

**Dalworthington Gardens City Council
Meeting Minutes
August 15, 2019**

Work Session – 6:00 p.m.

1. Call to Order

Mayor Bianco called the meeting to order at 6:32 p.m. with the following present:

Members Present:

Laura Bianco, Mayor
Mark McGuire, Alderman, Place 1
Guy Snodgrass, Alderman, Place 2 (arrived at 6:34 p.m.)
Cathy Stein, Alderman, Place 3
Ed Motley, Mayor Pro Tem; Alderman, Place 4
Joe Kohn, Alderman, Place 5

Staff Present:

Sherry Roberts, City Administrator
Lola Hazel, City Secretary
Greg Petty, DPS Director
Kay Day, Finance Director

2. Work Session: Items discussed during the Work Session will not be acted upon until the Regular Session at 7:00 p.m.

The following items were discussed in the work session:

- a. **The Hemingsfords gate**
- b. **City's ordinance regulations on platting for commercial structures**
- c. **Operational gas well permit inspection fee**

At this time, the Council took a short recess from 6:54 p.m.

Regular Session – 7:00 p.m.

The Regular Session started at 7:01 p.m.

1. Invocation and Pledges of Allegiance

The Mayor gave the invocation. Pledges were said.

2. Items of Community Interest

The following items were presented:

- **Business Over Breakfast – September 4, 8-9 a.m.**
- **Concert in the Park – September 21 at 7:30 p.m.**
- **National Night Out – October 1**
- **Trunk or Treat – October 26, 5:30 p.m. to 7 p.m.**
- **Christmas in the Park/Santa Photos – December 8, 2-4 p.m.**
- **Santa Parade – December 23**

3. Citizen Comments

There were no citizen comments.

4. Mayor and Council Comments

- **Mayor Bianco:** Recognized those “Caught Being Kind” this month: Steve Lafferty for helping to fix the city’s generator; and Phil Szurek, Prosperity Bank, and Jazzy Jems for contributing to the goodie bags handed out to businesses in advance of the city’s Business Over Breakfast event to be held on September 4. Thanked Council Member Cathy Stein and City Secretary Lola Hazel for walking businesses with her to obtain accurate contact details. Informed the audience about the city’s Shop DWG Program which was guided by Council Member Cathy Stein. Also thanked DWG local business owner Rick Hinton for generously donating furniture to the city and the following people for helping to move the furniture: Alderwoman Cathy Stein and the following city employees: Gary Harsley, Darren Burkhart, Vicky Hess-Miller, Ryan Miller, Jeff Chasteen, Shawn Chasteen, Aaron Brown, and Sherry Roberts. Thanked council and staff for efforts on budget.
- **Mark McGuire:** none
- **Guy Snodgrass:** none.
- **Cathy Stein:** none.
- **Mayor Pro Tem Ed Motley:** none.
- **Joe Kohn:** none.

5. Departmental Reports

- a. **DPS Report**
- b. **Park Board Update**
- c. **Financial Reports**

Departmental Reports were presented.

6. Consent Agenda

- a. **Approval of the July 29, 2019 minutes.**

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Joe Kohn to approve the Consent Agenda.

Motion carried by the following vote:

Ayes: Members McGuire, Snodgrass, Stein, Motley, and Kohn

Nays: None

7. Regular Agenda

- a. **Discussion and possible action to allow a gate in the Hemingsfords, Dalworthington Gardens, subject to any applicable permitting submittal and/or review process, and discussion and possible action regarding Ordinance No 2019-10 abandoning a portion of Hemingsfords Court and Gatwick Lane and authorizing the Mayor to execute a Quit Claim Deed transferring ownership of the right-of-way to the abutting property owners.**

Background information on this item: At the April 18, 2019 meeting: A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Joe Kohn to accept the petition from the Hemingsfords HOA and

direct staff to begin next steps in the process which are to work with legal to establish the details of design in accordance with city ordinances, safety concerns, and legal requirements of property transfer; and bring back to council for any ratification of property transfers. Motion carried.

At the July 18, 2019 meeting: A motion was made by Council Member Joe Kohn and seconded by Council Member Mark McGuire to accept the conveyance of the property at no charge. An amendment was made to the original motion by Council Member Mark McGuire and seconded by Council Member Guy Snodgrass to have the property owners bring proposed quit claims deeds for city attorney and staff review; have language included to make the whole road a utility easement and retain current easements; and have homeowners absorb all cost related to the conveyance. Motion carried.

We are now in the final stages for Council's level of approval before the Hemingsfords can apply for the necessary permits. Council packets contained the sample quit claim deeds (already reviewed by city attorney), the ordinance needed to legally convey the right-of-way, and the proposed survey. The city's attorney helped answer questions about the survey at the meeting. Because the Council's motion at the July meeting included that the city not incur more costs related to the conveyance, staff did not send the survey to the attorney outside of the meeting.

Staff informed Council they could approve all documents before them and make the final approval subject to city attorney review of the metes and bounds description that will be affixed to the ordinance as well as any other documents pertaining to this process. This would help move the process along faster for the Hemingsfords who are trying to have the gate in by Christmas which is when they usually experience crime in their neighborhood.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Ed Motley to allow a gate in the Hemingsfords, Dalworthington Gardens, subject to any applicable permitting submittal and/or review process; approve Ordinance No 2019-10 abandoning a portion of Hemingsfords Court and Gatwick Lane, subject to city attorney approval of the metes and bounds language and survey that will be affixed to said ordinance; and authorize the Mayor to execute a Quit Claim Deed transferring ownership of the right-of-way to the abutting property owners; all of these being subject to city attorney approval of all documentation.

The city attorney clarified the metes and bounds language will be affixed to the deed and not the ordinance.

Motion carried by the following vote:

Ayes: Members McGuire, Snodgrass, Stein, Motley, and Kohn

Nays: None

At this time, the order of agenda items was changed to accommodate a resident. Item f. moved up and was heard after item a.

b. Discussion and possible action regarding the city's ordinances regulating outdoor lighting in residential areas.

Background information on this item: Mayor and staff have been working with resident Richard Sherman to solve an issue regarding outdoor lighting with a neighboring property. Staff has included a section of the ordinances brought to the city's attention by Mr. Sherman, but it does not seem to address this specific matter. Staff asked Mr. Sherman to provide some details on the matter which is also attached. It was difficult for Mr. Sherman to provide pictures of the lights as lights do not photograph well when lit.

Staff is looking for direction from Council as to whether or not an ordinance change is desired.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to direct staff to look in code of ordinances and bring back suggestions on how to address nuisance lighting for discussion. Ordinance should not exclude seasonal lighting.

The Mayor suggested a meeting be set up to seek a resolution on the matter before making changes to ordinances. Mayor Pro Tem Ed withdrew his motion.

Council agreed with the Mayor's suggestion. No action was taken.

c. Discussion and possible action to direct staff regarding the city's ordinance regulations on platting for commercial structures.

Background information on this item: Staff began researching platting requirements for commercial structures because Green's Produce is looking to expand. Although Green's Produce will be mentioned during the discussion of this item, the purpose of this item is not to specifically approve or deny anything for Green's Produce, but to look at the issue as a whole as it pertains to city ordinances.

The city's ordinances currently state the following for platting:

Sec. 10.02.004 Platting required

No person, firm, association or corporation shall subdivide land in the city except by platting of the same in compliance with chapter 212 of the Texas Local Government Code and the rules and regulations provided in this article. **No building permit shall issue for the construction of improvements on any property not platted as aforesaid, except under the conditions described in this paragraph.** But notwithstanding the other provisions of this article, a replat shall not be a condition precedent to the issuance of a building permit when all of the following conditions shall exist:

- (1) The tract or parcel of land is occupied by an existing single-family residential structure built pursuant to a duly issued building permit;
- (2) The permit applied for is for the purpose of altering, remodeling or enlarging the said existing single-family residential structure or of adding, altering, remodeling or enlarging a permitted accessory structure;
- (3) Both the existing structure and the proposed change conform to the zoning, building, electrical, plumbing, and other applicable ordinances of the city;
- (4) The area added by the remodeling or enlargement of a residential structure does not exceed 50% of the area of the preexisting structure.

Staff pointed out that there are conditions whereby a single-family residential lot may not need to be platted before the city can issue a building permit. Staff wants to know if Council would entertain having the same regulation for commercial structures in the city.

Staff is including a picture of Green's Produces lots to give Council an idea of how platting could affect a city business.

No action was taken on this item.

d. Discussion and possible action to direct staff regarding the inclusion of an operational gas well permit inspection fee in the city's ordinances and inclusion of any other necessary ordinance changes regarding same.

Background information on this item:

Permits

Two types of permits are issued for gas wells operational and construction. This information can be found in Section 105 of the fire code. The Code Official is given the ability to issue multiple permits on a site or one for the entire site. DWG has one site with nine wells. Technically, each well requires a permit as described below.

- Construction permit is issued for the first phase or the actual drilling of the well. During this time inspections can be daily and labor intensive.
- Operational is issued on production of gas. This permit is annual.

With that said, gas well sites have several types of permits that are issued to them. Example: Cutting and welding / Flammable and Combustible Liquids / Compressed Gasses / Hazardous Materials / LP Gas / Open Flames and Torches / Private Fire Hydrants, just to name a few. Depending on the type and stages of well production, all or some of these permits may be issued.

Inspections

Inspections are hard to pin down to a simple paragraph but it starts with effective communication between the operator (XTO, SCOTT & BOB) and the fire official. The fire code has several chapters dedicated specifically to each individual topic. Example: Chapter 35 is Welding and Hot Work / Chapter 50 is Hazardous Materials / Chapter 53 is Compressed Gasses / Chapter 54 is Corrosive Materials / Chapter 58 is Flam and Gasses and so on. Each chapter spells out specific requirements that must be met before a permit can be issued and requirements that must be inspected on an annual bases.

- Building official has not traditionally dealt with code compliance and inspections when it comes to gas wells as it falls outside their area of expertise, (Again they focus on new construction in structures and process).
- Railroad Commission regulate and inspected gas well²s. However, they are grossly understaffed and rely heavily on the local fire departments to conduct these inspections.
- 3rd party inspectors are used daily for specific inspections such as weld inspectors. The Fire Official has the ability to order these inspections and the contractor is required to pay for them (IFC).

So, what is a typical inspection for a gas well / compressor station. Included is a copy of one of our current inspections. The fire inspector is on the gas well site a minimum of once a month. Our form is due for a revision. The fire inspector wants to include some additional items to document while onsite.

Education

A fire inspector is required to be familiar with all chapters of the fire code which encompasses gas well sites.

The city's fire inspector has the following educational background: Master Fire Inspector, BCSP/LPG Gas Emergencies, Railroad Commission Hazmat Technician, Environmental Stewardship, Flammable Finishes, Ammonia Refrigeration, Hydraulic Calculations, IFSAC HAZMAT, Pump and Foam Systems, and TEEX Haz Mat.

A motion was made by Council Member Cathy Stein and seconded by Council Member Mark McGuire to direct staff to develop an inspection fee commensurate with our expenses and commensurate with fees other cities charge for this service, to have fees paid on an annual basis but would still like for staff to visit sites monthly, and to include fees for a re-working inspection and fees for valve stations and big distribution stations.

Motion carried by the following vote:

Ayes: Members McGuire, Snodgrass, Stein, Motley, and Kohn

Nays: None

e. Discussion and possible action to direct staff regarding the city's ordinance regulations on the drive approaches and distances between driveways.

Background information on this item: The item was request by Alderwoman Stein. The documents provided show the city's current regulations outlined in Section 10.02.235 and also language from the city's Comprehensive Plan. Alderwoman Stein went over the edits she would like to see to the city's ordinances. If Council agrees with said edits, Council will need to direct staff to begin the ordinance edits. Staff would then work with the city's attorney to bring back an ordinance making changes to existing ordinances.

A motion was made by Council Member Cathy Stein and seconded by Council Member Mark McGuire to direct staff to being working on ordinance that commercial distance between drive approaches and distances from intersections and make sure it's going to be in line with the Comprehensive Plan.

Motion carried by the following vote:

Ayes: Members McGuire, Stein, and Kohn

Nays: Snodgrass and Motley

The item was brought back up for consideration later in the meeting as requested by Council Member Joe Kohn and obliged by Mayor Bianco. The second consideration was for the same motion but to reopen it for a new vote.

Motion failed by the following vote:

Ayes: Members Stein and McGuire

Nays: Members Snodgrass, Motley, and Kohn

f. Discussion and possible action to direct staff regarding the city's ordinance regulations on maximum building height.

Background information on this item: The item was request by Alderwoman Stein. The documents provided show the city's current regulations outlined in Section 14.02.171. Also provided is correspondence from Chief Petty detailing the maximum height desired by DPS due to equipment limitations.

Alderwoman Stein went over the edits she would like to see to the city's ordinances. If Council agrees with said edits, Council will need to direct staff to begin the ordinance edits. Staff would then work with the city's attorney to bring back an ordinance making changes to existing ordinances. Since this change is in the Zoning Ordinance, changes would need to go to the Planning and Zoning Commission first and then come to Council.

Council discussed whether or not to make changes to the ordinances regarding building height. Staff was asked to research how the building height was measured. If language doesn't show how it's measured, staff is to report back to Council.

No action was taken.

g. Discussion and possible action to approve the purchase of a new vehicle for public works and DPS operational needs in an amount not to exceed \$35,000.

Background information on this item: The purchase of this vehicle was discussed in recent budget work sessions. The vehicle would be dual purpose for both public works and to assist with DPS operational needs. Staff provided quotes at the meeting.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Guy Snodgrass to disapprove the purchase of a new Dodge truck for public works and DPS operational needs.

Motion failed by the following vote:

Ayes: Member Snodgrass

Nays: Members McGuire, Stein, Motley, and Kohn

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to authorize staff to purchase a new Ford truck in an amount not to exceed \$40,000.

Motion carried by the following vote:

Ayes: Members McGuire, Stein, Motley, and Kohn

Nays: Member Snodgrass

h. Discussion and possible action to approve the purchase of a fire truck exhaust removal system in an amount not to exceed \$30,000.

Background information on this item: Diesel engines, used in fire trucks, produce a mixture of toxic gases and particulates from the combustion process. These hazardous vehicle exhaust emissions in a fire station are one of a firefighter's most significant cancer health risk and a serious legal liability for the fire department. It is essential to create healthy and safe working conditions by reducing these risks.

A motion was made by Council Member Cathy Stein and seconded by Council Member Mark McGuire to approve a vehicle exhaust removal system in an amount not to exceed \$30,000

Motion carried by the following vote:

Ayes: Members Snodgrass, McGuire, Stein, Motley, and Kohn

Nays: None

i. Discussion and possible action to approve the purchase of a new police vehicle for the DWG Department of Public Safety in an amount not to exceed \$50,000.

Background information on this item: DPS is requesting to purchase a 2020 Chevrolet Tahoe to replace Unit #42 (marked patrol unit). DPS is requesting to trade one unmarked unit with Wildfire Trucks to help offset the cost of new emergency equipment. Staff is anticipating the trade of an unmarked vehicle to be valued at \$5,000.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Joe Kohn to authorize the purchase of vehicle for DPS not to exceed \$50,000 and expecting a \$5,000 trade-in.

Motion carried by the following vote:

Ayes: Members Snodgrass, McGuire, Stein, Motley, and Kohn

Nays: None

j. Consider approval of Ordinance No. 2019-10 making changes to the City of Dalworthington Gardens Code of Ordinances, Section 12.05.001, correcting the speed limit listed for Bowen Road.

Note: This agenda item was listed as Ordinance No. 2019-10 in error. It was actually Ordinance No 2019-11.

Background information on this item: A DWG officer found this error in the city's ordinances for the speed limit on Bowen Road. The following is what's currently in Section 12.05.001. However, the speed limit is 40 for the entirety of Bowen Road in the DWG city limits.

Sec. 12.05.001 Speed limits on specific streets

Bowen Road:

- (1) Between the north city limit and Clover Lane: 35 miles per hour.
- (2) Between Clover Lane and Roosevelt Drive: 40 miles per hour.
- (3) Between Roosevelt Drive and the south city limit at Pleasant Ridge Road: 35 miles per hour.

Council normally provides direction to staff prior to ordinance changes, but due to the importance of the accuracy for speed limits listed in the ordinances, staff had the city's attorney assist with the change prior to Council providing input.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to approve Ordinance No. 2019-11 making changes to the City of Dalworthington Gardens Code of Ordinances, Section 12.05.001, correcting the speed limit listed for Bowen Road.

Motion carried by the following vote:

Ayes: Members Snodgrass, McGuire, Stein, Motley, and Kohn

Nays: None

k. Discussion and possible action on setting the maximum proposed ad valorem tax rate; setting dates for two public hearings on the proposed tax rate; and setting the date at which City Council will adopt the fiscal year 2019-2020 ad valorem tax rate.

Background information on this item: Chapter 26 of the Tax Code outlines requirements for the notice, hearing, and vote on tax rates.

In accordance with Chapter 26, Council will be:

- voting on a proposed tax rate of which cannot be exceeded when the tax rate is adopted at the September 19, 2019 meeting
- scheduling and stating the dates for two (2) public hearings
 - two public hearings are required because the proposed tax rate exceeds the effective tax rate
- scheduling and stating the date at which Council will adopt the 2019-2020 tax rate

A motion was made by Council Member Mark McGuire and seconded by Mayor Pro Tem Ed Motley to approve a proposed ad valorem tax rate not to exceed \$0.58 per \$100 of taxable value; setting the date, time, and location for two public hearing dates as Thursday, August 29, 2019 at 6:00 p.m. and Thursday, September 5, 2019 at 6:00 p.m., to be held in the City Hall Council Chambers, 2600 Roosevelt Drive, Dalworthington Gardens, TX 76016; and setting the date, time, and location for adoption of the tax rate as September 19, 2019 at 7:00 p.m. to be held at the City Hall Council Chambers, 2600 Roosevelt Drive, DWG, Texas 76016.

Motion carried by the following vote:

Ayes: Members Snodgrass, McGuire, Stein, Motley, and Kohn

Nays: None

l. Discussion and possible action on setting a public hearing date for the FY 2019-2020 City Budget.

Background information on this item: Local Government Code Chapter 102 requires the City to provide for public notice of the date, time, and location of a public hearing on the proposed budget.

At tonight's meeting, Council will state the date, time, and location for the public hearing on the budget and also state date at which the budget will adopted.

A motion was made by Council Member Mark McGuire and seconded by Council Member Cathy Stein to set the date, time, and location for public hearings on the proposed budget as Thursday, September 5, 2019 at 6:00 p.m. and Thursday, September 19, 2019 at 7:00 p.m., to be held in the City Hall Council Chambers, 2600 Roosevelt Drive, DWG, Texas 76016; and set the date, time, and location for adoption of the budget as September 19, 2019 at 7:00 p.m. to be held in the City Hall Council Chambers, 2600 Roosevelt Drive, DWG, Texas 76016.

Motion carried by the following vote:

Ayes: Members Snodgrass, McGuire, Stein, Motley, and Kohn

Nays: None

m. Consideration to amend the City of Dalworthington Gardens Code of Ordinances, Chapter 13, regarding regulations for garbage and recycling pickup.

Background information on this item: An ordinance was presented which included sample language for multiple sections.

No action was taken on this item.

8. City Administrator Items

The following item was presented.

a. Project Updates

9. Executive Session

a. Recess into Executive Session:

Council recessed into Executive Session at 9:21 p.m. for the following items.

- i. Pursuant to Texas Government Code, Section 551.071, consultation with attorney, to wit: for House Bill 3167 regarding platting and House Bill 2439 regarding building material.**
- ii. Pursuant to Texas Government Code, Section 551.071, consultation with attorney, to wit: potential claim from property owners at #12 Santa Fe.**

b. Reconvene into Regular Session to discuss and take possible action:

Council reconvened into Regular Session at 9:50 p.m.

- i. Regarding House Bill 3167 and House Bill 2439.**
- ii. Regarding potential claim from property owners at #12 Santa Fe.**

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to direct counsel to work with staff on reflecting recent legislation in the city ordinances.

Motion carried by the following vote:

Ayes: Members Snodgrass, McGuire, Stein, Motley, and Kohn

Nays: None

10. Future Agenda Items

None

11. Adjourn

The meeting was adjourned at 9:51 p.m.