

Minutes
A REGULAR MEETING
of the
DALWORTHINGTON GARDENS
CITY COUNCIL

Regular Session: Thursday, April 17, 2008 7:00 P.M.

REGULAR SESSION

A regular meeting was held at 7:00 o'clock p.m. on Thursday, April 17, 2008 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
Ken Wallace, Councilman

MEMBERS ABSENT:

Jim Piland, Councilman

STAFF PRESENT:

Melinda Brittain, City Secretary
Stan Wilkes, City Attorney
Bill Waybourn, Chief of Public Safety

CALL TO ORDER- Mayor Tedder called the meeting to order at 7:00pm

1. Citizen comments.
Donna Peck- Sunset Oaks
Cathy Stein- 2622 Clover Lane
2. Mayor and Council comments.
3. Resolution 08-22, Departmental Reports, March Financial
On motion by Mayor Pro tem Snodgrass, seconded by Councilman Loe, by a vote of 3 ayes and 0 nays, it was:

RESOLVED, that the Departmental Reports and March 2008 Financial Reports be approved and placed in the records of the city

4. Resolution 08-23, Minutes of March 20, 2008 Meeting.
On motion by Councilman Loe, seconded Mayor Pro tem Snodgrass, by a vote of 3 ayes and 0 nays, it was:

RESOLVED, that the minutes of the regular meeting of the City Council held on March 20, 2008, be approved and placed in the records of the city.

Tabled Item from Previous Meetings

5. **Public Hearing:** Plat Revision.
Applicant: John Anton
Location: 3623 Wooded Creek Circle
Property Description: Lot 12R, Block 1 & Tract 3B, Wooded Creek Estates
Zoning: Single Family SF-1
No action was taken.

Public Hearings and Action

Action Items:

6. Presentation by City Financial Advisor
Jim Sabonis, Southwest Securities gave presentation. No action was taken.
7. City Hall Facilities Review
No action was taken

Councilman Pettke joined the meeting at this point at 7:38 p.m.

8. Resolution 08-24, Solid Waste Disposal Service Contract with Duncan Disposal
On motion by Mayor Pro tem Snodgrass, seconded by Councilman Loe, by a vote of 4 ayes and 0 nays, the following resolution was approved:

RESOLUTION NO. 08-24

A RESOLUTION AUTHORIZING THE EXECUTION OF AN AMENDMENT TO THE MARCH 1, 2005 CONTRACT WITH DUNCAN DISPOSAL FOR SOLID WASTE COLLECTION.

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

1.

That the Mayor is hereby authorized to execute an amendment and modification to that certain agreement with Duncan Disposal for solid waste collection heretofore entered into and effective on March 1, 2005, **a copy of the amendment to the agreement being appended to this resolution.**

2.

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

3.

That the amendment shall be in effect on May 1, 2008 or upon its execution by the parties, whichever is later in time.

9. Ordinance 08-04, Amendment to Chapter 3.3 of City Code concerning solid waste collection rates
On motion by Councilman Wallace, seconded by Councilman Pettke, by a vote of 4 ayes and 0 nays, the following ordinance was adopted:

Ordinance 08-04

AN ORDINANCE AMENDING SECTION 3.3.05 OF CHAPTER 3, PERMIT AND SERVICE FEES, OF TITLE 3, REVENUE AND FINANCE, OF THE CODE OF THE CITY OF DALWORTHINGTON GARDENS, BY AMENDING E., MISCELLANEOUS, PARAGRAPH (4), SOLID WASTE COLLECTION, PRESCRIBING RATES FOR SOLID WASTE COLLECTION AT RESIDENCES; REPEALING ORDINANCES IN CONFLICT HEREWITH; MAKING THIS ORDINANCE CUMULATIVE OF OTHER ORDINANCES OF THE CITY NOT IN CONFLICT HEREWITH; PRESCRIBING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION; AND, NAMING AN EFFECTIVE DATE.

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

1.

That the first sub-paragraph of paragraph (4), Solid Waste Collection, of Sub-section C, Miscellaneous, of Section 3.3.05, Schedule of Fees and Charges, of Chapter 3.3, Permit and Service Fees, of Title 3, REVENUE AND FINANCE, of the Code of the City of Dalworthington Gardens be amended so that hereafter the same shall be and read as follows:

Residential pickup, per month per dwelling unit	\$7.02
Residential subscription recycling, per month Per dwelling unit	\$3.29

Rates for services billed and collected by a city contractor shall be as provided in the City's contract therefor.

2.

That this ordinance shall repeal any provision of prior ordinances in conflict herewith, but is hereby made cumulative of all other ordinances of the City not in conflict herewith.

3.

That any person violating any provision of this ordinance shall be guilty of a misdemeanor and shall, upon conviction, be fined in an amount not more than \$500.00.

4.

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

5.

That this ordinance shall be in full force and effect and the rates herein provided shall be effective for the first complete billing cycle from and after the date of its passage and publication.

10. Ordinance 08-05, Amendment to Chapter 3.3 of City Code concerning sanitary sewer rates

On motion by Mayor Pro tem Snodgrass, seconded by Councilman Wallace, by a vote of 4 ayes and 0 nays, the following ordinance was adopted:

Ordinance 08-05

AN ORDINANCE AMENDING SECTION 3.3.05 OF CHAPTER 3, PERMIT AND SERVICE FEES, OF TITLE 3, REVENUE AND FINANCE, OF THE CODE OF THE CITY OF DALWORTHINGTON GARDENS, BY AMENDING C., WATER AND SEWER, PARAGRAPH 5, SEWER SERVICE RATES; PRESCRIBING RATES FOR SEWER SERVICE IN THE CITY; REPEALING ORDINANCES IN CONFLICT HEREWITH; MAKING THIS ORDINANCE CUMULATIVE OF OTHER ORDINANCES OF THE CITY NOT IN CONFLICT HEREWITH; PRESCRIBING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION; AND, NAMING AN EFFECTIVE DATE.

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

1.

That paragraph (5), Sewer service rates, of sub-section C, WATER AND SEWER, of Section 3.3.05, Schedule of Fees and Charges, of Chapter 3.3, Permit and Service Fees, of Title 3, REVENUE AND FINANCE, of the Code of the City of Dalworthington Gardens be amended so that hereafter the same shall be and read as follows:

(5) Sewer service rates

The following rates per month, based upon water consumption, shall be the rates charged for sewer service furnished to the customers within the corporate limits of the City:

<u>Gallons of water</u>	<u>Residential rate</u>	<u>Commercial rate</u>
First 2000 gallons (minimum)	\$13.00	\$26.00
Over 2000 gallons (per 1000 gallons) (Maximum 13000 gallons charged)	2.05	2.05

In all cases where more than one residential or commercial unit is supplied sewer measured through a single meter, not less than the minimum charge herein above provided shall be made for each such unit supplied through such meter, multiplied by amount of minimum.

2.

That this ordinance shall repeal any provision of prior ordinances in conflict herewith, but is hereby made cumulative of all other ordinances of the City not in conflict herewith.

3.

That any person violating any provision of this ordinance shall be guilty of a misdemeanor and shall, upon conviction, be fined in an amount not more than \$500.00.

4.

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

5.

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

11. Resolution 08-25, Three way contract for JMA Arkansas Lane Commercial Buildings
On motion by Mayor Pro tem Snodgrass, seconded by Councilman Pettke, by a vote of 4 ayes and 0 nays, it was:

RESOLVED, that the Three way contract for JMA Arkansas Lane Commercial Buildings be approved and placed in the records of the city.

12. Resolution 08-26, Engineering study for Pond Aeration
On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 4 ayes and 0 nays, it was:

RESLOVED, that the engineering study for pond aeration be authorized and placed in the records of the city.

13. Ordinance 08-06, Water Conservation Ordinance
On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 4 ayes and 0 nays, the following ordinance was adopted:

Ordinance 08-06

AN ORDINANCE OF THE CITY OF DALWORTHINGTON GARDENS AMENDING TITLE 13: PUBLIC SERVICES, OF THE CITY CODE, BY AMENDING CHAPTER 13.4, WATER AND SEWER, 13.4.65 THEREOF PROVIDING FOR LAWN AND LANDSCAPE IRRIGATION RESTRICTIONS; REQUIRING RAIN SENSING DEVICES AND FREEZE GAUGES; PRESCRIBIN ADMINISTRATIVE FEES FOR VIOLATIONS OF THE RESTRICTIONS; MAKING THIS ORDINANCE CUMULATIVE OF OTHER ORDINANCES ON THE SUBJECT; PROVIDING FOR SEVERABILITY; PRESCRIBING A PENALTY FOR VIOLATIONS HEREOF; PROVIDING FOR PUBLICATION; AND, NAMING AN EFFECTIVE DATE.

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

1.

That CHAPTER 13.4, WATER AND SEWER, OF TITLE 13: PUBLIC SERVICES, of the Code of the City be amended by amending 13.4.65 thereof so that hereafter it shall be and read as follows:

13.4.65 Lawn and landscape irrigation conservation

A. Lawn and landscape irrigation restrictions

(1) Except for hand watering and the use of soaker hoses, a person commits an offense if that person irrigates, waters or causes or permits the irrigation or watering of any lawn or landscape located on premises owned, leased or managed by that person between the hours of 10:00 a.m. and 6:00 p.m.

(2) A person commits an offense if he knowingly or recklessly

irrigates, waters or causes or permits the irrigation or watering of a lawn or landscape located on premises owned, leased or managed by the person in a manner that causes:

(a) a substantial amount of water to fall upon impervious areas instead of a lawn or landscape, such that a constant stream of water overflows from the lawn or landscape into a street or other drainage area; or

(b) an irrigation system or other lawn or landscape watering device to operate during any form of precipitation.

(3) A person commits an offense if, on premises owned, leased or managed by that person, he operates a lawn or landscape irrigation system or device that:

(a) has any broken or missing sprinkler head; or

(b) has not been properly maintained in a manner that prevents the waste of water.

(4) Affirmative defenses

(a) It shall be an affirmative defense to prosecution of an offense under this section that at the time such person irrigates, waters or causes or permits the irrigation or watering of any lawn or landscape, such activity was for the purpose of:

(i) establishing hydromulch, grass sod or grass seed;

(ii) dust control of a sports field; or

(iii) for the maintenance, repair or testing of an irrigation system.

Such activity described in (4)(a) may be an affirmative defense to prosecution only if the activity occurred for a period of thirty consecutive days or less. After the thirtieth consecutive day of such activity, a person who irrigates, waters or causes or permits the irrigation or watering of any lawn or landscape in violation of this section shall be subject to administrative fees and criminal penalties.

(5) Exceptions to prosecution It shall be an exception to prosecution of an offense under this section if a person who irrigates, waters, or causes or permits the irrigation or watering does so by use of an alternative water source such as a well, reclaimed or reused water, or water from a flowing stream in the city, if that person has:

- (a) Registered such alternative water source with the City;
- (b) Provided sufficient proof to the city administrator that the alternative water source is from a well, reclaimed or reused water or from a flowing stream in the city and has allowed inspection by the city administrator if deemed necessary; and
- (c) Complied with the city's codes and ordinances pertaining to backflow and cross-connection control.

B. Rain sensing devices and freeze gauges

- (1) Any commercial or industrial customer class irrigation system installed within the City on or after July 1, 2006 must be equipped with rain and freeze sensors.
- (2) Any commercial or industrial customer class irrigation system installed before July 1, 2006 may not be operated after June 1, 2007 without being equipped with rain and freeze sensors.
- (3) The potable water supply to lawn irrigation systems shall be protected against backflow in accordance with the City's code provisions applicable thereto. All rain and freeze sensors for commercial customer class irrigation systems shall undergo annual inspection and testing concurrent with applicable code requirements.
- (4) Any residential customer class irrigation system installed within the City on or after June 1, 2007 must be equipped with rain and freeze sensors.
- (5) It shall be unlawful for any person to knowingly or recklessly install, operate or cause or permit the installation of or the operation of an irrigation system in violation of the provisions of this section on premises owned, leased or managed by that person.

C. Essential services The governmental use of water for essential services such as police, fire and emergency services what are necessary to preserve or protect the health, safety and welfare of the citizens of the City are exempt from any and all restrictions or mandates set forth in 13.4.65.

D. Administrative fees

(1) The city administrator may assess an administrative fee, in addition to any criminal penalty assessed for a violation of 13.4.65 as described below. Each day that a violation occurs shall constitute a separate violation.

(a) In-ground irrigation system violations.

(i) The city administrator may install a locking device on a double check valve to the irrigation system found to be operating in violation of 13.4.65 and shall assess an administrative fee as approved by the city council.

(ii) Notice shall be left on the premise to advise the owner/operator that the double check valve to the irrigation system has been turned off; and

(iii) Notice shall be sent by United States Postal Service to the person recorded as the city's water customer at the premise, notifying that person that the irrigation system has been turned off and locked. The notice shall also state the amount of the assessed administrative fee and shall advise the person of the procedures for payment of the fees and the procedure to request a hearing to contest the assessment of the administrative remedy.

(b) Violations for systems without double check valves or in-ground irrigation systems.

(i) The city administrator shall leave notice on the premise to advise the owner/operator that the person was in violation of watering restrictions and may assess an administrative fee as approved by the city council.

(ii) Notice shall also be sent by United States Postal Service to the person recorded as the city's water customer at the premise, notifying that person of the assessment of administrative fees and advising the person of the procedures for payment

(iii) of the fees and the procedure to request a hearing to contest the assessment of the administrative remedy.

- (c) It shall be unlawful for any person to tamper with, cause damage to or remove a locking device placed on a check valve by the city administrator.
- (2) Procedures for payment of administrative fees or requesting a hearing thereon shall be as follows:
- (a) A person assessed an administrative fee who wishes to re-establish service to the irrigation system is required to make payment of the assessed fee.
 - (b) A person may request a hearing to protest the assessment of an administrative fee, by making a request in person to the water department within fifteen (15) business days from the date on the written notice of violation. If a locking device was installed, it shall remain in place until the conclusion of the hearing and payment of any required fee.
 - (c) The city administrator shall act as the hearing officer and shall evaluate all information offered by the petitioner at the hearing. The petitioner shall bear the burden of proof to show by a preponderance of the evidence why the administrative fee should not be assessed. The hearing officer shall render a decision at the time of the hearing or within three (3) business days following conclusion of the hearing.
 - (d) Payment of any fees assessed at the hearing must be made within seven (7) business days after the decision made pursuant to the hearing. Any fees not paid within such time period shall be added to the customer's next water service bill.
 - (e) A person may elect to pay the administrative fee without requesting a hearing. Any fees not paid within fifteen (15) business days from the date of the written notice shall be added to the person's next water service bill.
- (3) The locking device shall be removed by the city within three (3) business days after payment is received by the city from the customer.

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.

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

14. Resolution 08-27, Appoint Hearing Judge for Automated Traffic Enforcement
On motion by Mayor Pro tem Snodgrass, seconded by Councilman Pettke, by a vote of 4 ayes and 0 nays, it was:

RESOLVED, that Judge Roy Kurban be appointed Hearing Judge for automated traffic enforcement.

15. Resolution 08-28, Municipal Setting Designation 924 East Park Row Drive
On motion by Councilman Pettke, seconded by Councilman Loe, by a vote of 4
ayes and 0 nays, the following resolution was resolved:

Resolution No. 08 - 28

A RESOLUTION IN SUPPORT OF THE APPLICATION OF KOOS & ASSOCIATES, INC. ON BEHALF OF JP MORGAN CHASE BANK, N.A. FOR THE EULA PILAND TRUST AND THE KAY KING THOMAS TRUST TO THE CITY OF ARLINGTON, TEXAS AND THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY FOR A MUNICIPAL SETTING DESIGNATION ON A STRIP SHOPPING CENTER AT 924 EAST PARK ROW IN THE CITY OF ARLINGTON.

WHEREAS, Chapter 361, Subchapter W, of the Texas Solid Waste Disposal Act authorizes the Texas Commission on Environmental Quality (TCEQ) to certify Municipal Setting Designations for properties upon receipt and approval of a properly submitted application to TCEQ; and

WHEREAS, as a part of the application to TCEQ for a Municipal Setting Designation, the applicant is required to provide documentation that the application is supported by: (1) the city council of the municipality in which the Site is located, (2) the city council of each municipality with a boundary located not more than one-half mile from the Site, (3) the city council of each municipality that owns or operates a groundwater supply well located not more than five miles from the Site, and (4) the governing body of each retail public utility, as defined by Section 13.002, Texas Water Code, that owns or operates a groundwater supply well located not more than five miles from the Site; and

WHEREAS, the Applicant has filed or is filing an application with the City of Arlington, Texas, and the TCEQ for the issuance of a Municipal Setting Designation ordinance for the following described property (the Site): a portion of a strip shopping center located at 900-930 East Park Row in the City of Arlington, Tarrant County, and being the same property that is the subject of VCP No. 935, as shown on Figure 1 attached hereto and incorporated herein; and

WHEREAS, the Site is within 5 miles of the boundary of the City of Dalworthington Gardens; and

WHEREAS, following the issuance of an MSD ordinance by the City of Arlington and each additional municipality and retail public utility for which approval is required, Applicant will submit to TCEQ an application for certification of a Municipal Setting Designation for the Site pursuant to Texas Health and Safety Code, Chapter 361, Subchapter W;

NOW THEREFORE

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

That the City supports Applicant's application to the TCEQ for certification of a Municipal Setting Designation for the Site.

16. Resolution 08-29, Purchase of Fire Engine Equipment

On motion by Councilman Loe, seconded by Councilman Wallace, by a vote of 4 ayes and 0 nays, it was:

RESOLVED, that the purchase of fire engine equipment be approved and placed in the records of the city, not to exceed an amount of \$47,928.00

17. Resolution 08-30, Fire Bay Door Construction

On motion by Councilman Loe, seconded by Councilman Wallace, by a vote of 4 ayes and 0 nays, it was:

RESOLVED, that the construction of the fire bay doors be authorized and placed in the records of the city.

18. Resolution 08-31, Joint Election Agreement & Contract For Election Services with Tarrant County

On motion by Councilman Pettke, seconded by Councilman Wallace, by a vote of 4 ayes and 0 nays, it was:

RESOLVED, that the Joint Election Agreement & Contract For Election Services with Tarrant County be executed and placed in the records of the city.

19. NCTCOG Request for Nominations

- a. 2008-2009 Executive Board
- b. Annual Linda Keithley Award
- c. William J. Patrick Award
- d. Regional Cooperation Award

No action was taken.

FUTURE AGENDA ITEMS

ADJOURN

On motion by Councilman Wallace, seconded by Councilman Pettke, the meeting was adjourned by unanimous vote at 9:10 p.m.