

**MINUTES OF THE REGULAR MEETING OF THE CITY OF DALWORTHINGTON GARDENS, TEXAS, CITY COUNCIL HELD ON FEBRUARY 16, 2023 AT 6:00 P.M. IN THE COUNCIL CHAMBERS, 2600 ROOSEVELT DRIVE, DALWORTHINGTON GARDENS, TEXAS.**

*While the order of some agenda items may have been changed, the following represents all items discussed and acted upon by the City Council.*

**EXECUTIVE SESSION/WORK SESSION**

**1. CALL TO ORDER**

Mayor Bianco called the meeting to order at 6:01 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  
Mark McGuire, Alderman, Place 5

**Staff Present:**

Lola Hazel, City Administrator  
Greg Petty, DPS Director  
Kay Day, Finance Director  
Gary Parker, Public Works Director  
Gary Harsley, Community Development Director

**2. EXECUTIVE SESSION**

*Any action may be deferred until the 7:00 p.m. Regular Session*

**a. Recess into Executive Session**

City Council recessed into Executive Session at 6:02 p.m.

- i. Pursuant to Government Code, Section 551.074, personnel matters, and Section 551.071, attorney consultation, to discuss fringe benefits for the Public Works Director.**
- ii. Pursuant to Government Code, Section 551.071, attorney consultation, to discuss substandard building procedures.**
- iii. Pursuant to Government Code, Section 551.071, attorney consultation, to discuss sewer repair at 3100 Roosevelt Drive.**

**b. Reconvene into Regular Session for discussion and possible action on:**

City council reconvened into Regular Session at 6:50 p.m. Action was deferred until 7:00 p.m.

- i. Fringe benefits for the Public Works Director.**
- ii. Substandard building procedures.**
- iii. Sewer repair at 3100 Roosevelt Drive.**

**3. WORK SESSION**

**a. Work Session on listed agenda items, if time permits.**

- Survey work with Topographic for water interconnection with the City of Arlington in an amount not to exceed \$5,000.
- Arbitrage rebate calculations.

**REGULAR SESSION**

**1. CALL TO ORDER**

Mayor Bianco called the meeting to order at 7:02 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  
Mark McGuire, Alderman, Place 5

**Staff Present:**

Lola Hazel, City Administrator  
Greg Petty, DPS Director  
Kay Day, Finance Director  
Gary Parker, Public Works Director  
Gary Harsley, Community Development Director

**2. INVOCATION, AND PLEDGES OF ALLEGIANCE**

Mayor Bianco gave the invocation. Pledges were said.

**3. PRESENTATIONS AND PROCLAMATIONS**

**a. Proclamation supporting the Mayor’s Monarch Challenge.**

Mayor Bianco read aloud a proclamation supporting the Mayor’s Monarch Challenge.

**4. ITEMS OF COMMUNITY INTEREST**

The following items were presented.

- a. Great Backyard Bird Count, February 18**
- b. Easter Bunny Event, April 3**
- c. National Night Out, October 4**

**5. CITIZEN COMMENTS**

- Iashia Bergamini, 2812 Whisperwood – Park Board looking to partner with city for annular solar eclipse. They hope to hold a lunch and learn for this, educational event. Looking into trails grant. March 11 doing park work day, looking for volunteers. Working on drafting revisions to the park reservation form and will send to council for consideration.

**6. MAYOR AND COUNCIL COMMENTS**

Mayor Bianco: Recognized Jess Kirchmeier for the wonderful culinary spread she provided for our Business Over Breakfast gathering in December. Thanked Johnny Roth for offering to take anybody in DWG and Arlington wherever they needed to go in the midst of the ice storm. Announced the next Business Over Breakfast meeting will be held on March 1, 2023, 8-9am at Grounds & Gold. Offered condolences for the loss of Chief Bubba Sells who recently passed away. Recognized Finance Director Kay Day and Finance Assistant Doreen Summerall for the GFOA's Certificate of Achievement for Excellence in Financial Reporting.

John King: Offered condolences for the loss of Chief Bubba Sells who recently passed away.

Steve Lafferty: Thanked citizens attending the City Council meeting.

Cathy Stein: Reported on 10 hours provided by park volunteers.

Ed Motley: Offered condolences for the loss of Chief Bubba Sells who recently passed away.

Mark McGuire: Thanked citizens attending the City Council meeting.

## **7. DEPARTMENTAL REPORTS**

*Informational reports only; no action to be taken.*

- a. DPS Report**
- b. Financial Reports**
- c. City Administrator Report**
- d. Public Works Report**

Departmental Reports were presented.

## **8. CONSENT AGENDA**

*All consent items are considered to be routine and will be enacted by one motion and vote.*

- a. Approval of Ordinance No. 2023-02 calling for a general election to be held on Saturday, May 6, 2023 for the offices of Alderman Place 3, Alderman Place 4, and Alderman Place 5.**
- b. Approval of Ordinance No. 2023-03 approving budget amendments for FY 2022-2023.**
- c. Presentation and acknowledgment of budget adjustments.**
- d. Approval of Resolution No. 2023-01 to approve garbage and recycling rates, and authorize the Mayor to sign and accept rates charged by Republic Services.**
- e. Approval of Resolution No. 2023-02 approving placement of a historical marker in the city right-of way near Green's Produce, 3001 W. Arkansas Lane.**
- f. Approval to ratify an emergency purchase from Metro Fire in the amount of \$5,847.79 for repair of a fire engine.**
- g. Approval of Ordinance No. 2023-04 amending the City of Dalworthington Gardens Code of Ordinances, Chapter 12 "Traffic and Vehicles", Section 12.05.002(b) "School Zones", to allow the Director of Public Safety to revise the effective times for school zones.**
- h. Approval of Resolution No. 2023-03 approving an appointment to the Zoning Board of Adjustment.**

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

Motion carried by the following vote:

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

Nays: None

## 9. REGULAR AGENDA

- a. Discussion and possible action regarding an application from Chris Labra with NewGen Printing for a special exception at 2529 W. Arkansas Lane for mobile food units to be on property longer than twenty-four hours in accordance with Section 14.02.321(c)(22) of City ordinances.**

Background Information: A request has been received from Chris Labra with NewGen Printing for a special exception to allow mobile food units to stay on site longer than twenty-four hours. Planning and Zoning met on January 12, 2023 and recommended approval of said request.

Mayor Bianco opened the public hearing at 7:27 p.m.

Todd Batiste, 2808 Broadacres Lane: Spoke in favor of the request.

With no one else desiring to speak, Mayor Bianco closed the public hearing at 7:28 p.m.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member John King to approve an application from Chris Labra with NewGen Printing for a special exception at 2529 W. Arkansas Lane for mobile food units to be on property longer than twenty-four hours in accordance with Section 14.02.321(c)(22) of City ordinances, with the following provisions: a max of six mobile food units with parking approved by code enforcement of at least four spaces per unit, with an annual review required by City Council. No new special exception fee would be required for annual review.

Motion carried by the following vote:

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

Nays: None

- b. Discussion and possible action on a scope of work for Broadacres Lane to include paving and drainage solutions.**

Background Information: At the October 20, 2022 City Council Meeting, council approved to move forward with Broadacres Lane as one of the priority capital improvement projects. The city engineer has provided a memo detailing suggestions for repair, a plan showing pavement repair suggestions, and a spec sheet for the suggested pervious sidewalk solution (open joint pavers). Staff is seeking feedback from council so the plan for repair can be finalized. Broadacres citizens have reached out to staff and may be in attendance at the meeting to hear the proposal along with council's feedback.

The following citizens comments during this item:

- Richard Sherman, 2805 Broadacres Lane: spoke to what the sidewalk would look like. Picture shows a gap on the side, pavers are irregular. Pavers are not designed to be a curb but will act as a curb. People park on the grass so the pavers will be damaged or pushed down. Don't think pavers are substantial enough to act as a curb. How would driveways be handled against the stone pavers.
- Todd Sherman, 2805 Broadacres Lane: Spoke to grading and effects on runoff and said it will fill up and cause issues down the road.

- Bill Beall, 2820 Broadacres Lane: Spoke to problems existing on Broadacres Lane for 30 years. If we get more water, it's going to be more of a problem. City has attempted two times in the past to do something. The foot and vehicle traffic are so low we don't need a sidewalk, we need a new road.
- Allen Harper, 2908 Oak Trail Court: Spoke to flooding issues.
- Todd Batiste, 2808 Broadacres Lane: Spoke to spot paving repairs.
- Rayne Hamby, 2910 Harder Drive: Spoke to the effect of the project on Harder Lane. Paved drainage ditch that runs between properties could not have been built to handle all the water coming down their street. Hopes what council decides would not use that ditch area as a flume to bring more water in their direction.
- Ray Moore, 2814 Broadacres Lane: Spoke to his house getting hammered, three-foot-deep of debris every time it rains.
- John Morris, 2903 Harder Lane: Spoke to water running into Beall's yard at 2820 Broadacres Lane.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to have the city engineer come to the March 20 meeting and provide a presentation to City Council and the public on the Broadacres project.

Motion carried by the following vote:

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

Nays: None

**c. Discussion and possible action to approve survey work with Topographic for water interconnection with the City of Arlington in an amount not to exceed \$5,000.**

Background information on this item: The City would like to receive water from Arlington on the north end to fill the ground storage tank/elevated and to reduce the demand of water from Fort Worth. Staff has met with the city of Arlington who are agreeable to allow connection. The next step is for the city engineer to perform a survey.

A motion was made by Council Member Cathy Stein and seconded by Mayor Pro Tem Ed Motley to approve survey work with Topographic for water interconnection with the City of Arlington in an amount not to exceed \$5,000.

Motion carried by the following vote:

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

Nays: None

**d. Discussion and possible action to direct staff on requesting proposals for arbitrage rebate calculations.**

Background information on this item: With the increase in interest rates and how it could affect possible arbitrage fees, staff reached out to our Bond Counsel, Rudy Segura with McCall, Parkhurst & Horton L.L.P., to inquire about the arbitrage process. Please see the attached memo which provides further detail regarding this matter.

A motion was made by Council Member Mark McGuire and seconded by Mayor Pro Tem Ed Motley to have the Finance Department reach out to the auditors for guidance on calculating the arbitrage rebate.

Motion carried by the following vote:

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

Nays: None

**e. Discussion and possible action to amend the Dalworthington Gardens Code of Ordinances to correct the penalty for delinquent hotel occupancy taxes; and to consider possible exemptions to the city’s portion of said tax for council’s consideration.**

Background information on this item: In preparing the permit application for short-term rentals, it was determined a few additional items need council approval. Below is more information on both penalties and exemptions from state law. The penalty section needs to be corrected in city ordinances and ordinance language is provided in the council packet. Also provided is a list of exemptions for which the city can offer for the local portion of the hotel occupancy taxes. The list of potential exemptions in the Administrative Code (provided) includes religious/charitable/educational organization, diplomatic personnel, and permanent residents (subject to certain criteria). Lastly, both the city’s draft HOT application as well as examples from another city are provided. The city will need to create and finalize both a permit application and a tax report form.

1. **Penalties.** According to the Tax Code, municipalities can levy interest on delinquent hotel occupancy taxes “at the greater of the rate provided by Section 111.060(b) or the rate imposed by the municipality on January 1,2013.” Tex. Tax Code Sec. 351.0042. Section 111.060(b) allows for a rate of interest of “the prime rate plus one percent, as published in the Wall Street Journal on the first day of each calendar year that is not a Saturday, Sunday, or legal holiday.” Additionally, this interest accrues beginning on “the first day after the date due until the tax is paid.” 351.0042(b). Since DWG did not impose an interest rate for delinquent HOT as of January 1,2013, the prime rate calculation in Section 111.060(b) provides the allowable interest rate for delinquent taxes.
2. **Exemptions.** State law provides that federal entities are exempt from payment of HOT and that state governmental entities (or a state officer/employee of a state governmental entity in possession of a state-issued photo ID indicating “EXEMPT FROM HOTEL OCCUPANCY TAX” per Section 156.103(d) of the tax code),are entitled to a refund of the tax paid (and the City must provide the form on which they can claim a refund).These are the only statutorily mandated exemptions from HOT. However, the Texas Administrative Code has a list of exemptions applicable to *only the state portion* of the HOT (See [34 T.A.C. 3.161\(b\)](#)). This list includes religious/charitable/educational organization, diplomatic personnel, and permanent residents (subject to certain criteria). The City can enact exemptions to the local portion of the HOT. Many other cities provide an exemption for individuals staying more than 30 consecutive days (“extended stay occupants”).

A motion was made by Council Member Cathy Stein and seconded by Council Member Mark McGuire to approve to change the penalty as presented.

Motion carried by the following vote:

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

Nays: None

**f. Conduct a public hearing to receive citizen input for the proposed 49th Year Community Development Block Grant.**

Background information on this item: Council approved the 49<sup>th</sup> Year CDBG project at the October 20, 2022 Council Meeting. The project approved was for the reconstruction of the south side of Ambassador Row from Chase Court to Roman Court with associated water line improvements. Staff has submitted the application for the grant. Part of the process for grant consideration is to solicit and show support from citizens for the chosen project. Thus, the reason for tonight’s public hearing. Both Council members and any citizens present are encouraged to provide verbal support for the project as it will be reflected in the minutes.

Mayor Bianco opened the public hearing at 8:35 p.m.

Council Member Cathy Stein: Spoke in support of the project.

Council Member Mark McGuire: Spoke in support of the project.

Council Member Steve Lafferty: Spoke in support of the project.

Council Member John King: Spoke in support of the project.

Mayor Pro Tem Ed Motley: Spoke in support of the project.

Mayor Bianco: Spoke in support of the project.

Iashia Bergamini, 2812 Whisperwood Trail: Spoke in support of the project.

Mayor Bianco closed the public hearing at 8:37 p.m.

**g. Discussion and possible action regarding governing body opposition and/or support for certain proposed legislative bills.**

Background information on this item: At the January 19, 2023 Council Meeting, council requested an item to be placed on the February 16, 2023 agenda to discuss proposed legislative bills. The purpose is to decide whether to provide support or opposition for certain bills, and direct staff to provide resolutions to legislators to recognize the city's position.

- Council wants to oppose bills that reduce or take away our ability to regulate our own finances.
- Council wants to oppose bills that erode DWG's authority to direct development per city standards and govern ourselves.
- Council wants to oppose any bill limiting DWG's ability to lobby the state legislature in any form.
- Council wants to oppose unfunded mandates.
- Council wants to support the 911 tax increase
- Council wants to support additional uses for HOT money
- Council wants to support legal notice cost
- Council wants to support increasing competitive bidding thresholds
- Council wants to support extending the time between street sales tax elections and broadening their use.

A motion was made by Council Member Cathy Stein and seconded by Council Member Mark McGuire to have Council Member Cathy Stein type up a list of bills discussed by City Council and send to Texas Municipal League.

Motion carried by the following vote:

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

Nays: None

**h. Discussion and possible action to set a new meeting date for the regular March council meeting.**

A motion was made by Council Member Mark McGuire and seconded by Council Member John King to change the March meeting date to March 20, 2023.

Motion carried by the following vote:

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

Nays: None

**i. Discussion and possible action regarding amendments to the FY 2021-2022 budget in amounts not to exceed \$10,000.00.**

Not needed or no action taken.

**10. TABLED ITEMS**

- a. Discussion and possible action regarding consideration of bond requirements for oil and gas drilling.

**11. FUTURE AGENDA ITEMS**

None.

**12. ADJOURN**

The meeting was adjourned at 9:14 p.m.