



City of Keller
City Council
Meeting Minutes

Keller Town Hall
1100 Bear Creek Parkway
Keller, TX 76248
817-743-4000
www.cityofkeller.com

Tuesday, January 17, 2023

PRE-COUNCIL MEETING 5:00 P.M.

A. CALL TO ORDER - Mayor Pro Tem Ross McMullin

Mayor Pro Tem Ross McMullin called the Regular City Council Meeting to order at 5:00 P.M.

The following City Council Members were present:

Council Member Shannon Dubberly
Council Member Sean Hicks
Council Member Jessica Juarez (arrived at 5:03 P.M.)
Council Member Tag Green (by video conference)
Council Member Chris Whatley
Mayor Pro Tem Ross McMullin

Mayor Armin Mizani was absent.

The following City staff members were present: City Manager Mark Hafner, City Attorney Stan Lowry, City Secretary Kelly Ballard, Director of Administrative Services Aaron Rector, Director of Community Services Cody Maberry, Director of Public Works Alonzo Liñán, Director of Economic Development Mary Culver, Director of Community Development Julie Smith, Assistant Director of Community Development Sarah Hensley, Police Chief Bradley G. Fortune, and Fire Chief Bobby J. Tatum Jr.

B. DISCUSS AND REVIEW AGENDA ITEMS

The City Council discussed and reviewed the agenda items.

C. EXECUTIVE SESSION

Mayor Pro Tem Ross McMullin recessed the Pre-Council Meeting at 5:19 P.M. so that the City Council could meet in an Executive Session in accordance with State Law.

- 1. Section 551.071, Texas Government Code - Consultation with Attorney; Closed Meeting. A governmental body may not conduct a private consultation with its attorney except: (1) when the governmental body seeks the advice of its attorney about:**

(a) pending or contemplated litigation: Meritage Homes of Texas, LLC VS. City of Keller, Texas

2. Adjourn into Open Meeting.

Mayor Pro Tem Ross McMullin called the Pre-Council Meeting back to order at 5:56 P.M.

3. Action on Executive Session Item 1 if necessary.

Action was taken during the Regular Meeting.

D. WORK SESSION

1. [Receive a briefing from Fire Chief Tatum on his first 90 day assessment of the Keller Fire Department and the commercial Fire Codes.](#)

Fire Chief Bobby Tatum Jr. gave a presentation regarding his first 90 days as the City of Keller's Fire Chief.

E. ADJOURN

Mayor Pro Tem Ross McMullin adjourned the Pre-Council Meeting at 6:32 P.M.

REGULAR MEETING 7:00 P.M.**A. CALL TO ORDER – Mayor Pro Tem Ross McMullin**

Mayor Pro Tem Ross McMullin called the Regular City Council Meeting to order at 7:01 P.M.

B. INVOCATION - Pastor Dave Bream, Hillside Community Church

Pastor Dave Bream, Hillside Community Church gave the invocation.

C. PLEDGE OF ALLEGIANCE

Mayor Pro Tem Ross McMullin led the Pledge to the United States Flag and the Pledge to the Texas Flag.

1. Pledge to the United States Flag
2. Pledge to the Texas Flag - "Honor the Texas Flag: I pledge allegiance to Thee, Texas, one State under God, one and indivisible."

D. PROCLAMATIONS & PRESENTATIONS - None**E. PERSONS TO BE HEARD**

This is a time for the public to address the City Council on any subject. However, the Texas Open Meetings Act prohibits the City Council from discussing issues which the public has not been given seventy-two (72) hours' notice. Issues raised may be referred to City Staff for research and possible future action. Each speaker will be allowed three (3) minutes to speak.

Mr. Stephen Humenesky, 1602 Falcon Drive, expressed his concerns with franchise fees paid by utility companies to the City of Keller.

Mr. Chris Zorich, 951 Canterbury Lane, expresses his thoughts and concerns regarding migratory egrets and the problems they present to the City.

F. CONSENT

The next order of business was for the City Council to consider the consent agenda items, which were deemed to need little or no discussion, and were acted upon as one business item.

A motion was made by Council Member Shannon Dubberly, seconded by Council Member Chris Whatley, to approve the Consent Agenda. The motion carried unanimously.

1. [Consider approval of the Minutes of the Tuesday, December 20, 2022 Regular City Council Meeting.](#)

Approved

2. [Consider a resolution receiving the Keller Quarterly Investment Report for period ending September 30, 2022, and providing an effective date.](#)

Resolution No. 4612 receives the Keller Quarterly Investment Report for period ending September 30, 2022.

3. [Consider a resolution receiving the Keller Quarterly Financial Report for period ending September 30, 2022 \(unaudited\), and providing an effective date.](#)

Resolution No. 4613 receives the Keller Quarterly Financial Report for period ending September 30, 2022.

4. [Consider a resolution approving the purchase of Enterprise Permitting & Licensing community development software and implementation services from Tyler Technologies and authorizing the City Manager to execute all purchasing documents related thereto.](#)

Resolution No. 4614 approves the purchase of Enterprise Permitting & Licensing community development software from Tyler Technologies; in the amount of \$2,407,406.00.

5. [Consider a resolution approving a payment to North Texas Contracting of Keller, Texas for the emergency repair of the 16-inch transmission waterline owned by the City of Keller at the intersection of Mt. Gilead and Bourland Roads.](#)

Resolution No. 4615 approves payment of \$72,970.00 to North Texas Contracting of Keller, Texas for the emergency repair of the 16-inch water transmission line.

6. [Consider a resolution canceling the agreement approved by Resolution No. 4573 on October 4, 2022 with O&J Coatings, Inc. of Hurst, Texas, effective January 17, 2023.](#)

Resolution No. 4616 cancels the agreement with O&J Coatings, Inc. of Hurst, Texas approved by Resolution No. 4573 on October 4, 2022.

7. [Consider a resolution approving the construction bid from Peachtree Construction, of Fort Worth, Texas; for the 2022 Annual Street Maintenance Project for the Public Works](#)

Department; and authorizing the City Manager to execute all documents relating thereto on behalf of the City of Keller, Texas.

Resolution No. 4617 approves the bid for the 2022 Annual Street Maintenance Project, from Peachtree Construction, of Fort Worth, Texas for the Public Works Department, in the amount of \$4,110,254.00.

G. OLD BUSINESS - None

H. NEW BUSINESS

1. PUBLIC HEARING: Consider an ordinance approving three Specific Use Permits (SUPs) for a detached accessory building on 2.83 acres located on the east side of Whitley Road, approximately 250 feet northeast from the intersection of Whitley Road and Harper Lane, legally described as Lot 1, Block A of Andrews Addition, zoned Single-Family 36,000 square-foot lot size or greater (SF-36) and Single-Family 8,400 square-foot lot size or greater (SF-8.4) and addressed 1621 Whitley Road. Nathan Olmstead, Owner/Applicant. (SUP-22-0037)

Assistant Community Development Director Sarah Hensley gave a presentation regarding the request for three Specific Use Permits relating to a detached accessory building at 1621 Whitley Road.

Mayor Pro Tem Ross McMullin opened the public hearing. No public comments were received.

A motion was made by Council Member Shannon Dubberly, seconded by Council Member Jessica Juarez, to close the public hearing. The motion carried unanimously.

A motion was made by Council Member Sean Hicks, seconded by Council Member Jessica Juarez, to approve Ordinance No. 2106 approving three Specific Use Permits (SUPs) for a detached accessory building on 2.83 acres located on the east side of Whitley Road, approximately 250 feet northeast from the intersection of Whitley Road and Harper Lane, legally described as Lot 1, Block A of Andrews Addition, zoned Single-Family 36,000 square-foot lot size or greater (SF-36) and Single-Family 8,400 square-foot lot size or greater (SF-8.4) and addressed 1621 Whitley Road with the following conditions:

1. An SUP for the size of the accessory structure to be approximately 4,000 square-feet and exceed the 1,200 square-foot maximum allowed in the SF-36 zoning district shall be allowed.
2. An SUP for the combined area of all accessory structures on the property to exceed 50% of the existing home shall be allowed.
3. An SUP for the height of the accessory structure to be an average of 21 feet tall, which exceeds the 15-foot height maximum allowed in the City of Keller, shall be

allowed.

The motion carried unanimously.

2. [PUBLIC HEARING: Consider an ordinance approving amendments to the City of Keller Unified Development Code \(UDC\), adopted by Ordinance No. 1746 dated July 7, 2015, by amending Article Eight - Zoning Districts, Development Standards, Tree Preservation, Section 8.03 - Zoning Districts, relating to supplemental regulations for fuel pumps; providing penalties; authorizing publication; and establishing an effective date. \(UDC-22-0013\)](#)

Assistant Community Development Director Sarah Hensley gave a presentation relating to the request for amendments to the City of Keller Unified Development Code (UDC), regarding supplemental regulations for fuel pumps.

Claymore Engineering addressed the City Council regarding the reasoning for requesting five fuel dispensers as opposed to six.

Mayor Pro Tem Ross McMullin opened the public hearing. No public comments were received.

A motion was made by Council Member Sean Hicks, seconded by Council Member Shannon Dubberly, to close the public hearing. The motion carried unanimously.

A motion was made by Mayor Pro Tem Ross McMullin, seconded by Council Member Sean Hicks, to approve as recommended by the Planning and Zoning Commission to include the modification that up to six (6) dispensers or twelve (12) fueling pumps be allowed if the required parking for the grocery store and any associated uses could still be met.

The motion failed by the following vote:

AYE: 2 - Council Member Sean Hicks, and Mayor Pro Tem Ross McMullin.

NAY: 4 - Council Member Shannon Dubberly, Council Member Jessica Juarez, Council Member Tag Green, and Council Member Chris Whatley.

A motion was made by Council Member Sean Hicks, seconded by Mayor Pro Tem Ross McMullin, to approve the UDC amendment request as presented with the modification that will increase the number of fueling dispensers/pumps at a fueling station associated with a grocery store to five (5) dispensers or ten (10) fueling pumps.

The motion failed by the following vote:

AYE: 2 - Council Member Sean Hicks, and Mayor Pro Tem Ross McMullin.

NAY: 4 - Council Member Shannon Dubberly, Council Member Jessica Juarez, Council Member Tag Green, and Council Member Chris Whatley.

3. [PUBLIC HEARING: Consider an ordinance approving a Specific Use Permit \(SUP\) for fuel pumps/sales as an accessory use to a grocery store on 6.6 acres located on the east side of Rufe Snow Drive, approximately 440 feet southeast from the intersection of North Tarrant Parkway and Rufe Snow Drive, legally described as Lot 2R1, Block A of Keller Place Addition, zoned Retail \(R\) and addressed 2061 Rufe Snow Drive. Whitestone Keller Place, LLC, Owner; Kroger Texas - Richard Binkley, Applicant. \(SUP-22-0038\)](#)

Assistant Community Development Director Sarah Hensley gave a presentation relating to the request for a Specific Use Permit for fuel pumps/sales as an accessory use to the Kroger grocery store located at 2061 Rufe Snow Drive.

Mayor Pro Tem Ross McMullin opened the public hearing.

The following individuals expressed their opposition to the requested fuel pumps to be located at Kroger, 2061 Rufe Snow Drive: Mr. Dean Mengel, 2009 Bradley Ct.; Mr. Matt Cerone, 1616 Meadow Park Dr.; Mr. James Vargas, 1618 Meadow Park Dr.; Mr. Philip Feick, 1815 Rolling Bend Dr.; Ms. Samantha Vargas, 1618 Meadow Park Drive; Dr. M. Taylor, 1618 Meadow Park Dr.; Ms. Christine Nielsen, 1604 Meadow Park Dr.; Ms. Mary Ann Nolan, 1810 Meadow Ridge Dr.; Ms. Holly Dillon, 1710 Rolling Bend Ct.; Ms. Kelly Graber, 1610 Meadow Park Dr., Mr. Rustin Floyd, 1303 Lindsey Dr.; and Mr. Steve Flynn, 1612 Meadow Park Dr.

The following individuals did not wish to speak, but requested their opposition be recorded: Mr. Tom Dillon, 1701 Rolling Bend Ct.; Mr. Joe Lotterhos, 1603 Woody Creek Dr.; and Ms. Penny Lotterhos, 1603 Woody Creek.

A motion was made by Council Member Tag Green, seconded by Council Member Shannon Dubberly, to continue the Public Hearing and table the agenda item to the February 7, 2023 Regular City Council Meeting. The motion carried unanimously.

I. EXECUTIVE SESSION

Executive Session was not held during the Regular Meeting.

1. **Section 551.071, Texas Government Code - Consultation with Attorney; Closed Meeting. A governmental body may not conduct a private consultation with its attorney except: (1) when the governmental body seeks the advice of its attorney about:**
 - (a) **pending or contemplated litigation: Meritage Homes of Texas, LLC VS. City of Keller, Texas**
2. **Adjourn into Open Meeting.**
3. **Action on Executive Session Item 1 if necessary.**

A motion was made by Council Member Shannon Dubberly, seconded by Council Member Sean Hicks, to authorize the City Manager to enter into a settlement agreement with Meritage Homes of Texas, LLC, by returning \$70,000 from the Tree Mitigation Fund to Meritage Homes. The motion carried unanimously.

J. ADJOURN

Mayor Pro Tem Ross McMullin adjourned the Regular Meeting at 8:32 P.M.

Mayor

City Secretary

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