

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

Meeting was called to order by Mayor Roberge.

Councilmember Smith 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:

Minutes of the Special Meeting August 23, 2018, the Financial Statement from August 1, 2018 to August 31, 2018 and the claims so listed. Minutes of the August 2, 2018 meeting were not approved at this time. Councilmember Lundy made a motion to approve the Special meeting minutes and financial statement as listed on the agenda. Councilmember Myers seconded the motion. Roll call vote: Councilmember Jordan – yes, Councilmember Lundy – yes, Councilmember Myers – yes, Councilmember Smith – yes. Motion carried.

PUBLIC COMMENT PERIOD

No public comments were heard.

PUBLIC HEARING – CHARLES JOHNSON APPEAL ON SETBACK OF LESS THAN 10' FEET

The Dalton Gardens City Council conducted a Public Hearing to receive testimony on an appeal from Applicant Charles Johnson regarding his request for a variance to allow for a side setback of less than the required 10 feet, pursuant to Section 5-5-4 B. of the Dalton Gardens Municipal Code. The Applicant proposes a lean-to on the west side of the house approximately 17 inches from the property line. The property is located at 1763 E Hanley Ave; parcel number D140030051AE. The property owners are Charles Johnson and Peggy A. Polichio. The Planning Commission conducted a public hearing on the variance on July 10, 2018 and denied the application.

Councilmember Jordan stated that he a conflict on the case and wished to abstain from the hearing.

Attorney Jacobsen gave a report of the City Planner's memo to the council which gave a background of the variance which is in appeal by Charles Johnson. (Included in record are the memo and the Order of Decision from Planning & Zoning). He explained that the appeal is a variance to setback. The Planning & Zoning Commission denied the variance for the lean-to. In his review he noted a fence issue which is not before the council tonight.

Charles Johnson – 1763 E. Hanley, the applicant for the appeal spoke to the council and stated that he disagreed with the Commission decision and stated that the city ordinances and law are flawed and the council needs to take a hard look at the City Ordinances. He stated he had requested a 5' setback for the structure which did not have a building permit issued. He stated that a lean-to is an accessory structure according to code therefore a 5' setback should apply. Charles Johnson's notice of appeal to the City Council is attached to the meeting minutes which he discussed with the council.

Kevin Kirking – 1715 E. Hanley Ave. – He stated that the lean-to is right up to the property line. He stated that he had is property surveyed and the property line is 12" to 15" on the other side of Mr.

Johnson's fence. The lean-to goes to the property line or very close. He stated that he had talked to the contractor at the time of construction and told him they were encroaching on an easement and that the setback issue was also involved. He stated he would be OK with a 5' setback but he was opposed to the appeal.

Charles Johnson stated that he was aware of the property issue and that he going to have the contractor come back and fit the lean-to.

Public comment period was closed.

Attorney Jacobsen stated that we have ordinances and requirements which are set in statute at this time so the decision would be based on the ordinance currently in affect. He stated that from a legal standpoint these guidelines in 5-8-4 are the same in the Idaho State Code. The setback requirements being 5' is depending on if the structure is attached to the resident or not. Rand's report explains the setback issue.

Councilmember Myers read 5-1-5 setback requirements in the zoning ordinance. The request is for 5' of setback and the lean-to attached to the garage which means it is an addition to an existing structure and the setback is 10' and the request is for a 17" setback. The structure was built without a permit. The county looks at the total roof footprint and it is all attached and would be a single footprint.

Councilmember Lundy made a motion to adopt the Findings, Facts & Conclusions of Law as recommended by the Planning & Zoning Commission and deny the appeal. Councilmember Myers seconded the motion. Roll call vote: Councilmember Jordan – abstained, Councilmember Lundy – yes, Councilmember Myers – yes, Councilmember Smith – yes. Motion carried.

Councilmember Lundy made a motion to extend the 60 days to remove the structure from September 6, 2018. Councilmember Myers seconded the motion. Roll call vote: Councilmember Jordan – abstained, Councilmember Lundy – yes, Councilmember Myers – yes, Councilmember Smith – yes. Motion carried.

PUBLIC HEARING – RONALD ROSS APPEAL ON A REQUEST FOR ACCESSORY LIVING SPACE WITHIN A SHOP BUILDING

The Dalton Gardens City Council will conduct a Public Hearing to receive testimony on an appeal from Ronald Ross regarding the denial of his request for accessory living space within a shop building. The property is located at 7520 N. Valley Street. The parcel number is D98000020110. Accessory living units are prohibited by Dalton Gardens Municipal Code, Section 5-5-1 E.

The council had no conflict of interest in the case.

Attorney Jacobsen stated that the staff report from City Planner, Rand Wichman gave a background of the Ronald Ross appeal which has come straight to the City Council. The appeal is from a code enforcement decision and will need to be decided by the City Council.

Public Hearing is now open.

Ronald Ross – 7520 N. Valley – He stated that he was present to support his past nine years of providing living quarters for the homeless, people going through financial problems, & employees. He stated that he objected to the letter from the code enforcement officer stating that someone has lived in the facility for nine years. His tenants are for approximately two or less. He stated he deals with many cases and is giving help to families in need.

Councilmember Myers asked Mr. Ross if the accessory living has cooking and bathing facilities. Mr. Ross stated that the accessory living facility has these facilities. The accessory living quarters had a hobby room and with a sink and he stated he removed the sink and added a shower and cooking facilities

without a permit. Attorney Jacobsen asked to have the City Planner's Letter and Mr. Ross's Letter a part of the record. (Included in minutes)

Lila Tatum – 7080 N. Valley Street – She stated that an ordinance is a law and an accessory dwelling is illegal and should not be allowed.

Joseph Cane – 38 Buckskin Lane, CDA – He stated that he lived in this garage for two and one half years in the studio apartment and he met him when he was homeless and no job. He felt that the council should allow Mr. Ross to continue to help people in the area.

Mr. Ross stated that we do have to follow rules and break rules to love our neighbors.

Public comment period was closed.

The council all agreed that the accessory living unit is a violation of the City of Dalton Gardens Sewer Management Plan Agreement and that we must follow the ordinances as written. They stated that only one single family dwelling is allowed in Dalton Gardens.

Councilmember Myers made a motion to deny the appeal to Mr. Ross to maintain accessory living facility and that the violations are removed in 60 days and that a permit is acquired to modify the structure. Councilmember Lundy seconded the motion. Roll call vote: Councilmember Jordan – yes, Councilmember Lundy – yes, Councilmember Myers – yes, Councilmember Smith – yes. Motion carried.

Attorney Jacobsen will present an order on the appeal.

APPROVAL OF BUILDING MAINTENANCE CONTRACT WITH KUBIK BUILDING MAINTENANCE

Councilmember Lundy made a motion to approve the Kubik Building Maintenance contract for October 1, 2018 thru September 30, 2019. Councilmember Jordan seconded the motion. Roll call vote: Councilmember Jordan – yes, Councilmember Lundy – yes, Councilmember Myers – yes, Councilmember Smith – yes. Motion carried.

APPROVAL OF BUILDING OFFICE LEASE FOR DALTON IRRIGATION

Councilmember Jordan made a motion to approve the building office lease agreement for Dalton Irrigation for October 1, 2018 thru September 30, 2019 in the amount of 210.00. Councilmember Smith seconded the motion. Roll call vote: Councilmember Jordan – yes, Councilmember Lundy – yes, Councilmember Myers – yes, Councilmember Smith – yes. Motion carried.

APPROVAL OF BUILDING OFFICE LEASE FOR DALTON WATER

Councilmember Myers made a motion to approve the building office lease agreement with Dalton Water for October 1, 2018 thru September 30, 2019. Councilmember Jordan seconded the motion. Motion carried. Kevin Kirking, Chairman for the Dalton Water Board stated that the internet would not be effected by the downloads of the radio read meters. Roll call vote: Councilmember Jordan – yes, Councilmember Lundy – yes, Councilmember Myers – yes, Councilmember Smith – yes. Motion carried.

APPROVAL TO PLACE MEMORIALS IN CITY PARK

Councilmember Smith stated that she has received two requests for memorials in the City Park. One is for a dogwood tree and a stone and the other is for a park bench with a plaque on the bench. Attorney Jacobsen stated that he thought it was a great idea but said that the City should adopt a policy and get an agreement put in place for the park before we approve memorials in the park on legal bases for liability. He suggested drawing to other cities for information and get something in writing.

The councilmembers all agreed that a master plan for the park should be adopted with policies and a plan for all liability and agreements. The council agreed that the council needs to develop a policy over the winter and implement in the spring where we define policy. No action was taken.

APPROVAL TO HAVE DOUBLE J DOG RANCH IN CITY PARK ON SEPTEMBER 8, 2018 FOR PICNIC

Councilmember Jordan made a motion to approve Double J Dog Ranch in the Ward Newcomb Park for the picnic on September 8, 2018. Councilmember Smith seconded the motion. Motion carried.

COUNCIL REPORTS:

Councilmember Smith stated that the annual Dalton Gardens picnic will be held on September 8th, 2018 from 11:00 to 2:00 PM. Ward Crawford will be providing the music for the day. The traffic committee will be having a booth set up with the survey and Drive 25 program. The crosswalks at the school have been designed and the buckets will be tied to the posts for students to use in crossing the street. The council and traffic committee workshop will be held on October 18th @ 6:00 PM. The council wanted to start working on the Transportation Plan and have the survey done at that time.

Councilmember Myers gave an update on the Government Way project which is scheduled to be completed around October 25th. The 4th Street design has gone through LHTAC and Welch Comer has been awarded the design phase. The transportation plan is in need of update after the Comprehensive Plan is in place.

Councilmember Lundy reported that she has been meeting with Councilmember Myers and staff on fee resolution and put together a workshop to discuss the document. She has been working on a Records Retention Policy, working on getting a new projector for the council chambers. We will be negotiating our Technology Agreement. The Planner will be completing the edits of the Comprehensive Plan and getting them to Studio Cascade for the subarea plan. The 3rd Annual Concert in the park will be on September 16th from 3:00 to 6:00 PM.

Councilmember Jordan stated that he has spoken to Welch Comer on the updates to the Transportation Plan which was last done in 2012 the cost for the update will be around \$6,000. We will be reapplying for the traffic circle grant on December 6th. We will be revisiting the chip sealing in the winter. Tree trimming will be done after October 1st.

CITY CLERK:

Valerie Anderson, City Clerk reported that the Fiscal Year 2018-2019 budget is completed and has been submitted to the State and County. Second notices on septic pumping have been sent out working on the remainder of the list, we have about 10 business licenses to get renewed, building permits are still coming and we have about 8 outstanding permits for 2016 and 12 for 2017. She has been helping Councilmember Smith some picnic details and the paint trim on the shop maintenance building will be painted next week.

CITY ATTORNEY REPORT: No report

CITY ENGINEER REPORT: No report

PLANNING CONSULTANT REPORT: Report submitted

CODE ENFORCEMENT REPORT: Report submitted

BUILDING INSPECTOR REPORT: 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