



## **CITY OF ROLLINGWOOD CITY COUNCIL MEETING MINUTES**

**Wednesday, January 18, 2023**

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 18, 2023. 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 7:03 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, Interim Chief of Police Kristal Muñoz, City Secretary Desiree Adair, Development Services Manager Nikki Dykes, and Assistant to the City Administrator Makayla Rodriguez.

### **PUBLIC COMMENTS**

The following individuals spoke during public comments:

- Shanthi Jayakumar, 3309 Park Hills Drive, thanked Team Rollingwood for their work, thoughtful planning, and for providing exceptional services.

### **PRESENTATIONS**

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

Finance Director Abel Campos presented the Quarterly Investment Report for the 1<sup>st</sup> quarter of Fiscal Year 2022-2023.

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

Finance Director Abel Campos presented the Financial Analysis for the 1<sup>st</sup> Quarter of Fiscal Year 2022-2023. He discussed revenue and expenditures compared to the prior year.

4. Status report on Rollingwood comments filed on behalf of the City in connection with Zilker Park Vision Plan

City Administrator Ashley Wayman discussed the City of Rollingwood comments that were submitted in regards to the Draft Zilker Park Vision Plan.

### **CONSENT AGENDA**

All Consent Agenda items listed are considered to be routine by the City Council and may be enacted by one (1) motion. There will be no separate discussion of Consent Agenda items unless a City Council Member has requested that the item be discussed, in which case the item will be removed from the Consent Agenda and considered in its normal sequence on the Regular Agenda.

5. Discussion and possible action on the minutes from the December 21, 2022 City Council meeting
6. Discussion and possible action on an update to the Interlocal Agreement between the City of Rollingwood and the City of Austin for addressing services
7. Discussion and possible action on contract with Denton, Navarro, Rocha, Bernal and Zech for legal and planning services for draft ordinance changes and processes for public input on the commercial zoning changes as recommended in the Comprehensive Plan, and timetable for project milestones
8. Discussion and possible action on a reimbursement resolution expressing intent to finance expenditures

Mayor Gavin Massingill discussed a constituent email that discussed the use of Robert's Rules of Order in accordance with the Code of Ordinances. He explained that Council will work on utilizing Robert's Rules of Order this evening, and proceeded to highlight time limits, extensions of time, and specific rules for speaking.

Council Member Kevin Glasheen, the Mayor, and City Attorney Charles Zech discussed points of order for conducting the meeting.

**Council Member Brook Brown moved to pull items 7 and 8 from the Consent Agenda.**

**Council Member Brook Brown moved to approve items 5 and 6 on the Consent Agenda. Mayor Pro Tem Sara Hutson seconded the motion. The motion carried with 5 in favor and 0 against.**

**Council Member Brook Brown moved to approve in item 7 the proposed contract for legal and planning services offered by Denton, Navarro, Rocha, Bernal, and Zech (DNRBZ), and move to direct staff and DNRBZ to present at the next Council meeting a project task list and project dates for this project, the project being the process for considering the commercial zoning changes as recommended by the Comprehensive Plan. Mayor Pro Tem Sara Hutson seconded the motion.**

Council discussed the intention of this motion. Council Member Brook Brown would like to have an outline of project tasks and a general timeline.

**The motion carried with 5 in favor and 0 against.**

Council Member Brook Brown explained her question regarding the reimbursable expenses.

**Council Member Brook Brown moved to approve reimbursement resolution 2023-01-18-08 as amended. Mayor Pro Tem Sara Hutson seconded the motion. The motion carried with 5 in favor and 0 against.**

## **REGULAR AGENDA**

**Council Member Brook Brown moved to call up item 15 at this time. Council Member Phil McDuffee seconded the motion. The motion carried with 5 in favor and 0 against.**

*Mayor Gavin Massingill called up item 15 at this time.*

9. Request for legal advice and discussion and possible action with regard to building permit applications, and purported issuance of building permits, where the Building Official has determined that the applications do not conform to the setback requirements of the zoning code and zoning variances for the non-conformities have not been sought from the Board of Adjustment; determination of appropriate action with regard to such applications; and identification of any other similar issues in connection with any other Rollingwood permit applications, if any, in progress at this time

**Council Member Kevin Glasheen moved to suspend Robert's Rules of Order for the remainder of the meeting and revert to our more informal format of discussion of items with the Mayor moderating the discussion as he has traditionally. He would like to suspend all the rules and conduct the meeting as we traditionally have informally with the Mayor exercising some degree of control over the discussion to maintain order.**

**Council Member Kevin Glasheen restated his motion to move to suspend Robert's Rules of Order and allow the Mayor to conduct the rest of this meeting as he sees fit. Council Member Brook Brown seconded the motion.**

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|--------------------------------------|------------|
| <b>Council Member Brook Brown</b>    | <b>Aye</b> |
| <b>Council Member Alec Robinson</b>  | <b>No</b>  |
| <b>Council Member Phil McDuffee</b>  | <b>Aye</b> |
| <b>Council Member Kevin Glasheen</b> | <b>Aye</b> |
| <b>Mayor Pro Tem Sara Hutson</b>     | <b>No</b>  |

**The motion failed with 3 in favor and 2 against.**

**Council Member Phil McDuffee moved to suspend the time limits according to Robert's Rules of Order specifically for the remainder of this meeting. Council Member Brook Brown seconded the motion.**

|                                      |            |
|--------------------------------------|------------|
| <b>Council Member Brook Brown</b>    | <b>Aye</b> |
| <b>Council Member Alec Robinson</b>  | <b>No</b>  |
| <b>Council Member Phil McDuffee</b>  | <b>Aye</b> |
| <b>Council Member Kevin Glasheen</b> | <b>Aye</b> |
| <b>Mayor Pro Tem Sara Hutson</b>     | <b>No</b>  |

**The motion failed with 3 in favor and 2 against.**

Council Member Alec Robinson stated his reasoning for the record that they will each have 10 minutes plus the extension.

Council Member Brook Brown stated for the record that she wished to be noticed of the use of Robert's Rules of Order for all to come prepared.

Council Member Brook Brown introduced item 9 including 2 building permits that were directed to be issued by the Mayor. She stated the history of these 2 building permits and when Council had been advised regarding these matters. She posted this agenda item to ask the City Attorney to review these circumstances, determine whether the permits are lawful, provide options available to the applicants, and advise the Council on this matter. She discussed uniform setbacks on corner lots.

Council Member Brown distributed 4 motions contained in the memo submitted in the packet. She asked to take action on a policy level so that the decision to supersede the building official's determination on these 2 lots does not become precedent for any future applicant, thus undermining our code setbacks, that we reaffirm the policy from the February 22<sup>nd</sup> Council meeting that the zoning code side setbacks on corner lots will govern building permit applications unless a variance from the BOA is granted, that we notice this policy to pending applicants and to the website page for residential building applications, that we find out if there are any other situations where permits have been approved where the building official has found the application non-compliant with the code, that we get the advice of our City Attorney on the legal issues associated with this matter, and that we do this in a timely manner by asking for the City Attorney's written opinion by date certain and setting this matter for a special Council meeting to take it up as soon as reasonably possible.

**Council Member Brook Brown moved that the City Council direct the building official to advise all pending building applicants having a corner lot seeking a reduction in the 30' side setback, and not meeting the exception in Code Section 107-76 (c) (3), that such setback reduction requires the approval of the Board of Adjustment and cannot be accomplished based on purported prior precedent, by an address change, a new plat, replat, or amending plat, or other means. Mayor Pro Tem Sara Hutson seconded the motion.**

**Mayor Gavin Massingill yielded the gavel to Mayor Pro Tem Sara Hutson. Council Member Brook Brown yielded to Mayor Gavin Massingill.**

Mayor Gavin Massingill asked Council Member Brook Brown if it is her assertion that she and the Mayor did not have a specific private telephone conversation about this specific matter at hand and that she has no recollection of agreeing to the exact approach outlined in the Mayor's executive memos which included the subsequent Council action that he suggested and that was

approved by this Council to guard against this circumstance happening again in the future. Council Member Brook Brown stated that it is her position that they did not have that conversation.

**Mayor Gavin Massingill rose to a question of personal privilege. He moved to be recognized to make comments regarding actions which have been circulated to disparage his character and humbly sought a second for this motion. Council Member Alec Robinson seconded the motion. The motion carried with 3 in favor, 2 in silent consent – Council Member Alec Robinson and Council Member Brook Brown, and 0 against.**

Mayor Gavin Massingill stated that agenda item 9 was filed to disparage his integrity, to question his honesty, to cast doubt on his intentions as a mayor and public servant, and to damage his reputation as a truthful broker of compromise. He addressed comments to Council and addressed his constituents and neighbors to whom he serves as well as this community. He was amazed at Council Member Brook Brown's denial of their conversation on this topic. He stated the historic facts of this issue including how it affected the previous building official, code that has not been updated since 1987, code that required plats to include setback lines, the possibility of adjusting building lines with administrative approval, and representations made to applicants by a previous building official. All of these reasons causing multiple litigation threats and the Mayor personally meeting with attorneys for at least one of the parties laying out their position. He discussed litigation strategy, optics, and consultation with legal counsel. The Mayor added conditions to his potential directive to issue the permits: (1) The applicants had to visit with immediate neighbors who are most affected and make sure they approve the proposed approach, and (2) The Mayor would visit with two Council Members who are active and engaged with these issues.

Mayor Gavin Massingill stated that this has been no fault of present staff, that the Code is poorly written and has not been well executed. He read the transcript from the meeting regarding the Code related to plats. He explained why he drafted the memorandum for transparency so that there would be a public record.

Mayor Gavin Massingill asked Council Member Brown to strictly adhere to the Code of Ordinances which require the City Administrator to act as liaison between Council and staff. All questions and requests for information must go to the City Administrator and all City staff and external vendors are directed to refer any interaction she may have with them to City Administrator Wayman per City Ordinance Section 2-26. The City Administrator is instructed to bring any requests by Council Member Brown which require expenditure of funds by this City with a third-party vendor to be placed on the Council agenda for action and subsequent budget amendment as needed by the full Council. This includes all requests for memos and meetings with third party contractors for which the City will be independently billed. It includes all personal requests for legal memos and opinions from outside counsel and all documentation requests of any extenuating nature which would require extraordinary staff time and resources.

It is not Mayor's intention to continue with Council Member Brown on the bond advisory panel. Council has the option to ask Mayor to withdraw the invitation to Council Member Brown and he will proceed overseeing the work, or ask the Mayor to leave Council Member Brown on the advisory panel and the Council can do the work themselves, or Council could appoint a different Council Member to assist the Mayor on the oversight. He does not think Mayor or Council Members need to be on the panel but would be pleased to have assistance in oversight, helping the panel get lined out with deliverables which would be of most use to Council's decision making, or he is happy to cheer on the Council from the sidelines.

Mayor Gavin Massingill relinquished the gavel to Mayor Pro Tem Sara Hutson.

*Mayor Gavin Massingill left the meeting.*

**Council Member Brook Brown rose to the point of privilege.** She believes a mistake has been made. She does not believe the correct course of action has been taken. She believes prior precedents had been set and her credibility has been challenged. She believes she has acted professionally. She thought the Mayor could have brought this to executive session in August and Council could've made a decision with legal advice.

Council Member Kevin Glasheen asked for a point of information and proceeded to ask Mayor Pro Tem Sara Hutson if she had conversations with the Mayor. She stated that what the Mayor said was true, and that steps were being taken so that this wouldn't happen again. Mayor Pro Tem Sara Hutson was clear that this would happen by executive memorandum. Council Member Kevin Glasheen asked City Attorney Charles Zech if he was aware of the executive memo way of handling this situation. City Attorney Charles Zech stated that he was, and that under state law, the Mayor is the executive officer of the City.

Mayor Pro Tem Sara Hutson asked if there was any public comment on the motion by Council Member Brook Brown.

Amy Pattillo, 3 Rock Way Cove, spoke regarding her shock regarding 2 specific properties called out in the agenda one sheet but were not listed in the agenda item. She asked if notice was given to the property owners involved and if they have been reached out to in order consider ways to resolve these issues.

Wendi Hundley, 401 Vale, stated that she was concerned after reading the one sheet that Council would talk about specific properties without noticing individual property owners. She discussed what she thought was the proper remedy for this situation. She urged Council not to attack individual persons and focus on the laws.

Council Member Brook Brown responded by explaining her motion with a clearly stated policy. She advised the City Administrator and the City Attorney to consider whether these matters could be properly handled in executive session. She had expected advisement.

**Council Member Kevin Glasheen moved to table the pending motion. Council Member Alec Robinson seconded the motion.**

**Council Member Brook Brown will withdraw her motion A until we've considered her motion C and motion D to redirect these questions to the City Attorney for resolution.**

Mayor Pro Tem Sara Hutson discussed motion A and suggested a vote on motion A.

**Council Member Alec Robinson seconded the motion.**

**Council Member Kevin Glasheen amended his motion to postpone.**

Thom Farrell, 3223 Park Hills Drive, spoke regarding the problematic aspect of the building official explaining the Code to permit applicants.

**Council Member Kevin Glasheen moved to amend the motion to delete the words “to advise all pending applicants” and add “deny applications” so that it would read, “move that the City Council direct the building official to deny applications for permits where a person having a corner lot seeking a reduction in the 30-foot setback and not meeting the exception” and then delete the rest of the paragraph. This would make it clear that Council’s intention is to direct the building official to not grant a reduction in a corner lot seeking a 30-foot setback if it doesn’t meet the exception in Code 107-763.**

Development Services Manager Nikki Dykes spoke regarding the 2 plats having setbacks on them. It was conflicting whether the zoning code or the plat superseded.

Discussion ensued regarding plats, zoning code, and approval of plats by the City.

**Council Member Brook Brown moved to postpone consideration of the 4 motions she presented to the Council until a time certain at the direction of the City Administrator whether they be set for a special Council meeting on these matters only or to the next Council meeting. Council Member Kevin Glasheen moved to amend the motion to extend it to the next council meeting. Council Member Alec Robinson seconded the motion. The amended motion carried with 5 in favor and 0 against. The main motion as amended carried with 5 in favor and 0 against.**

*Mayor Pro Tem Sara Hutson called for a 5-minute break at 9:25 p.m.*

*Mayor Pro Tem Sara Hutson called the meeting back to order at 9:32 pm.*

*Mayor Pro Tem Sara Hutson called up item 11 at this time.*

10. Discussion and possible action on execution of the bond advisory panel for Proposition B

**Council Member Brook Brown moved that she be removed from the bond advisory panel for proposition B, and that another woman or man from the Council be appointed to fill that spot. Council Member Phil McDuffee seconded the motion.**

Amy Pattillo commented that she was appointed by Travis County to their citizen bond advisory board including 15 citizen members.

Council discussed participation on this advisory panel.

Council Member Brook Brown discussed withdrawing her motion.

**Council Member Kevin Glasheen amended Council Member Brook Brown’s motion that Phil McDuffee be placed on the committee. Council Member Alec Robinson seconded the motion. The amended motion carried with 5 in favor and 0 against.**

**The amended original motion carried with 5 in favor and 0 against.**

11. Discussion and possible action including adoption of project milestones and processes for planning water system improvements

Greg Blackburn, P.E., of K. Friese + Associates, presented a slideshow regarding the water capital improvements plan (CIP). He discussed the Water CIP background, bond packages, steps

forward, public updates, and recommendations. He showed the high priority and low priority water CIP projects, proposed splitting them into 5 packages, and presented each package individually. Mr. Blackburn presented steps forward for both design and construction. He recommended designing packages 1 -4 at the same time for value and flexibility, and bidding packages 1 -4 together for best pricing and a faster schedule. Mr. Blackburn presented timelines for optimizing the schedule with both bidding combined packages and individual packages. He provided public update recommendations.

City Council asked questions of Mr. Blackburn regarding pricing and timing. Council Member Kevin Glasheen asked for a bid and a contract proposal for the next City Council meeting.

Thom Farrell, 3223 Park Hills Drive, recommended to not abandon lines, to consider closing Riley for the traffic creating dust, to coordinate with the City of Austin, and to plan paving in advance.

**Council Member Brook Brown moved to have K. Friese + Associates prepare a proposal for design services and bring it to the next Council meeting according to the packages 1 through 4 in the presentation. Council Member Alec Robinson seconded the motion. The motion carried with 5 in favor and 0 against.**

*Mayor Pro Tem Sara Hutson returned to item 10 at this time.*

12. Discussion and possible action to approve Western Hills Little League request for permission to make improvements to the dirt and sod at Hatley Field #1

Council Member Kevin Glasheen spoke regarding his discussions with Western Hills Little League (WHLL). WHLL would like to replace the dirt on Hatley Field #1. They will do the dirt work on the baselines and place sod.

**Council Member Kevin Glasheen moved to approve the request of Western Hills Little League to make capital expenditures for \$14,000 worth of dirt work on Hatley Field 1, approve their request for \$8,000 to do a sod replacement in the summer on Hatley Field 1, and approve their ability to start doing that work immediately. Council Member Alec Robinson seconded the motion.**

City Council discussed the amount of water to grow the new grass.

**The motion carried with 5 in favor and 0 against.**

13. Discussion and possible action on an ordinance authorizing City Council to have joint meetings with the Planning and Zoning Commission

City Attorney Charles Zech explained that joint meetings can be held, but there must be an ordinance to agree to have the public hearings together.

Thom Farrell, 3223 Park Hills, commented that he thought it would be a great idea for City Council to meet jointly with the Planning & Zoning Commission and then consider item 14 together.

**Council Member Kevin Glasheen moved to ask legal counsel to draft an ordinance allowing us to have joint public hearings with P & Z in the future should we choose to do**



**so. Council Member Phil McDuffee seconded the motion. The motion carried with 5 in favor and 0 against.**

14. Discussion and possible action on a residential zoning and building code review task force, including but not limited to the scope of issues to be considered by such a task force, the process for appointing members to such a task force, possible appointments to the task force, the schedule for such a task force

Council Member Kevin Glasheen discussed building height and the residential zoning code review. He proposed a committee of Duke Garwood, Ryan Clinton, Alex Robinette, John Hinton, Thom Farrell, Tony Stein, and Dave Bench with Council Members Brook Brown and Sara Hutson for this task force.

Council Member Brook Brown recommended asking the Planning and Zoning Commission to put it on their agenda and then bring back to Council.

Council Member Kevin Glasheen suggested that we create such a task force committee as proposed.

City Council discussed building issues, forming this committee, and moratoriums.

Dave Bench, 1 Randolph Place, commented how all the feedback received has been to go slow, the need for a task force, and moratorium complications.

City Attorney Charles Zech interjected that there are very specific findings that you have to find in order to place a moratorium on residential development underneath Chapter 212 of the Local Government Code and it essentially requires either a finding that you are about to run short on public facilities to serve the residential development that you have, or that you actually lack the public facilities to serve. Lots of public hearings are necessary and very specific findings are required with respect to that.

Tony Stein, 5012 Rollingwood Drive, commented that he thought this task force is a good idea.

**Council Member Alec Robinson moved to refer this to Planning and Zoning for them to discuss and give us some feedback in their next meeting. Council Member Brook Brown seconded the motion. The motion carried with 5 in favor and 0 against.**

Council Member Brook Brown asked City Attorney Charles Zech if she can forward emails to Planning & Zoning or other commissions. City Attorney Charles Zech explained that she cannot communicate with more than a quorum of commissions, and to remember that action taken in violation of the Open Meetings Act is voidable.

Shanthi Jayakumar extended her good will to all of Council and the Mayor and pointed out that all of them are elected. She urged them to exercise their right to service.

15. Report on meeting of the Planning and Zoning Commission and consideration of residential yard and height ordinances, notice requirements, and processes for obtaining public input

Dave Bench, 1 Randolph Place, presented a slide show on Residential Height Considerations. He discussed assumptions, residential height comparisons, current height measurement from Rollingwood and comparable cities, and pitched vs. flat roofs.

**Council Member Brook Brown moved to extend Mr. Bench’s time. Council Member Phil McDuffee seconded the motion. Mr. Bench was granted 10 more minutes.**

Mr. Bench continued with a 3:12 roof pitch example, and variable pitch-based height.

Council Member Brook Brown thanked Mr. Bench for his presentation.

*Mayor Gavin Massingill returned to item 9 at this time.*

16. Discussion and possible action including adoption of project milestones and processes for planning City Hall improvements

**Council Member Brook Brown withdrew item 16 and item 17.**

17. Status report and discussion and possible action in regard to the Pleasant/Nixon drainage project including setting of target project dates for completion of this project

#### **ADJOURNMENT OF MEETING**

**Mayor Pro Tem Sara Hutson adjourned the meeting at 11:05 p.m.**

**Minutes Adopted on the \_\_\_\_\_ day of \_\_\_\_\_, 2023.**

\_\_\_\_\_  
**Gavin Massingill, Mayor**

**ATTEST:**

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**Desiree Adair, City Secretary**