City of Hutto

MINUTES

City Council Meeting
Thursday, October 1, 2020 at 7:00 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 www.huttotx.gov

1. **CALL SESSION TO ORDER** - *7:00 PM*

2. **ROLL CALL**

   Members of City Council present were Councilmember Robin Sutton, Councilmember Dan Thornton, Councilmember Mike Snyder, Councilmember Peter Gordon, Councilmember Tanner Rose and Councilmember Patti Martinez (via video conference).

   Members of staff that were present were Warren Hutmacher, City Manager (via video conference); Stacy Schmitt, Assistant to City Manager (via video conference); Samuel Ray, Director of Engineering (via video conference) Holly Nagy, City Secretary and Dorothy Palumbo, City Attorney.

   Absent: Mayor Doug Gaul

3. **INVOCATION** – Pastor Katie Wegner from Hutto Lutheran Church

4. **PLEDGE OF ALLEGIANCE**

5. **CITY COUNCIL COMMENTS**

   5.1. General Comments from City Council

   Councilmember Rose: I wanted to say I know there was a lot of discussion about the concert series that went on this past weekend. I know I've heard from several people near where I live down in the Riverwalk and Brushy Creek area and you know, I think a lot of people have heard some of the complaints for, some of the positives for it and some of the complaints against it. So, I'd like to see an agenda item either on the next regular meeting or the first one in November to kind of discuss some options to best address the concerns from all sides to try to find something there with the management parties from RS3 and the city and everyone else. I don't know what those options are, hopefully there are some experts that understand how all that works better than I do but I'd like to see some discussion there about all of that.

   Councilmember Thornton: I'll second adding that to the agenda. I'll suggest maybe the first one in November because we have two more concerts in October and we'll have those all in the books by then and then we can get all the input.

Councilmember Gordon: I know city staff has already been working on a lot of that. We received an email I think today or yesterday from Stacy on some of the things. They've already had conversations with RS3 and they've made some changes for the upcoming concerts already and so, hopefully those will. We'll have a good feel if those changes were sufficient or not.

Brad Walker with the Hutto Area Chamber of Commerce welcomed City Manager Warren Hutmacher to the City of Hutto.

5.2. City Council Commission Liaison Reports
- *None.*

6. **PUBLIC COMMENT**
- Rudy Perez – yielding time to Ida Gayle Weaver
- Ida Gayle Weaver
- Gloria Duncan – yielding time to Jackie Corbiere
- Jackie Corbiere
- James Weaver
- Melissa McKee

7. **CITY MANAGER COMMENTS**

8. **CONSENT AGENDA ITEMS**

Councilmember Thornton made a motion to table items 8.1, 8.2, 8.3 and 8.4. Councilmember Rose seconded the motion. The motion passed unanimously.

8.1. Consideration and possible action on a resolution approving the proposed Cottonwood Creek Phase 3 Final Plat, 32.904 acres, more or less, of land, 138 residential lots, located on CR 199.(Ashley Lumpkin)

8.2. Consideration and possible action on a resolution approving the proposed Highlands North Section 3 Final Plat, 44.847 acres, more or less, of land, 134 residential lots, located on CR 133.(Ashley Lumpkin)

8.3. Consideration and possible action on a resolution approving the subdivision 10 plat approval extension request for the Hutto Highlands Section 2 Phase 3 Final Plat, 42.698 acres, more or less, of land, 114 residential lots, located on FM 1660 North.(Ashley Lumpkin)

8.4. Consideration and possible action on a resolution approving the subdivision 11 plat approval extension request for the Hutto Square Section 6 Final Plat, 16.015 acres, more or less, of land, 64 residential lots, located on Limmer Loop.(Ashley Lumpkin)

8.5. Consideration and possible action to approving the August 20, 2020 City Council Work Session minutes.

Councilmember Gordon made a motion to approve items 8.5, 8.6 and 8.7. Councilmember Rose seconded the motion. The motion passed unanimously.

8.6. Consideration and possible action on approving the August 20, 2020 City Council meeting minutes.

8.7. Consideration and possible action on approving the August 27, 2020 Special Called City Council meeting minutes.

Councilmember Gordon made a motion to move items 12.1 and 12.2 up. Councilmember Robin Sutton seconded the motion. The motion passed (5:1) with Councilmember Martinez against.

12. **EXECUTIVE SESSION**: *Entered: 7:32 PM*

12.1 Receive legal advice from the City Attorney in accordance with Tex. Gov't Code § 551.071 (1) about pending litigation, to wit: Case 1:20-cv-00978 Preston Hollow Capital, LLC v. Cottonwood Development Corporation, et al; pending in the United States District Court for the Western District of Texas, Austin Division, engage the law firm of Russell Rodriguez Hyde Bullock, LLP to jointly represent the City and Cottonwood Development Corporation; and entering into a Joint Defense Agreement between Cottonwood Development Corporation and the City of Hutto, Texas in connection with the litigation.

12.2 Receive legal advice pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims and City Council Legal Requests.
Reconvened: 8:44 PM
No action taken.

Councilmember Gordon made a motion to move up items 13.1 and 13.2 up. Councilmember Thornton seconded the motion. The motion passed unanimously.

13. **ACTION RELATIVE TO EXECUTIVE SESSION**

13.1 Possible action on legal advice received from the City Attorney in accordance with Tex. Gov't Code § 551.071 (1) about pending litigation, to wit: Case 1:20cv-00978 Preston Hollow Capital, LLC v. Cottonwood Development Corporation, et al; pending in the United States District Court for the Western District of Texas, Austin Division, engage the law firm of Russell Rodriguez Hyde Bullock, LLP to jointly represent the City and Cottonwood Development Corporation; and entering into a Joint Defense Agreement between Cottonwood Development Corporation and the City of Hutto, Texas in connection with the litigation.
Councilmember Snyder made a motion to have Russel Rodriguez Hyde Bullock, LLP represent the City of Hutto in said lawsuit to defend all claims against the City and assert all claims on behalf of the city as necessary in this case including claims that city may have against Winstead law firm and or McGinnis Lochridge law firm arising out of the project commonly known as Project Expansion and to authorize a joint defense agreement between the Cottonwood Development Corporation and the City of Hutto. Councilmember Rose seconded the motion. The motion passed unanimously.

13.2 Possible action on legal advice received pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims and City Council Legal Requests. - *No action taken.*

9. ORDINANCES

9.1. Consideration and possible action on Ordinance No. O-2020-034 accepting and approving Annual Service and Assessment Plan Update for Mustang Creek Public Improvement District. (Second Reading)
Councilmember Martinez made a motion to approve item 9.1. Councilmember Gordon seconded the motion. The motion passed unanimously.

9.2. Consideration and possible action on Ordinance No. O-2020-035 accepting and approving Annual Service and Assessment Plan Update for Cross Creek Public Improvement District. (Second Reading)
Councilmember Gordon made a motion to approve item 9.2. Councilmember Martinez seconded the motion. The motion passed unanimously.

Councilmember Rose made a motion to move up item 11.2. Councilmember Thornton seconded the motion. The motion passed unanimously.

11.2 Consideration and possible action on compliance with the May 11, 2017 Master Development Agreement, as amended between the City of Hutto and MA Partners. (Councilmember T. Rose)
Presentation by Kevin Pierce.

Councilmember Snyder made a motion to direct staff to prepare a letter based on paragraph 5.07, Construction Schedule Performance Standards Letter D on remedies where it outlines the procedure for the Extension Fee. Also, to have the City Attorney to come back with information on the potential illegal delegations of legislative authority in regards to the amendments, the amended restated agreements, the conveyance of land, and also including everything. Councilmember Rose seconded the motion. Discussion ensued.

Councilmember Snyder amended the motion to clarify it is to direct staff to write the letter for the Extension Fee and also to come back with information on where were at with the illegal delegation of legislative authority regarding all the documents pertaining to the Co-Op. The motion passed unanimously.

Councilmember Rose requested a reconsideration on the motion to amend the motion to add for staff to administer legal research on why the large silo was deemed unusable. Councilmember Sutton seconded this motion. The motion passed unanimously.

9.3. Consideration and possible action on Ordinance No. O-2020-033 accepting and approving Annual Service and Assessment Plan Update for Co-Op Public Improvement District. (First Reading) (Tabled at the 9/17/20 meeting)

Councilmember Gordon made a motion to table item 9.3 until the next City Council meeting on November 5, 2020. Councilmember Thornton seconded the motion. The motion passed unanimously.

9.4. Consideration and possible action on approving the second reading of Ordinance No.O-2020-042 approving the annual update to the Co-Op Public Improvement District (PID) Service and Assessment Plan (SAP) from July 3, 2019 City Council meeting. (Jon Snyder PID Administrator) Returned from break at 11:18.
Councilmember Martinez made a motion to approve item 9.4. Councilmember Sutton seconded the motion. The motion passed unanimously.

10-minute recess taken at 11:08 PM
Returned from break at 11:18 PM

10. RESOLUTIONS

10.1. Consideration and Possible Action on a Resolution Authorizing the City Manager to Execute 3 Supplemental Agreements for HNTB Corporation to Individual Task Orders Related to the FM 1660 Intersection Improvement Projects. (Samuel Ray)
Councilmember Gordon made a motion to approve item 10.1 as presented. Councilmember Martinez seconded the motion. The motion passed unanimously.

11. OTHER BUSINESS

11.1. Consideration of and possible appointments to City Boards and Commissions. (City Secretary)
Discussion ensued. Councilmember Gordon suggested combining the Communications Task Forces and the ADA Task Forces into one and then disbanding the ADA Task Forces. No action taken.

11.3. Consideration and possible action on requesting that the City Manager require current City Employees to appear and provide information and for subpoenas to be issued by the City Secretary for witnesses to appear at the October 8, 2020 3.16 Investigation, concerning the Transition, Severance and Separation Agreement, Special Called City Council meeting. (City Attorney)
Councilmember Thornton made a motion to cancel the investigative hearing on October 8, 2020 and reschedule the investigation hearing to October 22, 2020 and to also add an agenda item on October 15, 2020 to allow council to clarify the scope of the investigation. Councilmember Rose seconded the motion. The motion passed unanimously.

Councilmember Thornton made a motion to move item 11.5 up. Councilmember Rose seconded the motion. The motion passed unanimously.

11.5. Update on Lakeside Lift Station. (Samuel Ray)
Presentation by Samuel Ray
No action taken.

11.4. Consideration and possible action regarding a status update on Resolution No. R-2020-075 that was approved on August 27, 2020 pertaining to waiving the attorney-client privilege concerning McGinnis Lochridge law firm's attorney fee bills in response to R000706-073019. *Discussion ensued.*

Item was moved to Executive Session entered at 1:07 AM
Reconvened at 1:34 AM.

Councilmember Gordon made a motion to release all invoices that are dated 2017 and direct the City Attorney to review all invoices dates 2018 and 2019 up through July 30 and redact any information that would cause liability to the city and release after those redactions.

Councilmember Gordon made an amendment to the motion stating that prior to the invoices being released that they would be presented to Council for review at the next regular City Council meeting. Councilmember Sutton seconded the motion. The motion passed unanimously.

14. **ADJOURNMENT**- *1:37 AM*

Mike Snyder, Mayor Pro Tem

ATTEST:

Jessica Brown, Asst. City Secretary

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