

**City of Dalton Gardens Regular Council Meeting
Thursday, November 5, 2020, 6:00 p.m.**

Meeting will be conducted via teleconference

Please click this link to join the webinar via computer/smartphone:

<https://us02web.zoom.us/j/86806021699?pwd=ellRmp6T2JtYW5LZzJNSExFdjl1QT09>

Password: 988566

PHONE NUMBER: 1 669 900 6833 OR 1 346 248 7799

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CALL THE MEETING TO ORDER

ROLL CALL

PLEDGE OF ALLIGENCE

PUBLIC COMMENT PERIOD

Each speaker will be allowed a maximum of three minutes to address the City Council on matters that relate to City government business. Comments related to future public hearings should be held for that public hearing. Please be advised that the City Council can only take official action this evening for those items already listed on the agenda.

1. ACTION ITEM - CONSENT CALENDAR APPROVAL

A. Minutes of the Regular Meeting October 1, 2020.

B. Financial Statement from October 1, 2020 to October 31, 2020 and the claims so listed.

2. ACTION ITEM - APPROVAL OF ORDER OF DECISION FOR WHITE APPEAL

3. ACTION ITEM – APPROVAL OF CONFLICT ATTORNEY

**4. ACTION ITEM – APPROVAL OF COOPERATIVE AGREEMENT ON SALE OF
PROPERTY – WING BLADE**

**5. ACTION ITEM – APPROVAL OF RESOLUTION NO 2020-07 DECLARING SURPLUS
PROPERTY – TOBISHA COPY MACHINE**

**6. ACTION ITEM - DISCUSSION/APPROVAL OF AFTER HOURS FACILITY RENTAL
PROCEDURES**

**7. ACTION ITEM – DISCUSSION OF DRAFT ORDINANCE FOR HUNTING WITHIN
CITY LIMITS**

**8. ACTION ITEM - DISCUSSION/ACTION ON REDUCTION OF THROUGH
TRAFFIC**

**9. ACTION ITEM – DISCUSSION/ACTION ON REPEALING THE COVID
PROCLAMATION**

**10. ACTION ITEM – DISCUSSION/ACTION ON CLARIFYING POLICY
PROCEDURES**

COUNCIL REPORTS

11. ACTION ITEM – ADJOURN

City Hall is ADA accessible. If special accommodations are needed for the disabled, please notify the City Clerk 6360 N. 4th Street, Dalton Gardens, ID 208-772-3698 forty-eight hours in advance of the public hearing.

**MINUTES OF THE REGULAR MEETING OF THE
CITY OF DALTON GARDENS OCTOBER 1, 2020
VIA TELECONFERENCE @ 6:00 PM**

Meeting was called to order by Mayor Edwards at 6:00 PM.

ROLL CALL:

Present were: Councilmembers Chase, O'Brien, Wuest and Craft. Also present were Attorney Caitlin Kling, Rand Wichman – City Planner and Valerie Anderson, City Clerk.

The pledge was recited and led by Councilmember O'Brien.

MOTION TO APPROVE AMENDED AGENDA

Councilmember Wuest made a motion to approve the amended agenda. Councilmember Craft seconded the motion. Roll call vote: Councilmember Chase - yes, Councilmember O'Brien – yes, Councilmember Wuest - yes, Councilmember Craft - yes. Motion carried.

PUBLIC COMMENT PERIOD

Curtis Exley – 7520 Mt. Carrol – He stated that we have a deer problem in Dalton Gardens which needs to be addressed for the safety of the citizens of Dalton. He stated that he sat on a deer committee a few years ago and the committee came up with some very good suggestions to control the deer population in the city. He asked the council to do something about the problem and that he would be willing to help in any way he could to resolve the problem.

Lila Tatum – 7080 Valley Street – She was in agreeance with Mr. Exley on the deer problem and stated that something needs to be done.

CONSENT CALENDAR APPROVAL

Councilmember Wuest made a motion to approve the minutes of the Regular Meeting September 3, 2020 and Special Meeting of September 22, 2020. Councilmember Craft seconded the motion. Roll call vote: Councilmember Chase - yes, Councilmember O'Brien – yes, Councilmember Wuest - yes, Councilmember Craft - yes. Motion carried.

Councilmember Wuest made a motion to approve the financial statement from September 1, 2020 thru September 30, 2020 and the claims so listed. Councilmember Craft seconded the motion. Roll call vote: Councilmember Chase - yes, Councilmember O'Brien – yes, Councilmember Wuest - yes, Councilmember Craft – yes. Motion carried.

ADMINISTRATIVE APPEAL PURSUANT TO 1-11-1A BROUGHT BY BOBBI PLUMLEE FOR APPEAL OF A NOTICE OF VIOLATION ISSUED BY THE PLANNING ADMINISTRATOR. THE ALLEGED VIOLATION IS RELATED TO BUILDING SETBACKS ON AN ACCESSORY BUILDING AT 6872 N. 15TH STREET

Attorney Kling explained the Notice to Title which is presented to the council on the property at 6872 N. 15th Street which was in respect to the lean –to on a building.

Councilmember Chase made a motion to approve the Notice to Title and authorize the Mayor to

sign. Councilmember O'Brien seconded the motion. Roll call vote: Councilmember Chase - yes, Councilmember O'Brien – yes, Councilmember Wuest - yes, Councilmember Craft – yes. Motion carried.

ADMINISTRATIVE APPEAL PURSUANT TO 1-11-1A BROUGHT BY MIKE WHITE FOR APPEAL OF A NOTICE OF VIOLATION ISSUED BY THE PLANNING ADMINISTRATOR. THE ALLEGED VIOLATION IS RELATED TO AN ALU AT 6263 N. 17TH STREET

The City Planner explained the appeal to the council. He stated that the new residence was completed in the Spring of 2020. The inspector found that the shower had been boarded over, and stove had been removed from the kitchen. He believed that these measures were sufficient to meet the code requirements so it would not be considered an Accessory Living Unit. The Planner reviewed the permit before issuing the certificate of occupancy (CO) and determined that the building was not in compliance with code. He then emailed Mr. Whit's attorney Paul Daugharty denying the request for the CO. The appellant provided testimony. He stated that the City, through its building inspector approved the situation and should issue the CO. They acknowledged that there were two showers within the accessory building. The council discussed the matter and expressed concern for compliance with the Sewer Management Plan Agreement that the City holds with Panhandle Health District. The council also expressed concern with the removal of the plumbing components in the showers in the ALU.

Councilmember Chase made a motion to deny the appeal. Councilmember Craft seconded the motion. Roll call vote: Councilmember Chase - yes, Councilmember O'Brien – yes, Councilmember Wuest - yes, Councilmember Craft – yes. Motion carried.

APPROVAL OF AMENDING TITLE 9, CHAPTER 1, SECTION 1 OF DALTON GARDENS MUNICIPAL CODE TO CLARIFY REQUIREMENTS FOR APPROACHES TO PRIVATE PROPERTY

Councilmember Wuest made a motion to place the proposed requirements for approaches to private property on its first and only reading by title only while under suspension of the rules. Councilmember Chase seconded the motion. Roll call vote: Councilmember Chase - yes, Councilmember O'Brien – yes, Councilmember Wuest - yes, Councilmember Craft – yes. Motion carried.

The Mayor read the proposed ordinance title.

Councilmember Wuest made a motion to pass the requirements for approaches to private property, directing city clerk to assign the appropriate ordinance number, and publish by summary only incorporating the title as to body of the summary. Councilmember O'Brien seconded the motion. Roll call vote: Councilmember Chase - yes, Councilmember O'Brien – yes, Councilmember Wuest - yes, Councilmember Craft – yes. Motion carried.

APPROVAL OF POE ASPHALT INC. TO DO PATCH WORK IN THE CITY

Councilmember Wuest made a motion to approve the POE Asphalt Inc. patch work on streets in

the city in the amount of \$18,723.50. Councilmember Chase seconded the motion. . Roll call vote: Councilmember Chase - yes, Councilmember O'Brien – yes, Councilmember Wuest - yes, Councilmember Craft – yes. Motion carried.

APPROVAL OF A PURCHASING RESOLUTION FOR CITY OF DALTON GARDENS

Attorney Kling explained the Purchasing Resolution which was put together by the clerk and attorney which would put guidelines on the purchasing of anything purchased within the city. The council discussed the Resolution and made a few changes in the authorization part of the Resolution.

Councilmember Wuest made a motion to approve the Purchasing Resolution with the following change; Purchase up to \$600 the Mayor and members of the City Council can authorize purchases without competitive bidding or a formal contract, as long as the expenditure is within the budget. Councilmember Chase seconded the motion. Roll call vote: Councilmember Chase - yes, Councilmember O'Brien – yes, Councilmember Wuest - yes, Councilmember Craft – yes. Motion carried.

PUBLIC COMMENT PERIOD

Curtis Exley – 7520 Mt. Carrol – He stated that a committee on the deer is not necessary and that the attorney, a couple of local citizens and staff should come back to the council with suggestions on how to resolve the matter. He also asked about putting out the traffic radar sign which was purchased from Post Falls a couple of years ago.

Public comment period was closed.

EXECUTIVE SESSION UNDER IDAHO CODE 74-206(1)(F) TO COMMUNICATE WITH LEGAL COUNSEL FOR THE PUBLIC AGENCY TO DISCUSS THE LEGAL RAMIFICATIONS OF AND LEGAL OPTIONS FOR PENDING LITIGATION, OR CONTROVERSIES NOT YET BEING LITIGATED BUT IMMINENTLY LIKELY TO BE LITIGATED.

Councilmember Chase made a motion to go into Executive Session at 8:00 pm. Councilmember O'Brien seconded the motion. Roll call vote: Councilmember Chase - yes, Councilmember O'Brien – yes, Councilmember Wuest - yes, Councilmember Craft – yes. Motion carried.

Council came out of Executive Session at 8:35 and no discussion was held.

APPROVAL OF RPI ADJUSTED INVOICE IN THE AMOUNT OF \$74,100.89

Councilmember Wuest made a motion to approve the adjusted invoice in the amount of \$74,100.89 for road patching done in Dalton Gardens and authorize the Mayor to sign and approve. Councilmember Craft seconded the motion. Roll call vote: Councilmember Chase - no, Councilmember O'Brien – yes, Councilmember Wuest - yes, Councilmember Craft – yes. Motion carried.

Councilmember O'Brien made a motion to adjourn the meeting. Councilmember Chase seconded the motion. Motion carried.

Dan Edwards, Mayor

Valerie S. Anderson, City Clerk

FINANCIAL STATEMENT
October 1, 2020 thru October 31, 2020

Balance as of

\$ 2,450,893.55

Receipts:

Current Real Property Tax	12.71
Delinquent Property Taxes	0.00
Penalty & Interest	1.31
Transfer Highway District Levy	5.03
Court Traffic Fines	1,538.10
Building Permit Fees	10,811.46
Business License Fees	700.00
Special Use Fee for Edward Smith Construction	11,250.00
State Liquor Revenue	20,508.00
State of Idaho Revenue Sharing	60,785.07
State of Idaho Highway User Revenue – 1 st Qtr.	30,652.64
Avista Franchise Fees – Quarter end September 2020	5,242.61
TDS Franchise Fees – Quarter end September 2020	8.35
LID #1 – Assessment	14,199.48
LID #2 – Assessments	22,870.69
Rent DWA \$260, Irrigation \$260	520.00
Interest State Investment Pool	1,163.01
State Investment Pool 18 th St.	25.47
Banner Bank – Interest	122.28
Checking acct	3.83
Total Receipts	180,420.04
Balance plus Receipts	2,631,313.59

Claims:

U.S. Treasury FICA tax due for October	1,713.96
U.S. Treasury - Federal withholding due for October	579.00
State Tax Commission, Idaho – State withholding tax due for October	188.00
Public Employee Retirement System- Employer & Employee Contributions for October	1,784.95
Idaho Independent Intergovernmental Auth – Health Insurance	1,675.00
Association of Idaho Cities – FY 2021 Membership Dues	1,009.00
Avista-Gas & Elect. City Hall \$129.24, arena \$29.28, Shop \$60.46, round about \$35.79	254.77
CDA Press – Legal Ads	167.42
Dalton Water – 3 Months Water Bill	456.00
Express Employment – Temporary Help for 2 days	249.60
Garage Door Service – Repair on Shop Garage Door	220.00
HMH Engineering – General Services for September	1,130.51
ICRMP – Insurance Billing Annual Premium	5,015.00
Idaho Department of Labor – Unemployment	68.33
Kootenai County Fire & Rescue – Building Inspector for September	5,216.00
Kootenai County Sheriff's Office – Enhanced Patrol for September 2020	1,720.61
Kootenai County Solid Waste – 6 months garage haul & extra hauling of branches	130.15
Lake City Law – Attorney Fees for October 2020	6,000.00

On-Call Computer & Network – Computer work at City Office	3,815.00
Road Products, Inc. – Street Repairs	74,100.89
Sacco de Campos Landscape Maintenance – Park & Arena contract	3,470.19
The Sweep – Sweep Bike Paths, Arena & Parking Lot	240.00
Time Warner – Telephone	229.96
US Bank Credit Card – Street & Office Supplies	217.44
US Bank Service Charges	10.00
Valerie Anderson – Garbage Bags for Office	36.02
Vanguard Cleaning Systems – Office Cleaning	220.00
Verizon Wireless – Cell Phone for Code Enforcement	90.86
Rand Wichman Planning – Contract for October	6,165.40
Valerie Anderson – Salary for October	3,335.75
Carrie Chase – Council October	340.76
Ray Craft – Council October	340.76
Dan Edwards – Mayor October	724.12
Teresa Janzen – Wages for October	585.16
Eric Killen – October hours – Code Enforcement	1,040.40
Aaron O’Brien – Council October	334.16
Robert Wuest – Council October	369.40
Jim Wuest – Wages hours October	1,288.10
	Total Claims
	124,532.67
	Balance
	2,506,780.92

Balance by Depository:

U.S. Bank – Checking	343,370.04
State Investment Pool	1,817,690.77
State Investment Pool # 2	45,066.24
U.S. Bank–Checking LID	43,812.69
Banner Bank-Guaranteed fund	34,868.74
Petty Cash	50.00
US Bank - LID #2 – Checking	221,922.44
	2,506,780.92

Road Projects	\$218,742.
Parks	\$ 14,325
Equip Replacement	\$ 20,000
Art Fund	\$3,300
Total	\$256,367.

Profit & Loss Budget vs. Actual

Accrual Basis

	Oct '20 - Sep 21	Budget	\$ Over Budget	% of Budget
Income				
311.1 · CURRENT REAL PROPERTY TAX	12.71	160,589.00	-160,576.29	0.0%
312.1 · DELINQUENT REAL PROPERTY TAX	0.00	1,411.00	-1,411.00	0.0%
316.0 · FRANCHISE TAX TIME WARNER	8.35	22,000.00	-21,991.65	0.0%
316.5 · FRANCHISE TAX AVISTA	5,242.61	25,000.00	-19,757.39	21.0%
319.0 · PENALTY & INTEREST	1.31	500.00	-498.69	0.3%
321.0 · BUSINESS LICENSE REVENUE	700.00	7,500.00	-6,800.00	9.3%
321.1 · HOME BASED BUS LICENSE	0.00	300.00	-300.00	0.0%
322.1 · BUILDING PERMIT REVENUE	10,811.46	65,000.00	-54,188.54	16.6%
322.2 · SIGN PERMIT FEES	0.00	0.00	0.00	0.0%
322.3 · SPECIAL USE FEES	11,250.00	1,000.00	10,250.00	1,125.0%
335.1 · STATE LIQUOR ALLOCATION	20,508.00	88,000.00	-67,492.00	23.3%
335.2 · HIGHWAY USERS REVENUE	22,902.52	71,497.00	-48,594.48	32.0%
335.3 · NEW HIGHWAY USER REVENUE	7,750.12	22,144.00	-14,393.88	35.0%
335.4 · COURT REVENUE-TRAFFIC FINES	1,538.10	5,000.00	-3,461.90	30.8%
335.5 · STATE SALES TAX	0.00	44,000.00	-44,000.00	0.0%
335.6 · STATE REVENUE SHARING	60,785.07	169,872.00	-109,086.93	35.8%
338.1 · TRANSFER HWY DISTRICT LEVY	5.03	40,000.00	-39,994.97	0.0%
355.1 · LID Assessments	14,199.48	35,000.00	-20,800.52	40.6%
355.10 · LID Assessments Interest	0.00	0.00	0.00	0.0%
355.2 · LID #2 - GOVERNMENT WAY	22,870.69	65,213.00	-42,342.31	35.1%
371.0 · INTEREST INCOME	3.83	5,000.00	-4,996.17	0.1%
371.2 · RENT	520.00	6,240.00	-5,720.00	8.3%
376-000 · CONTRIBUTIONS & DONATIONS	0.00	1,000.00	-1,000.00	0.0%
378 · Unencumbered Bank Funds	0.00	329,201.50	-329,201.50	0.0%
Total Income	179,109.28	1,165,467.50	-986,358.22	15.4%
Gross Profit	179,109.28	1,165,467.50	-986,358.22	15.4%
Expense				
411-010 · CITY COUNCIL SALARIES	3,200.00	19,200.00	-16,000.00	16.7%
411-021 · CITY COUNCIL PAYROLL TAXES	122.40	1,500.00	-1,377.60	8.2%
411-022 · CITY COUNCIL STATE RETIREMENT	144.64	2,200.00	-2,055.36	6.6%
411-047 · CITY COUNCIL TRAVEL/MEETINGS	0.00	1,000.00	-1,000.00	0.0%
413-010 · MAYOR SALARIES	1,700.00	10,200.00	-8,500.00	16.7%
413-021 · MAYOR PAYROLL TAXES	65.03	780.00	-714.97	8.3%
413-022 · MAYOR STATE RETIREMENT	101.49	1,325.00	-1,223.51	7.7%
413-047 · MAYOR TRAVEL & MEETINGS	0.00	500.00	-500.00	0.0%
415-010 · CLERK SALARIES	8,977.00	53,862.00	-44,885.00	16.7%
415-021 · CLERK PAYROLL TAXES	343.37	4,120.85	-3,777.48	8.3%
415-022 · CLERK-STATE RETIREMENT	535.93	6,431.15	-5,895.22	8.3%
415-028 · CLERK UNEMPLOYMENT TAXES	6.07	138.00	-131.93	4.4%
415-031 · OFFICE SUPPLIES & POSTAGE	508.35	8,000.00	-7,491.65	6.4%
415-042 · AUDIT AND ACCOUNTING	0.00	12,000.00	-12,000.00	0.0%
415-044 · LEGAL PUBLISHING	167.42	4,000.00	-3,832.58	4.2%
415-046 · EMP HEALTH INSURANCE	1,675.00	24,000.00	-22,325.00	7.0%
415-047 · CLERK TRAVEL @ MEETINGS	0.00	1,500.00	-1,500.00	0.0%
415-051 · TELEPHONE	0.00	2,800.00	-2,800.00	0.0%
415-058 · OFFICE MAINTENANCE	0.00	600.00	-600.00	0.0%
415-074 · SOFTWARE PURCHASE & IT SERVICE	0.00	20,000.00	-20,000.00	0.0%
415-110 · DEPUTY CLERK-SALARIES	1,683.54	18,540.00	-16,856.46	9.1%
415-121 · DEPUTY CLERK-PAYROLL TAXES	128.79	1,418.31	-1,289.52	9.1%
415-122 · DEPUTY CLERK-STATE RETIREMENT	201.01	2,213.69	-2,012.68	9.1%
415-128 · DEPT CLERK-UNEMPLOYMENT TAXES	4.29	60.00	-55.71	7.2%
417-043 · P & Z TRAVEL & MEETING EXP	0.00	500.00	-500.00	0.0%
417-045 · PLANNING CONSULTANT	6,165.40	50,000.00	-43,834.60	12.3%
419-042 · PROFESSIONAL SERVICES	6,000.00	80,000.00	-74,000.00	7.5%
419-046 · INSURANCE	5,015.00	7,500.00	-2,485.00	66.9%
419-048 · DUES & SUBSCRIPTIONS	1,009.00	2,500.00	-1,491.00	40.4%
419-852 · BLDG & GROUNDS UTILITIES	674.98	8,000.00	-7,325.02	8.4%
419-860 · BLDG & GROUNDS MAINTENANCE	220.00	5,000.00	-4,780.00	4.4%
419-861 · BLDG MAINT CONTRACTED	0.00	3,000.00	-3,000.00	0.0%
419-869 · MISCELLANEOUS SERVICE & CHARGES	0.00	1,800.00	-1,800.00	0.0%
419-874 · CAPITAL OUTLAY-EQUIPMENT	0.00	50,000.00	-50,000.00	0.0%
421-001 · Special Law Enforcement Exp	0.00	0.00	0.00	0.0%
421-010 · CODE ENFORCE-SALARY	315.00	15,000.00	-14,685.00	2.1%

	Oct '20 - Sep 21	Budget	\$ Over Budget	% of Budget
421-021 · CODE ENFORCE-PAYROLL TAXES	24.10	1,147.50	-1,123.40	2.1%
421-022 · Code Enforcement-State Retireme	37.61	1,791.00	-1,753.39	2.1%
421-028 · CODE ENFORCE-UNEMPLOYMENT TAX	0.81	40.00	-39.19	2.0%
421-042 · PROSECUTING ATTORNEY	0.00	1,740.00	-1,740.00	0.0%
423-032 · FIRE HYDRANTS	0.00	0.00	0.00	0.0%
424-010 · BUILDING INSPECTOR SERVICES	0.00	40,000.00	-40,000.00	0.0%
425-000 · GENERAL CONTINGENCY FUND	0.00	30,000.00	-30,000.00	0.0%
431-003 · ROADS-ENG PLANS & SERVICES	1,130.51	50,000.00	-48,869.49	2.3%
431-004 · SNOW & ICE CONROL-REMOVAL	0.00	30,000.00	-30,000.00	0.0%
431-006 · Gov't Way Sewer Project/LID #1	0.00	34,000.00	-34,000.00	0.0%
431-008 · LID PHASE 2	0.00	65,500.00	-65,500.00	0.0%
431-035 · STREET SIGNAL LIGHTS	35.79	500.00	-464.21	7.2%
431-310 · STREET SIGN MAINT - SALARY	1,709.25	25,000.00	-23,290.75	6.8%
431-321 · STREET SIGN MAINT-PAYROLL TAXES	110.04	2,000.00	-1,889.96	5.5%
431-328 · STREET SIGN MAINT-UNEMPL TAXES	5.64	55.00	-49.36	10.3%
431-335 · FUEL AND LUBRICANTS	0.00	2,000.00	-2,000.00	0.0%
431-361 · STREET EQUIPMENT MAINTENANCE	9.99	7,000.00	-6,990.01	0.1%
431-363 · STREET MAINTENANCE PURCHASED	74,100.89	399,000.00	-324,899.11	18.6%
432.300 · GARBAGE COLLECTION & DISPOSAL	83.20	500.00	-416.80	16.6%
438-004 · HORSE ARENA & PARK CONSTRUCTION	19.92	9,000.00	-8,980.08	0.2%
438-010 · PARK MAINENANCE LABOR	503.50	6,000.00	-5,496.50	8.4%
438-021 · PARK PAYROLL TAX	59.24	475.00	-415.76	12.5%
438-028 · PARK MAINTENANCE UNEMPLOYMENT	0.00	30.00	-30.00	0.0%
438-032 · PARK MAINTENANCE SUPPLIES	82.97	1,500.00	-1,417.03	5.5%
438-042 · PARK MAINT-Contracted	3,470.19	35,000.00	-31,529.81	9.9%
438-056 · ANNUAL PICNIC	0.00	3,500.00	-3,500.00	0.0%
6560 · Company Payroll Expenses	6,243.89			
Total Expense	126,591.25	1,165,467.50	-1,038,876.25	10.9%
Net Income	52,518.03	0.00	52,518.03	100.0%

CITY OF DALTON GARDENS Unpaid Bills Detail

Type	Date	Memo	Due Date	Account	Open Balance
AIC					
Bill	10/08/2020	Invoice 9964	10/30/2020	2000 · *Accounts Payable	-1,009.00
Bill	10/08/2020	FY 2021 Membership Dues	10/30/2020	419-048 · DUES & SUBSCRIPTIONS	1,009.00
Total AIC					0.00
Avista Utilities					
Bill	10/19/2020	1423430,1423431,1426229,290125122	10/30/2020	2000 · *Accounts Payable	-254.77
Bill	10/19/2020	City Hall	10/30/2020	419-852 · BLDG & GROUNDS UTILITIES	129.24
Bill	10/19/2020	1426229 Arena	10/30/2020	419-852 · BLDG & GROUNDS UTILITIES	29.28
Bill	10/19/2020	shop	10/30/2020	419-852 · BLDG & GROUNDS UTILITIES	60.46
Bill	10/19/2020	light at roundabout	10/30/2020	431-035 · STREET SIGNAL LIGHTS	35.79
Total Avista Utilities					0.00
Coeur d'Alene Press					
Bill	10/19/2020	Account # 6678	10/30/2020	2000 · *Accounts Payable	-167.42
Bill	10/19/2020	Legal Notice	10/30/2020	415-044 · LEGAL PUBLISHING	167.42
Total Coeur d'Alene Press					0.00
Dalton Water Association, Inc.					
Bill	10/08/2020	1-150, 41494, 2 538,3-1034	10/30/2020	2000 · *Accounts Payable	-456.00
Bill	10/08/2020	water - October, November & December	10/30/2020	419-852 · BLDG & GROUNDS UTILITIES	456.00
Total Dalton Water Association, Inc.					0.00
Express Services, Inc.					
Bill	09/30/2020	Account #25031033	10/30/2020	2000 · *Accounts Payable	-249.60
Bill	09/30/2020	Temporary Help September 24 & 25, 2020	10/30/2020	415-110 · DEPUTY CLERK-SALARIES	249.60
Total Express Services, Inc.					0.00
Garage Door Services					
Bill	09/18/2020	Ticket # 3421	10/30/2020	2000 · *Accounts Payable	-220.00
Bill	09/18/2020	Repair Garage door on shop	10/30/2020	419-861 · BLDG MAINT CONTRACTED	220.00
Total Garage Door Services					0.00
HMH Engineering					
Bill	10/13/2020	Invoice No. M20004-02	10/30/2020	2000 · *Accounts Payable	-1,130.51
Bill	10/13/2020	General Engineering Services for Septem...	10/30/2020	431-003 · ROADS-ENG PLANS & SERVICES	1,130.51
Total HMH Engineering					0.00
ICRMP					
Bill	10/02/2020	40A02039100120	10/30/2020	2000 · *Accounts Payable	-5,015.00
Bill	10/02/2020	Full Year Prem. for FY 2021	10/30/2020	419-046 · INSURANCE	5,015.00
Total ICRMP					0.00
III-A					

Type	Date	Memo	Due Date	Account	Open Balance
Bill	10/26/2020	November health insurance	10/30/2020	2000 · *Accounts Payable	-1,675.00
Bill	10/26/2020	November health insurance	10/30/2020	415-046 · EMP HEALTH INSURANCE	1,675.00
		Total III-A			0.00
		Kootenai County Fire & Rescue			
Bill	09/30/2020	Contract for bldg inspections	10/30/2020	2000 · *Accounts Payable	-5,216.00
Bill	09/30/2020	September 2020	10/30/2020	424-010 · BUILDING INSPECTOR SERVICES	5,216.00
		Total Kootenai County Fire & Rescue			0.00
		Kootenai County Sheriff's Dept			
Bill	09/30/2020	Enhancement Patrol 2020	10/30/2020	2000 · *Accounts Payable	-1,720.61
Bill	09/30/2020	Enhancement Patrol September 2020	10/30/2020	421-001 · Special Law Enforcement Exp	1,720.61
		Total Kootenai County Sheriff's Dept			0.00
		Kootenai County Solid Waste Dept.			
Bill	10/13/2020	Acct: #10-82978.00 & 10-30987.00	10/30/2020	2000 · *Accounts Payable	-130.15
Bill	10/13/2020	6 months garbage fees	10/30/2020	432-300 · GARBAGE COLLECTION & DISPO..	83.20
Bill	10/13/2020	Extra Hauling of branches to dump	10/30/2020	438-032 · PARK MAINTENANCE SUPPLIES	46.95
		Total Kootenai County Solid Waste Dept.			0.00
		Lake City Law			
Bill	10/29/2020	Invoice 23075	10/30/2020	2000 · *Accounts Payable	-6,000.00
Bill	10/29/2020	Attorney Fees for October 2020	10/30/2020	419-042 · PROFESSIONAL SERVICES	6,000.00
		Total Lake City Law			0.00
		On-Call Computer & Network Solutions			
Bill	09/30/2020	Invoice 4343,4342,4341,4340	10/30/2020	2000 · *Accounts Payable	-3,815.00
Bill	09/30/2020	Computer work for January - September 2...	10/30/2020	415-074 · SOFTWARE PURCHASE & IT SER...	3,815.00
		Total On-Call Computer & Network Solutions			0.00
		Rand Wichman Planning LLC			
Bill	10/30/2020	Invoice 1998	10/30/2020	2000 · *Accounts Payable	-6,165.40
Bill	10/30/2020	Planning for October 2020	10/30/2020	417-045 · PLANNING CONSULTANT	6,165.40
		Total Rand Wichman Planning LLC			0.00
		Road Products, Inc.			
Bill	10/01/2020	Invoice # 14500-1	10/30/2020	2000 · *Accounts Payable	-74,100.89
Bill	10/01/2020	Asphalt repair on Dalton Streets	10/30/2020	431-363 · STREET MAINTENANCE PURCHA...	74,100.89
		Total Road Products, Inc.			0.00
		Sacco De Campos Landscape Maintenance LLC			
Bill	10/23/2020	Invoice 3312	10/30/2020	2000 · *Accounts Payable	-3,470.19
Bill	10/23/2020	Park & Arena mowing & Fertilization & Sp...	10/30/2020	438-042 · PARK MAINT-Contracted	3,470.19

Type	Date	Memo	Due Date	Account	Open Balance
Total Sacco De Campos Landscape Maintenance LLC					0.00
The Sweep					
Bill	09/30/2020	Invoice 28986 September 2020	10/30/2020	2000 . *Accounts Payable	-240.00
Bill	09/30/2020	sweep bike paths, horse arena, roundabo...	10/30/2020	431-363 . STREET MAINTENANCE PURCHA...	240.00
Total The Sweep					0.00
Time Warner Cable					
Bill	10/08/2020	8448 61 004 0122664	10/30/2020	2000 . *Accounts Payable	-229.96
Bill	10/08/2020	Telephone & Internet October 2020	10/30/2020	415-031 . OFFICE SUPPLIES & POSTAGE	229.96
Total Time Warner Cable					0.00
US Bank, Credit Card					
Bill	10/06/2020		10/30/2020	2000 . *Accounts Payable	-217.44
Bill	10/06/2020	Winterization for Arena	10/30/2020	438-004 . HORSE ARENA & PARK CONSTRU...	19.92
Bill	10/06/2020	Copies for Building Plans for Clients	10/30/2020	415-031 . OFFICE SUPPLIES & POSTAGE	187.53
Bill	10/06/2020	Part for Brien tank on plow truck	10/30/2020	431-361 . STREET EQUIPMENT MAINTENAN...	9.99
Total US Bank, Credit Card					0.00
Valerie Anderson					
Bill	10/28/2020		10/30/2020	2000 . *Accounts Payable	-36.02
Bill	10/28/2020	Garbage bags for parks	10/30/2020	438-032 . PARK MAINTENANCE SUPPLIES	36.02
Total Valerie Anderson					0.00
Vanguard Cleaning Systems of the Inland N					
Bill	10/08/2020	98813	10/30/2020	2000 . *Accounts Payable	-220.00
Bill	10/08/2020	City Hall Cleaning and outside restroom O...	10/30/2020	419-860 . BLDG & GROUNDS MAINTENANCE	220.00
Total Vanguard Cleaning Systems of the Inland N					0.00
Verizon Wireless					
Bill	10/13/2020	Account no. 742351309-00001	10/30/2020	2000 . *Accounts Payable	-90.86
Bill	10/13/2020	Code Enforcement phone	10/30/2020	415-031 . OFFICE SUPPLIES & POSTAGE	90.86
Total Verizon Wireless					0.00
TOTAL					0.00

BEFORE THE CITY COUNCIL, CITY OF DALTON GARDENS, IDAHO
Order of Decision

**IN THE MATTER OF THE APPLICATION
OF MIKE WHITE FOR AN APPEAL OF
THE DENIAL OF A CERTIFICATE OF
OCCUPANCY FOR A NEW RESIDENCE**

**COURSE OF PROCEEDINGS,
FINDINGS OF FACT, APPLICABLE
LEGAL STANDARDS,
ANALYSIS, CONCLUSIONS OF
LAW AND DECISION**

I. BACKGROUND / COURSE OF PROCEEDINGS

- 1.01 In November of 2018, Mike White was issued a building permit (permit no. 3680) to construct a new residence at 6263 N. 17th Street. One of the conditions of that permit was the requirement that the existing residence (called an ALU on the permit) had to be removed prior to issuance of the certificate of occupancy ("CO"). Also included in the permit files for this property are 2 affidavits, both containing notarized signatures from Mike White that state, in pertinent part: "That the undersigned has been advised, and thus agrees, that any outbuilding, pole building, barn, garage or other storage building shall not be used as a residence. An 'accessory living unit' is considered above and beyond a single-family dwelling and is defined as a building or portion(s) of a building, located on the same lot, but separate from the principal dwelling, with habitable space..."
- 1.02 Construction of the new residence was completed in the Spring of 2020. On May 15, 2020, Mike Bass, the City's contracted building inspector, inspected the accessory building to determine if the building was in compliance with the City Code requirements. He found that the shower had been boarded over, and stove had been removed from the kitchen. He believed (incorrectly) that these measures were sufficient to meet the Municipal Code requirements so it would not be considered an Accessory Living Unit.
- 1.03 The City Planning Administrator and Building Official reviewed the situation prior to issuance of the certificate of occupancy ("CO") and determined that the building did not comply with the Municipal Code with regard to accessory living units. The Planning Administrator sent an email to Paul Daugharty (Mr. White's attorney) on May 27, 2020, denying the request for a CO.
- 1.04 On July 20, 2020, the City received a demand letter from Paul Daugharty demanding issuance of the CO. The City replied with a letter dated July 27, 2020, which again outlined the reasons for denial of the CO.
- 1.05 On August 25, 2020, the City received a formal appeal from Mr. Daugharty.
- 1.06 The City Council held a hearing on the matter on October 1, 2020. The City Planning Administrator Rand Wichman introduced the case and the appellant

provided testimony. The appellant stated that the City, through its building inspector approved the situation and should issue the CO, and that reversing that decision was arbitrary and was done without legal authority. They acknowledged that there were 2 showers within the accessory building: one within the bathroom in the residential portion and one within the workout area.

- 1.07 The City Council deliberated on the matter and expressed concerns for compliance with the Sewage Management Plan Agreement that the City has with the Panhandle Health District. That agreement expressly prohibits Accessory Living Units on septic systems within the City. In addition, the City Council expressed concerns with the inadequate steps taken to remove the plumbing components or to prohibit the future use of the showers in the accessory building. After deliberation, the Council decided to deny the appeal.
- 1.08 Files and exhibits relative to this case were available for review at the City Council meeting and are available for review at the City Hall during office hours.

II. FINDINGS OF FACT

- 2.01 **Appellant/Owner.** Michael J. White, 6263 N. 17th Street, Dalton Gardens, ID 83815.
- 2.02 **Location / Parcel No.** The property is located at 6263 N. 17th Street, Dalton Gardens. The site is in a residential neighborhood at the north end of 17th Street, between Hanley and Dalton Avenues. The parcel number is D-1400-31-018-AA.
- 2.03 **Physical Characteristics and Lot Size.** The lot size is 3.884 acres net. The property has approximately 198 feet of street frontage and is irregularly shaped. The property has little topographic relief.
- 2.04 **Zoning and Setbacks.** The lot is zoned Residential. The structures on the property meet current setback requirements.
- 2.05 **Wastewater disposal.** The property uses a subsurface sewage disposal system, composed of a septic tank and drainfield, for wastewater disposal. Such systems are regulated by the Panhandle Health District.

III. APPLICABLE LEGAL STANDARDS

- 3.01 Dalton Gardens Municipal Code Section 1-11-1, as amended by Ordinance 264, classifies this as an appeal of an administrative determination. The code requires that appeals must be filed within a reasonable time not to exceed 30 days from the action being appealed, and the appeal must specify the grounds of the appeal and the relief sought. The Section also sets forth the procedures for hearing the appeal

- 3.02 Dalton Gardens Municipal Code, Section 1-10-1 defines the role of the planning administrator, as follows:
"A. The planning administrator is a person designated by the city with the authority to conduct long and short range planning activities, including, but not limited to, comprehensive planning, assisting the public in understanding the applicability and requirements of this code, reviewing permit applications, site plans, stormwater applications and plans, interpreting this code and approving or disapproving such applications, and preparing reports on zoning applications.
B. The planning administrator assists the clerk, commission and city council in setting meeting agendas and providing proper notice of public hearings required by this code, issuing orders and certificates of compliance based on site inspections, enforcing the provisions of permits, licenses and development agreements and assisting the code enforcement officer to investigate and resolve possible violations of this code."
- 3.03 Dalton Gardens Municipal Code, Section 4-1-1 defines the role of the city building official as follows: "The building official shall have the power and responsibility to render interpretations of the adopted codes and enforce rules and supplemental regulations in order to clarify the application of their provisions."
- 3.04 Dalton Gardens Municipal Code, Section 4-1-5(B)(3) provides, in relevant part: "A decision to issue a permit or certificate may be made if the council finds from the record developed in the case that the applicant has complied with all ordinances of Dalton Gardens or any state laws for which Dalton Gardens has enforcement responsibility. The requested permit or certificate shall be withheld if the record provides evidence that a city ordinance or applicable state law is violated if the permit or certificate were issued."
- 3.05 Dalton Gardens Municipal Code, Section 5-1-4 provides a definition of Accessory Living Unit, as follows: "A building or portion(s) of a building, located on the same lot, but separate from the principal dwelling with habitable space and any combination of sink, toilet, kitchen, or bathing facility that could enable the residential occupation of the structure or portion of the structure. A garage, shop or storage building with a toilet and a sink shall not be considered an accessory living unit."
- 3.06 Dalton Gardens Municipal Code, Section 5-5-1 lists the allowed uses in the Residential zone. That list includes the following: "The usual accessory buildings commonly appurtenant to a single-family dwelling. No accessory buildings are allowed without a primary single-family dwelling already constructed on site (except as permitted by special use permit). Accessory living units are prohibited. No cooking and/or bathing facilities are allowed in accessory buildings. Toilets and sinks are allowed in accessory buildings."

- 3.07 Dalton Gardens Municipal Code, Section 7-4-1 provides limitations regarding the use of subsurface sewage disposal systems, including the following: "A. Residential units shall not exceed one single-family dwelling per acre. Accessory living units are prohibited. An "accessory living unit" is considered above and beyond a single-family dwelling and is defined as a building or portion(s) of a building, located on the same lot, but separate from the principal dwelling, with habitable space. "Habitable space" is defined as any enclosed area with cooking and bathing facilities. Toilets and sinks are allowed in accessory structures."

IV. ANALYSIS

The City Council hired Rand Wichman as a consultant to serve as the Planning Administrator and Building Official for the City. In this role, he provides interpretations of the Municipal Code, and supervises building permitting and inspection and the code enforcement programs. The building plan review and inspections are also provided by contract. Services for this portion of the program are provided by Kootenai County Fire and Rescue.

In this circumstance, the building inspector made an initial determination that it would be permissible to issue the CO. Prior to issuance of the CO, that recommendation was overruled by the Building Official that supervises the program. The Building Official determined that the inspector had improperly interpreted the code with regard to the limitations on accessory living units. Accordingly, the CO was not issued because it did not comply with the clear condition placed on the building permit and the fact that the Municipal Code does not allow for issuance of the CO when there are code violations on the property.

The City Council concurs that it would be inappropriate to issue the CO until adequate steps are taken by the property owner to remove the prohibited accessory living unit.

VI. CONCLUSIONS OF LAW

- 6.01 The council concludes that the appellant filed this appeal in a timely manner, and that the required procedures were followed in processing this appeal.
- 6.02 The council concludes that the measures taken by the owner were not sufficient to decommission the accessory living unit on the property, such that it would no longer be considered an accessory living unit under the Municipal Code.
- 6.03 The council concludes that the Planning Administrator / Building Official did not improperly deny the request for issuance of the CO. The CO could not be lawfully issued if the issuance would result in a violation of the Municipal Code.

VII. DECISION BY THE CITY COUNCIL

Based on the Findings of Fact and Conclusions of Law set forth in this document, the Dalton Gardens City Council hereby **AFFIRMS** the decision of the Planning Administrator / Building Official to deny the issuance of a Certificate of Occupancy for the reasons outlined above.

Dan Edwards, Mayor

Date: _____

ATTEST:

Valerie Anderson, Clerk

Date: _____

City of Dalton Gardens

From: Deputy Clerk <deputyclerk@daltongardens.com>
Sent: Thursday, October 15, 2020 12:14 PM
To: mayor@daltongardens.com; 'Valerie Anderson - CODG Clerk'
Cc: Rand Wichman; 'Caitlin Kling'
Subject: Special Meeting Conflict Counsel Information
Attachments: LTR of engagement - MGS TEMPLATE (02283716x9F871).pdf; Engagement Brochure (01770188x9F871).pdf

Dan and Valerie,

Caitlin Kling gave us a list of 4 attorneys to check out for conflict counsel. The current issue we have is an ALU issue for Ron Ross. This has been a long term issue that has already been before council. If needed/desired, Rand can provide a Staff narrative for the Council and Caitlin said she could send her own narrative on establishing conflict counsel as she has a meeting conflict for Monday's special meeting. When Caitlin sent the list of attorneys, Dan asked to have Rand rank them. Here is the ranked list:

1. **Mike Schmidt**, Lukins and Annis with a rate projection of \$200/hr for municipal work and advice, \$295/hr for litigation- each potential engagement would be considered separately- no retainer deposit. "(provided a) typical engagement letter (minus the scope of the representation, and with draft language for a fee deposit that I would not require for the City), as well as the brochure that accompanies it. We do a new engagement letter to track fees and costs for each individual project/matter we are asked to assist with. If I receive calls or emails for simple legal questions not involving adverse parties, I will typically just open a "general" file to bill those calls against and leave it open for as long as our relationship continues."
2. **Field Herrington**, Post Falls Law- has been in multi week litigation and has not sent back a rate projection
3. **Pete Bredesen**, Bredesen Law Group- may be willing but would depend on the issue. \$100/hr, no additional charge for litigation but would require a retainer
4. **Kinzo Mihara**, Mihara Law- have not received any information from him as of yet

This is all of the information I have. I will let you know ASAP if I hear back from Field or Kinzo.

Teresa Janzen
Deputy City Clerk
City of Dalton Gardens
6360 N 4th Street
Dalton Gardens, ID 83815
Phone 208-772-3698
Fax 208-762-5156
www.DaltonGardens.com



**COOPERATIVE AGREEMENT BETWEEN
THE CITY OF DALTON GARDENS AND THE CITY OF HAYDEN
RE: SALE OF PERSONAL PROPERTY**

THIS COOPERATIVE AGREEMENT (“**Agreement**”) is entered into this 5th day of November, 2020, by and between the City of Dalton Gardens, municipal corporation of the State of Idaho (“**Dalton Gardens**”) and the City of Hayden, a municipal corporation of the State of Idaho (“**Hayden**”). Dalton Gardens and Hayden collectively may be referred to herein as the “**Parties**” and individually as a “**Party**.”

RECITALS

A. Dalton Gardens is a municipal corporation of the state of Idaho created pursuant to Idaho Code, Chapter 1, Title 50.

B. Hayden is a municipal corporation of the state of Idaho created pursuant to Idaho Code, Chapter 1, Title 50.

C. The Parties desire to cooperate in the sale of certain personal property (as described below) from Dalton Gardens to Hayden, the purpose of which is for Hayden to use the same for its streets and maintenance.

D. Such property is deemed to have a value of \$ [3,200-5,500] or less and may be transferred without notice or public hearing.

AGREEMENT

NOW THEREFORE, the Parties agree as follows:

1. The Recitals set forth above are a part of this Agreement and not mere recitals.
2. Dalton Gardens agrees to sell to Hayden, and Hayden agrees to pay for and accept, the following described personal property:

14G Grader Wing Blade

3. Dalton Gardens and Hayden agree that the Wing Blade shall be transferred “AS IS” and Dalton Gardens does not in any way, expressly or impliedly, give any warranties. **DALTON GARDENS EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR USE.**

4. Each Party to this Agreement shall provide to the other Party the minutes or other documents evidencing that each Party's governing board has ratified this Agreement, the same to be provided within fourteen (14) days after the date of the meeting wherein each governing board respectively ratified this Agreement.

5. The Parties shall in all instances cooperate and act in good faith in compliance with the terms, covenants and conditions of this Agreement and each shall deal fairly with the other.

6. The duration of this Agreement shall be until such time as the Wing Blade has been transferred to Hayden and the other terms and conditions of this Agreement have been fulfilled; provided, however, that Section 3 of this Agreement shall survive the term of this Agreement indefinitely.

7. Upon termination of this Agreement, Hayden shall own the Wing Blade outright, to use and dispose of same in compliance with applicable statutory authority.

8. Miscellaneous:

- (a) Each Party represents and warrants that each person executing this Agreement on behalf of such Party is, at the time of such execution, duly authorized to do so by such Party's governing body and is fully vested with the authority to bind such Party in all respects.
- (b) If any provision of this Agreement is held invalid, illegal, or unenforceable, the remainder shall be construed to conform to the intent of the Parties and shall survive the severed provisions.
- (c) This Agreement constitutes the entire Agreement between Dalton Gardens and Hayden concerning the subject matter hereof. The provisions of this Agreement shall be construed as a whole and not strictly for or against any Party.
- (d) The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein.
- (e) This Agreement is not intended to create, nor shall it in any way be interpreted or construed to create, any third-party beneficiary rights in any person not a party hereto.
- (f) This Agreement shall be binding on the Parties, and their successors and assigns.
- (g) This Agreement may be executed in counterparts and such counterparts shall constitute one agreement binding on the Parties. Facsimile transmission of any signed original of this Agreement, and retransmission of any signed facsimile transmission, shall be the same as delivery of an original and shall be binding upon the Parties.

[Signature Page to Follow]

IN WITNESS THEREOF, the Parties hereto have caused this Agreement to be executed as of the date so indicated.

CITY OF DALTON GARDENS

CITY OF HAYDEN

By: _____
Dan Edwards, Mayor

By: _____
Steven Griffiths, Mayor

DATE: _____

DATE: _____

ATTEST:

ATTEST:

Valerie Anderson, City Clerk

Abbi Sanchez, City Clerk

Caitlin Kling | Attorney
ckling@LCLattorneys.com

November 5, 2020

Dan Edwards, Mayor
CITY OF DALTON GARDENS
6360 N. 4th St.
Dalton Gardens, ID 83815-9254

Steven Griffiths
CITY OF HAYDEN
8930 N. Government Way
Hayden, ID 83835-9214

Re: *Waiver of Potential Conflict – Sale of Personal Property*

As you both know, Lake City Law Group, PLLC currently represents both the City of Dalton Gardens (hereinafter “Dalton Gardens”) and the City of Hayden (hereinafter “Hayden”). The purpose of this letter is to request the informed consent regarding Lake City Law’s representation of each of your entities related to a proposed Agreement regarding sale and transfer of personal property.

A. Background

Lake City Law currently represents both the cities of Dalton Gardens and Hayden. In our capacity as counsel to both, we have been asked to aid in drafting an Agreement between Dalton Gardens and Hayden relating to the sale and transfer of surplus personal property whereby Dalton Gardens will be selling surplus property to Hayden. In this situation we would be representing both Dalton Gardens and Hayden. In order for us to assist both cities in creating this mutually beneficial agreement, we will need to have the written consent of both Dalton Gardens and Hayden as further explained below.

B. Conflict Disclosure - Concurrent Representation - Professional Conduct Rules

The Idaho Rules of Professional Conduct (the “Rules”) govern attorneys’ duties and responsibilities in the practice of law in Idaho. Under the Rules, it is our duty to inform you of certain implications of representing both entities with regard to any conflict matter, including the disadvantages and risks involved.

Rule 1.7(a) sets forth the general rule regarding concurrent representation:

- a. Except as provided in paragraph (b) a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:
 - (1) the representation of one client will be directly adverse to another client; or

- (2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by the personal interests of the lawyer, including family and domestic relationships.

Rule 1.7(b) provides that an attorney may represent the same clients with conflicting interests if:

- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client; ... and
- (4) each affected client gives informed consent confirmed in writing.

(Elements 2 and 3 of Rule 1.7(b) do not apply.)

I will review each of these Rules in order.

Rule 1.7(a)(1) – Clients with Adverse Interests

Rule 1.7(a)(1) is clearly implicated because (i) Lake City Law has ongoing legal matters for both Dalton Gardens and Hayden; and (ii) the negotiation of agreements between the parties puts the parties in a situation of being directly adverse to each other.

Rule 1.7(a)(2) – Materially Limited

Materially Limited by Concurrent Representation of the Current Clients.

Rule 1.7(b) – Diligent Representation; Disclosure of Information

Under Rule 1.7(b) we must believe that we will be able to provide competent and diligent representation to both clients.

We believe our representation of the parties will not adversely affect our relationship with either party and we can diligently represent both parties regarding the same.

Rule 1.7(b)(4) – Informed Consent

a. General

Rule 1.7 requires that the consent of the clients be “informed.” The key factors in the disclosure to the clients to obtain the informed consent are (i) description of the scope of the engagement, (ii) identification of all potential points of conflict or adversity, and



(iii) impact on the attorney-client privilege. The scope of the engagement has been covered in the paragraphs above.

b. All Potential Conflicts and Points of Adversity

Although Dalton Gardens and Hayden seek a mutually beneficial agreement in matters between the parties, nonetheless there is inherent adversity in such negotiations. For example, both parties want to be fair, but also want the most benefit at the least cost.

c. Attorney-Client Privilege

With respect to the attorney-client privilege, the Rules make a further distinction between “concurrent clients” and “common representation” – the situation in which the attorney seeks consent of the clients to represent all of them to “adjust a relationship between clients on an amicable and mutually advantageous basis.” Here, the situation of representing Dalton Gardens and Hayden is a common representation. Accordingly, there is an impact on the attorney client privilege. The prevailing rule in matters of common representation, such as this, is that there is no attorney-client privilege. Therefore, you should be advised that if a dispute arises between the parties, the attorney-client privilege will not protect any such communications that reasonably relate to the Agreement or negotiations or discussions related thereto.

d. Independent Counsel

Interpretations of the Rules would indicate that in order for the consent of the clients to be informed, each client should have the opportunity to obtain advice from a separate counsel. Lake City Law has written this letter to inform both Dalton Gardens and Hayden. Please feel free to seek independent legal advice from legal counsel of your choosing in order to review this concurrent representation letter.

Please note that if the interests between Dalton Gardens and Hayden become adverse, Lake City Law must and will withdraw as counsel for both entities, as you are both current clients of the firm and Lake City Law cannot represent either of you in a dispute or claim against the other.

If the scope of Lake City Law’s representation as described in this letter is inconsistent in any way with your understanding or wishes, please let me know as soon as possible. Otherwise, please sign the original in the spaces provided and return one copy to me. This agreement may be executed in counterpart, each which shall be deemed an original, but all of which together shall constitute one and the same instrument.

Sincerely,

LAKE CITY LAW GROUP, PLLC

Caitlin D. Kling

UNDERSTOOD AND AGREED:

City of Dalton Gardens

City of Hayden

By: _____
Dan Edwards, Mayor

By: _____
Steven Griffiths, Mayor

Date: _____

Date: _____

ATTEST:

ATTEST:

Valerie Anderson, City Clerk

Abbi Sanchez, City Clerk

RESOLUTION NO 2020-07

A RESOLUTION DECLARING SURPLUS PROPERTY

WHEREAS: Idaho Code Section 50-301 states that cities may convey personal property;

WHEREAS: Public policy dictates that City Council declare City property as surplus prior to its disposal or conveyance; and

WHEREAS: City staff has determined that the items of personal property identified on the attached list are outdated, non-working, or otherwise of no further use to the City.

NOW, THEREFORE, BE IT RESOLVED THAT: City Council hereby declares as surplus the property identified on the attached list.

BE IT FURTHER RESOLVED THAT: The surplus property identified herein is to be sold to the highest bidder after proper advertisement of a public auction.

BE IT FURTHER RESOLVED THAT: Alternatively, these items may be sold or conveyed to another Idaho state or local public agency without advertisement or competitive bid.

BE IT FURTHER RESOLVED THAT: In the event the City is unable to sell or otherwise convey property that has been declared as surplus, it may be recycled or appropriately discarded.

PASSED and approved by the City Council of the City of Dalton Gardens this 5th day of November, 2020.

APPROVED:

Dan Edwards, Mayor

ATTEST:

Valerie Anderson, City Clerk

SURPLUS PROPERTY

1. Copy machine – Toshiba 2330c

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF DALTON GARDENS, A MUNICIPAL CORPORATION OF THE STATE OF IDAHO, AMENDING TITLE 7, CHAPTER 1, SECTION 2 OF DALTON GARDENS MUNICIPAL CODE TO ADD AN EXEMPTION FOR BOW HUNTING; REPEALING AND REPLACING TITLE 7, CHAPTER 1, SECTION 3 OF DALTON GARDENS MUNICIPAL CODE TO ADD REQUIREMENTS FOR HUNTING WITHIN CITY LIMITS; PROVIDING FOR SEVERABILITY; PROVIDING REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED by the Mayor and City Council of the city of Dalton Gardens, Kootenai County, Idaho, that Title 7, Chapter 1, Section 2: Discharge of Firearms is amended, and that Title 7, Chapter 1, Section 3: Hunting Prohibited; is hereby repealed and replaced as follows:

Section 1. Dalton Gardens Municipal Code Title 7, Chapter 1, Section 7-1-2 is hereby amended as follows:

7-1-2: DISCHARGE OF FIREARMS:

- A. Definition: Whenever the term "firearms" is used in this section, said term shall mean any instrument used in the propulsion of shot, pellets, bullets or other harmful objects by the action of gunpowder exploded within it, or by the action of compressed air within it, or by the power of springs, excluding what are commonly known as air rifles and BB guns.
- B. Discharge Of Firearms Prohibited: It shall be unlawful for any person to discharge firearms within the limits of the municipality.
- C. Exceptions: This section shall not apply to:
 1. Peace officers in the discharge of their duties;
 2. A person lawfully hunting with a bow and arrow or crossbow of deer, as provided in 7-1-3 below.
 23. A person may discharge a firearm on properties that are zoned to allow agricultural use if discharge of the firearm is for the purpose of slaughtering animals raised on the property for the purpose of human consumption and the person discharging the firearm complies with the following conditions:
 - a. The discharge of the firearm is aimed away from persons, vehicles, roadways, buildings constructed for human occupancy, and other animals; and
 - b. The person discharging the firearm provides prior notice to the applicable law enforcement agency for the city (Kootenai County sheriff).
 3. A person discharging a firearm in the lawful defense of person or persons or property.

Section 2. Dalton Gardens Municipal Code Title 7, Chapter 1, Section 7-1-3 is hereby repealed and replaced as follows:

7-1-3: HUNTING PROHIBITED:

~~It is prohibited and shall be a misdemeanor for any person to hunt wildlife in Dalton Gardens. "Hunting" as defined by Idaho fish and game means chasing, driving, flushing, attracting, pursuing, worrying, following or on the trail of, shooting at, stalking, or lying in wait for any wildlife whether or not such wildlife is then subsequently captured, killed, taken or wounded. Nothing herein shall prohibit the stalking, attracting, searching for or lying in wait for any wildlife by an unarmed person solely for the purpose of observing or photographing that wildlife.~~

7-1-3: HUNTING:

- A. No person shall hunt any fur-bearing animal or bird within the city limits except as otherwise expressly permitted by the City of Dalton Gardens.
- B. The prohibition of subsection A. above shall not apply to bow hunting of deer for proper game management. Bow hunting of deer, provided that bow hunting is expressly permitted by state law, Idaho Fish and Game, and otherwise consistent with state hunting regulations, and that the proposed hunt is consistent with this Ordinance.
- C. Bow hunting must meet all of the following requirements and conditions:
 - 1. Bow hunting is only permitted on parcels three (3) acres or more in size within city limits.
 - 2. It shall be unlawful for any person to discharge a bow and arrow or crossbow within a distance of two hundred (200) feet from any building located on another person's land. This restriction shall not apply if the person who owns the land on which the building is located allows and gives prior written consent to the person to use or discharge an arrow or crossbow within the specified distance of the building.
 - 3. Bow hunting shall not occur across or within any public right-of-way or within fifty (50) feet of the nearest border of a right-of-way.
 - 4. A bow and arrow or crossbow must be discharged from an elevated stand and discharged downward towards the ground. *Comment: This is a practical requirement for a first shot, but in the circumstance where a "finishing" shot is required, those commonly occur away from a tree stand and usually from ground level. We could probably write our way into that, but it probably needs to be more of a guideline/recommendation as opposed to a requirement. The reality of hunting is not always pretty.*
 - 5. Arrows or other projectiles shall not enter, occupy, or traverse any land owned or occupied by another person without that person's prior written consent.
 - 6. No wildlife bait or feed may be utilized to attract deer.

Comment [CK1]: Do we need a city permit? Do we want to limit the number of people who participate each year?

7. A bow and arrow or crossbow shall not be discharged on or across any portion of land owned or occupied by the City of Dalton Gardens.
8. Bow hunters must act in conformance with the laws of the State of Idaho, adhering to all hunting regulations and safe hunting practices.
9. Bow hunters must use best efforts to promptly dispatch a deer on a permitted property with a safe and effective shot. If a wounded deer is not recovered on the hunter's property, or property being used for hunting with prior written permission, then entry on to another's property is permitted only with the prior permission of the landowner.
10. Bow hunters shall take all reasonable steps to immediately and properly dispose of any portion of an animal killed or injured during a bow hunt, including immediately field dressing any animal killed or injured at the site of the bow hunt, and promptly processing the meat and disposing of the by-products from the hunt.

Section 3. Severability. This ordinance is hereby declared to be severable. Should any portion of this ordinance be declared invalid by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect and shall be read to carry out the purpose(s) of the ordinance before the declaration of partial invalidity.

Section 4. Repeal of Conflicting Provisions. All provisions of the current Dalton Gardens Municipal Code, or ordinances of the city of Dalton Gardens, which conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED by the City Council as an Ordinance of the city of Dalton Gardens upon roll call vote on the ____ day of December, 2020.

APPROVED by the Mayor on this ____ day of December, 2020.

CITY OF DALTON GARDENS, IDAHO

By: _____
Dan Edwards, Mayor

ATTEST:

Valerie Anderson, City Clerk



City of Dalton Gardens

6360 N Fourth Street, Dalton Gardens, ID 83815

Phone: (208) 772-3698 Fax: (208) 762-5156

Monthly Planner Activity Report

October 30, 2020

Code amendments

Draft code amendments that address setbacks for accessory structures in the residential zone, requirements for residential fences, new requirements addressing light trespass, and numerous adjustments to the standards of the Commercial zone have been completed. The Planning Commission heard the amendments at their May meeting and recommended approval with minor changes. The matter is now awaiting a workshop with the City Council to discuss the amendments, prior to a public hearing.

The Planning Commission has reviewed the draft amendments for small cell wireless communication facilities in a workshop and made some minor amendments. The matter is scheduled for the Commission's public hearing on November 9. The hearing is expected to be well-attended as this is a controversial subject.

Variances / Special Use Permits

No new applications for variances or special use permits were requested since the last report.

Subdivisions

The Planning Commission will be reviewing the short subdivision application for Mt. Carrol Tracts at their meeting on November 9. This request would create 1 additional lot on Mt. Carrol Street approximately mid-way between Wilbur and Deerhaven.

Building Permits

Building permit activity has been steady. In September and October, the City issued 23 new permits, which are broken down as follows:

- 3 fence permits
- 4 mechanical permits
- 1 new residence

- 5 new residential accessory buildings
- 5 residential addition / alterations
- 4 re-roof permits
- 1 sign permit

For commercial permits, another building was completed at 6040 Government Way (Wild Goose Plaza). The required site improvements were not fully completed in accordance with the approved plans, so the applicant provided a financial guarantee to ensure their completion after the issuance of the Certificate of Occupancy.

The new commercial building at 7878 Government Way has also been completed. The required site improvements have not been completed in accordance with the approved plans. The Certificate of Occupancy has not been issued to this structure.

Staff has also been working to clear up expired permits which date back to 2016. Several letters have been sent to property owners asking them to renew their permits and complete the required inspections. Property owners that have previously received a reminder letter were sent notices of violation. Staff has made good progress cleaning up old permits, although prior record keeping is still an issue that the City struggles with.

Right of way encroachment permits

The City has issued new encroachment permits to TDS Telecom for additional work in the City road right of way. Those permits are reviewed and approved by the city engineer.

Code enforcement

Code enforcement has been busy in September and October. There are currently 15 unresolved code enforcement issues that the City is working on. Several complaints were resolved within the last month. The most noteworthy code enforcement cases include:

- Ron Ross, at 7520 Valley. The City has received multiple complaints about Mr. Ross having an accessory living unit in his backyard. The attorney representing Mr. Ross has responded to the City's notice of violation. No further action can be taken by the City until the City hires an additional attorney to stand in for the City Attorney (due to conflict of interest).
- Isaac Reinert, at 6039 18th Street. Mr. Reinert placed topsoil on the 18th Street turnaround, in an attempt to eliminate the turnaround. The City removed the topsoil and restored the turnaround. The Sheriff's Department was contacted and asked to issue a citation to Mr. Reinert. Mr. Reinert's attorney and the City Attorney have been in regular contact as they work toward resolution of this issue.

- Dalton Avenue approaches. Staff has initiated this investigation and identified 2 properties that physically can access the south side of Dalton Avenue through gates in the fence. The property owners have not been contacted and this issue is also a work in progress.

Appeals

The Council has heard the appeal for Bobbie Plumlee and there is agreement in concept on how that will be resolved. The City Attorney and Plumlee's attorney are still working on the details of that resolution.

The Council also heard the appeal from Mike White regarding removal of the Accessory Living Unit on his property. That appeal was denied. Staff has had a number of discussions with White's attorney on the details of decommissioning that unit. This case is still a work in progress.

City fee resolution

The Council decided to postpone further work on the fee resolution until park usage policies can be drafted, which will allow for inclusion of the park reservation fees in the fee schedule. Work on the park policies has started, but progress has been slow due to other priorities and workload considerations.

Respectfully submitted,



Rand Wichman
City Planner



CONTRACT CITY REPORT

CITY OF DALTON

SEPTEMBER 2020

SERVICE HOURS	MONTH	YTD
PATROL DIVISION		
Patrol Deputies (Including Sergeants)	356.0	2,190.5
District Deputies	42.0	224.5
Animal Control Section	6.0	68.5
Community Service Section	19.0	110.0
TOTAL PATROL DIVISION	423.0	2,593.5
DETECTIVE DIVISION	73.5	534.5
TOTAL SERVICE HOURS	496.5	3,128.0
TOTAL C.O.P.P.S HOURS	0.0	0.0
TOTAL SCLP HOURS	0.0	0.0

ACTIVITY

Law Enforcement Calls	138	900.0
Accidents	1	12.0
Traffic Citations	40	208.0
Total Reports	7	80.0
Arrests	2	10.0

Respectfully Submitted,
Benton Wolfinger, Sheriff

