



# City of Hutto

## MINUTES

### City Council Meeting

Thursday, January 5, 2023 at 7:00 PM

### City Council Chambers

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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](http://www.huttotx.gov)

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

**2. ROLL CALL**

*Members of City Council present: Mayor Mike Snyder, Mayor Pro Tem Peter Gordon, Councilmember Robin Sutton, Councilmember Dan Thornton, Councilmember Randal Clark, Councilmember Krystal Kinsey and Councilmember Amberley Kolar.*

**Absent:** None

*Members of staff that were present were James Earp, City Manager, Matt Wojnowski, Assistant City Manager, Wade Benton, Consultant, Dottie Palumbo, Legal Counsel, Ashley Bailey, Executive Director of Development Services, Bob Farley, Executive Director, Economic and Development, Angela Lewis, City Secretary; Carla Sheridan, Assistant City Secretary*

**3. INVOCATION – Elder Luke Johnson**

**4. PLEDGE OF ALLEGIANCE**

**5. PROCLAMATION**

5.1. Rev. Dr. Martin Luther King, Jr. Day Proclamation (Diversity & Inclusion Commission) – Read by Mayor Snyder and accepted by members of the Diversity & Inclusion Commission

**6. CITY MANAGER COMMENTS**

**James R. Earp, City Manager**

City Manager Earp provided updates on the following:

- Capital Improvements Projects video series
- January 18 is the first day to file for candidacy for City Council
- January 19 Work Session – Pavement Assessment
- Upcoming new entertainment destination for Hutto
- World Hippo Day
- Professional Recognitions – New Hires and Promotions

## **7. CITY COUNCIL COMMENTS**

### **7.1. General Comments from City Council**

*Councilmember Sutton, Councilmember Kinsey, Mayor Snyder, Mayor Pro Tem Gordon, and Councilmember Kolar provided general comments.*

### **7.2. City Council Liaison Reports**

*Councilmember Thornton and Councilmember Sutton provided liaison reports.*

### **7.3. Future Agenda Items**

- *Mayor Snyder – process for requesting ordinances, proclamations, building names, plaques*

## **8. PUBLIC COMMENTS**

- Rudy Perez

## **9. CONSENT AGENDA ITEMS**

9.1. Consideration and possible action on Resolution No. R-2023-001 approving Project NQ2, an economic development performance agreement between the Hutto Economic Development Corporation Type B and A-S 64 CR 119-Hwy 79, L.P., a Texas limited partnership, in support of the Townwest Commons Commercial Facilities, providing for a City of Hutto funding agreement; providing for repeal and providing an effective date. (Legal)

9.2. Consider approval of a resolution of the City Council approving Project V; authorizing an Economic Development Performance Agreement between the Hutto Economic Development Corporation Type B and Es Vedras Cinemas Hutto, LLC in support of the development of Destination Retail in Hutto, Texas; providing for a Texas Local Government Code Chapter 380 Sales Tax Grant Funding Agreement between the City of Hutto, Texas and the Corporation in support of the Townwest Commons Commercial Facilities; providing for repeal and providing an effective date. (Legal)

9.3. Consideration and possible action on Ordinance No. O-2022-062 of the City of Hutto, Texas, approving a Second Amendment for Solid Waste and Recycling Services between the City of Hutto and Al Clawson Disposal, Inc. to provide for a two-year extension and providing an effective date. (First Reading) (Legal)

9.4. Consideration and possible action to execute an amendment to the Individual Project Order (IPO) 2022-03 for professional services with Freese & Nichols (FN) related to the Frame Switch Ground Storage Tank #2 (GST#2) Project in the amount of a \$120,682.00 reduction.

9.5. Consideration and possible action to execute Supplement 04 to Task Order (TO) 03 for professional services with HNTB for design modifications to the FM 1660 South and US 79 Project (HNTB Project No. 3) in the amount of \$98,157.22.

9.6. Consideration and possible action to accept the City Manager's report on an executed separation agreement with the former Chief Financial Officer. (City Manager Earp)

9.7. Consideration and possible action on Ordinance No. O-2023-002 amending Chapter 18, Article 18.02, Division 1 of the Code of Ordinances to update the rules and regulations related to City Parks. (Jeff White)

9.8. Consideration and possible action on the adoption of Ordinance No. O-2023-003 amending Section 10.609, Parkland and open space dedication, of the Hutto Unified Development Code to update the minimum standards related to parkland and open space dedication requirements. (First Reading) (Jeff White)

a. Consideration and possible action on Ordinance No. O-2023-003 to dispense with the second reading pursuant to Hutto City Charter Article 3, Section 3.13. (Legal)

9.9. Consideration and possible action on Ordinance 2023-004 terminating the franchise granted to Acadian Ambulance Services of Texas, LLC because Acadian has withdrawn its request for the franchise. (First Reading) (Legal)

9.10. Consideration and possible action on approving minutes of the December 15 Work Session, December 15 Joint City Council/Cottonwood Development Corporation meeting, and the December 22 Special Called Joint City Council and Hutto Economic Development Corporation Type A and Hutto Economic Development Corporation Type B Boards of Directors meeting. (Angela Lewis)

*Mayor Snyder requested pulling Item 9.3, 9.5 and 9.8 for discussion. Mayor Snyder also requested moving Items Nos. 9.1, 9.2, and 9.6 to Executive Session.*

*A motion was made by Councilmember Kolar to approve Items 9.4, 9.7, 9.9 and 9.10 as presented, and it was seconded by Councilmember. Vote passed 7,0.*

#### Items pulled for discussion:

9.3 Consideration and possible action on Ordinance No. O-2022-062 of the City of Hutto, Texas, approving a Second Amendment for Solid Waste and Recycling Services between the City of Hutto and Al Clawson Disposal, Inc. to provide for a two-year extension and providing an effective date. (First Reading) (Legal)

Public Speakers: Debbie Holland, Troy Clawson

*A motion was made by Councilmember Sutton to approve Item 9.3 as presented, and it was seconded by Mayor Pro Tem Gordon. Vote passed 7,0.*

9.5. Consideration and possible action to execute Supplement 04 to Task Order (TO) 03 for professional services with HNTB for design modifications to the FM 1660 South and US 79 Project (HNTB Project No. 3) in the amount of \$98,157.22.

*A motion was made by Councilmember Clark to approve Items 9.5 as presented with a corrected amount, and it was seconded by Mayor Pre Tem Gordon. Vote passed 7,0.*

- 9.8. Consideration and possible action on the adoption of Ordinance No. O-2023-003 amending Section 10.609, Parkland and open space dedication, of the Hutto Unified Development Code to update the minimum standards related to parkland and open space dedication requirements. (First Reading) (Jeff White)

*A motion was made by Councilmember Clark to approve Items 9.8 as presented, and it was seconded by Councilmember Sutton. Vote passed 7,0.*

- a. Consideration and possible action on Ordinance No. O-2023-003 to dispense with the second reading pursuant to Hutto City Charter Article 3, Section 3.13. (Legal)

*A motion was made by Councilmember Clark to approve Items 9.8 as presented, and it was seconded by Councilmember Kinsey. Vote passed 7,0.*

## **10. RESOLUTIONS**

- 10.1. Consideration and possible action to approve Resolution No. R-2023-005, approving the advance funding agreement for an on-system improvement project at FM 1660 South at US 79; and authorizing the City Manager to execute the agreement on behalf of the City of Hutto. (Wade Benton)

*A motion was made by Councilmember Clark and seconded by Councilmember Kinsey to approve Resolution R-2023-005 as presented. The vote passed 7,0.*

- 10.2. Consideration and possible action to approve Resolution No. R-2023-006 to award the FM 1660 North at US 79 Operational Improvements Project (CSJ No. 1566-01-017) to the lowest responsive bidder, Aaron Concrete Contractors, in the amount of \$637,042.00 and authorizing the City Manager to execute the construction contract with Aaron Concrete Contractors. (Wade Benton).

*A motion was made by Councilmember Kinsey and seconded by Councilmember Sutton to approve Resolution R-2023-006 as presented. The vote passed 7,0.*

## **11. PUBLIC HEARINGS/ORDINANCES**

- 11.1. Conduct a Public Hearing and take possible action on Ordinance No. 2023-005 approving a Revised Planned Unit Development (PUD) zoning ordinance request for the property known as 411, 421, 431 and 441 Ed Schmidt Boulevard Planned Unit Development (PUD), 4.30 acres, more or less, of land, Lots 2, 3, 4 and 5 of the Emory Farms Commercial Subdivision, located on Ed Schmidt Boulevard. (First Reading) (Ashley Bailey)

Public Hearing opened at 8:50 pm. There were no speakers and Public Hearing closed at 8:51 pm.

*A motion was made by Councilmember Clark and seconded by Councilmember Kolar to approve Ordinance No. 2023-005 with the addition of an 8 foot masonry wall and to allow minor changes that provide substantial conformance . The vote passed 7,0.*

11.2. Conduct a Public Hearing and take possible action on Ordinance No. 2023-006 approving a Revised Planned Unit Development (PUD) zoning ordinance request for the property known as NorthTown Commons Planned Unit Development (PUD), 28.449 acres, more or less, of land located along Limmer Loop east of FM 1660 North. (First Reading) (Ashley Bailey)

Public Hearing opened at 9:06 pm and will be continued until February 16, 2023.  
Public Speaker – Lucas Morton

*This item was tabled to February 16, 2023.*

11.3. Conduct a Public Hearing and take possible action on Ordinance No. O-2022-059 approving the proposed Specific Use Permit for the Hutto Independent School District at 573 Chris Kelley Boulevard (Hutto High School), 76.135 acres, more or less, of land, to allow a reduction in the required landscaping (UDC 10.407.5), required parking (10.405.9) and roof-mounted mechanical equipment (10.406.6.8). (First Reading) (Ashley Bailey)

Public Hearing opened at 9:30 pm. There were no speakers and Public Hearing closed at 9:30 pm.

*A motion was made by Councilmember Clark and seconded by Mayor Pro Tem Gordon to approve this item as presented with the condition that a TIA completed prior to certificate of occupancy being issued. The vote passed 7,0.*

## **12. OTHER BUSINESS**

12.1. Consideration and possible action regarding possible appointments, re-appointments and/or removals to City Boards, Commissions, Task Forces, Economic Development Corporations, Local Government Corporations and Tax Increment Reinvestment Zone Boards, City Council Liaisons, and Area Government appointments. (City Council)

*Nominees: TIRZ #2 Board – Mayor Pro Tem Gordon reported that the Nominating Committee is recommending the following:*

*Mike Arismendez (Chair)*

*Erin Clancy*

*Marcus Coleman*

*Kurt Schwertfeger*

*Randal Clark  
Mike Snyder  
Dan Thornton*

*A motion was made by Mayor Pro Tem Gordon and seconded by Councilmember Kolar to approve the TIRZ #2 Board members with Mike Arismendez as Chair. The vote passed 7,0.*

12.2. Presentation and possible action to accept the financial report for the month ending October 31, 2022 (Christina Bishop)

*No action taken.*

12.3. Consideration and possible action on proposed Charter Amendments. (Legal)

*A motion was made by Mayor Pro Tem Gordon and seconded by Councilmember Clark to approve tabling this item. Mayor Pro Tem Gordon later rescinded this motion and made a motion to postpone this item until August 1, 2023, and Councilmember Clark seconded with the condition of forming a Charter Review Commission at that time. The vote passed 4,3 (Thornton, Snyder, and Kolar dissenting).*

12.4. Discussion of wording on a rededication plaque for Hutto City Hall (Councilmember Sutton)

*No action was taken.*

12.5. Discussion of City Sponsorship at Chamber Gala (Councilmember Kinsey)

*No action was taken.*

12.6. Discussion of Status of Past Year's Council Actions (Mayor Snyder and Mayor Pro Tem Gordon)

*No action was taken.*

12.7. Discussion and possible action regarding the qualifications of City Council member Place 5 as described in the Hutto Charter section 3.02 and any related action per the charter in accordance with Section 3.06(b)(1) including but not limited to forfeiture of office (Mayor Snyder)

*A motion was made by Mayor Snyder and seconded by Councilmember Kinsey to release all legal memos related to this item. The vote passed 7,0.*

**13. EXECUTIVE SESSION – Convened into Executive Session at 12 AM.**

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

13.2. Receive legal advice pursuant to Texas Government Code Section 551.071 relating to the selection of a law firm to represent the City in personnel matters, including but not limited to employee appeals.

13.3. Receive legal advice pursuant to Texas Government Code Section 551.071 relating to Cause No. 22-0259-C368, City of Hutto, Texas, Cottonwood Development Corporation, and River Creek Development Corporation Plaintiffs v. McGinnis Lochridge, LLP, William H. Bingham, Jr., and Michael A. Shaunessy Defendants, in the 368th District Court of Williamson County, Texas.

13.4. Receive legal advice pursuant to Texas Government Code Section 551.071 and deliberate pursuant to Texas Government Code Sections 551.087 and 551.072 regarding economic development negotiations related to pending economic development projects.

13.5. Pursuant to 551.071 (legal consultation), 551.072 (Real Property) and 551.087 (Economic Development), to deliberate and seek legal advice regarding structure and funding of economic development real property acquisition by the Hutto Economic Development Corporation.

13.6. Receive legal advice and discuss potential acquisitions of real estate pursuant to Texas Government Code sections 551.071 and 551.072 related to right of way acquisitions at FM 1660/Limmer Loop.

*No action was taken in Executive Session.*

**14. ACTION RELATIVE TO EXECUTIVE SESSION – Reconvened at 2:22 AM.**

9.1. Consideration and possible action on Resolution No. R-2023-001 approving Project NQ2, an economic development performance agreement between the Hutto Economic Development Corporation Type B and A-S 64 CR 119-Hwy 79, L.P., a Texas limited partnership, in support of the Townwest Commons Commercial Facilities, providing for a City of Hutto funding agreement; providing for repeal and providing an effective date. (Legal)

9.2. Consider approval of a resolution of the City Council approving Project V; authorizing an Economic Development Performance Agreement between the Hutto Economic Development Corporation Type B and Es Vedras Cinemas Hutto, LLC in support of the development of Destination Retail in Hutto, Texas; providing for a Texas Local Government Code Chapter 380 Sales Tax Grant Funding Agreement between the City of Hutto, Texas and the Corporation in support of the Townwest Commons Commercial Facilities; providing for repeal and providing an effective date. (Legal)

9.6. Consideration and possible action to accept the City Manager's report on an executed separation agreement with the former Chief Financial Officer. (City Manager Earp)

*A motion was made by Councilmember Clark and seconded by Mayor Pro Tem Gordon to approve Consent Items 91., 9.2, and 9.6 collectively as presented. The vote passed 7,0.*

14.1. Consideration and possible action related to legal advice received pursuant to Texas Government Code Sec. 551.071 related to Pending Legal Requests, Potential Claims, Pending Litigation, Potential Litigation, and City Council Legal Requests.

*No action.*

14.2. Consideration and possible action relating to legal advice received pursuant to Texas Government Code Section 551.071 relating to the selection of a law firm to represent the City in personnel matters, including but not limited to employee appeals.

*A motion was made by Councilmember Sutton and seconded by Councilmember Kolar to authorize the City Manager to pursue this matter at a cost not to exceed \$10,000. The vote passed 7,0.*

14.3. Discuss and possible action relating to legal advice received pursuant to Texas Government Code Section 551.071 relating to Cause No. 22-0259-C368, City of Hutto, Texas, Cottonwood Development Corporation, and River Creek Development Corporation Plaintiffs v. McGinnis Lochridge, LLP, William H. Bingham, Jr., and Michael A. Shaunessy Defendants, in the 368th District Court of Williamson County, Texas.

*No action.*

14.4. Consideration and possible action relating to legal advice received pursuant to Texas Government Code Section 551.071 and deliberations pursuant to Texas Government Code Sections 551.087 and 551.072 regarding economic development negotiations related to pending economic development projects.

*No action.*

14.5. Discuss and consider action to approve a Resolution of the City Council, authorizing the Hutto Economic Development Corporation to both acquire funds and expend funds to acquire real estate and certain real estate contracts currently owned by Cottonwood Development Corporation; approving a funding agreement between the City and the Hutto Economic Development Corporation to provide for an economic development program in compliance with Texas Local Government Code Section 380.002(b); authorizing the City Manager to fulfill the contract obligations and execute the funding agreement.

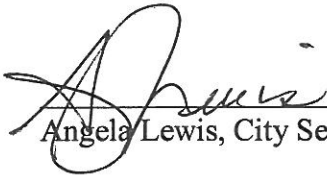
*A motion was made by Mayor Snyder and seconded by Councilmember Thornton to approve Item 14.5 as presented. The vote passed 5,2 (Kinsey and Sutton dissenting).*

14.6. Consideration and possible action related to legal advice received and discussion of potential acquisitions of real estate pursuant to Texas Government Code sections 551.071 and 551.072 related to right of way acquisitions at FM 1660/Limmer Loop.

*A motion was made by Councilmember Thornton and seconded by Councilmember Sutton to authorize the City Manager pursue negotiations as discussed for Item 14.6. The vote passed 7,0.*

**15. ADJOURNMENT – 2:28 AM**

ATTEST:

  
Angela Lewis, City Secretary

  
Mike Snyder, Mayor

