

**Dalworthington Gardens City Council
Meeting Minutes
July 18, 2019**

Work Session – 6:05 P.M.

1. Call to Order

Mayor Pro Tem Ed Motley called the July 18, 2019 City Council Meeting to order at 6:05 p.m. with the following present:

Members Present:

Mark McGuire, Alderman, Place 1
Guy Snodgrass, Alderman, Place 2
Cathy Stein, Alderman, Place 3
Ed Motley, Mayor Pro Tem, Place 4
Joe Kohn, Alderman, Place 5

Members Absent:

Laura Bianco, Mayor

Staff Present:

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

2. Work Session

- a. **Texas Parks and Wildlife Small Community Grant**
- b. **Purchasing Policy Manual**
- c. **Accessory building ordinance**
- d. **Hemingsfords gate**
- e. **Review remaining agenda items**

The following items were discussed during the Work Session: the Texas Parks and Wildlife Small Community Grant, Purchasing Policy Manual, and the Hemingsfords gate.

Regular Session – 7:00 P.M.

The Regular Session started at 7:03 p.m.

1. Invocation and Pledges of Allegiance

Ed Motley gave the invocation. Pledges were said.

2. Items of Community Interest

The following items were presented.

- **Ice Cream Social – July 20, 6:30 p.m. to 8:30 p.m.**
- **Movie in the Park – July 20 at 8:45 p.m.**

- **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

1. Lora Berrong, 3312 Roosevelt Drive: Spoke in favor of the proposal on the agenda from the Park Board as it relates to the safety concerns of current playground equipment.
2. Jim Robinson, 4111 Carnation: Spoke to the need for increased publication of the upcoming Movie in the Park event.

4. Mayor and Council Comments

- **Mark McGuire**: Thanked those in the audience who attended the meeting.
- **Guy Snodgrass**: Thanked those in the audience who attended the meeting.
- **Cathy Stein**: Thanked those in the audience who attended the meeting.
- **Mayor Pro Tem Ed Motley**: Thanked those in the audience who attended the meeting. Told those in attendance to get some good ice cream at the upcoming Ice Cream Social, and also told them not to overheat when outside during the event.
- **Joe Kohn**: Thanked those in the audience who attended the meeting.

5. Departmental Reports

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

Departmental Reports were presented.

6. Consent Agenda

- a. **Approval of Ordinance No. 2019-05 ratifying changes to the City of Dalworthington Gardens Code of Ordinances, Chapter 14, Zoning, to permit brewpubs and wineries by special exception in the B-2 business district, B-3 business district, and the light industrial district; and to permit brewpubs and wineries by specific use permit in the mixed use overlay district.**
- b. **Approval of Resolution No. 2019-23 ratifying changes to the Comprehensive Financial Policy.**
- c. **Consider approval of Ordinance No. 2019-09 ratifying changes to the City of Dalworthington Gardens Code of Ordinances, Appendix A Fee Schedule, Article A4.000 “Water and Sewer Service” to increase sewer and water rates.**

A motion was made by Council Member Mark McGuire and seconded by Council Member Joe Kohn to approve items a. and c. on the Consent Agenda, but to pull off item b. for individual consideration.

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.

Background information on this item: Since the Council has officially accepted the petition from the Hemingsfords, below are the next steps in the process as detailed by the City's attorney. Below each bullet point are notes about the status of each item.

- The City must determine whether there are any utilities within the right-of-way so that the appropriate determinations may be made regarding any utility easements that may be needed once the roads are abandoned and vacated.

Although city utility maps are not as accurate as they should be, staff did walk the area to try to determine location of utilities. The first attachment details where staff believes utilities are located along the property.

- The streets must be surveyed to accurately determine the portion to be conveyed to each abutting property owner. Those costs, along with costs of appraisal, should be paid by either the HOA or the abutting property owners.

The Hemingsfords HOA has provided a survey which is attached. When determining the type of survey needed, the city's former engineer, Dick Perkins, was consulted (as he was originally helping staff with this project), and below is what he recommended for the survey. The Hemingsfords have accomplished what Mr. Perkins suggested:

Hemingsfords option presented: to survey the current public portion of Hemingsford and Gatwick and then use that survey for the city to abandon those roadways and dedicate utility and drainage easements in such roadways and convey such roadways to the HOA in a single step (actually two, as there would be one document for Hemingsford and one for Gatwick).

Mr Perkins response: This is quite satisfactory and the easiest to prepare. As I have mentioned before, it would be helpful for their engineer, in the preparation of the required easements, if the City could provide construction plans for this subdivision to them that shows the location of all water, sewer, and drainage facilities in those streets. If those are unavailable, there are two options: (1) have the engineer tie down the utility lines by survey in the field, or (2) call Carol Shugart at TNP to see if they still have those plans in their archives. They probably don't due to the age of the project, but it may be worth a call. I can call her if you want me to. BTW, she lives in the Gardens.

- In order to determine the fair-market value of the roadways, an appraisal would need to be conducted. Either the HOA or the abutting property owners would be responsible for this cost.

The HOA is paying for an appraisal to be conducted. The City Secretary will distribute as soon as it's received.

The next steps for the Council are:

1. To decide whether or not to convey the roadways for their fair market value and require payment before proceeding to abandon and vacate the roadways.
2. An ordinance must be passed to officially vacate and abandon the street ROW
3. A quit claim deed must be created by the city attorney which releases the public ownership interest of each of the abutting property owners while retaining any necessary utility easements.

A motion was made by Council Member Joe Kohn and seconded by Council Member Mark McGuire to approve the conveyance of the property at no charge to the Hemingsfords for said property being conveyed.

An amendment to the motion was made by Council Member Mark McGuire and seconded by Council Member Guy Snodgrass to request property owners to bring proposed quit claim deeds for city attorney and staff to review, to have the deeds include language to make whole road a utility easement and to retain any current easements, and to have the homeowners absorb all cost related to the conveyance.

Motion on only the amendment carries by the following vote:

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

Nays: None

Council then voted on the original motion to include the amendment.

Motion on the original motion including the amendment carries by the following vote:

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

Nays: None

b. Discussion and possible action to renew a permit for an advertising sign at 2704 W. Pioneer Parkway in accordance with Section 14.02.423 of the City's Code of Ordinances.

A billboard permit was approved in 2003 for 2704 W. Pioneer Parkway. In accordance with Section 14.02.423 of the City's Code of Ordinances, advertising signs (which include billboards by definition) are permitted by Council approval for a duration of not more than two years. An advertising sign can be a ground or pole sign by current ordinance standards. Although staff did not research how long it has been since this particular permit has come back to Council for approval, staff does know it has not come before Council since at least 2014.

The research of this item was triggered by staff conducting code enforcement practices on the existing sign. As detailed in the attached email thread, staff believes the sign currently violates City Ordinance Sections 3.04.006, 3.04.002, 3.04.011 and then staff found the zoning sections requiring a permit from Council. The sign appears to be constructed entirely of wood materials which is a violation of Section 3.04.012.

Pictures are attached to show Council the current condition of the sign. Staff will not be taking action on the sign until Council has made their decision. If Council is inclined to approve, staff recommends a motion to include the requirement of a permit application as well as payment of the \$500 permit fee as required by city ordinances.

A motion was made by Council Member Mark McGuire and seconded by Council Member Joe Kohn to approve staff's recommendation for a new permit application with the applicable \$500 permit fee.

Council Member Mark McGuire withdrew his motion after more discussion ensued.

A motion was then made by Council Member Cathy Stein and seconded by Council Member Mark McGuire to give the property owner 90 days to come up with a plan for repair or replacement and bring back to Council for approval.

Motion carried by the following vote:

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

Nays: None

c. 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.

A motion was made by Council Member Guy Snodgrass and seconded by Council Member Mark McGuire to continue this item until the next regular meeting.

Motion carried by the following vote:

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

Nays: None

d. Consideration to amend the City of Dalworthington Gardens Code of Ordinances, Chapter 14, Zoning, regarding accessory dwellings.

a. Public hearing

b. Discussion and possible action

Background information on this item: The ordinance being presented does the following:

Section 14.02.092

1. Adds definition for "accessory dwelling"
2. Changes references from "building" to "structure"
3. Adds definition for "accessory storage structure" which clarifies what is already in ordinance section A3.002 (f)(4). A3.002 (f)(4) will be altered with the fee schedule amendments.
4. Adds definition for "cargo container"

Section 14.02.124

1. Changes references from "building" to "structure"
2. Adds regulations for "accessory dwellings"
3. Takes 14.02.171(1) – (3) and adds to this section for simplicity.
 - a. Previously, staff had to look in two separate sections for accessory building regulations. Staff is working to consolidate regulations where possible.
4. Provides, again, clarification on structures 300 square feet or less, which also do not require electricity or plumbing, not needing a permit.
5. Provides regulations to prevent the use of cargo containers for storage.

Section 14.02.171(b)

1. Removing (1) through (3) and moving them to 14.02.124 for easier staff review.
2. Staff will need to work to find a new home for number (4). That change can come back with the final ordinance.

The ordinance with suggested changes was put on the agenda in advance of the Planning and Zoning (P&Z) Commission's review on July 15, 2019. As P&Z suggested additional changes at their July 15, 2019 meeting that would need to come back to them in August, City Secretary Lola Hazel suggested Council continue this until the regular September meeting.

A motion was made by Council Member Cathy Stein and seconded by Council Member Joe Kohn to continue this item until September 19, 2019 at 7:00 p.m.

Motion carried by the following vote:

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

Nays: None

- e. **Consideration to amend the City of Dalworthington Gardens Code of Ordinances, Chapter 14, Zoning, regarding sign standards.**
 - a. **Public Hearing**
 - b. **Discussion and possible action**

While the sign regulations needed to be updated to allow the specific sign requested by the sign company wanting to put a sign at Arkansas/Bowen, the entire ordinance needed to be updated and staff the opportunity to do so. The ordinance has been completely modified and thus is not quite ready. Staff is hoping to present a version for review at the August meeting.

With that said, staff did advertise for public hearings as is required by state law when making zoning amendments (part of the sign regulations are in the zoning ordinance). In order to avoid another publication and the additional cost, both the Planning and Zoning Commission and City Council are allowed to officially table the agenda item to a specific date and time. The motion needs to include the specific date and time at which the Council would discuss the item.

A motion was made by Council Member Cathy Stein and seconded by Council Member Mark McGuire to continue this item until September 19, 2019 at 7:00 p.m.

Motion carried by the following vote:

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

Nays: None

- f. **Discussion and possible action to approve an amendment to Attachment B (Fee Schedule) of the Standard Professional Services Agreement for Bureau Veritas North America, Inc. specifically pertaining to permit fees for residential construction.**

Background information on this item: House Bill 852, which was signed by the governor on May 21 and effective immediately, prohibits cities from calculating their residential building permit fees on the cost of a proposed residential structure or improvement. The city uses Bureau Veritas as a third-party plan reviewer and inspector as needed for permits. They have modified their fees to fit the new House

Bill requirements as they serve a lot of cities who will need to modify their fee schedules. Thus, they have provided an amendment to their contract for the city to approve.

Staff has mirrored their amounts plus a 20% upcharge to our fee schedule amounts which will be presented in the next agenda item.

A motion was made by Council Member Mark McGuire and seconded by Council Member Cathy Stein to approve an amendment to Attachment B (Fee Schedule) of the Standard Professional Services Agreement for Bureau Veritas North America, Inc. specifically pertaining to permit fees for residential construction.

Motion carried by the following vote:

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

Nays: None

- g. Consider approval of an ordinance making changes to the City of Dalworthington Gardens Code of Ordinances, Appendix A Fee Schedule, making changes to residential permitting costs as well as various other areas of the fee schedule.**

Background information on this item: House Bill 852, which was signed by the governor on May 21 and effective immediately, prohibits cities from calculating their residential building permit fees on the cost of a proposed residential structure or improvement. Thus, the city's fee schedule needs to be updated to reflect the new requirements. As the entire fee schedule needed an update and not just residential fees, staff will be presenting the fee schedule in two phases. Tonight's review will include simple updates along with the changes for residential fees, as well as a change to simplify the commercial fee section. The last sections of the fee schedule will come to council in August for approval.

Since the House Bill changes were effective immediately, it is possible the city will need to go back and calculate refunds for permits charged for valuation that are now being charged by square footage. Thus, the hurried need to approve this first portion as quickly as possible.

Council should be aware that there are differing opinions on whether or not multifamily construction should be considered "residential" and thus requiring the square footage requirements. Staff feels it is necessary to follow Bureau Veritas interpretation as to avoid a billing nightmare, but also, and more importantly, staff feels there is little risk at this time of following their interpretation as only one multi-family zoned area exists in the city and they aren't often pursuing any new or additional construction. In discussions with Bureau Veritas, it seemed they are aware of the differing opinions. It is possible more amendments could come from them based on that, but none are expected at this time.

A motion was made by Council Member Guy Snodgrass and seconded by Council Member Joe Kohn to approve the portion of the fee schedule presented with a change of reducing the proposed increase for the fire-related fees from 30% to 20%, and to include an amendment of the contractor list in accordance with current law.

Motion carried by the following vote:

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

Nays: None

- h. Discussion and possible action regarding the continued use of the cul-de-sac on Elkins as of brush dump and public works storage.**

At the May meeting, Council asked that the Park Board research solutions for the brush dumping area on Elkins. The Park Board had a solution ready at their June meeting, but the June agenda was very full so staff waited until July to add it to the agenda.

The Park Board met at their June meeting and came up with suggestions to the dumping issue on Elkins. Their entire recommendation is attached but some suggestions include removal of the existing brush, an education campaign, continuation of city clean up, and additional signage to prevent dumping.

Park Board recommendations are as follows:

- Removal of the accumulated brush, tree stumps and other rubbish is needed a.s.a.p. to discourage illegal dumping. Due to size and volume Republic Services will need to be contracted. After removal, the use of saw horses, rope or flags to temporarily cordon off the area west of Elkins Drive and attachment of illegal dumping notices will educate the citizens that dumping will no longer be tolerated in this area.
- A more permanent stanchion and chain system is another alternative.
- A strong education component is necessary to educate citizens that clean-up days are scheduled yearly and that dumping in that area is illegal. Alternative solutions for brush removal by Republic Services and policy for Arlington City Dump, and a statement of property owner's responsibility should be included. The City can also provide residents with a list of recommended tree service companies. These recommendations can be obtained through NextDoor and can include the name of the person making the recommendation to minimize City liability in making the recommendations.
- Continuation of the city clean-up day is encouraged, and the addition of a spring clean-up would assist residents in removal of debris and hazardous waste. Timely removal of waste after clean-up day is necessary to prevent a return to our current situation. Citizen notice of clean-up days should include education in the temporary nature of the allowed disposal. Staff stated that HHW is available for more frequent pick-up of hazardous waste.
- After removal of all products, regrading (and wishfully thinking -- repaving of the parking lot/turn-around in the future) would further enhance cleanup and signal a change in area usage.
- In case of city-wide storm damage, staff has stated that a couple of containers can temporarily be placed to assist in clean-up operations. Social media notification of date range of this service is necessary.
- We discussed the purchase of a game camera or other video surveillance equipment to help in enforcement of our no dumping signs and ordinances. Chief Petty was consulted about this possibility and replied via email "I spoke with Sherry about this today. We would like to start an "illegal dumping campaign" on social media before we take any focused enforcement action. We can try a game camera, but I am leery of its effectiveness. We have tried game cameras in the past and it's been difficult to catch good footage."
- Move storage of road base, gravel, fill dirt and other city-owned building materials to the area northwest of the gas well, accessed from Arkansas. This area is secured by fence and out of the public eye and allows equipment to move around easily. The existing gravel road can handle truck traffic. Staff is checking to see if the gas company has any restrictions on city use of that road. Gary Harsley has recommended the construction of some barriers to corral the materials similar to that used at Whiz Q Stone and other material suppliers. We have not priced the construction of such storage barriers.

- We discussed using the area by the old water tanks for city material storage on Roosevelt, but we were concerned that trucks could not easily navigate that entrance and that neighbors would not appreciate dumping in that area, just as Elkins Dr. residents do not like the current situation.
- Construction of an enclosed mulch area like the one we formerly had in the area west of city hall that now houses the equipment barn. Our 10-year plan includes the building of such a facility, and the end of Elkins seems logical, as in our 10-year plan there is a proposed community garden in that area. Cyclone fencing and gates (as used before) will help to control spread of the mulch beyond the bins; and trash cans in the area for plastic garbage bags used to transport leaves, etc. for composting, combined with citizen education could make this a workable asset.

A motion was made by Council Member Mark McGuire and seconded by Council Member Joe Kohn to direct staff to do the following:

- Clean up any and all trash from the area
- Clean up city materials to location discussed
- Staff to purchase and place signs as presented
- Staff to come back with quote for stanchions and material needs to barricade the area
- Staff to install sawhorses for immediate use

Motion carried by the following vote:

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

Nays: None

i. Consider approval of Resolution No. 2019-22 amending the City’s Purchasing Policy Manual.

A motion was made by Council Member Mark McGuire and seconded by Council Member Guy Snodgrass to approve Resolution No. 2019-22 amending the City’s Purchasing Policy Manual.

Motion carried by the following vote:

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

Nays: None

j. Discussion and possible action to authorize Oxley Williams Tharp Architects to solicit bids, on the City’s behalf, sealed bids for a general contractor for the construction of a new City Hall building.

Now that OWT has been retained for design and construction services (subject to final approval of contract), the next step is for Council to authorize Oxley Williams Tharp Architects to solicit bids, on the City’s behalf, sealed bids for a general contractor for the construction of a new City Hall building.

A motion was made by Council Member Guy Snodgrass and seconded by Council Member Joe Kohn to authorize Oxley Williams Tharp Architects to solicit bids, on the City’s behalf, competitive sealed proposals for a general contractor for the construction of a new City Hall building.

Motion carried by the following vote:

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

Nays: None

k. Consider approval of Resolution No. 2019-24 amending the Capitalization and Depreciation Policy.

While drafting the Comprehensive Financial Policy, Council made the decision to change the criteria of capitalized fixed assets from only allowing individual items to the ability to aggregate like items. Only items 1 and 2 have been changed.

Original Wording

The City of Dalworthington Gardens will regard fixed assets as capitalized when all of the following criteria are met:

- (1) Assets purchased, built, or leased have useful lives of two (2) years or more.
- (2) The cost of the asset (including installation) is \$5,000.00 or more. Aggregation of like items is discouraged unless the effect of not allowing grouping of similar items (e.g., desks and tables), would be to eliminate a significant portion of total capital assets (e.g., books of a library district).

New Wording

The City of Dalworthington Gardens will regard fixed assets as capitalized when all of the following criteria are met:

- 1) Tangible capital items should be capitalized only if they have an estimated useful life of two (2) years or more following the date of acquisition or significantly extend the useful life of the existing asset and cannot be consumed, unduly altered, or materially reduced in value immediately by use and have a cost of not less than \$5,000 for any individual item or group of items (i.e.: desks, chairs, etc.).
- 2) The capitalization threshold of \$5,000 will be applied to individual items or to a group of similar items (i.e.: desks, chairs, etc.).

A motion was made by Council Member Mark McGuire and seconded by Council Member Joe Kohn to approve Resolution No. 2019-24 amending the Capitalization and Depreciation Policy.

Motion carried by the following vote:

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

Nays: None

I. Discussion and possible action to hire Planning Concepts to submit an application, on behalf of the City, for the Texas Parks and Wildlife Small Community Grant which is due October 1.

Background information on this item: The Park Board would like the city to pursue the Texas Parks and Wildlife Small Community Grant of which application is due October 1. The Park Board has recommended hiring Planning Concepts to submit the application on behalf of the city. The Park Board has requested quotes for equipment to include in the grant proposal, but that amount would be budgeted in next fiscal year and discussed and approved at a later date. The grant writer, Planning Concepts, would be paid out of this budget year since the application is due October 1.

A motion was made by Council Member Cathy Stein and seconded by Council Member Joe Kohn to approve an amount not to exceed \$2,500 to hire Planning Concepts to file a grant application, on the City's behalf, for the Texas Parks and Wildlife Small Community Grant of which application is due October 1.

Motion carried by the following vote:

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

m. Approval of Resolution No. 2019-23 ratifying changes to the Comprehensive Financial Policy.

This item was pulled from Consent Agenda.

Staff informed Council of a few additional changes needed. Those changes are as follows:

Section I(B)(2) – strike “budget adjustment” wording

Page 20 – L, Arbitrage: The city will “meet”...

Packet page 13 D2C – “purchases” struck

Packet page 11 – D, Tax Rate – do they get both? Drive by ordinance according to Cara – allow staff to review ordinance and change accordingly.

A motion was made by Council Member Guy Snodgrass and seconded by Council Member Mark McGuire Guy to approve Resolution No. 2019-23 ratifying changes to the Comprehensive Financial Policy, subject to the above changes.

Motion carried by the following vote:

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

Nays: None

8. City Administrator Items

The following items were presented.

- a. Project Updates**
- b. TCEQ Updates**

9. Executive Session

- a. Recess into Executive Session in accordance with Government Code, Section 551.071, consultation with attorney, to wit: possible claim/litigation – Wairimu**

Council recessed into Executive Session at 9:27 p.m. in accordance with Government Code, Section 551.071, consultation with attorney, to wit: possible claim/litigation – Wairimu

- b. Reconvene into Regular Session for discussion and possible action regarding possible claim/litigation – Wairimu**

Council reconvened into Regular Session at 9:44 p.m. for discussion and possible action regarding possible claim/litigation – Wairimu

No action taken

10. Future Agenda Items

In compliance with the Texas Open Meetings Act, Council Members may request that matters of public concern be placed on a future agenda. Council Members may not discuss non-agenda items among

themselves. In compliance with the Texas Open Meetings Act, city staff members may respond to questions from Council members only with statements of factual information or existing city policy.

1. budget coming up – street repair for committee

11. Adjourn

A motion was made by Council Member Joe Kohn and seconded by Council Member Mark McGuire to adjourn at 9:45 p.m.

Motion carried by the following vote:

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

Nays: None