

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF DALTON GARDENS JULY 12, 2018
CITY HALL 6:00 PM**

Meeting was called to order by Mayor Roberge.

Mayor Roberge led the pledge.

ROLL CALL:

Present were: Councilmembers Jordan, Smith and Myers. Councilmember Lundy was absent. Also present were Attorney Ken Jacobsen, Rand Wichman, City Planner, Will Herrington, Attorney and Valerie Anderson, City Clerk.

CONSENT CALENDAR: ACTION ITEM

Minutes of the Regular Meeting June 7, 2018 and the Financial Statement from June 1, 2018 to June 30, 2018 and the claims so listed.

Councilmember Smith made a motion to approve the June Minutes and consent calendar as listed on the agenda. Councilmember Jordan seconded the motion. Motion carried.

APPROVAL OF RESOLUTION 2018-04 DESIGNATING RECORDS CUSTODIAN AND ALTERNATE FOR THE CITY OF DALTON GARDENS – ACTION ITEM

Councilmember Myers made a motion to adopt Resolution 2018-04 designating records custodian and alternate for the City of Dalton Gardens. Councilmember Smith seconded the motion. Roll call vote: Councilmember Jordan - yes, Councilmember Myers – yes, Councilmember Smith – yes. Motion carried.

SEWER MANAGEMENT PLAN AGREEMENT (SMPA) DISCUSSION: ATTORNEY JACOBSEN AND JIM KIMBALL

Attorney Ken Jacobsen presented an explanation of the Sewer Management Plan Agreement which the City of Dalton Gardens has with Panhandle Health District. This authorizes PHD to regulate the septic tanks over the aquifer in Dalton, Kootenai County and other surrounding areas. The SMPA has been in effect since about 1978 and is to limit the density of septic systems to no more than one per acre. The five acre tracts are broke down into one acre plats in Dalton. The commercial district is monitored and the parcels are slowly coming off of septic on to City of CDA sewer. The city is required to monitor the residential district to insure that septic tanks are pumped every five years. Mr. Jacobsen read a statement from a representative of PHD stating that the Streeter issue appears to involve a five acre parcel which will be and has been divided into 4 parcels of one acre in size.

Jim Kimball, a resident of Dalton Gardens who's property is next to the Streeter property. He is a past supervisor for the State of Idaho and has worked with the Rathdrum Prairie Aquifer. He is concerned about the density of the septic systems to the aquifer. Councilmember Myers explained that Dalton Gardens is about 2.5 square mile which includes 1055 acres in the city. We are putting sewer in the commercial district and when they are all hooked up that will reduce our septic systems by about 80 to 100 septic tanks. There are not many buildable sites in Dalton at the present time. Currently the Water Association has 1018 water services in Dalton. We track and send out notices for 1074 properties for pumping of septic tanks, so there is room for additional septic tanks in Dalton. We have an ongoing list of offenders who refuse to pump their septic tank.

PUBLIC COMMENT PERIOD

Mayor Roberge thanked everyone for attending the meeting and took the opportunity to answer claims that have been circulating about the city council decision on the Streeter property. A recent handout distributed throughout Dalton Gardens stated that after the decision the city would “not be able to turn

down any future requests” for home on parcels that lack 110 foot of frontage. Council conducted a review of all parcels in Dalton Gardens to determine if any other acreage had been divided prior to the 1975 ordinance and found only 1 – 1.2 acre parcel that might fit within this category. This decision could apply to land only with similar circumstances, would not be automatic and will not allow rampant growth with the city. The handout also stated that the decision would put Dalton “at risk of being required to have sewers and would cost our residents tens of thousands of dollars” each. Our prior discussion concerning the sewage management agreement and confirmation from the Panhandle Health District that we are not at risk as well as the lack of parcels that would be eligible for building confirms that the city will not have to add sewer to Dalton Gardens because of this decision. The council was accused of making the decision “behind closed doors without any public notice or input.” The Streeter case had been in litigation for over 2 years. Issues that are in litigation are by law able to be discussed in executive session to protect the city’s interests. Throughout the litigation we kept the neighbors around the land informed where possible, but since they were not parties to the lawsuit there was some information that could not be divulged. On 5/15/18, I emailed Mr. Crandall informing him that the council was scheduling an executive session on Wednesday, May 30th, 2018 to discuss the status of the lawsuit. This meeting was posted at city hall on Thursday, May 24th, 6 days prior to the meeting. The law requires that a meeting is posted at 48 hours before a meeting of the council. The meeting was also posted on the website. The posting included an action item that stated: Streeter vs Dalton Gardens: Consider options to resolve. The Streeter’s had approached the city and proposed a compromise to eliminate a back acre, pay for their own attorney fees and drop all other claims against the city to settle the suit. This information was not able to be conveyed to anyone other than council due to the pending lawsuit. Council discussed this offer in executive session and then came out into the council chambers and deliberated in a meeting that had been posted well in advance and which was open to the public. The minutes of the 5/30/2018 executive session and council decision were placed online with the council agenda several days prior to the 6/7/18 council meeting were reviewed and approved by council at that meeting which was open to the public. Throughout this process every council meeting was posted as required by law and no decision was made behind closed doors as claimed. Council made this decision with the interest of all Dalton Gardens residents in mind. We had already spent over \$30,000 in attorney fees. If the city had lost the case the citizens of Dalton Gardens would have been exposed to paying for attorney fees, damages and/or continuing litigation that could have amounted to tens or hundreds of thousands of dollars. The council took into consideration the property rights of all landowners as well as the spending of taxpayer’s money in a fiscally responsible manner. The Streeter decision will not allow rampant growth within the city and will not force the city to add a sewer system. The council remains committed to requiring 110 feet of frontage to build in Dalton Gardens as well as keeping sewer out of the residential district.

Mayor Roberge opened the public comment period to the public.

Jeff Crandall – 1764 E. Wilbur Ave. – He stated that he is representing a number of citizens in Dalton who are opposed to the decision on the Streeter Case. His concern is in the issuance of the Non-Conforming Use Certificates, on interior lots which do not have 110 foot of frontage on a dedicated street. They believe that the city has exceeded the authority under the non-conforming use which would allow for interior lots that would not have the street frontage under the zoning ordinance. The non-conforming use is also known as grandfathering. The non-conforming lot must first be a lot that was not in conformity under a zoning ordinance, and must meet specific standards of non-conforming use which include lot area. The Streeter lots were not in conformity with any existing zoning ordinance. They attempted to subdivide the property in 1975 to get ahead of the zoning ordinance #52 which was on the table which would have required every lot in Dalton Gardens to have 110’ of frontage. The method chose was to quick claim four one acre parcels to each of the children. The statute which was in ordinance #52 states that in order for a lot to be grandfathered in to the ordinance and be required to have a street frontage it had to be first created and recorded prior to the effective date of the ordinance. The deeds were created on those lots, but the lots for those deeds were not recorded until a year after the enactment of the ordinance.

So they did not comply with the ordinance #52. He stated that ordinance #52 is a valid ordinance on the books. The Supreme Court action supports the statement of which Ordinance #52 is an ordinance. The lots must be in conformity with the ordinance at some time and the lots were in conformity. Ordinance #52 is valid and the Streeter's did not comply with the ordinance. The plat map was not filed which was required under state law. He is requesting that the City rescind the non-conforming due to the fact that a non-conforming lot must either be too narrow, shallow or not an acre. Also the tax assessments for the property have not been paid properly in the past years. He also stated that the city has had a lack of transparency on the issue and are going to side with one family. Currently the Streeter's have a potential to develop 4 lots, or 3 lots as proposed or 2 lots. He is recommending that the City rescind the non-conforming use certificates.

Ray Craft – 931 E. Wilbur Ave. – He stated that he a member of the traffic committee and that he has been concerned about the speeding traffic in Dalton. He expressed his concern to the problem to add more stop signs at all intersection on Wilbur and also to not have roundabout's on 4th Street. He also stated that the citizens he has spoken to on the budget they are not in favor of art in the city.

Rob Reagan – 6040 N. 17th Street – The SMPA is important and it has to do with density not road frontage. He is in favor the Streeter case and the SMPA should not have anything to do with the case.

Robert Wuest – 7776 N. Mt. Carrol – He stated that he was representing the Dalton Water Association and reported that the chlorine and nitrate levels in the city water are very low and that he sees no risk with the health of the water in Dalton. As long as we follow the SMPA the city should be good on the water.

Susan Supp – 7024 N. 16th Street – She stated that she was not informed of the Streeter Development as she didn't receive any notice due to her property being within the 300' radius of the property in question. She stated that any variance, short subdivision or lot line adjustment need to have notice sent to property owners prior. The property should only have three homes on the parcel.

Jerry Streeter – 7663 N. Valley Street – He stated that he is in charge of putting the estate together for the Streeter family. The 5 acre lots were platted many years ago and now they are working to do 4 lots on the 5 acre plat. The option of 3 lots would also be something to look at on this deal with the lots in the back.

Ron Streeter – 5815 N. 4th Street – He stated he has two acres on 4th Street. He stated that people rent a part of the pasture on 16th Street. It is important to the Streeter's to live on the property that they want to come home to.

Julie Crandall – 1764 E. Wilbur Ave. – She addressed the fact that the lots are not grandfathered lots and are not legal lots. They are unbuildable lots in Dalton Gardens.

Lila Tatum – 7080 Valley Street – She stated that the city needs to enforce the ordinances that are on the books and not let people get away with things in Dalton.

Martin Lanphier – 5711 N. 15th Street – He stated that the city needs to set precedence on the property values in Dalton Gardens.

Vernon Church – 7351 Mt. Carrol – He stated that he believes the city has made an error on the side of the Streeter's to take action and that the city needs to follow the 110' of frontage and the 1 acre requirement. We need to follow the Comprehensive Plan.

Public comment period was closed.

Staff Report – Will Herrington, Attorney for the City of Dalton Gardens – He stated that he has been an attorney for 43 years and has defended many cases. We are dealing with five lots that were created in 1975. The Streeter’s divided knowing that there was an ordinance which was going to take effect. The deeds were recorded in 1975 and the ordinance became effective in 1976. Mr. Crandall said that the non-passage of the ordinance was not challenged for four years. The creation of the five lots was not challenged for forty three years. We have been in court for over a year on the matter. Months ago we moved to dismiss the case because the argument was appealed under the local planning act. The judge said the case should be mediated and the Streeter’s claims have some value and the City position has some legal standing. He said the equity in the case favored the Streeter’s and the law favored the city. We are dealing with 4 lots and the council was concerned with the case dragging on for several years. Powers of the council is to interpret ordinances and to settle litigation.

COUNCIL REPORTS:

Councilmember Smith reported that sand has been put down at the arena warm pen, the round-about has been redone with fertilizer and trimming of bushes. On July 17 the park and arena will be sprayed for weeds and on the 25th of July bark will be put in the flower beds at the park. The arena lower parking lot will be redone by Quality Maintenance for a cost of \$3875. There will be a volunteer picnic meeting on July 19th @ City Hall at 9:30.

Councilmember Myers reported on the progress of the Government Way project. Phase I on the west side is complete and the traffic will be switched to be able to start on the east side of the road. The east side will involve the sewer, storm water drains and sidewalks.

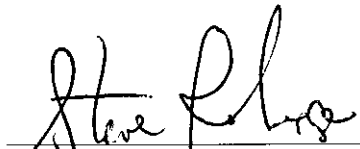
Councilmember Jordan reported that 90% of the signs have been put up in the City. Chip seal will begin on July 30th and 31st in Dalton. We have accepted a bid for striping, bike symbols and crosswalk painting to be done in August. We also received a bid for tree trimming on streets between Dalton Ave and Hanley. New bike lanes will be installed on Deerhaven, Aqua to 4th Street, Colfax, Wilbur to Prairie, Valley Canfield to Prairie, Wilbur from Government Way to Valley.

City Clerk Anderson reported that the next budget workshop will be held on July 23rd @ 5:00 PM in City Hall. The Public Hearing for the budget will be held on August 23th, 2018 @ 5:00 PM. The quarterly treasurer’s reports and quarterly payroll reports are completed. We are working on building permits, business licensing and several Planning & Zoning issues.


Attorney Jacobsen reported that he has been working on several things with the City Planner. He is also working with the Fire Hydrant Agreement which is being worked on with the Dalton Water Association and the City of Dalton Gardens.

City Engineer – No Report
Code Enforcement – Report submitted
City Planner – Report submitted.
Building Inspector – No Report

ADJOURN - Councilmember Jordan made a motion to adjourn the meeting. Councilmember Smith seconded the motion. Motion carried.



Steve Roberge, Mayor



Valerie S. Anderson, Clerk