

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF DALTON GARDENS AUGUST 2, 2018
CITY HALL 6:00 PM**

Meeting was called to order by Mayor Roberge.

Councilmember Jordan led the pledge.

ROLL CALL:

Present were: Councilmembers Jordan, Lundy, Smith and Myers. Also present were Attorney Ken Jacobsen, Will Herrington, Attorney and Valerie Anderson, City Clerk.

CONSENT CALENDAR: ACTION ITEM

Minutes of the Regular Meeting July 12, 2018, Special meeting of July 18, 2018 and July 23, 2018 and the Financial Statement from July 1, 2018 to July 31, 2018 and the claims so listed.

Councilmember Smith made a motion to approve the July Minutes and financial statement as listed on the agenda. Councilmember Jordan seconded the motion. Motion carried.

PUBLIC COMMENT PERIOD

Jim Kimball – 6975 N. 16th Street – He stated that he has been a Dalton Gardens resident since 1974 and worked for the State Health Agency on protecting the Rathdrum Prairie Aquifer in regards to septic and sewer systems. He stated that there is a risk in contaminating the aquifer with septic tanks. He commented on the lots that are less than one acre as having a high density in the soils. He stated that it takes five acres to not have a problem with contaminates.

Jeff Crandall – 1764 E. Wilbur Ave. – He stated that he would like to address comments made by the attorney at the last meeting. The first comment was that the City Council has the power to interpret the city ordinances. He disagreed in that the council has the power to enforce the ordinances as they are drafted. If the council is not happy with the way an ordinance is drafted it has the power to change. In order for lots to be grandfathered in the lots must be created and recorded prior to the enactment of the ordinance. The second note that was made was that the court in the case that being reviewed mentioned that the City had the legal position and the Streeter's had the equity. Equity does not matter in the enforcement of zoning ordinances. He stated that he had provided substantial materials and that State Law on Ordinances #34 & #52 all require street frontage and the Idaho Supreme Court confirmed that Ordinance of #52 prior to the contest which was made by the Streeter's. The ordinances need to be followed in the support to say to the development in the case. We are asking you to rescind the Non-Conforming Use Certificates which were issued by the city and to do so before any additional damages are incurred.

John Minor – 6560 Snowberry Street – He stated that he had read both sides of the case and he had one question. How can a meeting held in secret about a matter of doubtful legality be considered in the public's best interest? What happened to transparency?

Rob Reagan – 6040 N. 17th Street – He stated that Mr. Kimball knows when you need sewer and when you don't. He state in 1978 any plat that was recorded prior to that time did not have to have sewer and did not have to be 5 acres. This family has been in Dalton Gardens all of their life. The land was split up in 1975 and recorded in 1978.

REQUEST FOR RECONSIDERATION: CERTIFICATES ON NONCONFORMING USE ISSUED FOR TWO LOTS ON STREETER PROPERTY

This item is a request by Jeff Crandall for reconsideration of the City's issuance of nonconforming use certificates for two one and one-half acre lots on property owned by the Streeter family.

Attorney Will Herrington explained the background: In 1975 the Jack and Marie Streeter executed four deeds dividing four one acre parcels off of their five acre parcel. It appears that the City and the County recognized these divisions for 43 years. Separate tax bills were sent for the individual parcels. In 2016, Streeter family members contacted the City regarding development of the lots. The City initially required a variance from ordinance requirements. The Streeter's applied for a variance but later withdrew. The City offered a Development Agreement to the Streeter's, but later rescinded the offer before it was signed by the Mayor. The Streeter's appealed the City's refusal to allow development to the court under Idaho's Local Land Use Planning Act. The City and the Streeter's briefed the issues of this matter. The city sought to have the case dismissed. At the hearing the Judge indicated he thought the matter should be settled between the parties. He stated delay a decision thirty days to allow negotiations to settle the case. The Mayor, Councilmember Myers and Attorney Herrington met with the Streeter's and their Attorney. The Streeter's offered to reduce the three non-conforming lots in the rear to two one and one half acre lots. The council in an open and noted meeting voted to give the Streeter's Non-Conforming Use Certificates which settled the litigation. The case has been dismissed by the court.

Mr. Crandall has asked the council to reconsider the decision on the Non-Conforming Use Certificates. The request for reconsideration is consistent with Idaho Code requirements. The council now has this request for reconsideration before it. The council has three options: 1. Do nothing and after 60 days Mr. Crandall may appeal to the court; or 2. the council may grant Mr. Crandall's request, which would interfere with the City's settling the case; or 3. The city can deny Mr. Crandall's request, which would allow him to immediately appeal the council's decision to the court.

Councilmember Lundy stated that she read the definition of conflict of interest has no economic interest in the property, has consulted with counsel and determined that she has no conflict of interest. She stated that she no relationship with the principles, no interest in the property, and that neither her or her family have any economic benefit from the approval. She stated there is no reason that she couldn't make a fair and impartial decision on the matter.

Councilmember Myers stated that this has been a two year process, here is some history. Dalton Garden's partition of land goes back to a 1000 irrigated acres that were established in December 1907 when the Hayden Lake Irrigation Company created and platted the Dalton Gardens irrigation. In the process a series of tracts were created of 5 acres each, approximately 250 were created. The railroad came through the City which is now 4th Street, passenger service into the 1930's, freight service by rail until 1937; Walden Market was a fruit stand in 1940 served by two five acre plots or 10 acres. In 1960 the population of Dalton Gardens was a little over 1000 people and the Village of Dalton Gardens was created. This required signatures of residents that lived in the area. A change in State Law did away with Villages and Dalton Gardens became a City in 1968. While they were a Village they started creating Ordinances and in 1961 Ordinance #4 which Councilmember Myers read to the public was passed. Some of tracts were less than one acre, but allowed you to add in the right-a-way and the easements. Then Ordinance #34 that required front yard setbacks and no requirement for street frontage. The Streeter family had one of these tracts, the tract to the north has five parcels on it and the tract to the south has six parcels. Ordinance #52 was created in 1975. The court can overrule almost anything that is done by the City Council. Ordinance #52 required 110' of frontage on a public street and contained no less than one acre. In March of 1982 Ordinance #84 required filing of plats. Then Ordinance #220 was created and it

speaks to the ability to issue Non-Conforming Use Certificates and was revised in July of 2012. The most recent Ordinance #252 in April 2018, all Ordinances must go through a public hearing process before passage, this ordinance cleaned up a lot of things like lot size, street frontage and lot coverage. There is an exception to regular street frontage and this is addressed in item #3. He stated that he voted in favor of the non-conforming use certificated and still is in favor the certificates.

Councilmember Jordan and Councilmember Smith both stated that they are in favor the certificates.

Councilmember Myers made a motion to deny the request for reconsideration for the Streeter property issue.

Councilmember Jordan seconded the motion. Roll call vote: Councilmember Jordan – yes, Councilmember Lundy – yes, Councilmember Myers – yes, Councilmember Smith – yes. Motion carried.

THE REQUEST FOR RECONSIDERATION IS HEREBY DENIED.

Mr. Crandall was present when this decision was made.

APPROVAL TO USE ENHANCED SERVICES BUDGETED MONEY TO PURCHASE RADAR FEEDBACK SIGNS

Councilmember Myers made a motion to approve authorization of funds which remain in the Special Law Enforcement line item of the budget to be used to purchase radar feedback signs for the city. Councilmember Jordan seconded the motion. Motion carried.

APPOINTMENT OF BUILDING OFFICIAL FOR PURPOSE OF BUILDING CODE

Councilmember Myers made a motion to appoint the Building Inspector, Clerk, Deputy Clerk and the City Planner as the building officials for building code purposes and any other ordinances. Councilmember Smith seconded the motion. Motion carried.

APPROVAL OF THREE YEAR SERVICE & LICENSE AGREEMENT WITH GOV OFFICE FOR WEBSITE

Councilmember Smith made a motion to approve the three year contract with GovOffice for the website. Councilmember Jordan seconded the motion. Roll call vote: Councilmember Jordan – yes, Councilmember Lundy – yes, Councilmember Myers – yes, Councilmember Smith – yes. Motion carried.

TENTATIVE APPROVAL OF THE 2018-2019 FISCAL YEAR BUDGET

Councilmember Jordan made a motion to approve the tentative budget for fiscal year 2018-2019. Councilmember Myers seconded the motion. Motion carried.

COUNCIL REPORTS:

Councilmember Smith reported that bark was put into the flower beds and around the trees in the park. There were no enhanced services for the month of July and only 9 citations written for the month of June. The enhanced contract with the sheriff's office will be reviewed in September with approval in October. She has been working on the crossing flag program and getting information on a new program "Drive 25". She is looking for volunteers for the annual picnic which will be held on September 8, 2018 from 11:00 to 2:00 PM.

Councilmember Myers reported that he has been attending several meetings with staff, Mayor and attorneys on several matter. He reported that the Government Way project is going as planned and the

sewer is being put in on the east side. There has been talk about updating the Transportation Plan which will be worked on after the Comprehensive Plan is completed.

Councilmember Lundy reported that she has talked with Studio Cascade on the progress of the Comprehensive Plan and they are waiting on further information from our City Planner on a couple of matters. She reported that the 3rd annual concert in the park will be held on September 16th, 2018 from 3:00 to 6:00 PM. She is working on some code amendments with the planner and will be meeting with the city clerk on August 7th to discuss record retention.

Councilmember Jordan reported that the chip seal on streets has been completed and striping will be done next week with addition bike paths in some areas of the city. Tree trimming will be done in October on Valley, Colfax, Davenport and Mount Carrol between Dalton and Hanley.

City Clerk Anderson reported that most of month was spent on the new fiscal year budget and we will have the public hearing on the budget on August 23, 2018 @ 5:00 PM. We will be meeting with LTHAC on the 4th Street design bid proposals on August 21st @ 10:00 PM. We are working on past due building permits for completion, Business License, Public Record Request, and all quarterly reports have been completed.

Attorney Jacobsen reported that he is working on the contract for the concert in the park which will be ready for approval on the August 23rd meeting. He is also working with the City Planner on the new City Park Ordinance amendments which will have a public hearing on the August 23rd meeting.

City Engineer – No Report

Code Enforcement – Report submitted

City Planner – Report submitted.

Building Inspector – Heath Shepard from KCFR Training Coordinator stated that the fire danger is very high at the present time and people need to be very careful with all burning that is being done.

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

Steve Roberge, Mayor