



CITY OF ROLLINGWOOD CITY COUNCIL MEETING MINUTES

Wednesday, January 17, 2024

The City Council of the City of Rollingwood, Texas held a meeting, open to the public, in the Municipal Building at 403 Nixon Drive in Rollingwood, Texas on January 17, 2024. Members of the public and the City Council were able to participate in the meeting virtually, as long as a quorum of the City Council and the presiding officer were physically present at the Municipal Building, in accordance with the Texas Open Meetings Act. A video recording of the meeting was made and will be posted to the City's website and available to the public in accordance with the Texas Public Information Act upon written request.

CALL REGULAR CITY COUNCIL MEETING TO ORDER

1. Roll Call

Mayor Gavin Massingill called the meeting to order at 7:04 p.m.

Present Members: Mayor Gavin Massingill, Mayor Pro Tem Sara Hutson, Council Member Phil McDuffee, Council Member Kevin Glasheen, Council Member Alec Robinson, and Council Member Brook Brown

Also Present: City Administrator Ashley Wayman, City Attorney Charles Zech, Finance Director Abel Campos, Development Services Manager Nikki Stautzenberger, Police Chief Kristal Muñoz, and City Secretary Desiree Adair (virtually)

PUBLIC COMMENTS

The following individuals spoke during public comments:

- Shanthi Jayakumar, 3309 Park Hills, provided a handout to Council Members and discussed ideas she and her husband found in neighboring cities. She stated how Buda had recognized May of 2023 as Older Americans Month and discussed an interactive digital bulletin board she observed at the Buda City Hall. She quoted a portion of a hand-out from the Buda Economic Development Corporation for the benefit of the RCDC and suggested that the new City Hall design committee take a field trip to view the Buda City Hall.

PUBLIC HEARING

2. Public hearing, discussion and possible action on an ordinance amending the city's Code of Ordinances to require the use of the city's benchmark elevation network for permits

Mayor Gavin Massingill opened the public hearing on agenda item 2 at 7:13 p.m.

No individuals spoke during the public hearing.

Mayor Gavin Massingill closed the public hearing at 7:13 p.m.

Mayor Gavin Massingill explained that the project with ATS for the control network survey will be reflected in the Code of Ordinances with this ordinance.

Council Member Brook Brown moved for approval of ordinance 2024-01-17-02. Mayor Pro Tem Sara Hutson seconded the motion. The motion carried with 5 in favor and 0 against.

PRESENTATIONS

3. Presentation and discussion on the Quarterly Investment Report for the 1st Quarter

The first quarter Investment Report was presented to City Council. Finance Director Abel Campos discussed investments in TexPool and the average yield for the first quarter.

4. Presentation and discussion on the Budget Review for the 1st Quarter

Finance Director Abel Campos presented the Budget Review for the first quarter of Fiscal Year 2023-2024. Items of interest include City sales taxes, building permit fees, water and wastewater sales, and property tax collections.

5. Update from the Mayor and staff on water and drainage bond projects

Mayor Gavin Massingill discussed the preconstruction meeting with AO Services, the community wide letter, the website link, a walkthrough of areas, and ordering of supplies for the drainage projects. Door hangers have been provided to areas in the City where construction has begun.

6. Update on coordination of Google Fiber installation and Water CIP construction

Mayor Gavin Massingill stated that there has been a meeting between K. Friese + Associates and Google Fiber. Our plans and work schedules have been provided. Google Fiber will coordinate and build their permit request around these schedules.

CONSENT AGENDA

7. Discussion and possible action on the minutes from the December 20, 2023 City Council meeting
8. Discussion and possible action on an Ordinance amending the City's Code of Ordinances related to the Park Commission

Council Member Phil McDuffee moved to approve the Consent Agenda. Council Member Alec Robinson seconded the motion. The motion carried with 5 in favor and 0 against.

REGULAR AGENDA

9. Discussion and possible action on a proposal from K. Friese + Associates for a drainage study of the park

Mayor Gavin Massingill stated that although working closely with K. Friese + Associates, we do not yet have a proposal.

Council Member Brook Brown discussed her concern with K. Friese + Associates being able to take on this drainage project. Mayor Gavin Massingill stated that there may be other groups suited for this request.

10. Discussion and possible action on a proposal from Innovative Water Solutions for drainage improvements to the upper park

Mayor Gavin Massingill gave a brief overview regarding Innovative Water Solutions' proposal for drainage in the Park.

Council Member Brook Brown discussed the tasks in the proposal including the drain pipes and their direction, a detention area between the pavilion and the fence and the existing cliff side where water could be retained. Council Member Brook Brown's recommendation would be to have task 1 and task 3 designs developed to start.

Council Member Kevin Glasheen discussed his support for task 1 and task 3, and stated his concern with task 2 that he would like more information and an overall drainage study.

Mayor Gavin Massingill suggested asking Innovative Water Solutions to start with task 1, and then go into more detail with task 2 and task 3. Council Member Brook Brown discussed the soil quality around the pavilion in the lower park tending to be soggy and the water drainage flow off the park. She suggested giving the previous K. Friese + Associates study to Innovative Water Solutions to review the data.

Council Member Kevin Glasheen discussed trees and curb improvements which will require a comprehensive drainage study to understand the water flow.

Council Member Alec Robinson is in favor of task 1 and task 3, but not task 2 due to cost and he would like to budget for that task over the next year. Mayor Pro Tem Sara Hutson is concerned with not having an overall plan and would like to know where the water discharges and ends up.

Council Member Kevin Glasheen moved to move forward with task 1 and task 3 and ask the firm to look at the park overall and present an additional proposal. Council Member Alec Robinson seconded the motion.

Council Member Phil McDuffee discussed the need for an overall plan for where the water flows. He thinks this is a good low-cost option for proceeding forward.

Mayor Gavin Massingill discussed other options that could be adjusted by Innovative Water Solutions for slowing the flow down.

Council Member Brook Brown brought up the idea of holding this item over to the next meeting. She would like to know the scope of the study.

City Council discussed grade and low points and drainage. Mayor Pro Tem Sara Hutson discussed concerns with the grading in the parking lot, direction of the flow, and the water from the Park flowing to behind City Hall.

Council Member Kevin Glasheen requested that the previous drainage study be circulated to all council members.

Council Member Kevin Glasheen would like Mayor Gavin Massingill and City Administration to take on this project. The proposed retaining wall solves an erosion problem as well as drainage and he would like to move forward on task 1 and task 3.

Council Member Brook Brown discussed two problems with the water from the park – where Park Hills meets Nixon and at Pleasant Cove. Mayor Pro Tem Sara Hutson mentioned that grading has been changed on the Park since the study.

Shanthi Jayakumar, 3309 Park Hills, is glad the Council is coming back to a comprehensive study. Her concern is where the water is going and where it ends up. She described the history of the Pleasant Cove area and the placing of piers to create strong foundations. She thinks Council has the right idea of doing a comprehensive study and looking at how the upper park impacts the lower park.

The motion carried with 3 in favor and 2 against (Hutson, Brown).

Council Member Brook Brown asked where to go with what was approved three meetings ago regarding the drainage study proposal. Mayor Gavin Massingill stated that staff would ask Innovative Water Solutions to do the same thing and there will be two options to consider.

11. Discussion and possible action to select a contractor to construct a retaining wall in the upper park near the field house

Council Member Kevin Glasheen mentioned that he would like the design work back before putting it out for bid and Mayor Gavin Massingill said staff will bring this back.

12. Discussion and possible action on a draft ordinance regarding certain sport court regulations

City Administrator Ashley Wayman discussed the ordinances that were brought back, based on direction last month, relating to nuisances and zoning.

Mayor Gavin Massingill called up item 13 to be discussed in conjunction with item 12.

City Administrator Ashley Wayman explained the documents in the agenda packet for these two items, including original drafts of ordinances, ordinances with proposed edits by Council Member Brown and additional information provided by Council Member Brook Brown.

City Attorney Charles Zech explained the two ordinances before the City Council, the first based on nuisance law, an amendment to chapter 18 of the code. He explained that this ordinance defines pickleball, continuous play, play, and then places prohibitions on this play, no play between certain hours, no continuous play, and prohibiting noise over certain decibels at property line or within 250 feet of the court.

On the zoning ordinance, City Attorney Charlie Zech continued to discuss the creation of a special use permit (SUP) required to play pickleball on their property. The SUP is a zoning change which needs public hearings and P & Z recommendation before it comes before City Council. There is an application process including site plan and noise study provided by the applicant. It gives authority to the P & Z Commission to request additional studies including visual analysis, filing

fees, and minimum setbacks set by Council. P & Z could recommend a reduction in the setbacks if there is a required noise study or if it has noise mitigating features and P & Z could recommend additional noise mitigation requirements. There is a provision on a limit of number of pickleball courts, standards for issuing the SUP including adequate parking and screening and buffering to minimize noise. If in violation of the SUP or ordinance, we have authority to go through the zoning process again and the Planning and Zoning Commission can recommend to revoke the SUP, then City Council would decide.

Council Member Kevin Glasheen asked if this is the only special use permit in the residential code and if there are vested rights for currently existing multiple courts and setbacks. City Attorney Charlie Zech stated that he would have to verify, but it would be an existing nonconforming use. The nuisance aspects would apply immediately and could be enforced immediately. Mayor Pro Tem Sara Hutson asked about legality at the time it was put in place. Council Member Kevin Glasheen discussed the best way to get immediate relief – the noise decibel level. Council Member Kevin Glasheen asked questions about prohibiting pickleball in general and vested rights.

Council Member Alec Robinson asked about the number of situations that have been a problem. He has concern with causing people to go through the special use permit process. City Council discussed this concern and people playing in nonresidential areas.

Council Member Brook Brown discussed the main problem being the noise. City Council continued discussion regarding the cost of a noise study and when to get it done. Mayor Gavin Massingill asked about compliance for permit requestors.

Council Member Kevin Glasheen asked what decibel level is acceptable measured from the property line. Council Member Brook Brown recommended 50 decibels which comes from an adjustment to typical suburban background noise level.

Mayor Gavin Massingill asked Council to choose between the two versions of ordinance 2024-01-17-12 in the packet.

Glen Harris, 3012 Hatley, restated his request to the City Council that the noise of pickleball is a problem, he would like to codify rules or enforce existing rules, recognize the difference between friends and family usage and 60 member club usage. He thinks that the key aspect of why there is debate is because one tennis court was converted into four pickleball courts without city or neighbor consultation. He would like hours which are consistent with city park rules and he is comfortable with 47 or 50 decibels. For the zoning specifics, he is convinced that setback limitations would still have noise issues. He would like no more than one pickleball court per residential lot, he doesn't think quiet paddles and single court usage alone will solve the noise problem, and he asked City Council to enforce visual requirements as well.

Council Member Kevin Glasheen explained vested rights and how the nuisance ordinance would apply immediately. City Attorney Charlie Zech interjected that it is not legal to constitute a nuisance on the courts.

Mayor Pro Tem Sara Hutson asked how these proposals impact the Western Hills Athletic Club. City Attorney Charlie Zech explained that a nuisance is a nuisance regardless of the zoning district. City Attorney Charlie Zech stated that in Section 107-403, it reads that the regulations "shall apply to all land, buildings, structures in the City."

City Council discussed continuous play, hours of play, and zoning districts. City Attorney Charlie Zech attempted to get consensus on these topics. Mayor Gavin Massingill suggested taking action and filling in the blanks in the ordinance. City Council and City Attorney Charlie Zech discussed the ordinances.

Council Member Brook Brown moved to strike lines 48 and 49. Council Member Kevin Glasheen seconded the motion. The motion carried with 5 in favor and 0 against.

Council Member Brook Brown moved to amend lines 61 and 62 to read “no play shall occur between the hours of 8:00 p.m. and 8:30 a.m.” Council Member Phil McDuffee seconded the motion. The motion carried with 5 in favor and 0 against.

Council Member Brook Brown moved to on line 64, subsection 2 be stricken and that it be amended to read “no play shall occur more than 2 hours in a day on lots smaller than 3 acres.” Council Member Kevin Glasheen seconded the motion. The motion carried with 5 in favor and 0 against.

Council Member Brook Brown moved that the blank on line 67 be 47 decibels. Council Member Phil McDuffee seconded the motion. The motion passed with 4 in favor and 1 against (Robinson).

City Attorney Charlie Zech reiterated the changes that he will be making to this ordinance based on the motions made.

Council Member Kevin Glasheen moved to strike “in residential areas” from line 6. Council Member Brook Brown seconded the motion. The motion carried with 5 in favor and 0 against.

Council Member Kevin Glasheen moved to strike the language “or any location within 250 feet of such court” from line 69.

Council Member Kevin Glasheen stated why he wanted to discuss this requirement and Council Member Brook Brown explained what the studies say about this relating to refraction of noise and elevation changes.

Council Member Kevin Glasheen withdrew his motion.

Mayor Pro Tem Sara Hutson discussed that the changes that were made to this ordinance tonight have not been made available to the public and she proposed to publish this for next month to vote on so that people can provide input.

The City Council discussed this proposal as well as the input that has been received from the community thus far.

Glen Harris discussed his view against waiting one more month to get these regulations in place.

The Mayor and City Council discussed whether this ordinance should be passed today or next month.

Council Member Brook Brown moved adoption of Ordinance 2024-01-17-12 as amended pursuant to the discussion of the Council this evening. Council Member Kevin Glasheen seconded the motion.

City Attorney Charlie Zech explained that this ordinance has a penalty clause associated with it so it will need to be published in the paper for two days before it becomes effective.

The City Council discussed this requirement and Mayor Massingill stated that it would also be published on the city's website.

The motion carried with 4 in favor and 1 abstention (Robinson).

Council Member Kevin Glasheen thanked Council Member Brown for all her work on this issue.

Mayor Gavin Massingill stated that agenda item 13 was now before the Council.

Council Member Brook Brown recommended passing on agenda item 13 tonight and asking counsel to bring back an ordinance that would adopt a Special Use Permit for pickleball and address the number of courts per lot and the requirement for a sound study to be associated with the court permit. She explained why she is recommending the number of courts per lot. She clarified that she wanted discussion on this to see if there is consensus on having a SUP process for pickleball courts limiting the number of courts per lot and requiring a noise study.

Council Member Alec Robinson stated that he is not in favor of this process at this time, stating that he would like to wait to see how the nuisance ordinance works first. Council Member Glasheen agreed.

The City Council discussed whether there were other tennis/sport courts that may become a problem, how this should be addressed, and whether there was concern about conversion of existing tennis courts to pickleball courts.

Don Hudson, 4902 Rollingwood Drive, described the meeting of the Board of Adjustment where pickleball was brought up as a topic and the noise that pickleball creates.

The City Council continued to discuss many aspects of pickleball court establishment and use, modifying courts for different uses, what is authorized under the current code, and the proposed SUP process.

Mayor Gavin Massingill stated that it sounded like there was not an appetite to take action on item 13 tonight but asked if there is any direction to bring something back next month.

Council Member Brook Brown moved to ask the City Attorney to bring back a zoning ordinance that would require a special use permit for any new pickleball court, whether it is a conversion or a newly built court, and that would address the requirement for a noise study to be done before issuance, compliance with the decibel limitation of 47 decibels and require a study that affirms that that decibel level can be achieved with the design plan.

Council Member Brown restated her motion to request that we ask the City Attorney to bring back an ordinance that would require the permitting as a special use permit for any new pickleball court installed with new construction or converted from an existing sport

court to a pickleball court and require that the permit not be issued unless the applicant can demonstrate that the pickleball court will meet the same decibel levels that we have set out in the nuisance ordinance. Mayor Pro Tem Sara Hutson seconded the motion.

The motion carried with 3 in favor and 2 against (Robinson, Glasheen).

13. Discussion and possible action on a draft ordinance regarding zoning regulations for certain outdoor sport court usage in residential areas

This item was heard in conjunction with item 12.

14. Discussion regarding an amendment to the city's Code of Ordinances related to short term rentals of residential amenities

City Council discussed having staff and counsel bring back an ordinance for consideration at the next meeting.

15. Discussion regarding clarification of enforcement and penalty provisions within the city's Code of Ordinances

City Administrator Ashley Wayman explained that the enforcement sections of Code did not always get changed as ordinances were changed. City Attorney Charlie Zech has done a brief review.

City Attorney Charlie Zech explained that there are some inappropriate references in the code. One thing we could do is if there is not a penalty or enforcement, lay out what penalties can be consistent with state law. A suggestion by City Attorney Charlie Zech and Mayor Gavin Massingill was to put penalties in one location for enforcement purposes. This applies only to municipal court criminal penalties.

16. Discussion regarding a Park Commission request for feedback on a memorial tree project in the park

City Administrator Ashley Wayman discussed what the Park Commission has been discussing regarding memorial requests. They created a subcommittee that decided to create a memorial tree project and they have an arborist . The Park Commission would like City Council to weigh in on whether this project should be developed further.

Council Member Kevin Glasheen approves of this idea and that it could also be used as a fundraiser by the Park Commission. City staff could help estimate costs of such a project. He discussed location and consistency with drainage improvements.

Mayor Gavin Massingill took a poll on interest in the Park Commission developing this project:

Council Member Brook Brown- yes

Council Member Alec Robinson - yes

Council Member Kevin Glasheen - yes

Council Member Phil McDuffee - yes

Mayor Pro Tem Sara Hutson suggested doing what has been historically done of

honoring someone who does something significant for the City or has demonstration of community involvement or identified service to the community.

Don Hudson, 4902 Rollingwood Drive, stated that the tree idea was originally his idea and then later the subcommittee liked the idea of trees. The Park Commission liked the locations between field 2 and the parking area and the patch near the butterfly garden. The Park Commission does not want to make the Park a memorial park.

Mr. Hudson and Council Member Kevin Glasheen discussed plaques for memorial. Council Member Brook Brown suggested the Park Commission bring back a more detailed plan including costs and location.

17. Discussion regarding a preliminary recommendations report from the Comprehensive Residential Code Review Committee

Council Member Brook Brown asked Mr. Bench to discuss the recommendations report of the CRCRC.

David Bench, 1 Randolph Place, spoke regarding the CRCRC survey completion, and how the responses have been studied individually, in subcommittee, and in full committee. He provided 17 recommendations from the CRCRC who voted unanimously to recommend. He asked City Council to let him know if there was a nonstarter or if one needed more guidance.

He discussed the guiding principle, building height, method for measuring height, building envelope, exposed foundation restrictions, side yard setbacks, street facing corner lot side yard setbacks, trade 5 feet in front yard for 5 feet in the back setback, pools in rear setback, and remove the ordinance connecting corner lot driveways.

City Council asked questions about determining corner lot side and front yards and data supporting 15 feet side setbacks. Council presented their concerns with setbacks and right of way utilization.

Mr. Bench continued to discuss CRCRC topics including 8-foot fences, trees in more public right of way areas, heritage tree removal, heritage tree documentation, and lighting. He reported that the CRCRC won't discuss number of stories, area of top story, special zoning districts, FAR, and impervious cover. He thanked City Council for their attention. Mayor Pro Tem Sara Hutson asked a question about driveways as a public safety issue and recommended checking with the police department and traffic engineers.

18. Discussion and possible action to reappoint Planning and Zoning Commission members whose terms are expiring for an additional two-year term

City Administrator Ashley Wayman explained that at the last Council meeting, the City Council asked for an attendance report and property holdings. City Council now has this information and four members' terms were ending in December of 2023.

Council Member Brook Brown discussed her concerns regarding who is seeking appointment, and wanted to make it known about interests. Mayor Gavin Massingill stated the definition of conflicts of interest.

City Attorney Charlie Zech explained the statute regarding substantial interest on a specific property and conflicts of interest.

Council Member Brook Brown moved to postpone action on item 18 until the next meeting when we know who is potentially seeking appointment. Mayor Pro Tem Sara Hutson seconded the motion. The motion failed with 2 in favor (Brown, Hutson) and 3 against (Robinson, Glasheen, McDuffee).

Council Member Kevin Glasheen moved to reappoint Brian Nash, Genie Nyer, Michael Hall, and Tony Stein to the Planning and Zoning Commission. Council Member Alec Robinson seconded the motion.

Mayor Pro Tem Hutson discussed attendance issues.

David Bench, 1 Randolph Place, agreed that it would be good to establish a threshold for number of absences. City Council stated that there is one already.

The motion carried with 5 in favor and 0 against.

19. Discussion and possible action to make appointments to boards and commissions

Mayor Gavin Massingill explained his appointment process and then appointed Susan Hinton to position 1, Wendi Hundley to position 3, and Kendra Roloson to alternate 1 of the Board of Adjustment.

Mayor Gavin Massingill clarified that he is only appointing positions and the BOA will select their own chair.

Mayor Pro Tem Sara Hutson moved to confirm Susan Hinton to position 1. Council Member Phil McDuffee seconded the motion. The motion carried with 5 in favor and 0 against.

Council Member Kevin Glasheen moved to confirm the appointments of Wendi Hundley and Kendra Roloson. Council Member Alec Robinson seconded the motion. The motion failed with 2 in favor (Glasheen, Robinson) and 3 against (McDuffee, Brown, Hutson).

Council Member Alec Robinson moved to confirm Kendra Roloson for the alternate spot. Council Member Kevin Glasheen seconded the motion. The motion failed with 2 in favor (Glasheen, Robinson) and 3 against (McDuffee, Brown, Hutson).

City Administrator Ashley Wayman stated that the Board of Adjustment now has one vacancy in the regular members and three vacancies in the alternate positions.

Mayor Gavin Massingill noted that he respectfully disagrees with Council's decision on his appointments.

City Administrator Ashley Wayman stated that there is one vacancy on the Park Commission and listed the applicants.

Council Member Kevin Glasheen moved to appoint Diana Wallace for the Park Commission. Council Member Phil McDuffee seconded the motion. The motion carried with 5 in favor and 0 against.

20. Discussion and possible action to set a date for the Spring Clean Up Event

City Administrator Ashley Wayman discussed the selection of Saturday March 9th or Saturday March 16th as options.

Council Member Phil McDuffee moved to set the Spring Clean Up for the 9th unless there is a conflict, in which case it will be pushed to the 16th. Mayor Pro Tem Sara Hutson seconded the motion. The motion carried with 5 in favor and 0 against.

21. Report from staff on the status of legal action to trademark the Rollingwood logos

City Administrator Ashley Wayman stated that we are now 45th in line for trademarks with the state.

ADJOURNMENT OF MEETING

Mayor Gavin Massingill adjourned the meeting at 11:16 p.m.

Minutes Adopted on the _____ day of _____, 2024.

Gavin Massingill, Mayor

ATTEST:

Desiree Adair, City Secretary