



City of Hutto

Agenda

Joint River Creek Development Corporation and Cottonwood Development Corporation Meeting

Thursday, April 7, 2022 at 5:30 PM City Council Chambers

In accordance with the Texas Open Meetings Act, this meeting agenda is posted for public information, continuously, for at least 72 hours prior to the scheduled time of the meeting on the bulletin board located on the exterior wall of the City Hall building at 500 West Live Oak, Hutto, Texas. This meeting agenda is also accessible via the Internet at huttotx.gov

1. CALL SESSION TO ORDER

2. ROLL CALL

3. PUBLIC COMMENT

Any citizen wishing to speak during public comment may do so after completing the required registration form. The purpose of this item is to allow the residents of Hutto and other interested persons an opportunity to address the Board of Directors on agenda issues and on non-agenda issues that are a matter of the jurisdiction of the Board of Directors (i.e., City policy or legislative issues). Non-agenda issues regarding daily operational or administrative matters should be first dealt with at the administrative level by calling City Hall at (512) 759-4839 during business hours. Each person providing public comment will be limited to 3 minutes. Any citizen wishing to speak during public comment may do so after completing the required registration form. Written comments for this meeting may also be sent to comments@huttotx.gov PRIOR to 4:00 pm on 4/7/22. The email must include name, address, phone # and email to be recognized properly. Written comments will be provided to the Board of Directors.

4. CONSENT AGENDA ITEMS

4.1. A Joint Resolution of the Cottonwood Development Corporation and the River Creek Development Corporation, both located in Hutto, Texas, authorizing The Kassab Law Firm to take all appropriate legal action to assert claims against McGinnis Lochridge, Partner Michael A. Shaunessy, Partner Bill Bingham and others as necessary to recover damages resulting from their wrongdoing in the course of providing the local government corporations of Hutto, Texas with legal services; authorizing the Chair of each corporation to enter into and execute the Joint Contingent Fee Engagement Agreement so that it may be submitted for approval by the Texas Attorney General's Office. The public notice required under Texas Local Government Code Section 2254.1036 is attached hereto and incorporated by Reference as Exhibit "A". (Legal)

5. EXECUTIVE SESSION

The River Creek Development Corporation and Cottonwood Development Corporation for the City of Hutto reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed above as authorized by the Texas Government Code Sections 551.071 (Litigation/Consultation with Attorney), 551.072 (Deliberations regarding real property), 551.073 (Deliberations regarding gifts and donations), 551.074 (Deliberations regarding personnel matters) or 551.076 (Deliberations regarding deployment/implementation of security personnel or devices) and 551.087 (Deliberations regarding Economic Development negotiations).

- 5.1. Pursuant to 551.071, to deliberate and receive legal advice from legal counsel regarding the pursuit of legal claims against McGinnis Lockridge and its attorneys.
- 5.2. Return to Open Session to adjourn the River Creek Development Corporation meeting.
- 5.3. The Cottonwood Development Corporation will recess the open session portion of this meeting and readjourn into Executive Session regarding Longhorn Title Co. v. Preston Hollow Corporation et al, pending in Williamson County District Court, pursuant to 551.071 of the Texas Government Code to deliberate and seek the advice of its Attorneys regarding this matter.

6. ACTION RELATIVE TO EXECUTIVE SESSION

7. ADJOURNMENT

8. CERTIFICATION

I certify that this notice of the Joint River Creek Development and Cottonwood Development Corporation was posted on the City of Hutto website and the City Hall bulletin board of the City of Hutto on 4/4/22 at 5:00 P.M.



Angela Walton

The City of Hutto is committed to comply with the Americans Disability Act. The Hutto City Council Chamber is wheelchair accessible. Request for reasonable special accommodations must be made 48 hours prior to the meeting. Please email the City Secretary's office at Angela.Walton@huttotx.gov or call (512) 759-4033 for assistance.

COTTONWOOD DEVELOPMENT CORPORATION AND RIVER CREEK DEVELOPMENT CORPORATION

TEXAS LOCAL GOVERNMENT CODE SEC. 2254.1036. CONTRACT NOTICE; APPROVAL BY GOVERNING BODY.

This notice is being given before or at the time of giving the written notice required by Texas Local Government Code Section 551.041 for a joint meeting of the Cottonwood Development Corporation, ("CDC") and River Creek Development Corporation ("RCDC"). Both entities are local government corporations located in Hutto, Texas. (Tex. Gov't Code § 2254.1036(a)(1))

The CDC and RCDC, subject to the approval of their individual governing bodies, are pursuing legal malpractice claims against their former attorneys and law firm seeking monetary damages for their failure to properly render legal services. The CDC's and RCDC's desired outcome is the recovery of all monetary damages to which they are entitled, including monies spent in subsequent lawsuits which were a consequence of the legal malpractice suffered. (Tex. Gov't Code § 2254.1036(a)(2))

The CDC and RCDC, are joined by the City of Hutto ("City") in the proposed contingent fee contract as all three governing bodies have claims that overlap. The governing bodies for each of the three entities asked their mutual Chief Litigation Attorney to conduct an evaluation of available legal services in order to expedite the selection process. The Chief Litigation Attorney recommended the Kassab Law Firm based upon their qualifications.

The Kassab Law Firm has the necessary competence, qualifications, and experience to provide the legal services needed by the City, CDC and RCDC. Kassab is a full-service boutique law firm staffed with legal malpractice lawyers concentrating solely on plaintiffs' legal malpractice law. The firm is located in Houston, Texas but represents both corporate entities and individuals in legal malpractice cases nationwide. Lance Christopher Kassab is Board Certified Diplomate of the American Board of Professional Liability Attorneys in Legal Professional Liability. Lance the founder of the firm, has over 23 years of experience handling and trying legal malpractice claims and has successfully handled well over two thousand (2,000) legal malpractice claims, many involving multi-million-dollar damages. The Kassab Law Firm is a family-run business as Lance is joined by his nephew David Eric Kassab, who together have represented hundreds of victims of legal malpractice for nearly a decade. (Tex. Gov't Code § 2254.1036(a)(1)(B))

The attorneys and law firm selection have had no prior relationship with the City, CDC or RCDC. The Chief Litigation Attorney also had no prior relationship with the attorneys or the firm before this instance. (Tex. Gov't Code § 2254.1036(a)(1)(C))

The City, CDC and RCDC are serviced by contract attorneys and do not have full-time in-house legal support and the current contract attorneys do not have the requisite experience to pursue the claims involved. (Tex. Gov't Code § 2254.1036(a)(1)(D))

Due to the nature of the claims, it is in the best interest of the residents of Hutto, Texas to pursue the claims on a contingent fee basis rather than pay by the hour. In doing so, the CDC's and RCDC's claims can be pursued without a financial obligation on the members of the public, no matter the outcome. (Tex. Gov't Code § 2254.1036(a)(1)(E) and (F))

At this meeting the governing bodies of the CDC and RCDC will consider action to approve the contingent fee contract with the Kassab Law Firm in an open meeting called for the purpose of considering the matters outlined in this notice, in accordance with Tex. Gov't Code § 2254.1036(a)(1) and Tex. Gov't Code § 2254.1036(a)(2).

On approval of the proposed contingent fee contract, the governing bodies of the CDC and RCDC shall by resolution find that (1) there is a substantial need for the legal services; (2) the legal services cannot be adequately performed by the attorneys and supporting personnel of the City, CDC, and RCDC; and (3) the legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which the services will be obtained or because the City, CDC, and RCDC do not have funds to pay the estimated amounts required under a contract providing only for the payment of hourly fees. (Tex. Gov't Code § 2254.1036(b))

RESOLUTION NO. R-2022-__ LGC

A JOINT RESOLUTION OF THE COTTONWOOD DEVELOPMENT CORPORATION AND THE RIVER CREEK DEVELOPMENT CORPORATION, BOTH LOCATED IN HUTTO, TEXAS, AUTHORIZING THE KASSAB LAW FIRM TO TAKE ALL APPROPRIATE LEGAL ACTION TO ASSERT CLAIMS AGAINST MCGINNIS LOCHRIDGE, PARTNER MICHAEL A. SHAUNESSY, PARTNER BILL BINGHAM AND OTHERS AS NECESSARY TO RECOVER DAMAGES RESULTING FROM THEIR WRONGDOING IN THE COURSE OF PROVIDING THE LOCAL GOVERNMENT CORPORATIONS OF HUTTO, TEXAS WITH LEGAL SERVICES; AUTHORIZING THE CHAIR OF EACH CORPORATION TO ENTER INTO AND EXECUTE THE JOINT CONTINGENT FEE ENGAGEMENT AGREEMENT; MAKING REQUIRED FINDINGS; PROVIDING FOR SEVERANCE; PROVIDING FOR REPEALER AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of Directors of the Cottonwood Development Corporation and of the River Creek Development Corporation find notice was given before or at the time of giving the written notice required by Section 551.041 for a City Council Meeting on April 7, 2022, and,

WHEREAS, the Board of Directors of the Cottonwood Development Corporation and of the River Creek Development Corporation find pursuing legal malpractice and other claims against its former attorneys and law firm and seeking monetary damages for their failure to properly render legal services to the City is necessary and appropriate; and,

WHEREAS, the Board of Directors of the Cottonwood Development Corporation and of the River Creek Development Corporation find the Corporations and the City should be entitled to recover all monetary damages of whatever nature caused by the failure to properly render legal services to the City, including monies spend in subsequent lawsuits which were a consequence of the failure to properly render legal services; and,

WHEREAS, the Board of Directors of the Cottonwood Development Corporation and of the River Creek Development Corporation find the Kassab Law Firm is a full-service boutique law firm staffed with legal malpractice lawyers concentrating solely on plaintiffs' legal malpractice law. The firm is located in Houston, Texas but represents both corporate entities and individuals in legal malpractice cases nationwide. Lance Christopher Kassab is Board Certified Diplomate of the American Board of Professional Liability Attorneys in Legal Professional Liability. Lance, as the founder of the firm, has over 23 years of experience handling and trying legal malpractice claims and has successfully handled well over two thousand (2,000) legal malpractice claims, many involving multi-million-dollar damages. The Kassab Law Firm is a family-run business as Lance is joined by his nephew David Eric Kassab, who together have represented hundreds of victims of legal malpractice for nearly a decade; and,

WHEREAS, the Board of Directors of the Cottonwood Development Corporation and of the River Creek Development Corporation find the attorneys and law firm selected have had no prior relationship with the City of Hutto, the Local Government Corporations involved or the Chief Litigation Counsel and was recommended after the Chief Litigation Counsel for all the entities, conducted an evaluation of available services and selected the firm and attorneys based on demonstrated competence and qualifications to perform the services; and,

WHEREAS, the Board of Directors of the Cottonwood Development Corporation and of the River Creek Development Corporation find the City and Local Government Corporations are serviced by contract attorneys, do not have full-time in-house legal support and the current contract attorneys do not have the requisite experience to pursue the claims involved; and,

WHEREAS, the Board of Directors of the Cottonwood Development Corporation and of the River Creek Development Corporation find that due to the nature of the claims, it is in the best interest of the residents of Hutto, Texas to pursue the claims on a contingent fee basis rather than pay by the hour. In doing so, the CDC's and RCDC's claims can be pursued without a financial obligation on the members of the public, no matter the outcome and which would otherwise be cost prohibitive; and,

WHEREAS, the Board of Directors of the Cottonwood Development Corporation and of the River Creek Development Corporation find they considered action to approve the contingent fee engagement agreement in an open meeting called for the purpose of considering the matters listed in Tex. Gov't Code §2254.1036(a)(1); and,

WHEREAS, the Board of Directors of the Cottonwood Development Corporation and of the River Creek Development Corporation find, pursuant to Tex. Gov't Code §2254.1036(b), they should approve the contingent fee engagement agreement by resolution because there is a substantial need for the legal services. The legal services cannot be adequately performed by the attorneys and supporting personnel of the either corporation, and the legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which the services will be obtained and because the corporations do not have funds to pay the estimated amounts required under a contract providing only for the payment of hourly fees; and,

WHEREAS, the Board of Directors of the Cottonwood Development Corporation and of the River Creek Development Corporation find it now desires to authorize the Kassab Law Firm to take all appropriate legal action to assert claims against McGinnis Lochridge, Partner Michael A. Shaunessy, Partner Bill Bingham and others as necessary to recover damages for their wrongdoing.

NOW THEREFORE, BE IT RESOLVED BY BOARD OF DIRECTORS OF THE COTTONWOOD DEVELOPMENT CORPORATION AND OF THE RIVER CREEK DEVELOPMENT CORPORATION:

Section 1. All the above premises are hereby found to be true and correct legislative and factual findings of the Board of Directors of the Cottonwood Development Corporation and of the River Creek Development Corporation located in Hutto, Texas and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

Section 2. The Kassab Law Firm is engaged to represent the Cottonwood Development Corporation and the River Creek Development Corporation in the claims identified herein.

Section 3. The Board of Directors of the Cottonwood Development Corporation and of the River Creek Development Corporation approve the contingent fee engagement agreement and authorizes the Chair of each respective corporation to execute it on behalf of each of the corporations.

Section 4. Section 4. This Resolution shall be and is hereby cumulative of all other Resolutions of the City of, Texas, and this Resolution shall not operate to repeal or affect any such other Resolutions except insofar as the provisions thereof might be inconsistent or in conflict with the provisions of this Resolution, in which event, such conflicting provisions, if any, in such other Resolutions are hereby repealed.

Section 5. Should any sentence, paragraph, subdivision, clause, phrase or section of this Resolution be adjudged or held to be illegal, invalid or unconstitutional, the same shall not affect the validity of this Resolution as a whole, or any part or provision thereof, other than the part so decided to be invalid, illegal or unconstitutional.

Section 6. This Resolution shall become effective upon a majority vote in favor by the City Council.

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CONSIDERED AND RESOLVED BY THE BOARD OF DIRECTORS OF THE COTTONWOOD DEVELOPMENT CORPORATION AND OF THE RIVER CREEK DEVELOPMENT CORPORATION ON THIS THE 7th DAY OF APRIL 2022.

Cottonwood Development Corporation

By: Dan Thornton, Chairman

River Creek Development Corporation

By: Peter Gordon, Chair

ATTEST:

Mike Arismendez, Secretary for
Cottonwood Development Corporation

Mike Arismendez, Secretary for
River Creek Development Corporation