

**RICHLAND HILLS CITY COUNCIL  
REGULAR MEETING  
APRIL 22, 2024  
MINUTES**

Roll Call:

Council present

Edward Lopez, Mayor  
G.W. Estep, Mayor Pro Tem  
Douglas Knowlton, Place 1  
Travis Malone, Place 2  
Theresa Bledsoe, Place 3  
Javier Alvarez, Place 4  
Roland Goveas, Place 6

Council absent

Staff present

Candice Edmondson, City Manager  
Lindsay Rawlinson, City Secretary  
James Donovan, City Attorney

**CITY COUNCIL WORK SESSION – 6:00 PM**

1. **Executive Session:** Pursuant to the Open Meetings Act, Chapter 551, Texas Government Code, Sections 551.071, 551.072, 551.073, 551.074, 551.076, 551.087, 418.183(f) and 418.106(d) & (e). Executive Session may be held, under these exceptions, at any time during the meeting that a need arises for the City Council to seek advice from the City Attorney as to the posted subject matter of this City Council meeting.

**Motion:** Motion was made by Councilmember Knowlton and seconded by Mayor Pro Tem Estep to adjourn into Executive Session at 6:00 p.m.

Motion carried by a vote of 7-0.

Mayor Lopez reconvened into open session at 6:40 p.m.

2. **75<sup>th</sup> Anniversary Committee Update**

Library Director Chantele Hancock provided a brief overview of the objectives and goals of the 75<sup>th</sup> Anniversary Committee and stated that the Richland Hills 75<sup>th</sup> Anniversary will be honored through signage, activities, events and celebrations in 2025. The objective is to celebrate and shine a light on the history, community and people of Richland Hills and the culminating celebration will be held September 27, 2025.

Ms. Hancock advised that the theme will be “Rich In . . .” Rich in ... Agriculture, History, Community, Culture, and Art.

Committee member Jennifer Hartzke presented marketing and sponsorship ideas and introduced the logo for the 75<sup>th</sup> Anniversary.

Committee member Diane Barrette provided a brief overview of the planned oral and video histories that will be documented for the anniversary as well.

**3. Discuss items listed on tonight’s City Council agenda. No action will be taken and each item will be considered during the Regular Session.**

None.

Mayor Lopez adjourned the work session at 6:59 p.m.

**REGULAR SESSION – Mayor Lopez Called to Order – Time 7:05 p.m.**

**INVOCATION AND PLEDGES OF ALLEGIANCE – Mayor Lopez**

**PRESENTATIONS**

**1A. Business Spotlight: The Casual Cat Cafe**

Director of Planning & Development Services JP Ducay introduced Cindy Pennington, owner of The Casual Cat Cafe located at 7264 Glenview Drive. They received their Certificate of Occupancy on June 6, 2017.

Ms. Pennington expressed her appreciation to the City for the welcome and continued support over the years.

**1B. National Crime Victims Rights Week Proclamation**

Mayor Lopez read a proclamation declaring April 21 – 27, 2024, as “National Crime Victims Week” in Richland Hills and presented the proclamation to Victim Assistance Coordinator Teresa Koontz, and Victim Assistance Specialists Dennise Espeleta and Valerie Farrell with the North Richland Hills Police Department.

**1C. Municipal Clerks Week Proclamation**

Mayor Lopez read a proclamation declaring May 5 – 11, 2024, as “Professional Municipal Clerks Week” in Richland Hills and presented the proclamation to City Secretary Lindsay Rawlinson.

**1D. National Corrections Officer Week Proclamation**

Mayor Lopez read a proclamation declaring May 5 – 11, 2024, as “National Corrections Officer Week” in Richland Hills and presented the proclamation to Detention Facility Manager Justin Smith, and Detention Officers Nathan Patterson and Michael Vastine with the North Richland Hills Police Department.

**1E. National Drinking Water Week Proclamation**

Mayor Lopez read a proclamation declaring May 5 – 11, 2024, as “National Drinking Water Week” in Richland Hills and presented the proclamation to Director of Public Works and Capital Projects Kip Dernovich.

**1F. Citizen Appearances/Public Comments**

None.

**CONSENT AGENDA****2A. Approved minutes from the April 8, 2024 City Council Regular Meeting****2B. Approved Ordinance 1496-24 amending Article IV “Code of Ethics” of Chapter 2 “Administration” in its entirety to adopt a Code of Ethics applicable to all Elected and Appointed Officials of the City****2C. Approved Resolution 594-24 recognizing World Migratory Bird Day and local efforts to pursue the Bird City Texas designation by Texas Parks and Wildlife**

**Motion:** Motion was made by Councilmember Malone and seconded by Mayor Pro Tem Estep to approve the consent agenda.

Motion carried by a vote of 7-0.

**PUBLIC HEARINGS, MEETINGS, AND OTHER RELATED ITEMS****3. None.****ORDINANCES & RESOLUTIONS AND OTHER RELATED ITEMS****4A. Approved Ordinance 1497-24 adopting Article IX “Regulation and Permitting of Donation Bins” of Chapter 58 “Offenses and Miscellaneous Provisions” and amending Appendix A “Fee Schedule”**

Police Chief Kimberly Sylvester presented the proposed ordinance to the City Council and advised that Code Compliance staff has received complaints that the outdoor

donation bin collection sites throughout the City are not being maintained by business owners who allow them on their premises.

Staff researched cities with ordinances to govern these collection sites' use and care and worked with the City Attorney to draft an ordinance providing enforcement options to prevent overflowing and littering and adopting a permitting process to oversee the program.

Discussion ensued regarding the fee structure and property owner responsibilities.

**Motion:** Motion was made by Councilmember Bledsoe and seconded by Councilmember Goveas to approve Ordinance 1497-24 adopting Article IX "Regulation and Permitting of Donation Bins" of Chapter 58 "Offenses and Miscellaneous Provisions" and amending Appendix A "Fee Schedule."

Motion carried by a vote of 7-0.

### **CONTRACTS, AGREEMENTS, BID AWARDS AND OTHER RELATED ITEMS**

#### **5A. Awarded bid to Rollins Fence Company for the demolition and reconstruction of the Public Works maintenance yard fence and fences at city parks and facilities in the amount of \$160,000**

Director of Public Works and Capital Projects Kip Dernovich presented the item to the City Council and advised that during the FY 2024 Budget process, City Council approved funding in the amount of \$125,000 for the demolition and reconstruction of the fence around the Public Works maintenance yard. In addition, the Parks and Recreation Department received \$37,000 in funding for the demolition and replacement of fences at Kate Baker Park, Creek Trail Park, Windmill Park and the Library.

A request for sealed bids was issued for the Richland Hills Fence Project (Public Works / Parks) in March of 2024. Three responses were received and after evaluation of the bids, it was determined that Rollins Fence Company had submitted the best value bid at \$160,000. The FY 2024 Budget contains funding in the amount of \$162,000 for fence replacement (\$125,000 in the Utility Fund and \$37,000 in the Oil & Gas Fund).

Vicki Hamilton, 7905 Leslie Drive, Richland Hills, expressed her preference for a privacy fence near Creek Trail Park.

**Motion:** Motion was made by Mayor Pro Tem Estep and seconded by Councilmember Malone to award bid to Rollins Fence Company for the demolition and reconstruction of the Public Works maintenance yard fence and fences at city parks and facilities in the amount of \$160,000.

Motion carried by a vote of 7-0.

**5B. Approved agreement with Atmos Energy for the relocation of gas lines adjacent to Rena Road in conjunction with auxiliary power installation at the Rena Water Tank in the amount of \$74,355**

Director of Public Works and Capital Projects Kip Dernovich presented the item to the City Council and advised that the City received \$1,970,642 in fiscal recovery funds as provided in the American Rescue Plan Act (ARPA) of 2021. The funds are intended to help the City combat the COVID-19 pandemic, including ongoing public health and economic impacts. Specifically, the Act allows local government entities to use the funds to make necessary investments in water, sewer, or broadband infrastructure. On January 24, 2022, City Council approved Resolution 549-22 allocating ARPA funds towards water system improvements needed to comply with Senate Bill 3 which mandated all water systems have contingency plans in place to maintain sufficient water supplies.

The project includes the installation of generators, along with the required electrical and structural components, at all the well sites/pump stations. This project also includes the ability to provide power to SCADA equipment associated with our elevated storage tanks.

On January 23, 2023, the City awarded Angiel Electrical Construction Corporation a bid for \$1,435,000 to install auxiliary power at City water facilities. To date, the Booth and Park location generators have been installed. Atmos Energy recently brought to the City's attention that the relocation of gas lines adjacent to Rena Road in conjunction with auxiliary power installation at the Rena Water Tank would be at the City's cost. This is due to the relocation of Atmos' gas lines not being related to a city right-of-way project as outlined in the City's Franchise Agreement.

Both City Staff and the City Engineer have done extensive analysis on potential locations for the Rena Water Tank auxiliary power generator. Due to the size of the generator, overhead power lines, underground water lines, and access needed to service the generator, the location along Rena was deemed the best location. The proposed cost of the gas line relocation is not to exceed \$74,355. For this price, Atmos will remove approximately 65 linear feet of intermediate pressure 2-inch poly distribution main. Atmos will in turn install 90 linear feet of 2-inch HDPE replacement line. Funding is available from interest earned on original American Rescue Plan Act (ARPA) funding received in August 2022 and August 2023.

**Motion:** Motion was made by Councilmember Knowlton and seconded by Councilmember Malone to approve agreement with Atmos Energy for the relocation of gas lines adjacent to Rena Road in conjunction with auxiliary power installation at the Rena Water Tank in the amount not to exceed \$74,355.

Motion carried by a vote of 7-0.

**OTHER ITEMS FOR CONSIDERATION**

- 6A. Approved an appeal to the Zoning Board of Adjustment decision on ZBA Case 2024-0116, a variance to decrease the front and side yard setback requirement for the property described as Lot 9, Block 6, Richland Park Addition, City of Richland Hills, Tarrant County, Texas otherwise known as 3012 Elm Park, Richland Hills, Texas 76118**

Director of Planning and Development Services JP Ducay advised that on April 2, 2024, the Richland Hills Zoning Board of Adjustment held a public hearing to consider a request for a variance to decrease the front and side yard setback requirements for 3012 Elm Park. The applicant submitted permits proposing to construct a covered front porch and expand the main living area of the residence. During preliminary building plan review, it was determined that the proposed construction would encroach into the front and side yard setbacks.

Subsequently, the applicant requested variances to decrease the front yard setback of 25 feet to 18 feet 6 inches and the side yard setback of 8 feet to 6 feet 1 inch. This request was approved by a vote of 4 in favor and 0 against with 0 abstaining.

*According to Article 5 Development Review Bodies, Section 5.03 Board of Adjustment:*

(C,3, a) Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, or board of the municipality may present to a district court or county court a petition duly verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality.

(C,3, b) Such petition shall be presented to the court within ten days after the filing of the decision in the office of the board and not thereafter.

The City has the authority to pursue an appeal to any decision made by the Zoning Board of Adjustment if they are not in agreement with the decision made. If an appeal to a decision is pursued, grounds as to why this decision is illegitimate will need to be established.

*According to Article 6, Development Review Procedures, Section 6.12 Zoning Variance:*

(B) Variance criteria. No zoning variance shall be granted without first having given public notice and having held a public hearing on the zoning variance request in accordance with section 6.03.02. Public Hearings and Notification Requirements for Zoning Related Applications, and unless the board of adjustment finds all the following criteria are met:

- (1) Unique circumstances. That there are special circumstances or conditions affecting the land involved such that the application of the Zoning Ordinance's provisions would deprive the applicant of the reasonable use of his/her land.

- (2) Minimum necessary relief required to alleviate the undue hardship. The zoning variance, if granted, would be the minimum necessary relief required to alleviate the undue hardship.
- (3) Preservation of property rights. That the zoning variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.
- (4) No substantial detriment to the public good. That the granting of the zoning variance will not be detrimental to the public health, safety or welfare, impair the purposes and intent of this Zoning Ordinance and the comprehensive plan or be injurious to other property within the area.
- (5) Orderly use of land. That the granting of the zoning variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this Zoning Ordinance.
- (6) Precedent. The granting of an individual zoning variance will not set a precedent.
- (7) Finding of undue hardship. In order to grant a zoning variance, the board of adjustment must make findings that an undue hardship exists, using the following criteria:
  - a. That literal enforcement of the controls will create an undue hardship or practical difficulty in the development of the affected property; and
  - b. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district; and
  - c. That the relief sought will not injure the permitted use of adjacent conforming property; and
  - d. That the granting of a zoning variance will be in harmony with the spirit and purpose of these regulations.
  - e. Financial hardship alone is not an "undue hardship" if the property can be used, meeting the requirements of the zoning district in which the property is located.

When reviewing the Board of Adjustment's decision to approve the subject variances, the Zoning Administrator determined that the Board failed to appropriately apply all the criteria listed above.

Further, Section 1.06.06(D) sets forth the restrictions on the expansion of a nonconforming structure:

(D) Nonconforming building expansion with conforming uses. Buildings or structures that do not conform to the area regulations or development standards in this Ordinance but where the uses are deemed conforming shall not increase the gross floor area greater than ten percent from the date when the building became nonconforming. The expansion must be conforming.

The granting of the variance amounts to the Board rewriting the City's Zoning Ordinance by failing to consider the requirement that nonconforming structures only be expanded to be conforming as required by Section 1.06.06(D).

Therefore, it is the recommendation of the Zoning Administrator that the City Council seek an appeal to the Board of Adjustment's decision to approve the requested variances. Due

to the ten-day filing requirement, the City Attorney has already filed an appeal in District Court. The appeal will remain in the court records if approved by City Council but can be repealed if Council chooses not to seek an appeal.

Discussion ensued regarding the cost to the City in unexpected legal fees.

**Motion:** Motion was made by Councilmember Knowlton and seconded by Councilmember Goveas to pursue an appeal to the Zoning Board of Adjustment decision on ZBA Case 2024-0116, a variance to decrease the front and side yard setback requirement for the property described as Lot 9, Block 6, Richland Park Addition, City of Richland Hills, Tarrant County, Texas otherwise known as 3012 Elm Park, Richland Hills, Texas 76118.

Motion carried by a vote of 7-0.

**6B. Approved an appeal to the Zoning Board of Adjustment decision on ZBA Case 2024-0128, a variance to decrease the side yard setback requirement and allow for an oversized carport for the property described as Lot 5, Block 18, Richland Park Addition, City of Richland Hills, Tarrant County, Texas otherwise known as 2821 Elm Park, Richland Hills, Texas 76118**

Director of Planning and Development Services JP Ducay advised that on April 2, 2024, the Richland Hills Zoning Board of Adjustment held a public hearing to consider a request for a variance to decrease the side yard setback requirements and allow for an oversized carport for 2821 Elm Park. The applicant constructed a carport on the subject property without proper permits. In February 2024, during a routine city assessment, the Code Compliance department recognized the newly constructed carport. After a site inspection, it was determined that the carport was not in compliance with location, size and setback requirements.

Subsequently, the applicant requested the following variances:

1. Decrease the side yard setback of five feet to one foot.
  - This request was approved by a vote of 4 in favor and 0 against with 0 abstaining.
2. Increase the roof assembly length of 25 feet to 36 feet.
  - This request was approved by a vote of 4 in favor and 0 against with 0 abstaining.
3. Increase the vertical clearance maximum of nine feet to ten feet.
  - This request was denied, and the applicant was instructed to reduce the height of the carport from ten feet to nine feet.

*According to Article 5 Development Review Bodies, Section 5.03 Board of Adjustment:*

(C,3, a) Any person or persons, jointly or severally, aggrieved by any decision of the board of adjustment, or any taxpayer, or any officer, department, or board of the municipality may present to a district court or county court a petition duly

verified, setting forth that such decision is illegal, in whole or in part, and specifying the grounds of the illegality.

(C,3, b) Such petition shall be presented to the court within ten days after the filing of the decision in the office of the board and not thereafter.

The City has the authority to pursue an appeal to any decision made by the Zoning Board of Adjustment if they are not in agreement with the decision made. If an appeal to a decision is pursued, grounds as to why this decision is illegitimate will need to be established.

*According to Article 6, Development Review Procedures, Section 6.12 Zoning Variance:*

(B) Variance criteria. No zoning variance shall be granted without first having given public notice and having held a public hearing on the zoning variance request in accordance with section 6.03.02. Public Hearings and Notification Requirements for Zoning Related Applications, and unless the board of adjustment finds all the following criteria are met:

(8) Unique circumstances. That there are special circumstances or conditions affecting the land involved such that the application of the Zoning Ordinance's provisions would deprive the applicant of the reasonable use of his/her land.

(9) Minimum necessary relief required to alleviate the undue hardship. The zoning variance, if granted, would be the minimum necessary relief required to alleviate the undue hardship.

(10) Preservation of property rights. That the zoning variance is necessary for the preservation and enjoyment of a substantial property right of the applicant.

(11) No substantial detriment to the public good. That the granting of the zoning variance will not be detrimental to the public health, safety or welfare, impair the purposes and intent of this Zoning Ordinance and the comprehensive plan or be injurious to other property within the area.

(12) Orderly use of land. That the granting of the zoning variance will not have the effect of preventing the orderly use of other land within the area in accordance with the provisions of this Zoning Ordinance.

(13) Precedent. The granting of an individual zoning variance will not set a precedent.

(14) Finding of undue hardship. In order to grant a zoning variance, the board of adjustment must make findings that an undue hardship exists, using the following criteria:

- a. That literal enforcement of the controls will create an undue hardship or practical difficulty in the development of the affected property; and
- b. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties in the same zoning district; and
- c. That the relief sought will not injure the permitted use of adjacent conforming property; and
- d. That the granting of a zoning variance will be in harmony with the spirit and purpose of these regulations.
- e. Financial hardship alone is not an "undue hardship" if the property can be used, meeting the requirements of the zoning district in which the property is located.

When reviewing the Board of Adjustment's decision to approve the subject variances, the Zoning Administrator determined that the Board failed to appropriately apply all the criteria listed above. Therefore, it is the recommendation of the Zoning Administrator that the City Council seek an appeal to the Board of Adjustment's decision to approve the requested variances.

Due to the ten-day filing requirement, the City Attorney has already filed an appeal in District Court. The appeal will remain in the court records if approved by City Council but can be repealed if Council chooses not to seek an appeal.

Discussion ensued regarding the Zoning Board of Adjustment receiving training during the worksession of the April 2, 2024 meeting and a review of the cases during the Executive Session with the City Attorney.

**Motion:** Motion was made by Councilmember Goveas and seconded by Councilmember Knowlton to pursue an appeal to the Zoning Board of Adjustment decision on ZBA Case 2024-0128, a variance to decrease the side yard setback requirement and allow for an oversized carport for the property described as Lot 5, Block 18, Richland Park Addition, City of Richland Hills, Tarrant County, Texas otherwise known as 2821 Elm Park, Richland Hills, Texas 76118.

Motion carried by a vote of 7-0.

## **REPORTS & DISCUSSIONS**

### **7A. Street Improvement Projects**

Director of Public Works and Capital Projects Kip Dernovich provided the street improvement projects update and advised that the Magnolia Park project (Mimosa Park to Rosebud Lane) has recently begun the process of accepting bid proposals.

### **7B. 2<sup>nd</sup> Quarter Investment Report**

Interim Finance Director Terry Leake provided the 2<sup>nd</sup> Quarter Investment Report for FY2024 and advised that the City is in a strong financial position.

### **7C. Clean, Green & Lean Event**

Director of Parks and Recreation Jason Brown presented information regarding the upcoming Clean, Green & Lean event to be held Saturday, April 27, 2024, from 8:00 to 10:00 a.m. across the parks and the Hike and Bike Trail and from 10:00 a.m. to 2:00 p.m. at The Link.

**7D. March Department Reports**

Director of Parks and Recreation Jason Brown provided the Parks Department update and advised of Link financials and a brief recap of the City's Easter event held Saturday, March 23, 2024.

Interim Finance Director Terry Leake provided the Financial report including sales tax and property tax collection.

Police Chief Kimberly Sylvester provided the Police Department and Code Compliance updates and advised of trainings completed and calls for service.

**COMMUNITY INTEREST ITEMS**

8. Mayor Pro Tem Estep advised of several upcoming events:

- Monday, April 22, 2024 through Tuesday, April 30, 2024, Early Voting for the General and Special Elections;
- Now through May 15, 2024, Pick A Perk Link Membership Sale;
- Saturday, April 27, 2024, Clean, Green & Lean, City Parks and The Link, 8:00 a.m. to 2:00 p.m.;
- Tuesday, April 30, 2024, Blooming Flowers, Public Library, 6:30 to 7:00 p.m.;
- Thursday, May 2, 2024, Music in the Park, The Link Plaza, 7:00 p.m.;
- Saturday, May 4, 2024, Election Day, Council Chambers, 7:00 a.m. to 7:00 p.m.;
- Thursday, May 9, 2024,
  - Senior Lunch Bunch and Bingo, The Link, 12:00 to 2:00 p.m.;
  - Tarrant County Food Pantry, The Link parking lot, 5:30 to 7:00 p.m.;
- Thursday, May 16, 2024, Music in the Park, The Link Plaza, 7:00 p.m.; and
- Every Thursday, Coffee Talk, Public Library, 10:00 to 11:30 a.m.;

**EXECUTIVE SESSION**

9. **Executive Session:** Pursuant to the Open Meetings Act, Chapter 551, Texas Government Code, Sec. 551.071, Sec. 551.072, Sec. 551.073, Sec. 551.074, Sec. 551.076, Sec. 551.087 and Sec. 418.0183 (f) and 418.106 (d) & (e) of the Texas Government Code (Texas Disaster Act).

None.

**ADJOURNMENT**

10. A motion was made by Councilmember Malone and seconded by Mayor Pro Tem Estep to adjourn.

Motion carried by a vote of 7-0.

There being no further business to come before the City Council, Mayor Lopez declared the meeting adjourned at 9:12 p.m.

**ATTEST:**

**APPROVED:**

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Lindsay Rawlinson, City Secretary

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Edward Lopez, Mayor