

Dalworthington Gardens City Council
Meeting Minutes
November 21, 2019

WORK SESSION – 6:30 P.M.: Discussion only. No action will be taken until the Regular Session at 7:00 p.m.

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

Members Present:

Laura Bianco, Mayor
Guy Snodgrass, Alderman, Place 2
Cathy Stein, Alderman, Place 3
Ed Motley, Mayor Pro Tem; Alderman, Place 4
Joe Kohn, Alderman, Place 5

Members Absent:

Mark McGuire, Alderman, Place 1

Staff Present:

Lola Hazel, City Secretary
Greg Petty, DPS Director
Kay Day, Finance Director
Gary Harsley, Community Development

The following was discussed in the work session:

- 1. Purchase Policy**
- 2. Comprehensive Financial Policy**

REGULAR SESSION – 7:00 P.M.

The Regular Session began at 7:03 pm

1. INVOCATION AND PLEDGES OF ALLEGIANCE

Mayor Bianco gave the invocation. Pledges were said.

2. ITEMS OF COMMUNITY INTEREST

The following items were presented.

- **Business Over Breakfast Holiday Meetup – December 9, 4-6 p.m.**
- **Christmas in the Park/Santa Photos – December 8, 3-5 p.m.**
- **Santa Parade – December 23**

3. CITIZEN COMMENTS

1. Todd Batiste, 2808 Broadacres Lane: spoke to the piece of land near Sunset Lane, only accessed by what is being called a private road. Requesting City Council to look at this road and situation. Wants to know if existing property owners can prevent access to the vacant property on the south west side of the private street where the street dead ends into a gate. He asked would the city take it if it was an option.

4. MAYOR AND COUNCIL COMMENTS

- Laura Bianco: Thanked the Park Board, especially Tara Cao; city staff, and DPS for their efforts on Trunk or Treat. Thanked public works staff members, Jeff and Shawn; dispatchers; and Larry Stein, Mary Webster, Storm Farms, Beth Crymes, Gary and Roxanne Harsley, Marlene and Mike Henderson, Lora and Robert Spence, Sandy Mitchell, Linda and Dennis Ferdinand, Renee Mehlman, Paul Schexnayder, Ed Motley and family, and Jill Howard and family for their extraordinarily creative trunks and great treats. Thanked resident Nick Lewis for mowing on Roosevelt Drive.
- Guy Snodgrass: none
- Cathy Stein: Informed the audience about attending a webinar on storm water drainage and gaining knowledge that could be useful. Wished everyone a happy Thanksgiving.
- Ed Motley: Hopes everyone overeats next week.
- Joe Kohn: Wished everyone a happy Thanksgiving.

5. DEPARTMENTAL REPORTS

The following reports were presented.

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

6. CONSENT AGENDA

- a. **July 23, 2019 special meeting minutes.**
- b. **July 29, 2019 special meeting minutes.**
- c. **August 8, 2019 special meeting minutes.**
- d. **August 20, 2019 special meeting minutes.**
- e. **August 27, 2019 special meeting minutes.**
- f. **August 29, 2019 special meeting minutes.**
- g. **September 5, 2019 special meeting minutes.**
- h. **September 17, 2019 special meeting minutes.**
- i. **September 19, 2019 regular meeting minutes.**
- j. **Approval of Resolution 2019-29 approving the appointment of Lola Hazel and Kay Day to the Wholesale Water Customer Advisory Committee for the City of Fort Worth.**

A motion was made by Council Member Cathy Stein and seconded by Council Member Joe Kohn to approve the Consent Agenda.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

7. REGULAR AGENDA

a. Discussion and possible action regarding general economic development incentives to include but not limited to Chapter 380 agreements, tax abatement incentives, and possible purchase of sign for business advertising.

Background information on this item: Mayor and staff have been meeting with businesses for different properties, but lately it has been more focused on the Garden Town Center, located at the corner of Pleasant Ridge and Bowen Road. There is an undeveloped property behind Chicken Express that has been vacant for some time. In discussion with developers, discussion almost always comes up about what incentives the city can offer to businesses. Staff would like feedback from Council on whether or not incentives could be considered for future proposals. A sign is specifically being brought up because exposure is always a point of conversation for the Garden Town Center. Businesses are reluctant to commit because the vacant spots in the shopping center are in the back and essentially hidden. The sign being used to advertise is on Pleasant Ridge. An estimate we received is approximately \$5,000 for a similar sign, but staff hopes to have an actual estimate by the council meeting date. More research would need to be done on specific incentives, but staff is looking for council's input before beginning any research.

The city attorney has been briefed that these topics will be discussed at the meeting so she can help explain incentives and abatements. The following information has been provided by the attorney to explain the differences in Chapter 312 and Chapter 380 incentives:

Tax abatement under chapter 312, and the legislature has just added a few more.

- The city must pass a resolution stating that it intends to engage in tax abatement. This only has to be done once and applies to all subsequent tax abatements.
- The city must establish “guidelines and criteria” governing tax abatements. These must be readopted every two years, and cannot be amended except by super majority. The legislature has just added a requirement for a public hearing when the guidelines and criteria are adopted.
- The city must create a reinvestment zone. This is pretty easy. These can be as large as the city desires, but we recommend that the zone be comprised of just the footprint of the development, because there are rules that apply to other tax abatement agreements in the same zone with other property owners. To create the zone it must fall in one of the criteria listed in section 312.202. We usually use subsection (6)—“reasonably likely as a result of the designation to contribute to the retention or expansion of primary employment...benefit the property...contribute to economic development of the municipality”. The zone must be created by an ordinance meeting the requirements of 312.201, and containing certain findings, after a public hearing. Notice of the public hearing must be published 7 days prior, and must be sent to the presiding officer of the governing body of each taxing unit that includes the reinvestment zone in its boundaries.
- The city adopts the tax abatement agreement, which must meet the requirements of 312.204, and contain the terms set forth in 312.205. The agreement must be mailed to other taxing units not later than 7 days before the date on which the city enters into the agreement. The agreement must be adopted at a regular meeting. Additionally there are special posting notices for the meeting at which the agreement will be considered—the notice must contain items listed in 312.207, and must be posted in the manner required by the Open Meetings Act 30 days prior to the date of the meeting.

There are benefits to a chapter 312 tax abatement, including the owner does not owe the abated taxes, the program is administered at the county level, and other taxing entities can choose to participate in the abatement, thereby increasing the benefit to the developer.

380 agreements are flexible, do not have the 10 year limitation, do not require the 312 procedures, and do not require a reinvestment zone. In a 380 agreement the city has wide ranging authority to make grants of public funds for economic development. The tax would not be abated, but the city could agree to pay the developer,

among other things, an “amount equal” to a percentage of taxes paid by the developer and received by the city each year. The developer would have to pay the taxes timely, the city would have to administer the accounting and send the checks. 380 agreements don’t “rebate” sales or ad valorem taxes—they make grants or payments in an amount equal to the amount paid or generated by the developer.

No action taken.

b. Discussion and possible action to cast two votes for the Tarrant Appraisal District Board of Directors for a two year term beginning January 1, 2020.

Background information on this item: The terms of the five current Board of Directors of the Tarrant Appraisal District (TAD) expire on December 31, 2019. The Property Tax Code requires the governing body of the taxing unit to determine its votes by resolution. All votes may be cast for one candidate or distributed among any number of candidates listed on the official ballot.

The City of Dalworthington Gardens has two (2) votes to cast for the Board of Directors for TAD.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Guy Snodgrass to cast two votes for John Fagan.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

c. Discussion and possible action to approve funding for the TX Parks and Wildlife Small Community Grant in an amount not to exceed \$119,432.37; 50% of which would be the City’s obligation, and a portion of the City’s obligation to be covered by citizen donations.

- i. Conduct public hearing**
- ii. Discussion and possible action**

Background information on this item: The Park Board is applying for the Small Community through the Texas Parks and Wildlife. The grant would allow for equipment improvements to include a safety surface, climb away structure, speedy spinner, track rider, and balance beam. The total cost of the grant is \$119,432.27, but the city is only responsible for 50% which comes to \$59,716.19. The Park Board has received pledges with enough donations to cover some of the city’s portion, and more are expected to come in. The difference what the city budgeted for the grant (\$113,108) and the new total (\$119,432.37) is \$6,324.37 half of which could be covered by citizen donations and the other half by the 50% state match.

Staff also explained that removal of pea gravel was not included in the provided quotes which totals \$2,500, and asked that Council consider inclusion of that item.

Mayor Bianco opened the public hearing at 8:17 p.m.

1. Sandy Riney, 2702 Whisperwood: Asked where the remaining donations would come from.
2. Tracy Dodson, 2705 Whisperwood Trail: Informed the audience they can still donate if they haven’t yet.

Following comments, Mayor Bianco closed the public hearing at 8:20 p.m.

A motion was made by Council Member Cathy Stein and seconded by Mayor Pro Tem Ed Motley to approve funding for the TX Parks and Wildlife Small Community Grant in an amount not to exceed \$119,432.37 plus \$2,500 for pea gravel removal, 50% of which would be the City’s obligation, and a portion of the City’s obligation to be covered by citizen donations.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn
Nays: None

- d. Discussion and possible action to approve funding for the Shade Structure Grant with the American Academy of Dermatology in an amount not to exceed \$12,020, \$8,000 of which is awarded by the grant and the remaining to be funded from donations.**

Background information on this item: The Park Board is applying for A Shade Structure Grant through the American Academy of Dermatology. The grant awards \$8,000, and the desired shade structure costs \$12,020. The remaining \$4,020 would be covered by donations, but the total amount is being presented to Council in the event donations aren't as plentiful as pledges show.

A motion was made by Council Member Cathy Stein and seconded by Mayor Pro Tem Ed Motley to approve funding for the Shade Structure Grant with the American Academy of Dermatology in an amount not to exceed \$12,020, \$8,000 of which is awarded by the grant and the remaining to be funded from donations.

Motion carried by the following vote:
Ayes: Members Snodgrass, Stein, Motley, and Kohn
Nays: None

- e. Discussion and possible action regarding the proposed Ferguson water meter system.**

Background information on this item: The Ferguson water meter proposal is not ready to present at this meeting. Staff has run into some challenges when discussing installation. There is quite a bit of out of scope work that may make meter installation more costly than initially intended. Staff will be meeting with Ferguson the first week of December and hopes to have the item back on the agenda that same month.

No action taken.

- f. Discussion and possible action to approve relocation of a utility easement in conjunction with the Green's Produce plat. Relocation is accomplished by approving Ordinance No. 2019-16, vacating and abandoning a five foot wide utility easement located in block of Gardens Industrial Park; and by authorizing the Mayor to execute a quitclaim deed and utility easement document.**

Background information on this item: Green's Produce is platting their property as they are looking to add on to their existing structure. Because of the limited space they have to add on, the existing easement needs to be restructured to accommodate the building. The next item on your agenda it for approval of plat. However, the city needs to approve relocation of our easement prior to approval of the plat. Letters from all other utilities including the city of Arlington are included with the plat documents, and no one has shown opposition to the relocation.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Joe Kohn to approve relocation of a utility easement in conjunction with the Green's Produce plat. Relocation is accomplished by approving Ordinance No. 2019-16, vacating and abandoning a five foot wide utility easement located in block of Gardens Industrial Park; and by authorizing the Mayor to execute a quitclaim deed and utility easement document.

Motion carried by the following vote:
Ayes: Members Snodgrass, Stein, Motley, and Kohn
Nays: None

- g. Green's Produce Plat**

- i. Consider approval of an application from Green’s Produce for a Preliminary Plat of Lot 5, Block A of the Gardens Industrial Park Addition situated in the Nathan Smith Survey, Abstract No. 1432, containing approximately .611 acres of land, locally known as 3001 Arkansas Lane.**

- i. Conduct public hearing**
- ii. Discussion and action**

Background information on this item: Green’s Produce is looking to add on to their existing building to put in a new cooler. Section 10.02.004 of the City’s Code of Ordinances states, “No building permit shall [be] issue[d] for the construction of improvements on any property not platted...” Since Green’s Produce has never been platted, they are required to do so before they can add on to their existing structure. When property has never been platted before, it typically requires both a preliminary and final plat to be prepared. As such, you have both a preliminary and final plat on your agenda for consideration. These are allowed to be done jointly and it speeds up the process for the applicant. The preliminary will show setback lines, building locations, and note changes being made to easements. The final plat will show the final changes to easements and other necessary requirements before the document is filed. A requirement of the platting process is for the applicant to contact all utility companies to ensure they do not have utilities in the easement and/or they do not object to abandonment of said easement. Also, because of the desired location for the new building, the easement on the east side of the property will need to be moved.

The builder working on the Green’s addition has obtained letters and documents from all utilities to include city of Arlington all of which have no objection to the easement relocation.

The city engineer has recommended approval.

Mayor Bianco opened the public hearing at 8:05 p.m.

1. Sandy Riney, 2702 Whisperwood – asked what they are building. Green’s builder explained they’re adding on to back of building for a freezer.
2. Mayor Pro Tem Ed Motley asked why they didn’t plat entire piece. Staff explained it was because setbacks differ for corner lots as opposed to interior lots. Platting the entire piece would make the property non-conforming.
3. Council Member Cathy Stein mentioned landscape requirements and impervious coverage requirements and asked the applicant if they felt they could meet those requirements with just platting a portion. Property owner replied “yes”.
4. Council Member Guy Snodgrass asked for size of addition. Response: 1600 sq. feet addition.

Following comments, Mayor Bianco closed the public hearing at 8:09 p.m.

A motion was made by Council Member Cathy Stein and seconded by Council Member Joe Kohn to approve an application from Green’s Produce for a Preliminary Plat of Lot 5, Block A of the Gardens Industrial Park Addition situated in the Nathan Smith Survey, Abstract No. 1432, containing approximately .611 acres of land, locally known as 3001 Arkansas Lane.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

- ii. Consider approval of an application of Green’s Produce for a Final Plat of Lot 5, Block A of the Gardens Industrial Park Addition situated in the Nathan Smith Survey, Abstract No. 1432, containing approximately .611 acres of land, locally known as 3001 Arkansas Lane.**

- i. Conduct public hearing**
- ii. Discussion and action**

Background information on this item: Green's Produce is looking to add on to their existing building to put in a new cooler. Section 10.02.004 of the City's Code of Ordinances states, "No building permit shall [be] issue[d] for the construction of improvements on any property not platted..." Since Green's Produce has never been platted, they are required to do so before they can add on to their existing structure. When property has never been platted before, it typically requires both a preliminary and final plat to be prepared. As such, you have both a preliminary and final plat on your agenda for consideration. These are allowed to be done jointly and it speeds up the process for the applicant. The preliminary will show setback lines, building locations, and note changes being made to easements. The final plat will show the final changes to easements and other necessary requirements before the document is filed. A requirement of the platting process is for the applicant to contact all utility companies to ensure they do not have utilities in the easement and/or they do not object to abandonment of said easement. Also, because of the desired location for the new building, the easement on the east side of the property will need to be moved.

The builder working on the Green's addition has obtained letters and documents from all utilities to include city of Arlington all of which have no objection to the easement relocation.

The city engineer has recommended approval.

Mayor Bianco opened the public hearing at 8:11 p.m.

With no one desiring to speak, Mayor Bianco closed the public hearing at 8:12 p.m.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Joe Kohn to approve application of Green's Produce for a Final Plat of Lot 5, Block A of the Gardens Industrial Park Addition situated in the Nathan Smith Survey, Abstract No. 1432, containing approximately .611 acres of land, locally known as 3001 Arkansas Lane.

Council Member Cathy Stein noted some changes needed on the final plat prior to filing. Changes are as follows:

- Remove the preliminary language on final plat
- In map in top left-hand corner, the word Dalworthington Gardens should be moved to our actual city but it is shown on the map in Arlington and city name should be spelled correctly.

A motion was made Mayor Pro Tem Ed Motley and seconded by Council Member Guy Snodgrass to approve the final plat with amendment to add changes suggested by Council Member Cathy Stein.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

h. Discuss and possible action regarding amendments to the FY 2020 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.

No action taken.

i. Consideration to amend the City of Dalworthington Gardens Code of Ordinances, Chapter 14, Zoning, regarding sign standards.

- i. Public Hearing**
- ii. Discussion and possible action**

Background information on this item: Staff has been working with the city attorney for some time on updates to the City's sign ordinance. Staff now has edits back from the city attorney for the ordinance and will need to review it before it goes to Council. When first drafting the ordinance, discussion was had on whether or not the ordinance would stay in Chapter 14, Zoning, or move to a different section. Typically ordinances located in the zoning section are there because the Planning and Zoning Commission holds authority over those subjects. In the case of signs, while you do see it in zoning ordinances occasionally, it is usually in the building regulations section. The main reason for removing it from the zoning ordinance is that zoning inherently needs a little discretion and flexibility. When you have an ordinance impacting First Amendment rights (like a sign ordinance) flexibility and discretion are a bad thing constitutionally speaking. It's cleaner to put it in a different ordinance.

With the ordinance edits, a Sign Board of Appeals was created. Because signs would be treated as other matters under the umbrella of the Zoning Board of Adjustments, we're proposing to take sign regulations out of the zoning ordinance, moving it to Chapter 3, Building Regulations, and having the Zoning Board of Adjustments act as the Sign Board of Appeals.

Because we are suggesting to move the ordinance out of Chapter 14, Zoning, we are required to have the Planning and Zoning Commission's approval prior to taking the ordinance to council. P&Z recommended approval at their October 28 meeting.

Staff does not have a final ordinance present tonight but wanted to update council on the status. Staff hopes to have it on the January agenda and then set a work session date for review. Council is not required to take action tonight.

Mayor Bianco opened the public hearing at 8:32 p.m.

With no one desiring to speak, Mayor Bianco closed the public hearing at 8:34 p.m.

No action was taken.

- j. Discussion and possible action to approve the creation and payment of a supplement for a class D waste water license in the amount of \$42.31 per paycheck.**

Background information on this item: The city received a TCEQ violation in August of this year for not having a staff member holding a waste water license. In response to that, Shawn Kenner obtained his class D waste water license. Since this is a required certification, staff is requesting council's approval to add said supplement. The amount being proposed is the same that is paid for a class D water license.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to approve the creation and payment of a supplement for a class D waste water license in the amount of \$42.31 per paycheck.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

- k. Consider approval of Resolution No. 2019-28 to select an audit committee.**

Background information on this item: Annually, an audit committee is appointed to review the audit prior to it coming to council for approval.

A motion was made by Council Member Cathy Stein and seconded by Mayor Pro Tem Ed Motley to continue this item until the regular December meeting.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

l. Discussion and possible action to approve making changes to the City of Dalworthington Gardens Code of Ordinances, Appendix A Fee Schedule, making changes to Article A3.002, Building Permits and Inspections; and Article A4.000, Water and Sewer.

Background information on this item: These are the remaining fee schedule edits outside of the operational gas well permit. Staff hopes to bring back the operation gas well permit fees to the December meeting.

Staff suggested additional changes as follows:

- Article A4.000 (3)(d)(1)(A): For residential only, a maximum of 15,000 gallons will be billed.
- Article A4.000 (3)(f)(3):” less any equipment damage costs.”

Council made additional changes:

- Article A4.000 (3)(d)(3): Removal of this section.
- Article A4.000 (3)(e)(2): Removal of this section.
- Article A4.000 (f)(15) (formerly (f)(18)): removal of “annual”.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Joe Kohn to approve making changes to the City of Dalworthington Gardens Code of Ordinances, Appendix A Fee Schedule, making changes to Article A3.002, Building Permits and Inspections; and Article A4.000, Water and Sewer, to include the above changes suggested by staff and also the changes suggested by Council.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

m. Discussion and action to approve the City’s Purchase Policy.

Background information on this item: These are the final suggested edits for the Purchase Policy. Staff is asking for approval of these changes, and will bring back a resolution at the December meeting to ratify changes.

Council suggested an additional change as follows: Eliminate section 7 and properly renumber the remaining sections.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Joe Kohn to approve changes to the City’s Purchase Policy, to include the additional change suggested by Council.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

n. Discussion and possible action to approve the City’s Comprehensive Financial Policy.

Background information on this item: These are the final suggested edits for the Comprehensive Financial Policy. Staff is asking for approval of these changes, and will bring back a resolution at the December meeting to ratify changes.

Council suggested an additional change as follows: (II)(D)(1): after “January 1”, insert the words “of the tax year, beginning 2005”.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to approve the City’s Comprehensive Financial Policy to include the additional change suggested by Council.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

8. City Administrator Report

The following items were presented.

- a. Status update on storm water audit**
- b. Spectrum lawsuit**
- c. Strategic Plan and Capital Improvement Plan**
- d. May 2020 City Election**

9. Future Agenda Items

None

10. EXECUTIVE SESSION

Council recessed into Executive Session at 9:09 p.m.

a. Recess into Executive Session for the following items:

- i. Pursuant to Government Code, Section 551.071, Consultation with Attorney, and Section 551.074, Personnel Matters, to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, to wit: City Administrator**
- ii. Pursuant to Government Code, Section 551.071, Consultation with Attorney, regarding Senate Bill 1004 and Senate Bill 1152, and potential lawsuit related to same.**

Council reconvened into Regular Session at 10:33 p.m.

b. Reconvene into Regular Session for discussion and possible action on the following items:

- i. Regarding the city administrator.**

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to appoint Lola Hazel as City Administrator and offer the contract as amended in Executive Session.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

- ii. Regarding Senate Bill 1004 and Senate Bill 1152.**

No action taken.

11. ADJOURN

A motion was made by Council Member Joe Kohn and seconded by Council Member Cathy Stein to adjourn at 10:34 p.m.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None