



City of Hutto

MINUTES

City Council Meeting
Thursday, December 7, 2023 at 7:00 PM
City Council Chambers
500 W. Live Oak Street

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: Mayor Mike Snyder, Mayor Pro Tem Peter Gordon, Councilmember Brian Thompson, Councilmember Dan Thornton, Councilmember Randal Clark (joining remotely), Councilmember Dana Wilcott

Absent: Councilmember Amberley Kolar

Members of staff that were present were James Earp, City Manager; Matt Wojnowski, Assistant City Manager; Dottie Palumbo, Legal Counsel; Ashley Bailey, Executive Director of Development Services; Angela Lewis, City Secretary; Kate Moriarty, Management Analyst; Matt Rector, City Engineer; Cheney Gamboa, Director of Economic Development

3. **INVOCATION** –Pastor Arthur Spence from Little Ebenezer Baptist Church
4. **PLEDGE OF ALLEGIANCE**
5. **PROCLAMATIONS**

- 5.1 Senior Access 30 Years Proclamation – read by Mayor Snyder, accepted by Kristi Barnes on behalf of Senior Access
- 5.2 Richard A. Oman American Legion Post 302 of Hutto - 15th Anniversary of Charter – read by Mayor Snyder
- 5.3 Human Rights Proclamation (Accounting and Compliance HUB) – read by Mayor Snyder accepted by Anne LaMere, Richard Rodriguez, Mindy McDonough and Angela Lewis

6. **CITY MANAGER COMMENTS**

City Manager Earp provided updates on the following:

- Water conservation and drought update
- Upcoming City Christmas events
- Winter camp through Parks and Recreation

- Community Survey has been sent to various residents
- Professional employee recognitions
- Transparency Stars received

7. PUBLIC COMMENTS

- Janae Soules (written comments)
- Erica Strauss (written comments)

8. PRESENTATIONS

8.1 Monthly Capital Improvement Project Update (Matt Rector)

9. PUBLIC HEARINGS AND RELATED ACTION

9.1 Consideration and possible action on Resolution No. R-2023-327 approving the municipal services agreement for the proposed annexation of the Meadow Brook tract, 87.8 acres, more or less, of land, located off FM1660S (Ashley Bailey)

A motion was made by Councilmember Clark and seconded by Mayor Pro Tem Gordon to table this item until January 4, 2024. The vote passed 6,0.

9.2 Conduct a public hearing and consider possible action on Ordinance No. O-2023-080 approving the Annexation of the Meadow Brook Tract, 87.8 acres, more or less, of land, and to Establish the Base Zoning as Single Family (SF-2) and Commercial (B-2) located off FM1660S (First Reading) (Ashley Bailey)

Public hearing was opened at 8:05 pm. There were no speakers.

A motion was made by Councilmember Thompson and seconded by Councilmember Clark to keep the public hearing open until January 4, 2024. The vote passed 6,0.

9.3 Conduct a public hearing and consider possible action on Ordinance No. O-2023-081 for the Planned Unit Development (PUD) request for the property known as Meadow Brook Planned Unit Development (PUD), 87.8 acres, more or less, of land, located off FM1660S (First Reading) (Ashley Bailey)

Public hearing was opened at 8:06 pm. There were no speakers.

A motion was made by Councilmember Thompson and seconded by Mayor Pro Tem Gordon to keep the public hearing open until January 4, 2024. The vote passed 6,0.

- 9.4 Conduct a public hearing and consider possible action on Ordinance No. O-2023-082 for Durango Farms Planned Unit Development (PUD) zoning ordinance amendment to add Section 3.10 Riparian Setback (First Reading) (Ashley Bailey)

Public hearing was opened at 8:11 pm. There were no speakers, and the public hearing was closed at 8:12 pm.

A motion was made by Mayor Pro Tem Gordon and seconded by Councilmember Thompson to approve Ordinance No. O-2023-082. The vote passed 5,1 (Snyder dissenting).

10. BOARDS AND COMMISSIONS ACTION

- 10.1 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.

Appointees: Jacqueline Coleman to Diversity and Inclusion Commission

A motion was made by Councilmember Wilcott and seconded by Councilmember Thompson to approve the appointments. The vote passed 6,0.

11. ORDINANCES

- 11.1 Consideration and possible action on Ordinance No. O-2023-078 approving a Project and Financing plan for Hutto Megasite Tax Increment Reinvestment Zone Number Three, City of Hutto, Texas, established pursuant to Chapter 311 of the Texas Tax Code (Cheney Gamboa)

A motion was made by Councilmember Clark and seconded by Councilmember Thornton to approve Ordinance No. O-2023-078. The vote passed 6,0.

12. RESOLUTIONS

- 12.1 Consideration and possible action on Resolution No. R-2023-320 agreeing to certain requirements of a watersmart funding opportunity for water reclamation and reuse projects and supporting the application to the Bureau of Reclamation for CIP projects WW05-2023 and WW06-2023 (Matt Rector)

A motion was made by Councilmember Thompson and seconded by Councilmember Wilcott to approve Resolution No. R-2023-320. The vote passed 6,0.

- 12.2 Consideration and possible action on Resolution No. R-2023-326 authorizing the City Manager to execute an Interlocal Agreement between the City of Hutto and Hutto Independent School District for the land and site development standards and procedures for the construction of HISD educational facilities (Mayor Mike Snyder)

A motion was made by Mayor Pro Tem Gordon and seconded by Councilmember Clark to approve Resolution No. R-2023-326 with Mayor Pro Tem Gordon amending the motion to include changing Section 4, Paragraph L to require city inspections within the city limits and allow third-party inspections outside city limits. Councilmember Clark made a motion to amend to original motion that third parties have to be certified. There was no second, and the motion died. The vote on the original motion passed 6,0.

13. CONSENT AGENDA ITEMS

- 13.1 Consideration and possible action on Resolution No. R-2023-289 approving an agreement for Athletic Field Lighting at Mager Fields with Musco Sports Lighting, LLC, in an amount not to exceed \$299,300 through BuyBoard Contract No. 677-22; and authorizing the City Manager to execute the Agreement (Jeff White)
- 13.2 Consideration and possible action on Resolution No. R-2023-324 authorizing the City Manager to execute an Individual Project Order (IPO) with Garver in the amount of \$124,525 for the Enclave Lift Station Improvements project funded from the Public Works Operations and Maintenance budget (Matt Rector)
- 13.3 Consideration and possible action on Resolution No. R-2023-321 regarding amendment No. 2 to the K Friese Contract in the amount of \$80,505 for the Megasite East/West Spine road project (CIP T08-2023) (Matt Rector)
- 13.4 Consideration and possible action on Resolution No. R-2023-325 authorizing the City Manager to execute an Individual Project Order (IPO) with Surveying And Mapping, Inc. in the amount of \$30,364.48 for the Innovation at Limmer Loop Traffic Signal project (T13-2024) (Matt Rector)
- 13.5 Consideration and possible action to approve Resolution No. R-2023-305, approving the advance funding agreement with TxDOT for an on-system improvement project for an overpass on US 79 at CR 132 (T07-2023) and authorizing the City Manager to execute the agreement on behalf of the City of Hutto (Matt Rector)
- 13.6 Consideration and possible action on Resolution R-2023-322 to assign the City of Hutto contract with K Friese for the design and construction services of the Spine Road to the Hutto Economic Development Corporation (Cheney Gamboa)

- 13.7 Consideration and possible action on Ordinance No. O-2023-075 amending Chapter 18, Streets and Public Places, Article 18.03 to provide for construction requirements, insurance, bonding, enforcement and penalties; repealing ordinance in conflict and providing for an effective date (Second Reading) (Legal)
- 13.8 Consideration and possible action on Resolution No. R-2023-323 approving the Public Right of Way Permitting and Construction Manual (Matt Rector)
- 13.9 Consideration and possible action on Ordinance No. O-2023-079 amending the Fee Schedule of the City of Hutto, Appendix A, of the Hutto Code of Ordinances to add Section A1.010 to include a schedule of fees and charges for use of the Public Right-of-Way (First Reading) (David Amsler)
- 13.10 Consideration and possible action on Resolution No. R-2023-328 regarding amendment No. 2 to the K Friese Contract in the amount of \$271,100 for the Megasite Wastewater Lines project (CIP WW07-2023) (Matt Rector)
- 13.11 Consideration and possible action on Resolution No. R-2023-331 authorizing the City Manager to execute a temporary construction and permanent access easement to A-S 64 CR 119-HWY 79, L.P., a Texas limited partnership in substantially the same form as Attachment "A" with the form to be approved by the City Attorney (Matt Rector)
- 13.12 Consideration and possible action on Resolution No. R-2023-329 authorizing the City Manager to execute Right-of-Way License agreements for use of the City's Public Right-of-Way as allowed by Article 18.03 of the Hutto Code of Ordinances (Legal)
- 13.13 Consideration and possible action on approving Resolution No. R-2023-304 authorizing the City Manager to execute a Facilities Interlocal Agreement between the City of Hutto and Hutto Independent School District (Jeff White)
- 13.14 Consideration and possible action on sunseting of Emergency Preparedness Task Force whose terms expired in June 30, 2023 (City Council)
- 13.15 Consideration and possible action on approving the November 16 Work Session and City Council meeting minutes (Angela Lewis)

Councilmember Thornton pulled Consent Items 13.3, 13.6 and 13.10 to be heard after Executive Session. Mayor Snyder pulled Consent Items 13.7, 13.9, 13.11 and 13.14.

A motion was made by Councilmember Thornton and seconded by Mayor Pro Tem Gordonto approve Consent Agenda Item Nos. 13.1, 13.2, 13.4, 13.5, 13.8, 13.12, 13.13, and 13.15, as presented. The vote passed

Discussion of pulled items:

- 13.7 Consideration and possible action on Ordinance No. O-2023-075 amending Chapter 18, Streets and Public Places, Article 18.03 to provide for construction requirements, insurance, bonding, enforcement and penalties; repealing ordinance in conflict and providing for an effective date (Second Reading) (Legal)

A motion was made by Mayor Snyder and seconded by Councilmember Clark to bring this item back with a redlined version on December 14. The vote passed 6,0.

- 13.9 Consideration and possible action on Ordinance No. O-2023-079 amending the Fee Schedule of the City of Hutto, Appendix A, of the Hutto Code of Ordinances to add Section A1.010 to include a schedule of fees and charges for use of the Public Right-of-Way (First Reading) (David Amsler)

A motion was made by Mayor Snyder to table this item until December 14 but was later rescinded.

A motion was made by Mayor Pro Tem Gordon and seconded by Councilmember Clark to approve this item as presented after ensuring the fees are correct prior to second reading. The vote passed 6,0.

- 13.11 Consideration and possible action on Resolution No. R-2023-331 authorizing the City Manager to execute a temporary construction and permanent access easement to A-S 64 CR 119-HWY 79, L.P., a Texas limited partnership in substantially the same form as Attachment "A" with the form to be approved by the City Attorney (Matt Rector)

A motion was made by Councilmember Clark to approve the City Manager to negotiate the easement. There was no second, and motion died.

A motion was made by Mayor Pro Tem Gordon to approve as presented. There was no second, and motion died.

A motion was made by Mayor Pro Tem Gordon and seconded by Councilmember Clark to postpone this item until January 18, 2024 meeting to give staff further review time. The vote passed 5,1 (Thompson dissenting).

- 13.14 Consideration and possible action on sunseting of Emergency Preparedness Task Force whose terms expired in June 30, 2023 (City Council)

A motion was made by Mayor Pro Tem Gordon and seconded by Councilmember Clark to approve sunseting this task force. The vote passed 6,0.

14. EXECUTIVE SESSION – *Convened into Executive Session at 9:50 pm*

- 14.1 Receive legal advice pursuant to Texas Government Code Section 551.071 (Consultation with Attorney), relating to the Petition of HWY 3349, LLC, pursuant to the provisions of Senate Bill No. 2038, establishing Sections 42.101 through 42.105 of the Texas Local Government Code, for the release from the City's Extraterritorial Jurisdiction ("ETJ") of 384.249 acres of land, (the "Petition"), with the lawsuit filed by Grand Prairie, Texas declaring Senate Bill No. 2028 unconstitutional and contrary to law and adding the Petition to the engagement agreement with Messer Fort Law Firm, PLLC.
- 14.2 Deliberate and seek legal advice pursuant to Texas Government Code Section 551.071 (Attorney Consultation), regarding the notice of default from Titan Mega Land Investors, LLC sent to the Hutto Economic Development Corporation
- 14.3 Receive legal advice pursuant to Texas Government Code Section 551.071 (Consultation with Attorney) relating to demand of December 1, 2023, for approval of the Alta Ed Schmidt preliminary plat.
- 14.4 Receive legal advice pursuant to Texas Government Code Section 551.071 (Consultation with Attorney) including but not limited to notice of 3-M Class Action PFAS Settlement; In Re: Aqueous Film-Forming Foams Products Liability Litigation (MDL No. 2: 18-mn-2873-RMG D.S.C.) (City of Camden, et al., v. 3M Company, No. 2:23-cv-03147-RMG (D.S.C.) ("Litigation").
- 14.5 Receive legal advice pursuant to Texas Government Code Section 551.071 (Attorney Consultation), to seek legal advice regarding: Spine Road Construction Project; including but not limited to an amendment to the Funding and Refunding Agreement between the Hutto Economic Development Corporation, Type B, ("HEDC"), and the City of Hutto, dated January 26, 2023 to provide for design and construction services documents for the Megasite Spine Road; an assignment of the K. Friese & Associates, Inc. contract documents for the Megasite Spine Road; and to include HEDC as a Third-Party Beneficiary
- 14.6 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.

There was no action taken in Executive Session.

15. ACTION RELATIVE TO EXECUTIVE SESSION – *Reconvened at 11:47 pm*

- 13.6 Consideration and possible action on Resolution R-2023-322 to assign the City of Hutto contract with K Friese for the design and construction services of the Spine Road to the Hutto Economic Development Corporation (Cheney Gamboa)

A motion was made by Councilmember Clark and seconded by Councilmember Wilcott to table this item until the December 14 meeting. The vote passed 6,0.

- 13.3 Consideration and possible action on Resolution No. R-2023-321 regarding amendment No. 2 to the K Friese Contract in the amount of \$80,505 for the Megasite East/West Spine road project (CIP T08-2023) (Matt Rector)

A motion was made by Councilmember Thompson and seconded by Councilmember Wilcott to approve this item. The vote passed 6,0.

- 13.10 Consideration and possible action on Resolution No. R-2023-328 regarding amendment No. 2 to the K Friese Contract in the amount of \$271,100 for the Megasite Wastewater Lines project (CIP WW07-2023) (Matt Rector)

A motion was made by Mayor Pro Tem Gordon and seconded by Councilmember Wilcott to approve this item. The vote passed 6,0.

15.1 Consideration and possible action on Executive Session Items

- 14.1 Receive legal advice pursuant to Texas Government Code Section 551.071 (Consultation with Attorney), relating to the Petition of HWY 3349, LLC, pursuant to the provisions of Senate Bill No. 2038, establishing Sections 42.101 through 42.105 of the Texas Local Government Code, for the release from the City's Extraterritorial Jurisdiction ("ETJ") of 384.249 acres of land, (the "Petition"), with the lawsuit filed by Grand Prairie, Texas declaring Senate Bill No. 2028 unconstitutional and contrary to law and adding the Petition to the engagement agreement with Messer Fort Law Firm, PLLC.

A motion was made by Mayor Pro Tem Gordon and seconded by Councilmember Thompson to deny the HWY 3499 LLC petition to remove property from the City's ETJ be denied because S.B. 2038 is an unconstitutional delegation of Legislative authority and it conflicts with the Texas Local Government Code section 42.023. The City does not consent to a reduction of its ETJ and to authorize the Messer Fort Law Firm PLLC to add the petition to the litigation, Grand Prairie v State of Texas to have S.B. 2038 declared unconstitutional. The vote passed 6,0.

- 14.5 Receive legal advice pursuant to Texas Government Code Section 551.071 (Attorney Consultation), to seek legal advice regarding: Spine Road Construction Project; including but not limited to an amendment to the Funding and Refunding Agreement between the Hutto Economic Development Corporation, Type B, (“HEDC”), and the City of Hutto, dated January 26, 2023 to provide for design and construction services documents for the Megasite Spine Road; an assignment of the K. Friese & Associates, Inc. contract documents for the Megasite Spine Road; and to include HEDC as a Third-Party Beneficiary

A motion was made by Councilmember Thornton and seconded by Councilmember Thompson to direct staff to draft an amendment to the Funding and Refunding agreement for the Spine road project between the City of Hutto and the Hutto Economic Development Corporation to provide for the exchange or design documents and a process for curing any design defects. The vote passed 6,0.

- 14.2 Deliberate and seek legal advice pursuant to Texas Government Code Section 551.071 (Attorney Consultation), regarding the notice of default from Titan Mega Land Investors, LLC sent to the Hutto Economic Development Corporation

Mayor Snyder made a motion to release the legal demand letter related to this item, but later rescinded.

A motion was made by Mayor Pro Tem Gordon and seconded by Councilmember Clark to approve Resolution R-2023-333 authorizing the City Manager to add Emory Crossing Boulevard Roadway to the Capital Improvement Plan and identify funding as authorized by Texas Government Code Section 2.2.010 C and provide for an effective date. The vote passed 6,0.

16. CITY COUNCIL COMMENTS

- 16.1 General Comments from City Council

Councilmember Thompson provided comments.

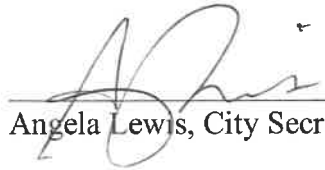
- 16.2 Future Agenda Items

*Councilmember Clark – update on Union Pacific railroad repairs
Councilmember Thompson – update on Fritz park design
Mayor Snyder – Directors of Chaos update and attorney outsourcing*

- 16.3 Future Additional or Rescheduled meetings as allowed by Hutto City Code Section 1.02.033 Additional or Rescheduled Meetings

17. **ADJOURNMENT** – *December 8th, 2023 at 12:04 AM*

ATTEST:


Angela Lewis, City Secretary


Mike Snyder, Mayor

