

MINUTES OF THE REGULAR MEETING OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS, CITY COUNCIL HELD ON OCTOBER 15, 2020 AT 6:31 P.M. IN THE COUNCIL CHAMBERS, 2600 ROOSEVELT DRIVE, DALWORTHINGTON GARDENS, TEXAS.

WORK SESSION - 6:31 P.M.

1. CALL TO ORDER

Mayor Bianco called the meeting to order at 6:31 p.m. with the following present:

Members Present:

Laura Bianco, Mayor
John King, Alderman, Place 1
Steve Lafferty, Alderman, Place 2
Cathy Stein, Alderman, Place 3
Ed Motley, Mayor Pro Tem; Alderman, Place 4
Joe Kohn, Alderman, Place 5

Staff Present:

Lola Hazel, City Administrator
Greg Petty, DPS Director
Kay Day, Finance Director (by phone)

2. PLATTING ORDINANCE

This item was discussed during the work session.

3. OTHER ITEMS, IF TIME PERMITS

Item 8e, condolence and congratulations policy, was discussed.

REGULAR SESSION – 7:00 P.M.

1. CALL TO ORDER

The meeting was called to order at 7:00 p.m.

2. INVOCATION AND PLEDGES OF ALLEGIANCE

Mayor Bianco gave the invocation. Baron Cook led the pledges.

3. ITEMS OF COMMUNITY INTEREST

The following items were presented.

- **National Night Out – CANCELED**
- **Halloween Event – October 24, drive-by event for registered participants**
- **Christmas in the Park/Santa Photos – December 6, 3-5 p.m.**
- **Santa Parade – December 23**

4. CITIZEN COMMENTS

None.

5. MAYOR AND COUNCIL COMMENTS

Mayor Bianco: Thanked the DWG Department of Public Safety for organizing and distributing popsicles to students and parents at Arlington Classics Academy. Recognized staff for work on Indian Trail project. Informed attendees about City Hall walls going up. Spoke about LA Fitness is not coming to DWG anymore.

John King: Echoed Mr. Motley's and Ms. Stein's comments.

Steve Lafferty: Echoed Mr. Motley's and Ms. Stein's comments.

Cathy Stein: Welcomed citizens back in the audience because previous meetings had been held virtually which didn't allow physical citizen presence.

Ed Motley: Thanked city staff and DPS for everything they do.

Joe Kohn: Echoed Mr. Motley's and Ms. Stein's comments.

6. DEPARTMENTAL REPORTS

- a. **DPS Report**
- b. **Financial Reports**
- c. **Quarterly Investment Report**
- d. **City Administrator Report**

Departmental Reports were presented.

7. CONSENT AGENDA

- a. **Approval of the September 17, 2020 regular minutes**
- b. **Approval of Ordinance No. 2020-10 approving budget amendments for the 2019-2020 FY Budget.**
- c. **Approval of Ordinance No. 2020-11 approving budget amendments for the 2020-2021 FY Budget.**

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

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None

8. REGULAR AGENDA

- a. **Discussion and possible action to consider installation of a guardrail on Roosevelt Drive in the amount of \$12,128.50.**

Background information on this item: Mayor Bianco received a letter from Alyssa Waybourn about a safety concern on Roosevelt Drive between Sunset Lane and Castelon Court. Ms. Waybourn noted that

the sidewalk that follows the west side of Roosevelt Drive is closer to the street than other sections of the sidewalk. Staff was asked to get quotes for installation of a guardrail for that section of the sidewalk. The length of the sidewalk that is closer to the street would be shielded by 238 linear feet of new guardrail. The proposed cost includes removing the old guard rail that already exists on a portion of the street. The expense would need to come from fund balance.

A motion was made by Council Member Cathy Stein and seconded by Mayor Pro Tem Ed Motley to deny this purchase request.

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None

b. Discussion and possible action to approve remaining costs related to combatting and responding to COVID-19.

Background information on this item: Staff is presenting the final budget for COVID-19 relief funds. We have a number of expenditures that now equal the total amount received by the city. You will see on the spreadsheet, there is a remainder of \$17,720.95. With the new guidance received from Tarrant County, staff believes those funds can now be used for DPS salaries for last fiscal year. Staff has consulted with the city attorney who also agrees. Two of the items could potentially result in recurring costs which is detailed below. Some council members have inquired about using some funds for business-related expenses. This cost list will provide enough information for council to make a decision on how to spend remaining funds.

Staff is looking for approval of the list of expenditures and also two items that will be recurring costs that stem from the purchases of the phone system and possibly the council iPads.

There is a phone system on the list and a quote is also provided in the packet. Staff believes COVID relief funds will pay for the phone system equipment as it improves teleworking capabilities. It does this by allowing staff to answer office phones directly on cell phones or by an internet website. This is one thing we cannot currently do with existing equipment. The recurring monthly cost for the phone system would increase \$150 from what we currently pay for our phone system. If Council approves the phone system, this \$150 monthly cost would need to be covered from fund balance.

For the three council iPads – there is enough funding to pay for the iPads, cases, keyboards, and stylus/pencil in COVID relief funds. However, if council wants a data card in the device instead of using wifi access, that will incur a monthly fee of \$35/month. This also would need to be paid for with fund balance.

In conclusion, staff is looking for approval of the full list of expenditures; approval of the phone system and \$150 increase; approval of the \$35/month data cards for council, if desired; and approval to use the remaining COVID relief funds for DPS salaries.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member John King to approve all costs as presented and to not use data cards for the council iPads.

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None

c. Discussion and possible action regarding Project #2020-03, Indian Trail Project, to include, but not limited to any change order approval.

Background information on this item: This is a recurring item that will appear on all future agendas until this project is complete.

With nothing to report or discuss, this item was not needed.

d. Discussion and possible action to approve geotechnical and construction material testing services for Project #2020-02, Twin Lakes/Twin Springs in an amount not to exceed \$7,820.

Background information on this item: The Twin Lakes/Twin Springs construction project is set to begin after the Indian Trail project is complete, which should fall in the beginning or mid-November time frame. One outstanding item needed for Twin Lakes/Twin Springs is geotechnical and construction material testing. When Tarrant County prepares estimates, they do not conduct their own testing prior to providing estimates. This was unknown to staff at the time the estimates were provided. This same testing was already conducted on Indian Trail in 2017 when Council first began planning for that project.

Staff has consulted with the city engineer and Tarrant County about the provided quote. This will be the maximum amount needed. The final cost will depend on how many trips are needed once the project and testing begin.

The following information was received from LandTec as it relates to the provided quote.

Engineering Technician

- 3 trips to perform field gradations of the mixed stabilize subgrade (2 trips for Twin Springs, 1 trip for Twin Lakes) with 1 field test per trip
- 3 trips to perform compaction testing on the stabilized subgrade (2 trips for Twin Springs, 1 trip for Twin Lakes) with 3 compaction test per trip
- 3 trips to perform backscatter testing on the Type B asphalt (2 trips for Twin Springs, 1 trip for Twin Lakes) with 3 backscatter test per trip
- 3 trips to perform backscatter testing on the Type D asphalt (2 trips for Twin Springs, 1 trip for Twin Lakes) with 3 backscatter test per trip

Transportation is also charged for each trip made to the site.

Please know that LandTec will only charge for times that we are called out to perform services for the project and that this cost estimate is not a lump sum.

A motion was made by Council Member Cathy Stein and seconded by Council Member John King to approve geotechnical and construction material testing services for Project #2020-02, Twin Lakes/Twin Springs in an amount not to exceed \$7,820.

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None

e. Discussion and possible action to approve a condolence and congratulations policy.

Background information on this item: Council gave direction to craft a policy for congratulatory or condolence circumstances. If council approves the policy, funds will also need to be in the budget to cover these circumstances.

The final policy will be brought back in November for ratification with a resolution.

Council provided suggested changes. No action taken.

f. Consider Ordinance No. 2020-12 to amend the City of Dalworthington Gardens Code of Ordinances, Chapter 14, Zoning, to create regulations for credit access businesses.

Background information on this item: Council gave direction to the city attorney to prepare an ordinance to regulate payday lenders. The city attorney's office has prepared an ordinance to create regulations for "credit access businesses" as that is how such businesses are defined by state statute. The proposed ordinance creates a definition for 'credit access business'. The ordinance also changes the list of uses in the B-1 business district to exclude 'credit access business' from allowed banking uses. Lastly, the ordinance adds 'credit access business' as a special exception in the light industrial district only, with conditions. Thus, 'credit access businesses' would only be allowed by special exception in the light industrial district if they can meet the conditions for said special exception.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member John King to direct staff to go through the proper process and public notifications for a Zoning Ordinance change.

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None

g. Consider Ordinance No. 2020-13 to amend the City of Dalworthington Gardens Code of Ordinances, Chapter 6, Health and Sanitation, creating a new Article 6.06 Tobacco Products, Smoking, and E-Cigarettes, to prohibit smoking in many public places.

Background information on this item: Council directed the city attorney to draft an ordinance to prohibit smoking in certain public places. The ordinance adds a new section to Chapter 6, Health and Sanitation.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Joe Kohn to direct staff to work with Council Member Lafferty on suggested changes.

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None

h. Discussion and possible action regarding regulations for game rooms.

Background information on this item: Council gave direction to research the city's ability to regulate game rooms in the city limits. Guidance is being provided from the city attorney on this subject.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to direct staff to work with Tarrant County on an interlocal agreement for game room regulations.

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None

- i. Discussion and possible action on the Comprehensive Plan, to include but not limited to governing body approval of changes and setting future meeting dates. Final adoption of the Plan will take place at a future public meeting following legal publication requirements and notifications.**

Background information on this item: The purpose of this item is to provide an avenue to move forward in the Comprehensive Plan approval process, if needed. This item may not be needed. The reason the agenda item is worded in such a way is so that citizens know Council does not intend to adopt the Plan at this meeting. Public notice is required prior to final adoption of the Plan by Council.

A motion was made by Council Member Cathy Stein and seconded by Mayor Pro Tem Ed Motley to set a work session date for November 12, 2020 at 6 p.m.

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None

- j. Discussion and possible action regarding Project #2020-01, the new City Hall building, to include, but not limited to any change order approval.**

Background information on this item: This is a recurring item that will appear on all future agendas until this project is complete.

With nothing to discuss or present, this item was not needed.

- k. Discuss and possible action regarding amendments to the FY 2020-2021 budget in amounts not to exceed \$10,000.00.**

Background information on this item: This is a standing agenda item that will appear on all future agendas. The idea is provide an item whereby staff can discuss needs that come up after the agenda posting deadline. These would only be items that, without council approval, would otherwise put operations on hold.

Staff presented a quote of \$5,000 from Prime Landscape to move mailboxes on the Twin Lakes/Twin Springs project.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to approve \$5,000 for moving mailboxes on Twin Lakes/Twin Springs and approve any associated budget amendment.

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None

- l. Discussion and possible action to purchase firearms and equipment for the Department of Public Safety.**

Background information on this item: DPS is requesting to purchases 28 H&K VP9 pistols, 28 holsters, 28 magazine pouches for DPS.

DPS requires sworn officers to purchase and maintain their personally owned firearms for active duty. This practice is infrequent today due to the plethora of makes, models, and calibers offered by reputable manufacturers. We currently have to order different calibers of ammunition for qualifications, and some officers who work together cannot share ammunition in the event of a significant incident. Purchasing and issuing firearms would allow us to have standardized weapons, streamline ammunition orders, provide more specific policies and procedures of issued firearms and give officers the flexibility to share ammunition and magazines if needed in a gunfight. The H&K VP9 is a 9mm pistol that comes with a lifetime warranty.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to approve the purchase of firearms and equipment for the Department of Public Safety.

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None

- m. Discussion and possible action to designate a concert in Gardens Park taking place in May 2021 as a ‘bring your own beverage’ event which allows possession and consumption of beer and wine at said event, in accordance with Section 1.09.079, City of Dalworthington Gardens Code of Ordinances.**

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Joe Kohn to approve designation of a concert in Gardens Park taking place in May 2021 as a ‘bring your own beverage’ event which allows possession and consumption of beer and wine at said event, in accordance with Section 1.09.079, City of Dalworthington Gardens Code of Ordinances.

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None

9. TABLED ITEMS

- a. Discussion and possible action on an analysis from Freese & Nichols for Elkins Lake Dam.**

Background information on this item: At the March 2020 meeting, council approved an agreement with the Trinity River Authority related to a water rights issue. That issue is a separate issue from the dam safety issue being presented, but is mentioned for new council members who may hear both terms being used. The water rights issue has been resolved but the dam safety issue remains unresolved.

The dam safety issue goes back to 2014 and resulted from a complaint on the dam. The complaint resulted in an investigation from TCEQ. The result of the investigation was a notice of enforcement action as the dam was found to be out of compliance. Staff’s understanding is that both the water rights issue and the dam safety analysis came to be because of the compliance issue with TCEQ.

Elkins Dam is considered a high hazard dam. The term is given to dams that have a potential loss of life expectancy of seven or more lives or three or more habitable structures in the breach inundation area downstream of the dam. When looking at maps provided in the PowerPoint, you will notice the proximity of Cinnamon Park Apartments along Spanish Trail to the west of Elkins Lake. To resolve the high hazard issue, Freese & Nichols (FNI) has provided three alternatives for repair. Alternative 3 is not recommended by staff as it creates a low water crossing which could create an accessibility issue for XTO staff. Heavy rains could make the entrance inaccessible. For the alternatives mentioning

CLOMR/LOMR updates (FEMA flood map updates), those costs are included in the quote provided.

FNI did find a grant which staff reviewed with FNI. Staff initially asked for FNI's cost to prepare and submit the application for the project. However, the grant isn't appropriate for this project. FNI felt it was possible to make the project fit, but it is unlikely our application would be competitive with other projects that typically apply for the grant. The grant is for the Flood Infrastructure Fund (FIF) with the Texas Water Development Board. Thus, FNI could submit the application with the city paying \$15,000 or more for design/engineering and then not be successful in grant award. Staff did ask if there would be less costs to turn the area into a green space. Staff understands this option would not be well received from citizens and most likely council as well, but we looked at all avenues because of the high cost for repair. The answer is 'not necessarily' because it's not as simple as filling with dirt. Moving water or dirt could still be expensive and still affect FEMA flood maps which is expensive.

Council needs to discuss which alternative is preferred and propose plans for funding. The city may not necessarily need to fund the repair in its entirety in one year. The city just needs a defined plan to show TCEQ we are working on compliance.

A motion was made by Council Member Cathy Stein and seconded by Mayor Pro Tem Ed Motley to remove this item from the table.

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None

No action was taken once removed from the table.

b. Consider Ordinance No. 2020-09 amending the City of Dalworthington Gardens Code of Ordinances, Chapter 10, Subdivision Regulations, specifically as it pertains to platting regulations.

Background information on this item: Local Government Code, Chapter 212, provides legal requirements for platting property. Heavy changes were made to these requirements in 2019 under HB 3167, and following council approval, staff began working with the city attorney to draft a new ordinance. Previously, cities would work with developers to ensure a plat was complete prior to placing it on agenda for approval. The law no longer allows cities that option. The law now requires a very strict timeline of when cities must place a plat on an agenda for consideration, regardless of the application's completeness. Under our current ordinance, as soon as the plat is received by the city administrator, the 30 day clock starts to get the plat on a Planning and Zoning.

The new ordinance creates a two-step process. The first step is to determine completeness (Section 10.02.031). Completeness ensures all required documents are included and necessary fees are paid. Once completeness is determined, the review process begins (Section 10.02.094). Once review is complete, the application can then be deemed "filed" by the city and be placed on an agenda for consideration. The "file" date is when the 30 day timeline begins which is required by Chapter 212.009, Local Government Code.

There were some other changes made to the ordinance to fix archaic language and to clarify requirements for each type of plat. Staff also added Section 10.02.008 which allows staff approval for certain plats, as authorized at the August 20, 2020 council meeting. The majority of changes are related to HB 3167 changes.

Staff is also providing a memo from the city attorney on the changes as they relate to the new process, but again, other changes were made to the ordinance to fix outdated language.

A motion was made by Council Member Cathy Stein and seconded by Mayor Pro Tem Ed Motley to approve Ordinance No. 2020-09 amending the City of Dalworthington Gardens Code of Ordinances, Chapter 10, Subdivision Regulations, specifically as it pertains to platting regulations, with the following changes:

Section 10.02.094 – add to sections being replaced under Section 6, Division IV.

Section 10.02.125(a) – Strike last sentence about school district.

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None

10. FUTURE AGENDA ITEMS

- Chapter 13 Ordinance Changes.

11. EXECUTIVE SESSION

- a. **Recess into Executive Session pursuant to Texas Government Code, Section 551.071, consultation with attorney, to wit: City of Allen, Texas et. al., v. Time Warner Cable Texas LLC d/b/a/ Spectrum and Charter Communications.**

City Council recessed into Executive Session at 8:43 p.m.

- b. **Reconvene into Regular Session for discussion and possible action on the City of Allen, Texas et. al., v. Time Warner Cable Texas LLC d/b/a/ Spectrum and Charter Communications.**

City Council reconvened into Regular Session at 8:51 p.m.

No action taken.

12. ADJOURN

A motion was made by Council Member John King and seconded by Mayor Pro Tem Ed Motley to adjourn at 8:51 p.m.

Motion carried by the following vote:

Ayes: Members King, Lafferty, Stein, Motley, and Kohn

Nays: None