

City of Windcrest



AGENDA

JOINT SPECIAL SESSION CITY COUNCIL & WINDCREST ECONOMIC DEVELOPMENT CORPORATION WORKSHOP

5:30 PM
JANUARY 8, 2025

CITY COUNCIL CHAMBERS - 8601 MIDCROWN

@ 5:30 PM

NOTICE IS HEREBY GIVEN THAT THE CITY OF WINDCREST CITY COUNCIL AND WINDCREST ECONOMIC DEVELOPMENT CORPORATION WILL HOLD A JOINT SPECIAL SESSION WORKSHOP AT WINDCREST CITY HALL, 8601 MIDCROWN DR., WINDCREST, TEXAS, ON WEDNESDAY, JANUARY 8, 2025, STARTING AT 5:30 PM.

THE CITY COUNCIL AND WINDCREST ECONOMIC DEVELOPMENT CORPORATION (WEDC) RESERVE THE OPTION TO RECESS THE WORKSHOP DURING THE EVENING OF WEDNESDAY, JANUARY 8, 2025, AND TO RECONVENE THE WORKSHOP ON THE FOLLOWING BUSINESS DAY, THURSDAY, JANUARY 9, AT 9:00 AM AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

NOTICE OF ASSISTANCE AT THE PUBLIC MEETING

The City of Windcrest Council Chambers are wheelchair accessible, and accessible parking spaces are available. In compliance with Americans with Disabilities Act, the City of Windcrest will provide reasonable accommodations for persons attending the meeting. To better serve you, requests should be received 48 hours prior to the meeting. Please contact the City Secretary's Office, at 210-655-0022 ext. 2150 or Fax 210-655-8776, or 711 Texas Relay.

I. CALL TO ORDER

II. ROLL CALL OF THE CITY COUNCIL

III. ROLL CALL OF THE WEDC BOARD OF DIRECTORS

IV. PLEDGE OF ALLEGIANCE AND INVOCATION

V. CITIZENS TO BE HEARD/CITIZEN PARTICIPATION

- Citizens may address the City Council and the Windcrest Economic Development Corporation on topics not on the agenda for no more than three (3) minutes.
- Citizens shall also have the opportunity to address the City Council and the Windcrest Economic

Development Corporation during consideration of posted agenda items for no more than six (6) minutes.

- A City Official or member of the Windcrest Economic Development Corporation may make a statement of specific factual information in response to an inquiry made by a member of the public, or a recitation of existing policy in response to an inquiry made by a member of the public.

THE FOLLOWING ITEMS MAY BE CONSIDERED AT ANY TIME DURING THE JOINT SPECIAL SESSION CITY COUNCIL AND WINDCREST ECONOMIC DEVELOPMENT CORPORATION WORKSHOP:

VI. RECOGNITION OF SERVICE BY WINDCREST ECONOMIC DEVELOPMENT CORPORATION BOARD MEMBERS

VII. OPENING COMMENTS BY MAYOR DAN REESE, AND PRESIDENT OF THE WINDCREST ECONOMIC DEVELOPMENT CORPORATION, JENNIFER NEWMAN

VIII. PRESENTATION FROM HDL COMPANIES - SALES TAX

IX. WINDCREST ECONOMIC DEVELOPMENT CORPORATION (WEDC) EXECUTIVE DIRECTOR'S REPORT

- a) Mario Hernandez, Executive Director, will present on current, ongoing, forecasted economic development projects, business activity, and provide a financial update of the WEDC.

X. WORKSHOP ITEMS

- a) City Council and the WEDC will review and have discussion on strategies, tools, concepts, planning, and projects on the following items:
 - i) Economic Development Organizations and enabling governing laws and programs, including potential training and education opportunities for City and EDC personnel.
 - ii) Local area and surrounding area commercial and industrial markets, including updates from local markets and businesses.
 - iii) Marketing, branding, perception, and conception of the City/Community, including small city options.
 - iv) Quality of life and housing of the City/Community, including impact of commercial and industrial markets on residential zones, traffic, population growth, and similar areas.
 - v) Comprehensive City and Economic Master Plan Update
- b) City Council and the WEDC will have discussion on future joint workshops and desired outcomes/goals.

XI. GENERAL ANNOUNCEMENTS & FUTURE AGENDA ITEMS REQUESTED

Per Ordinance No. 618, repealing Ordinance No. 593; Section 9: Every agenda shall include an item entry granting a member the opportunity to propose an item for consideration of future agendas for Regular or Special Meetings. Any member may request the inclusion of such items at any meeting.

XII. ADJOURNMENT

DECORUM REQUIRED: Any disruptive behavior, including shouting or derogatory statements or comments may be ruled out of order by the Presiding Officer. Continuation of this type of behavior could result in a request by the Presiding Officer that the individual leave the meeting, and if refused, an order of removal.

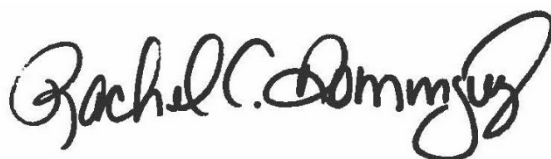
ACTION BY COUNCIL AUTHORIZED: The City Council may vote and/or act upon any item within this Agenda. The Council reserves the right to retire into executive session concerning any of the items listed on this Agenda, pursuant to and in accordance with Texas Government Code § 551.072 (Deliberations about Real Property); § 551.073 (Deliberations about Gifts & Donations); § 551.076 (Deliberations about Security Devices); §551.087 (Economic Development); §551.074 (Personnel Matters) and, § 551.071 to seek the advice of its attorney about pending or contemplated litigation, settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflict with the Open Meetings Act and may invoke this right where the City Attorney, the Mayor or a majority of the Governing Body deems an executive session is necessary to allow privileged consultation between the City Attorney and the governing body, if considered necessary and legally justified under the Open Meetings Act. The attorney may appear in person or appear in executive session by conference call in accordance with applicable state law.

EXECUTIVE SESSIONS APPROVED BY CITY ATTORNEY AND WEDC ATTORNEY: This agenda has been reviewed and approved by the City's/WEDC legal counsel and the presence of any subject in any Executive Session portion of the agenda constitutes a written interpretation of Texas Government Code Chapter 551 by legal counsel for the body and constitutes an opinion by the attorney that the items discussed therein may be legally discussed in the closed portion of the meeting considering available opinions of a court of record and opinions of the Texas Attorney General known to the attorney. This provision has been added to this agenda with the intent to meet all elements necessary to satisfy Texas Government Code Chapter 551.144(c) and the meeting is conducted by all participants in reliance on this opinion.

ATTENDANCE BY OTHER ELECTED OR APPOINTED OFFICIALS: It is anticipated that members of other city boards, commissions and committees may attend the meeting in numbers that may constitute a quorum of such other city boards, commissions and committees, so that notice is hereby given that the meeting is also a meeting of the other city boards, commissions and committees whose members are in attendance. The members of the other city boards, commissions and committees may participate in discussions which occur at the meeting, but no action will be taken by the other boards, commissions, and committees whose members are in attendance.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the City Council of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than seventy-two (72) hours prior to the meeting on January 8, 2025.

BY:



Rachel C. Dominguez, City Secretary



WEDC Summary 2024

BUILDING MOMENTUM FOR
WINDCREST'S FUTURE

2024 was a transformative year for Windcrest. The WEDC Board secured a new owner for the Rackspace property and strategically navigated the changes in our local economy to position Windcrest for sustained growth in the future.

- JENNIFER NEWMAN, PRESIDENT, WEDC

A Very Good Year

Landed the big Fish: ICP, establishing the Windcrest International Business Park. New MEIA and creating a complex local incentive package of \$5 million, with significant contributions from community partners who supported the initiative financially.

New Businesses located:

Zaxby's, Noodles and Dumplings, Safeway Supply Company, Synergy Homecare, First Steps Nursing & Therapy, D & R Signs, Mamarazzi Photography, Brady Plus Distribution, FicaPex, Fidelity Benefits, Restaurant Technologies, Windcrest Community Dining Club (also closed in late 2024), Gonzales Agency, El Genio Pizzeria Cubana and Essence of Dance.

Business closures:

Kouture Hair Studio, Conn's, Fusion Street Tacos, Costa Solutions, Neck and Back Pain Clinic, Mears Group, PeopleReady, Inc, Broussard Group, Stay Young Mental Health, Builder's Mark, Green Carpet, Urban Air, Solidia, Mrs. Kitchen, Fresenius Medical Care and Windcrest Community Dining Club.

Other Success

Provided \$19,475 in Storefront Grants to support small businesses.

Completed 142 business retention and expansion (BRE) visits.

Revitalized social media presence, bringing it in-house and engaging 1,200+ followers with 500+ posts.

Developed over 70 new inquiries and leads as part of our prospect development activity.

Special events targeting businesses included a Fiesta event with 70 attendees from 23 local businesses.

For the first time, WEDC was the primary sponsor of the Light Up map including two ads- one targeting businesses and one for the Ho Ho Ho Market. We contact over 120 businesses for the Light up activities.

Financial Status and Use of Funds in Fiscal 2024

For the fiscal year ending September 30, 2024, the WEDC cash balance was **\$1.2 million**.

Total expenditures for the year was **\$2,092,965** and of that amount:

\$1,680,000 (**80%**) was used for economic development project incentives and one community project, Lights at Takas Park.

\$276,271.38 (**13.2%**) of total expenditures were used for salaries, the consultant contract, and administrative costs.

Only legal expenses were significantly overspent at 140.8% due to the MEIA with ICP.

NOTE: WEDC adopted (in 2019) and uses the city investment policy.

Current Prospect Activity

Currently working with several suspects and prospects, including:

Burger Boy, Pizza Ranch, Nadine West, Take 5, Adair Concepts, Portillo's, Project Kettle, Project Maple Crust, two fitness centers and two large retail operations.



Industry and Real Estate Trends

The San Antonio industrial market is changing rapidly. With the WIBP, we now have one of six industrial projects with over 500,000 sq. ft. vacant in the regional market.

The vacancy rate has gone from 3.4% in the Q3 of 2022 to almost 10% in the current quarter. The total market is now about 140 million sq. ft.

Industrial rates have declined from \$8.43 NNN* (Q1 2024) to \$7.94 NNN this year; the operating costs (The NNN, or “Triple Net” part of the rent) are about \$2.75 to \$3.00 per sq. ft. per year. The MEIA will allow the WIBP operating costs to be about \$0.75 per sq. ft. per year, a massive advantage for ICP for the next six years. An additional 3.9 million sq. ft. is currently being built in the metro area (3.2 million in the northeast corridor).

*See note for details regarding NNN.

Real Estate, continued

WEDC database of sample available real estate breakdown:

98,000 sq. ft. of retail, small office, and multi-use space in Windcrest.

The multi-story office space in the Four Winds Towers has approximately 112,000 sq. ft. vacant

With the WIBP Windcrest has 640,000 sq. ft. of industrial space vacant.

Vacant land is at a premium, with only a few small sites available, none larger than a few acres.

NOTE: WEDC constantly works with regional real estate brokers to inventory space and present leads for consideration.

Key buildings include Conn's, Luby's, Pizza Hut, Four Winds, Windsor Park Place, Windsor Park Centre, Discount Tire, Windsor Place, and some space along Rough Rider.

Future Plans for Sustained Growth

Focus areas include the Master Plan, WIBP impact, branding, and Walzem Road revitalization.

Strategy for targeting WIBP tenants and sales tax revenue generators.

‘Front door’ improvements businesses will accept and participate with.

Possible Walzem Road revitalization plans and partners.

Realistic marketing and branding options for Windcrest as a unique small city.



Schulman,
Lopez, Hoffer
& Adelstein, LLP

Attorneys & Counselors at Law

Understanding the Connection Between the Windcrest City Council and Windcrest EDC

Joe Hoffer

January 2024



Overview



What is an EDC?

How does a sales and use tax work?

Why does it matter?

Who runs the EDC?

What can an EDC do?

What does city council have to approve?

What other statutes govern EDCs?



What is an EDC?



Economic Development Corporation

- An EDC is an Economic Development Corporation, and there are two kinds: Type A and Type B
- Windcrest EDC is a Type B Corporation governed under Chapter 505 of the Texas Local Government Code
- An EDC is a nonprofit corporation created by a city to support economic development by financing new and expanded business opportunities
- The EDC funds these projects through use of the city's sales and use tax dollars
- A city may only create one EDC



Why does this matter?



EDC & City Council Relationship

- An EDC is not a political subdivision that has specific governmental functions
- An EDC's Board members are not public officers for most laws
- Because an EDC is funded with sales and use tax dollars, there has to be city oversight for state constitutional and statutory requirements
- While the EDC and the city council's interests in benefiting the city are usually aligned, there are potential conflicts that arise and therefore, it is important to know the roles of each entity
- The EDC also engages in authorized business that a City would not do itself, and its risk exposure and immunities are also different.



What can an EDC do?



EDC Projects

A Type B sales tax may be used for projects eligible under Type A, which are:

- manufacturing and industrial facilities, recycling facilities, distribution centers, and small warehouse facilities;
- research and development facilities, regional or national corporate headquarters, job training facilities operated by higher education institutions, job training classes, telephone call centers and career centers;
- infrastructure improvements that promote or develop new or expanded business enterprises;
- aviation facilities;
- commuter or light rail or commuter bus operations;
- port-related facilities, railports, rail switching facilities, marine ports, inland ports;
- maintenance and operating costs associated with projects; and
- contaminated property clean-up.



EDC Projects

A Type B corporation may also pay for land, buildings, equipment, facilities, targeted infrastructure and improvements for:

- sports and athletic facilities, tourism and entertainment facilities, convention facilities and public parks;
- related store, restaurant, concession, parking and transportation facilities;
- related street, water and sewer facilities; and
- affordable housing.



EDC Projects

A Type B Corporation may also fund:

- public safety facilities;
- recycling facilities;
- job training;
- streets, roads, drainage and related improvements;
- demolition of existing structures;
- general municipally owned improvements; and
- maintenance and operating costs associated with projects.

Type B EDCs may also seek voter approval for a water supply or water conservation programs or cleanup of contaminated property.



Required Public Hearings

- A Type B Corporation must hold at least one public hearing on a proposed project before spending money to undertake the project
- Because Windcrest has a population of less than 20,000, a public hearing is not required if the proposed project is defined by Subchapter C, Chapter 501 if the Texas Local Government Code



Required Election

- An EDC may undertake a project unless the city council receives a petition from more than 10 percent of the registered voters of the city requesting that an election be held before the specific project or general type of project is undertaken.
- City council is not required to hold an election after the submission of a petition if the voters have previously approved the undertaking of the specific project or general type of project (1) at an election ordered for that purpose by the governing body of the municipality; or (2) in conjunction with another required election

Maintenance and Operating Costs

- The proceeds of taxes may be used to pay the maintenance and operating costs of a project unless city council receives a petition from more than 10 percent of the registered voters of the municipality requesting that an election be held before the tax proceeds may be used to pay the maintenance and operating costs of a project
- City council is not required to hold an election after the submission of a petition if the voters have previously approved at an election ordered for that purpose or in conjunction with another election required under this chapter that:
 - (1) the costs of a publicly owned and operated project purchased or constructed include the maintenance and operating costs of the project; and
 - (2) the tax proceeds may be used to pay the maintenance and operating costs of a project.



How does a sales and use tax work?

Sales and Use Tax

- City council may adopt a sales and use tax for the benefit of an EDC if the tax is approved by a majority of the voters of the municipality voting at an election held for that purpose
- If city council adopts the tax,
 - (1) a sales tax is imposed on the receipts from the sale at retail of taxable items within the municipality at the rate approved at the election. The rate of a tax adopted may be any rate that is an increment of one-eighth of one percent, that the city council determines is appropriate, and that would not result in a combined rate that exceeds the maximum combined rate prescribed by [Section 505.256\(a\)](#).
 - (2) an excise tax is imposed on the use, storage, or other consumption within the municipality of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the municipality. The rate of the excise tax is the same as the rate of the sales tax portion of the sales and use tax and is applied to the sale price of the tangible personal property.



Use of Tax Proceeds

- On the city's receipt from the comptroller of the proceeds of the sales and use tax, the city council must deliver the proceeds to the Type B corporation
- The proceeds of the sales and use tax may be used to:
 - (1) pay the costs of projects; or
 - (2) pay the principal of, interest on, and other costs relating to bonds or other obligations issued by the EDC to pay the costs of the projects; or refund bonds or other obligations issued to pay the costs of projects.



Net Earnings

- An EDC is a nonprofit, and its net earnings remaining after payment of its expenses may not benefit an individual, firm, or corporation
- If the board of directors determines that sufficient provision has been made for the full payment of the corporation's expenses, bonds, and other obligations, any net earnings of the corporation subsequently accruing shall be paid to the city



Who governs the EDC?



EDC Board of Directors

- The city council appoints seven board members to serve as the Type B EDC Board of Directors
- Each director is appointed for a two-year term
- As long as there are no contrary provisions in the EDC's bylaws or Articles of Incorporation, the city council may reappoint an EDC board member to subsequent terms



EDC Board of Directors

- Three members of the EDC Board must not be employees, officers, or members of the city council.
- The Board shall appoint a president, secretary, and other officers the city council considers necessary
- A board member may hold more than one office, but that the same board member may not simultaneously serve as president and secretary of the board
- The city council may remove a director at any time without cause. This would have to occur at a duly noticed public meeting of the city council and have adequate notice to the public.



EDC Board of Directors

Because Windcrest has a population of less than 20,000, each director must:

- (1) be a resident of the city;
- (2) be a resident Bexar county; or
- (3) reside:
 - (A) within 10 miles of the city; and
 - (B) in a county bordering Bexar county.

The EDC's bylaws or certificate of formation may also impose additional requirements or qualifications.



Board Member Compensation

- An EDC board member serves without compensation but may be reimbursed for actual expenses incurred in the performance of their official duties
- An EDC's bylaws or Articles of Incorporation may provide board members with health and retirement benefits.



What does city council have to approve?



City Council Supervision

- City council approves all programs and expenditures of the EDC and annually reviews any financial statements of the corporation
- City council is entitled to access to the EDC's books and records at all times
- Depending on an EDC's bylaws and Articles of Incorporation, city council approval can be general or specific



Expenditure Authorization

Because Windcrest has a population of less than 20,000,

- The EDC may not undertake a project that requires an expenditure of more than \$10,000 until the city council adopts a resolution authorizing the project after giving the resolution at least two separate readings
- The EDC is not required to hold a public hearing under this section if the proposed project is defined by **Subchapter C, Chapter 501**.



Articles of Incorporation Amendment

- City council must approve any change to the EDC's Articles of Incorporation
- City council may unilaterally amend an EDC's certificate of formation at any time



EDC Bylaws

- EDC board adopts its own bylaws, but they are approved by city council



Terminating the Existence of EDC

- City council must order an election on the termination of the existence of the EDC on receipt of a petition requesting the election that is signed by at least 10 percent of the registered voters of the city



What other statutes govern EDCs?



Open Meetings Act

- The Open Meetings Act applies to EDCs
- An EDC board may deliberate in a closed executive session regarding economic development negotiations involving:
 - (1) commercial or financial information received from a business prospect that the EDC seeks to have locate, stay, or expand in or near the city; or
 - (2) the offer of a financial or other incentive to a business prospect.



Texas Public Information Act

- The Texas Public Information Act applies to EDCs
- An EDC may withhold trade secrets and certain commercial and financial information about the business prospect acquired during economic development negotiations if its release would substantially harm the business prospect competitively.



Conflict of Interest

- An EDC is subject to the conflict-of-interest provisions contained in Chapter 22 of the Texas Business Organizations Code
- The EDC board must know or be informed about the material facts about the relationship, interest, or transaction between the EDC and a board member or an organization in which a board member is an officer or member or has a financial interest
- An interested board member may vote on such a transaction if the above disclosure requirement is met



Conflict of Interest

- The conflict-of-interest provisions contained in Chapter 171 of the Texas Local Government Code generally do not apply to EDC board members
- If a member of the EDC is also a city council member, Chapter 171 would require the council member to file an affidavit and abstain from participating and voting on a matter before council related to the EDC if the member has an applicable conflict.
- An EDC's bylaws or certificate of formation may provide additional conflict-of-interest requirements

Thank You!



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