City of Hutto

MINUTES

City Council Meeting
Thursday, October 15, 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.

Members of staff that were present were Warren Hutmacher, City Manager; Byron Frankland, Assistant City Manager; Stacy Schmitt, Assistant to City Manager; Ashley Lumpkin, Executive Director of Business and Development Services; Samuel Ray, Director of Engineering; Holly Nagy, City Secretary and Dorothy Palumbo, City Attorney.

Absent: Mayor Doug Gaul

3. **INVOCATION** – Led by Pastor Piet Van Waarde of Shoreline Church

4. **PLEDGE OF ALLEGIANCE**

5. **CITY COUNCIL COMMENTS**

5.1. General Comments from City Council.
Councilmember Martinez: To my constituents, Mayor, Mayor Pro Tem, Councilmembers thank you for this opportunity to speak and I'll try to make this as short as possible. I wanted to take this time to admit to the public that I have made mistakes and I've trusted people I shouldn't have. I was vulnerable as a newly appointed Councilmember and I was told by many others that this was how it worked and I believe I made my best effort with the information provided. I'm not here to whine about me, I'm here to take responsibility for my actions. I owe the people of Hutto an apology for the challenges we're facing today. I owe the city staff, former and current, an apology for the situation we are in today and I owe Mayor Pro Tem Mike Snyder an apology for not having trusted him from the beginning. To Tanner Rose for not having listened to his guidance and to former councilmember Terri Graham for not having her back the way a colleague and

best friend should and I have failed many others. I made a mistake by voting in favor of Otis Jones severance agreement. The investigation against Otis was found to have no merit and I wish I could say why but I don't want a lawsuit against me. There's so much I want to tell but can't. He lied. He manipulated. I'll never forgive myself for trusting him but I made a mistake in voting for that agreement. I recognize and I own it and I'm taking my beatings. The repercussions, the heavy heavy guilt I carry that I deserve and I heavily regret it. Today, I am not the councilmember I was before. I have stood on my own, I have fought my fights for what I believe was right but I also regret some decisions that were made under my watch because I didn't know any better and I thought it was the way it worked. I'm not here to ask for your pity, I'm here to ask for your forgiveness and I want to move forward and to continue to change and grow to learn from those that I have continuously shut down because I was given information by people whom I trusted. If I've learned anything it's how to trust someone but that's not all I've learned a lot from my mistakes and I will continue to learn and grow and to move the city forward by continuing to listen to what the residents want and by working with the council. Thank you for hearing me and I am open to questions now and after the meeting as well. That is all.

5.2. Council Commission Liaison Reports.

Councilmember Gordon advised an update on the Planning and Zoning Commission regarding annual reports.

Councilmember Gordon advised an update regarding the Communications Task Force regarding improving communication between the city and the residents.

Mayor Pro Tem Snyder advised an update regarding the Economic Development Corporation.

6. **PUBLIC COMMENT**

- Jackie Padesky *via email
- Layne Robinson
- Lucas Evans
- Elaine Prout
- Bobby Pruitt
- Helen Coffman

7. **CITY MANAGER COMMENTS**

City Manager Warren Hutmacher provided updates regarding Co-Op Boulevard being open, Southside Market BBQ opening for business and presented a short video from the communications staff regarding these updates.

Councilmember Martinez made a motion to move items 11.5, 11.6 and 12.4 up on the agenda. Councilmember Gordon seconded this motion. The motion passed unanimously.

11.5. Consideration and possible action on the request from Preston Hollow Capital for the City Manager to execute a "Securitization Bond" Continuing Disclosure Agreement for the Mustang Creek Public Improvement District. (City Attorney)
Councilmember Gordon made a motion to table item 11.5 until such time that Preston Hollow Capital can be present. Councilmember Martinez seconded the motion. The motion passed unanimously.

11.6. Consider and possible action on proposals for Disclosure Counsel for the City of Hutto General Obligation Refunding Bonds, Tax-Exempt Series 2020 and General Obligation Refunding Bonds, Taxable Series 2020. (City Attorney)
Councilmember Martinez made a motion to select Norton Rose Fulbright to negotiate as disclosure counsel. The motion passed unanimously.

12.4. Receive legal advice from counsel to the City in accordance with Section 551.071 (2) of the Texas Government Code with respect to the request for an opinion from the Texas Attorney General regarding the legality of certain aspects of the financing of improvements in the Hutto Co-Op Public Improvement District.
Removed from executive session and discussed in regular open session.

Councilmember Martinez made a motion to move up item 13.4. Councilmember Gordon seconded the motion. The motion passed unanimously.

13.4. Possible action related to legal advice received from counsel to the City in accordance with Section 551.071 (2) of the Texas Government Code with respect to the request for an opinion from the Texas Attorney General regarding the legality of certain aspects of the financing of improvements in the Hutto Co-Op Public Improvement District.
Councilmember Martinez made a motion to direct the attorney to move forward with seeking the Attorney General opinion regarding the legality of certain aspects of the financing of improvements and file the correct disclosures. Councilmember Gordon seconded this motion. The motion passed unanimously.

8. **CONSENT AGENDA ITEMS**
Councilmember Gordon made a motion to pull items 8.1, 8.2 and 8.3 from the consent agenda. Councilmember Gordon seconded this motion. Councilmember Snyder requested to amend the motion and include item 8.4 as well. Seconded by Councilmember Martinez. The motion passed unanimously.

8.1. Consideration and possible action on Resolution No. R-2020-089 authorizing the City Manager to execute a proposal for Appraisal Services with Aegis Group, Inc. For appraisal services for the Hutto 315/Emory Crossing Public Improvement District. (City Attorney)
Councilmember Rose made a motion to approve item 8.1. Councilmember Martinez seconded the motion. The motion passed unanimously.

8.2. Consideration and possible action on Resolution No. R-2020-088 authorizing the City Manager to execute a proposal for Appraisal Services with the Aegis Group, Inc. for appraisal services for the Durango Farms Public Improvement District. (City Attorney)

Councilmember Rose made a motion to approve item 8.2. Councilmember Martinez seconded the motion. Discussion ensued. Councilmember Rose withdrew his motion.

Councilmember Sutton made a motion to table this item. Councilmember Martinez seconded the motion. The motion passed unanimously.

8.3. Consideration and possible action on Resolution No. R-2020-093 approving the proposed Covered Bridge Revised Preliminary Plat, 49.95 acres, more or less, of land, 231 residential lots, located on CR 138. (Ashley Lumpkin)

Councilmember Gordon made a motion to approve item 8.3 with the provision that no construction traffic be allowed through Lakeside Estates Subdivision. Councilmember Martinez seconded the motion. The motion passed unanimously.

8.4. Consideration and possible action on Resolution No. R-2020-094 approving the proposed Emory Crossing Preliminary Plat Revision #2, 315.28 acres, more or less, of land, 1,350 residential lots, one amenity lot and one commercial lot, located on FM 1660 North. (Ashley Lumpkin)

Councilmember Gordon made a motion to approve item 8.4. Councilmember Rose seconded the motion. The motion fails (3:3) with Councilmember Martinez, Councilmember Sutton and Mayor Pro Tem Snyder against.

Councilmember Gordon made a motion to reconsider approving item 8.4. Councilmember Martinez seconded this motion. The motion passed (5:1) with Mayor Pro Tem Snyder against.

8.5. Consideration and possible action on Resolution No. R-2020-095 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)

Councilmember Martinez made a motion to accept Consent Agenda Items including 8.5, 8.7, 8.8, 8.9, 8.10, 8.11 and 8.12 as presented and pull item 8.6. Councilmember Gordon seconded the motion. The motion passed (6:0).

8.6. Consideration and possible action on Resolution No. R-2020-096 approving the proposed Emory Crossing Phase 2 Final Plat, 44.321 acres, more or less, of land, 108 residential lots, located off of CR 119 at Emory Crossing Boulevard.(Ashley Lumpkin)

Councilmember Martinez made a motion to approve item 8.6 as presented. Councilmember Gordon seconded the motion. The motion passed unanimously.

10-Minute recess taken at 8:52 PM.

Returned from break at 9:52 PM.

8.7. Consideration and possible action on Resolution No. R-2020-097 approving the proposed Hansons Corner Expansion Final Plat, 4.8530 acres, more or less, of land, 3 commercial lots, located on Ed Schmidt Boulevard.(Ashley Lumpkin)

8.8. Consideration and possible action on Resolution No. R-2020-098 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)

8.9. Consideration and possible action on Resolution No. R-2020-099 approving the proposed Hutto Crossing Phase 4 Section 13 Final Plat, 0.774 acres, more or less, of land, one ommercial lot, located on Chris Kelley Boulevard.(Ashley Lumpkin)

8.10. Consideration and possible action on Resolution No. R-2020-100 approving the subdivision 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)

8.11. Consideration and possible action on Resolution No. R-2020-101 approving the subdivision 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)

8.12. Consideration and possible action authorizing the request for a purchase order for PBS of Texas, LLC for the 2021 fiscal year. Monthly janitorial services for City Hall, Library, Police Department and Public Works. (Anthony Host)

9. **ORDINANCES**

9.1. Consideration of a public hearing and possible action on Ordinance No. O-2020-043 approving the proposed Unified Development Code (UDC) ordinance amendment to the Code of Ordinances (2014 Edition, as amended), Chapter 2 Section 10.203, Development Review Process, Section 10.204.2, Effective Date and Expiration, Chapter 3, Section 10.311.9, Swimming Pools and Chapter 4, Section 10.405, Building Setbacks, General Rules. (Ashley Lumpkin)
Public hearing held at 9:22 PM.
Public comment made by Lucas Evans.
Public hearing closed at 9:27 PM.

Councilmember Martinez made a motion to approve item 9.1 as presented. Councilmember Gordon seconded the motion. The motion passed (5:1) with Mayor Pro Tem Snyder against.

9.2. Consideration of a public hearing and possible action on the reading of Ordinance No. O-2020-044 approving the annexation of Titan Innovation Business Park Phase II, 106.66 acres, more or less, of land, and to establish the base zoning as LI (Light Industrial) located at the southeast corner of Limmer Loop and Innovation Boulevard. (Ashley Lumpkin)

Public hearing opened at 9:36 PM.
No public comments.
Public hearing closed at 9:37 PM.

Councilmember Gordon made a motion to annex the property as AGSFR. Councilmember Martinez seconded the motion.

Councilmember Gordon withdrew his motion.

Councilmember Rose made a motion to approve item 9.2 with the change of the zoning as AGSFR. Councilmember Sutton seconded the motion. The motion failed (3:3) with Councilmember Gordon, Councilmember Martinez and Councilmember Thornton against.

10. **RESOLUTIONS**

10.1. Consideration and possible action on Resolution No. R-2020-090 approving a negotiated settlement between Atmos Cities Steering Committee (ACSC) and Atmos Energy Corporation, Mid-Tex Division regarding the company's rate review mechanism. (Misti Hancock)

Councilmember Martinez motioned to approve item 10.1 as presented. Councilmember Gordon seconded the motion. The motion passed unanimously.

10.2. Consideration and possible action on Resolution No. R-2020-091 amending the authorized representatives for the City's TexPool account. (Misti Hancock)

Councilmember Martinez motioned to approve item 10.2 as presented. Councilmember Sutton seconded the motion. The motion passed unanimously.

10.3. Consideration and possible action on Resolution No. R-2020-092 amending the authorized representatives for the City's Bancorp account(s). (Misti Hancock)

Councilmember Martinez motioned to approve item 10.3. Councilmember Gordon seconded the motion. The motion passed unanimously.

10.4. Discussion and Possible action on Resolution No. R-2020-102 awarding the Lakeside Estates Lift Station decommissioning project to Bell Contractors, Inc and to direct the City Manager to execute contract documents with Bell Contractors, Inc. and to negotiate with developers of Covered Bridge and Southgate developments regarding an agreement for the funding of the project. (Samuel Ray)

Councilmember Gordon motioned to award the Lakeside Estates Lift Station decommissioning project to Bell Contractors, Inc. and to negotiate with developers of Covered Bridge and Southgate developments regarding an agreement for the funding of the project with the awarded contract price as $1,372,489.13 (one million three hundred seventy-two thousand four hundred eighty-nine dollars and thirteen cents). Councilmember Rose seconded the motion. The motion passed unanimously.

11. OTHER BUSINESS

11.1. Presentation of the preliminary September 2020 financials. (Misti Hancock)
No action taken.

10-Minute recess taken at 10:40 PM.
Returned from break at 10:52 PM.

11.2. Consideration of and possible appointments, re-appointments and/or removals to City Boards, Commissions, Task Forces, and Local Government Corporations. (City Secretary)
No action taken.

11.3. Consideration and possible action on establishing the scope of the 316 investigation; 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 22, 2020 hearing. (City Attorney)
Councilmember Martinez motioned to table item 11.3 until it can be discussed in executive session. Councilmember Rose seconded the motion. The motion passed unanimously.

Executive session entered at 12:15 AM.
Reconvened at 12:41 AM.
No action was taken.

Councilmember Martinez motioned to table item 11.3 indefinitely. Councilmember Gordon seconded the motion with the amendment to also cancel the October 22, 2020 hearing. The motion passed (5:1) with Councilmember Rose against.

11.4. Consideration and possible action regarding redacting legal invoices provided by the McGinnis Lochridge LLP Law Firm from January 1, 2018 to July 30, 2019. (City Attorney)
Councilmember Martinez motioned to approve item 11.4 with the exception of pages 196, 203-205, 213-217, 224-238, 247-257, 266-269, 200, 996, 1005, 1041 and page 286. Councilmember Gordon seconded the motion. The motion passed unanimously.

Councilmember Gordon requested an agenda item for a future agenda for consideration and possible action of doing a similar release of legal invoices with our current City Attorney.

12. EXECUTIVE SESSION: *Entered at 11:06 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: Cause No. 20-1143-CC4, Sneed v. City of Hutto, In County Court at Law No. 4, Williamson County, Texas.

12.2. Receive legal advice in accordance with Section 551.071 (2) of the Texas Government Code related to the letter from Perfect Game dated October 6, 2020 in regard to the Multi-Party Development Agreement dated October 1, 2019 and the Continuous Occupancy Agreement dated December 11, 2019 for 24 Baseball Fields in the City of Hutto.

12.3. Receive legal advice from counsel to the City in accordance with Section 551.071 (2) of the Texas Government Code with respect to the request from Preston Hollow Capital for the City Manager to execute a "Securitization Bond" Continuing Disclosure Agreement for the Mustang Creek Public Improvement District.

12.5. Receive legal advice from the City Attorney in accordance with Tex. Gov't Code § 551.071 (2) relating to a proposed development agreement for the Mansions of Hutto located in the Extraterritorial Jurisdiction of the City of Hutto.

12.6. Receive legal advice pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims and City Council Legal Requests.

13. **ACTION RELATIVE TO EXECUTIVE SESSION:** *Reconvened at 12:14 AM*

13.1. Possible action related to legal advice received from the City Attorney in accordance with Tex. Gov't Code § 551.071 (1) about pending litigation, to wit: Cause No. 20-1143-CC4, Sneed v. City of Hutto, In County Court at Law No. 4, Williamson County, Texas.
No action taken.

13.2. Possible action related to legal advice in accordance with Section 551.071 (2) of the Texas Government Code related to the letter from Perfect Game dated

October 6, 2020 in regard to the Multi-Party Development Agreement dated October 1, 2019 and the Continuous Occupancy Agreement dated December 11, 2019 for 24 Baseball Fields in the City of Hutto.
No action taken.

13.3. Possible action related to legal advice received from counsel to the City in accordance with Section 551.071 (2) of the Texas Government Code with respect to the request from Preston Hollow Capital for the City Manager to execute a "Securitization Bond" Continuing Disclosure Agreement for the Mustang Creek Public Improvement District.
No action taken.

13.5. Possible action related to legal advice received from the City Attorney in accordance with Tex. Gov't Code § 551.071 (2) relating to a proposed development agreement for the Mansions of Hutto located in the Extraterritorial Jurisdiction of the City of Hutto.
No action taken.

13.6. Possible action related to 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.

Councilmember Rose requested a discussion for the next meeting regarding the amphitheater noise and costs. Councilmember Rose also requested an update regarding why there is not a school zone set up on Limmer in front of Cottonwood at an upcoming meeting.

14. ADJOURNMENT: *12:48 AM*

___________/S/__________
Mike Snyder, Mayor Pro Tem

ATTEST:

/S/
____
Jessica Brown, Asst. City Secretary