

Dalworthington Gardens City Council  
Meeting Minutes  
March 19, 2020

**WORK SESSION – 6:30 P.M.**

**1. CALL TO ORDER**

Mayor Bianco called the meeting to order at 6:30 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 (phoned in to meeting but not considered a present member)

**Staff Present:**

Lola Hazel, City Secretary  
Greg Petty, DPS Director  
Kay Day, Finance Director

**2. THIRD PARTY INSPECTIONS**

This item was not addressed during the work session.

**3. REMAINING AGENDA ITEMS: If time permits, review remaining agenda items.**

The following item was discussed during the work session.

**8b. Discussion and possible action to approve a return flows water supply contract between The Trinity River Authority of Texas and the City of Dalworthington Gardens.**

*At this time, Council took a short recess at 6:55 p.m. and began the Regular Session at 7:00 p.m.*

*Due to COVID-19/Coronavirus gathering concerns, a lot of items were skipped on the agenda to limit the meeting time for those present and thereby limiting exposure.*

**REGULAR SESSION – 7:00 P.M.**

**1. CALL TO ORDER**

The Regular Session began at 7:00 p.m.

**2. INVOCATION AND PLEDGES OF ALLEGIANCE**

Mayor Bianco gave the invocation. Pledges were said.

**3. ITEMS OF COMMUNITY INTEREST**

This item was not addressed, but the following items were presented on the agenda.

- **Pollinator Garden Work Day – March 21, 9a-12p**
- **Mom Walk in the Park – March 28, 9a-10a**
- **Easter Egg Hunt – April 4, 10a-12p**
- **Day with the Law – April 25**
- **Movie Night in Gardens Park: The Princess Bride – May 16 at 8:30p**
- **Free Fishing Day – June 6**
- **Concert in the Park – June 13 at 7:30p**
- **Ice Cream Social – July 18, 5:30 p.m. to 7:30 p.m.**
- **Concert in the Park – September 19 at 7:30 p.m.**
- **National Night Out – October 6**
- **Trunk or Treat – October 24, 5:30 p.m. to 8 p.m.**
- **Christmas in the Park/Santa Photos – December 6, 3-5 p.m.**
- **Santa Parade – December 23**

#### **4. CITIZEN COMMENTS**

1. D.R. Cummings, 2804 Sunset Lane: spoke to the water bill received and base rates charged for each service.

#### **5. MAYOR AND COUNCIL COMMENTS**

This item was not addressed.

#### **6. DEPARTMENTAL REPORTS**

- a. **DPS Report**
- b. **Park Board Report**
- c. **Financial Reports**
- d. **City Administrator Report**

Departmental Reports were not addressed.

#### **7. CONSENT AGENDA**

- a. **January 16, 2020 Regular Meeting Minutes**
- b. **January 28, 2020 Special Meeting Minutes**
- c. **February 10, 2020 Special Meeting Minutes**
- d. **February 20, 2020 Regular Meeting Minutes**
- e. **February 25, 2020 Special Meeting Minutes**
- f. **Consider approval of a resolution to cancel the May 2, 2020 election.**
- g. **Approval of Ordinance No. 2020-03 approving amendments to the FY 2019-2020 Budget.**
- h. **Approval to designate concerts in Gardens Park taking place on June 13, 2020 and September 19, 2020 as bring your own beverage events which allows possession and consumption of beer and wine at said events, in accordance with Section 1.09.079, City of Dalworthington Gardens Code of Ordinances.**

A motion was made Council Member Cathy Stein and seconded by Mayor Pro Tem Ed Motley to approve the Consent Agenda but excluding item g. which was pulled off for individual consideration.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

#### **8. REGULAR AGENDA**

- a. **FY 2018-2019 annual financial audit.**

- i. Receive FY 2018-2019 audit presentation from BrooksWatson & Co., PLLC.**
- ii. Consider approval of Resolution No. 2020-08 accepting the FY 2018-2019 annual financial audit.**

Background information on this item: In accordance with Chapter 103 of the Local Government Code, the city's auditor, BrooksWatson & Co, will be presenting the audit report for FY 2018-2019. In accordance with the city's policy, Council appointed members to an audit committee that consists of Mayor Bianco, Council Member Joe Kohn, and Council Member Mark McGuire. The audit committee met on March 18 with the auditor to receive detailed information regarding the audit. Copies of the audit were distributed at the March 19 Council Meeting, and BrooksWatson provided a presentation.

A motion was made by Council Member Joe Kohn and seconded by Mayor Pro Tem Ed Motley to approve Resolution No. 2020-08 accepting the FY 2018-2019 annual financial audit.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

- b. Discussion and possible action to approve a return flows water supply contract between The Trinity River Authority of Texas and the City of Dalworthington Gardens.**

Background information on this item: This matter stems from a complaint to TCEQ a while back. TCEQ investigated the complaint, and are enforcing certain regulations requiring the agreement being presented. The options outside of this agreement were much more expensive. The city contracted with Lloyd Gosselink to find a solution, and TCEQ has agreed to the presented contract with the Trinity River Authority (TRA). TRA will sell the city 30 acre-feet of return flows each year to offset evaporation from the lake. The current rate in the contract is \$95 per acre foot. The total comes to \$2,850. This rate will be billed annually to the city by TRA around their fiscal year start date which is December 1, and the rate could increase. The agreement is effective through November 30, 2070.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Joe Kohn to approve a return flows water supply contract between The Trinity River Authority of Texas and the City of Dalworthington Gardens, with the change to remove Article 19 as presented in the packet.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

- c. Consideration of an application from Robert Dorazil for a preliminary plat and a concept plan with a proposed zoning change from B-2 commercial with a mixed use overlay to a commercial planned development with an underlying B-3 commercial zoning for property at the west corner of West Arkansas Lane and South Bowen Road, legally described as Lots 6 and 7, Block 2, Dalworthington Gardens Addition, Tarrant County, Texas, Being 8.15 acres of land situated in the Leonard Randal Survey, Abstract No. 1311.**

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

Background information on this item: An application was received for the corner of Arkansas and Bowen that contained a preliminary plat as well as a planned development concept plan for B-3 commercial underlying zoning uses. The property is currently zoned B-2 commercial with a mixed-use overlay. Staff began work immediately to put the application on agendas and send out proper notice as required by law. A first round of comments was received by the city engineer and sent to the applicant. One of the main issues is the applicant exceeds the impervious coverage requirement for B-3 commercial. As such, the applicant is making substantial changes to the concept plan. The Planning and Zoning Commission (P&Z) met on February 27 as that was the

date sent out in public notices to citizens and surrounding businesses. Because the application was not yet ready for review, P&Z continued the item until their March 24, 2020 meeting. Since March 19 was the date included in public notices for Council's review, the item is still on the agenda but must be continued since P&Z has not yet reviewed or provided a recommendation to Council. More information is being gathered leading up to the March 19 meeting, but at this time, staff's recommendation is for Council to continue the item to the April 16, 2020 meeting at 7:00 p.m.

Mayor Bianco stated the following: the developer has requested an extension because he is substantially changing what the application looks like. He is resubmitting at the beginning of April.

No action was taken.

**d. Discussion about third party contractors, to include but not limited to, going out for bids for third party contractors, and the process of using third party for new builds and large projects.**

**Background information on this item:** This subject is two parts of the same topic. The first part is a request to solicit bids for third party contractors for the city's inspection and plan review needs. The second part is a request to use a third party process whereby applicants could, and in some cases may be required, to use a third party contractor for the entirety of their project. More explanation for each part is provided below.

**Soliciting bids for third party contractors:**

The city's staffed building official does not have the necessary certifications to conduct all inspections required in the city. As such, the city uses a third party for certain inspections due to lack of certification and also, at times, when workloads dictate the need for third party services. The city's building official wears many hats to include but not limited to: fire/life safety inspections, calls/emails from contractors related to ordinance interpretations and permit questions, pre-construction meetings with applicants for permits, assists with plans and other documents sent to city boards for review, and code enforcement practices.

Mr. Liford was hired in 2018 to replace Bureau Veritas as a solution to the delayed responses for plan reviews and permits. The other delay with Bureau Veritas is everything has to be mailed to them for review. Mr. Liford comes in to do inspections as we have them and is paid \$24,000 per year regardless of number of inspections. Since hiring Mr. Liford, there have been lags and issues in what was previously a seamless process. The organization staff once had has suffered, and staff would like to explore other solutions for inspections and also plan review. Recently, Mr. Liford also asked if the city would pay for his insurance costs since we are now his sole employer. With that request and other concerns, staff recommends bids are solicited for third party services.

Staff met with the city of Pantego to compare organizational structure, and they also use third party contractors on an as-needed basis just as we would.

**Third party contractors for permit applicant needs:**

In the past, Dalworthington Gardens (DWG) contracted with Bureau of Veritas (BV) to review and conduct inspections on City-managed projects. DWG would work in concert with BV throughout the project and was ultimately responsible for scheduling, disbursement of resources, plan review and so on. In this process, DWG was held accountable in several areas that were essentially outside staff's comfort level and or control.

The recommendation is to implement a 3<sup>rd</sup> party inspection/review process that puts the customer in control of the whole process with staff serving as the authority having jurisdiction (Building Official, BO). In this process, the City would select four to five companies that would be eligible to conduct plan reviews as well as inspections. The customer would select one of these companies to conduct the review and inspections. Upon filling out a permit with the City, the plans submitted will have already been reviewed through one of these companies. Thus, once the permit is approved, the project will begin immediately with the designated company conducting the inspections. Staff would recommend charging 70% of the current inspection/permitting fees to someone using the third party option.

As outlined above, DWG previously contracted with a 3<sup>rd</sup> party inspection company that was contracted with the City to review and inspect construction projects that were permitted through the City. As a permit was requested, the plans would be processed and mailed to the 3<sup>rd</sup> party to be reviewed. The review would be sent back to staff and the subsequent plans would be mailed back and forth. The comments would be placed on the permit and provided to the customer for review. From this point the customer would initiate the project and/or make changes to the submitted document and resubmit. This process was cumbersome to say the least and numerous complaints were received by staff and council.

To address these issues, staff took a hands-on approach. Utilizing Emergency Reporting (ER), many of the permits are now submitted electronically grossly reducing the paper trail. Plans can be emailed to the City Engineer allowing a one-day plan review. A Certified Building Official (CBO) was contracted to conduct inspections along with Mr. Harsley reducing the cost and time spent waiting on inspections, but that process is not electronic which causes more time and resources to be used by staff. Below we will outline the solutions researched.

### **Option 1**

The first option explored was increasing staff to include a CBO and subsequent inspectors. This would add a significant burden to the City's budget ultimately creating a financial burden. A CBO is a certified inspector that is disciplined in many fields to conduct inspections. Generally, a CBO has a staff of personnel that assist in conducting the permitting inspection process. In smaller cities, a CBO will at a minimum consist of a CBO and a permit technician and possibly an administrative assistant. These personnel will conduct the daily operations of receiving, reviewing, granting, inspecting and finalizing a permit. In some cases, the CBO will serve other needs such as development boards and platting.

After discussing with staff, this option did not seem practical as an increase in staff would be difficult to fund and did not seem like the best utilization of the limited resources.

### **Option 2**

The second option allows an existing staff member with basic construction experience to function as a building official and manage all permits after they have been reviewed by a 3<sup>rd</sup> party organization (TPO). The City will establish a list of TPO's that would be available for our customers to select from when going through the permitting process.

Example: The customer contracts with a TPO off of the city-provided vetted company list. TPO reviews the submitted plans and makes necessary changes working with the customer. Once the plan receives the TPO stamp the customer brings it to the City and initiates the Permit. The BO completes the review of all material and issues the permit. As the customer builds the project the same TPO conducts the inspections and reports directly to the BO. Upon completion of the project the BO conducts a walkthrough of the project verifying all work is completed and fills out the Certificate of Occupancy.

#### **Option 2 Work Flow:**

TPO, approved by the City, who reviews their permit submission and conducts inspections on the project. When the TPO completes the permit application review, all documents are sealed and the builder/contractor brings the documents to the permitting office for processing. The Building Official will review the documents and process appropriately. If a permit is to be issued then a preconstruction meeting shall be held to issue the permit. Upon issuance of the permit the project may commence with the TPO coordinating and conducting inspections. The inspection reports shall be turned into the Building Official for review and tracking purposes. Periodic construction meetings shall be held at City Hall to discuss the status of the project and any issues. The City Building Official shall maintain the official capacity of all process as provided by the ICC Codes.

TPO's exist that have enough resources to have people with the needed certifications and knowledge to review submissions more thoroughly and in compliance with state law than the limited resources of the City allow.

Once a TPO is selected they shall be used for the duration of the project. The building official shall have the only authority to terminate a TPO in writing with due cause. No other TPO shall be authorized with exception of those on the approved list.

This item was not addressed.

**e. 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 to provide an item whereby staff can discuss needs that come up after the agenda posting deadline. These would only be items that, without council approval, would otherwise put operations on hold.

Staff presented information regarding new wands for reading meters.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to approve \$1,000 for the purchase of new wands, and \$5,000 for additional labor to help with meter prep.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

**f. Receive report from Building Committee on progress of RFP #2020-01 for construction of new City Hall building; and possibly take action to set a special meeting date for selection of a contractor.**

Background information on this item: The purpose of this item is to inform council of the progress thus far and to discuss special meeting dates for selecting a contractor. Proposals for RFP #2020-01 were due on February 11 and the city received 15 proposals. As so many proposals were received, it took some time review all of them. The Building Committee met with OWT on March 2 to discuss proposals. No contractors are being ruled out at this time, but more information is being collected and references are being checked. A special meeting will be needed prior to the regular meeting in April for council to select a contractor based on the Building Committee's recommendation.

Council is already meeting on March 24 to begin discussion the Comprehensive Plan but that may be too soon to select a contractor for this project.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to authorize the Mayor to negotiate and approve a contract up to 1.5 million, pending selection of a contractor by the building committee.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

**g. Receive update on Indian Trail project; and possibly take action to provide necessary direction to staff on same.**

Background information on this item: Staff is providing additional photos just so Council can see how large the repair area would be. The reason the area is so large is the alligator cracking. It has cracked over time requiring a large area for repair if the repair is to last. Otherwise, it will just need to be redone again in a shorter amount of time. In addition to the areas shown in the attached pictures, there is an area marked with a blue circle at the corner of Santa Fe Circle and Indian Trail. That area has been cut down in the past so that water will drain into the ditch instead of down the street. The City will need to make repairs to that area again for it to drain properly. Tarrant County is working on a quote and staff will bring it to Council for approval.

No action was taken.

**h. Receive update on Twin Lakes/Twin Springs project; and possibly take action to provide necessary direction to staff on same.**

Background information on this item: Since the February 20 meeting, staff has been working with engineering and Tarrant County on other needs for this project. It has been confirmed a Stormwater Pollution Prevention Plan (SWPPP) will be needed for this project. It also turns out more costs may be needed for moving mailboxes, etc. and staff is working on those specific items. Since Mr. Perkins does do SWPPP, staff reached out to the city's engineering service and they will provide the SWPPP. He will be providing a quote for this and staff should have it for the April meeting. The engineer will be making a site visit and will be working with staff to plan needs for this project. Grading the ditches has been discussed for areas that may not have a formed ditch to help with water flow, but more information is being gathered. If that is decided to be the best option, staff can bring that information to council prior to moving forward. The agreements with Tarrant County would need to be changed to accommodate the additional scope of work.

Tarrant County is running behind on projects because of recent rains, so it is likely our project would start in late August or possibly even later. However, staff wants to line out all project needs in advance and the later start time allows time for this. With that said, staff would also like to request for council to allow the solicitation of bids if certain items, such as moving mailboxes, will reach the cost limit requiring bids by state law.

This item was not addressed.

**i. Discussion and possible action to declare a local disaster.**

The city is a member of the Tarrant County Emergency Management Plan (EMP). As such, the city follows the County's EMP when said EMP contains guidelines more strict than the City's disaster declaration. Mayor Bianco officially declared a local disaster. The declaration included the following guidelines:

1. That a state of disaster and public health emergency is hereby declared for the City of Dalworthington Gardens, pursuant to §418.108(a) of the Texas Government Code.
2. That the state of disaster and public health emergency shall continue for a period of not more than seven days of the date hereof, unless the same is continued by the City Council of the City of Dalworthington Gardens, Texas, pursuant to §418.108(b) of the Texas Government Code.
3. That this declaration of a local state of disaster and public health emergency shall be given prompt and general publicity and shall be filed promptly with the City Secretary, pursuant to §418.108(c) of the Texas Government Code.
4. That the City's Emergency Operations Plan is activated and implemented, pursuant to §418.108(d) of the Texas Government Code.
5. That this declaration authorizes the City to commandeer or use any private property, temporarily acquire, by lease or by other means, sites required for temporary housing units or emergency shelters for evacuees, subject to compensation requirements, pursuant to §418.020(c) of the Texas Government Code.
6. That this declaration authorizes the City to take any actions necessary to promote health and suppress disease, including quarantine, examining and regulating hospitals, regulating ingress and egress from the City, and fining those who do not comply with the City's rules, pursuant to § 122.005 of the Health and Safety Code.
7. That this declaration hereby limits the size of gatherings to no more than 10 people and mandates the cancellation of all such gatherings of more than 10 people until further notice. This declaration does not prohibit gathering of people in multiple, separate enclosed spaces (including separate cubicles) in a single building such as different floors of a multi-level office, residential building, or hotel, so long as 10 people are not present in

any single space at the same time. This declaration also does not prohibit the use of enclosed spaces where more than 10 people may be present at different times during the day, so long as more than 10 people are not present in the same space at the same time. For any gathering covered by this subsection the Mayor of the City of Dalworthington Gardens strongly encourages compliance with the attached recommendations. The uses in Sections 8, 9, and 10 are not considered "gatherings," but are limited or prohibited as provided in sections 8, 9, and 10.

8. That this declaration hereby orders that a restaurant with or without drive-in or drive-through services; drive-in restaurant; drive-through restaurant; or microbrewery, micro-distillery, or winery may only provide take out, delivery, or drive-in or drive-through services as allowed by law.

9. That this declaration hereby orders the closure of a bar, lounge or tavern; commercial amusement; theater; gym; and private club.

10. That this declaration hereby limits the occupancy of the following locations to 50% occupancy as set forth on the business' certificate(s) of occupancy or 125 individuals, whichever is less:

- a. Event Centers;
- b. Hotel Meeting Spaces, and Ballrooms;
- c. Retail Stores;
- d. Convenience Stores; and
- e. Places of Worship.

This 50% occupancy limit does not apply to areas not listed above, including office buildings, government buildings, critical infrastructure such as airport and transit facilities, residential buildings, grocery stores, manufacturing locations, non-profit service providers, homeless and emergency shelters, day cares, and medical facilities.

11. That this declaration hereby authorizes the use of all lawfully available enforcement tools.

12. That this declaration sets forth strong recommendations, attached hereto, for the purpose of mitigating the spread of COVID-19.

13. That this proclamation shall take effect at 12:01am, March 20, 2020.

As stated in #2 above, this declaration is only valid for seven days unless city council extends said declaration.

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Guy Snodgrass to issue a declaration of local disaster to be extended for 45 days from the effective date of March 19, 2020 at 11:59 p.m.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

**j. Discussion and possible action to approve an amendment to the City Purchasing Policy regarding defining an emergency in accordance with definition from the Open Meetings Act.**

Staff determined the existing Purchase Policy provided sufficient guidelines for purchases during an emergency. No action was taken.

**k. Discussion and possible action regarding issuing an order to limit the number of attendees at events in the city limits as recommended by Tarrant County.**

No action was taken



**I. Approval of Ordinance No. 2020-03 approving amendments to the FY 2019-2020 Budget.**

This item was item 7g. on the Consent Agenda which was pulled for individual consideration.

A motion was made by Council Member Cathy Stein and seconded by Mayor Pro Tem Ed Motley to approve Ordinance No. 2020-03 to amend the FY 2019-2020 budget as presented, with the exception of the projected increase in sales tax, keeping the sales tax budgeted at the originally adopted amount.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None

**9. FUTURE AGENDA ITEMS**

Item regarding budget, sales tax.

**10. EXECUTIVE SESSION**

This item was not addressed.

- a. Recess into Executive Session in accordance with Government Code, Section 551.071, consultation with attorney, to wit: operational gas well inspection fees.**
- b. Reconvene into Regular Session for discussion/possible action regarding operational gas well inspection fees.**

**11. ADJOURN**

A motion was made by Mayor Pro Tem Ed Motley and seconded by Council Member Cathy Stein to adjourn at 8:50 p.m.

Motion carried by the following vote:

Ayes: Members Snodgrass, Stein, Motley, and Kohn

Nays: None