordinance by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor; and, that any person violating any provision of this ordinance shall be punished in accordance with the provisions of Section 1.1.26 of the City Code: By a fine not exceeding two thousand dollars. For each day that a violation shall continue or be permitted to exist, there shall be deemed a separate violation. Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

6.

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

**7. RESOLUTION 09-23, Natural Gas Drilling Permit Application/XTO**

**Applicant: XTO Energy, Inc.**

**Location:** Lot 2R, Block 1, Dalworthington Gardens Addition,  
Vol.388-A, PG 105, Cabinet A, Slide 3704, D.R.T.C.T.  
Northwest end of Elkins Drive

**Proposed Well Name and Depth:** Elkins Unit: 11,000

Mayor Tedder opened the public hearing at 7:30 p.m. and asked for public comments. The following persons spoke at the public hearing:

Tim Riddle- Roosevelt Drive

Cathy Stein, 2622 Clover Lane

Mark Shotsman., Norwood Lane

Walter Duese, 810 Houston Street, Ft. Worth, 76102- made a presentation representing XTO.

Jonathan Ragsdale- representing Jacobs Engineering

There being no further comments, Mayor Tedder closed the public hearing at 8:27 p.m.

On motion by Councilman Loe, seconded by Councilman Piland, by a vote of 5 ayes and 0 nays, the following resolution was adopted:

**A RESOLUTION DENYING AN APPLICATION FOR GAS DRILLING PERMIT FOR THE “PAPPY ELKINS LEASE” AND STATING THE REASONS THEREFOR.**

**BE IT RESOLVED:**

That the XTO application for drilling permit on the property identified by the applicant as “Pappy Elkins Lease” is hereby denied, the reasons for denial being the failure of the application to contain or describe in sufficient detail the intent and obligation of the applicant as to the following:

1. Construction of cedar fence, eight (8) to ten (10) feet high, along the south and east boundaries of the Montessori school property.
2. Clearly stated specifications for the access road, including width, composition, maintenance, with plan profile of the road; and, schedule of road reconstruction.
3. Plans for extracting and replenishing water from Elkins Lake, with detailed, step-by-step description of the process.
4. Applicant will purchase all needed water from the city unless otherwise approved by the city.

5. Compliance with all of the conditions contained in the recommendation of the City's Planning and Zoning Commission to the City Council, as follows:
  - A. Applicant to configure the pad site to allow an adequate 6-1 trail that connects the parking area to the trail system.
  - B. A decorative masonry wall on the southwest, southeast, northeast sides of the site, similar to design criteria in new developments of the city.
  - C. Applicant to maintain the existing parking area at the end of Elkins Drive for public use.
  - D. Applicant to obtain all appropriate state and federal permits for the use of Pappy Elkins Lake as a storage pond and to use the lake in a manner that does not adversely impact the habitation or water quality in the lake.
  - E. Applicant to locate the tank battery at a location other than adjacent to the parking area at the end of Pappy Elkins Drive or Pappy Elkins Lake.
  - F. Applicant to develop a site specific amendment to their emergency response plan to address issues relating to the school to the north of the site.
  - G. Applicant to modify the trail system on the north side of the park to comply with the design therefore as presented to the commission.
  - H. Applicant to develop a site specific safety plan that addresses isolating well site traffic and operations from the school to the north of the site.
  - I. Applicant to conduct operations at the well site during drilling, fracing and production so that dust, noise and light will not adversely impact adjacent property or the use of the park.
6. Construction of the masonry wall on the south and east perimeters of the drill pad before drilling begins.
7. Removal and replacement of mulch on the proposed pad site.
8. Grading of the pad site to be approved by the city engineer.
9. Any trees removed from the pad site or adjacent city property must be replaced in a manner complying with the city's tree ordinance.

10. Applicant to landscape the walkways around the pad site in accordance with a plan approved by the city.
11. Applicant to install fire gate and rear access to site for emergency use of a design and in a manner approved by the city.
12. Applicant to acknowledge that at no time will access to the drill site be allowed by way of Elkins Drive.
13. Make application/plan corrections or revisions per letter of J. Richard Perkins to City of Dalworthington Gardens (Melinda Brittain) dated April 21, 2009 (copy attached) and the following drawings:
  - A. Locate pipe culvert on Exhibit 11, operations site plan. (copy attached).
  - B. Make revisions/corrections per redline notes of J. Richard Perkins on Exhibit 11a (copy attached).
  - C. Note J. Richard Perkins differences with Jacobs Flood Study dated April, 2009: Page 1 – cf. drainage area 190 ac. vs. 219 ac. on Exhibit 4.
  - D. Make revisions/corrections per redline notes of J. Richard Perkins on Jacobs Access Road Grading drawing dated April, 2009. (copy attached).
14. The applicant to provide a schedule specifying the starting and completion times for each of the conditions described above.

The chair noted that, in accordance with Section 16.03.08 of the city's gas drilling ordinance, XTO, as applicant has until July 5, 2009 to cure the conditions that caused the denial and resubmit the application to the City for approval and issuance of the permit. Because July 5 is a Saturday, the deadline date is extended to July 7, 2009, the first business day thereafter.

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**Action Items:**

**8. RESOLUTION 09-24, Park Bench Donation/Memorial**

On motion by Mayor Pro tem Snodgrass, seconded by Councilman Ellis, by a vote of 5 ayes and 0 nays, it was:

**RESOLVED**, that the donation of a memorial park bench be approved and placed in the records of the city.

**9. RESOLUTION 09-25: Continued participation with the steering committee of cities served by Oncor; and the associated payment to fund regulatory and related activities related to Oncor Electric Delivery.**

On motion by Councilman Pettke, seconded by Mayor Pro tem Snodgrass, by a vote of 5 ayes and 0 nays the following resolution was adopted:

RESOLUTION NO. 09-25 \_\_\_\_\_

A RESOLUTION AUTHORIZING CONTINUED PARTICIPATION WITH THE STEERING COMMITTEE OF CITIES SERVED BY ONCOR; AND AUTHORIZING THE PAYMENT OF 10 CENTS PER CAPITA TO THE STEERING COMMITTEE TO FUND REGULATORY AND RELATED ACTIVITIES RELATED TO ONCOR ELECTRIC DELIVERY

WHEREAS, the City of Dalworthington Gardens is a regulatory authority under the Public Utility Regulatory Act (PURA) and has exclusive original jurisdiction over the rates and services of Oncor Electric Delivery Company (Oncor) within the municipal boundaries of the city; and

WHEREAS, the Steering Committee has historically intervened in Oncor (formerly known as TXU) rate proceedings and electric utility related rulemakings to protect the interests of municipalities and electric customers residing within municipal boundaries; and

WHEREAS, the Steering Committee is participating in Public Utility Commission dockets and projects, as well as court proceedings, affecting transmission and distribution utility rates; and

WHEREAS, the City is a member of the Steering Committee of Cities Served by Oncor; and

WHEREAS, in order for the Steering Committee to continue its participation in these activities which affects the provision of electric utility service and the rates to be charged, it must assess its members for such costs; NOW THEREFORE,

BE IT RESOLVED:

I.

That the City is authorized to continue its membership with the Steering Committee of Cities Served by Oncor to protect the interests of the City and protect the interests of the

customers of Oncor Electric Delivery residing and conducting business within the City limits.

II.

It is further authorized to pay its assessment to the Steering Committee ten cents (\$0.10) per capita based on the population figures for the City shown in the latest TML Directory of City Officials, being \$234.70.

III.

A copy of this Resolution and the assessment payment check made payable to "Oncor Cities Steering Committee" shall be sent to Jay Doegey, Chair, Oncor Cities Steering Committee, c/o City Attorney's Office, Mail Stop 63-0300, PO Box 90231, Arlington, Texas 76004-3231.

**10. RESOLUTION 09-26, Planning & Zoning Commission Appointment**

On motion by Councilman Pettke, seconded by Mayor Pro tem Snodgrass, by a vote of 5 ayes and 0 nays, it was:

**RESOLVED**, that Matthew Krzysiak is appointed to the Planning & Zoning Commission to fill the recent vacancy.

**11. RESOLUTION 09-27, Crime Control & Prevention District Budget for 2009-2010 and 2010-2011**

On motion by Councilman Pettke, seconded by Councilman Ellis, by a vote of 5 ayes and 0 nays, it was:

**RESOLVED**, that this body, acting herein as the city council of the city and as the board of directors/trustees of the Crime Control & Prevention District, does hereby adopt for that District a Budget for 2009-2010 and 2010-2011 and that a copy thereof be appended to the minutes of this meeting.

**12. RESOLUTION 09-28, Gardenia Court paving improvements**

On motion by Councilman Loe, seconded by Councilman Piland, by a vote of 5 ayes and 0 nays, it was:

**RESOLVED 09-29**, that the city engineer is authorized to get cost estimates for Gardenia Court paving improvements.

**FUTURE AGENDA ITEMS**

Council Worksession with Chesapeake-date to be determined.

**ADJOURN**

On motion by Councilman Pettke, seconded by Mayor Pro tem Snodgrass, the meeting was adjourned by unanimous vote at