



**AUSTIN CITY COUNCIL  
MINUTES**

**REGULAR MEETING  
THURSDAY, JANUARY 29, 2009**

Invocation: Charles Lee, Acts Fellowship Church

The following represents the actions taken by the Austin City Council in the order they occurred during the meeting. While the minutes are not in sequential order, all agenda items were discussed. The City Council of Austin, Texas, convened in a regular meeting on Thursday, January 29, 2009 in the Council Chambers of City Hall, 301 West Second Street, Austin, Texas.

Mayor Wynn called the Council Meeting to order at 10:25 a.m.

Announcement of future agenda items from Council:

Council will hold a budget work session on Wednesday, February 11, 2009 to receive an economic update from the City Manager and determine the next steps. A follow-up work session will be held on Wednesday, February 25, 2009.

Mayor Wynn indicated on February 26, 2009, staff will brief the Council on the Riverside Boardwalk Trail Connection Project.

Council Members Martinez and Morrison indicated on February 12, 2009 they would bring a resolution directing the City Manager to amend the Waterfront Overlay with some of the recommendations from the task force.

Council Member Martinez indicated next month he will ask Council's support to create a permanent Public Safety Commission.

Council Member Leffingwell indicated next month he will bring a Green Events ordinance to set new standards for energy, water conservation and waste disposal for City sponsored events.

Council Member Leffingwell indicated next month he will bring recommendations from the Street Closures Task Force.

**CONSENT AGENDA**

The following items were acted on by one motion. No separate action occurred on any of the items.

1. Approve the minutes of the Austin City Council January 15, 2009 Regular meeting.  
The minutes from the meeting of January 15, 2009 were approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.

2. Approve the issuance of a Letter of Intent for a rebate to Pfluger Associates Architects for the installation of a solar photovoltaic system at the project located at 209 E. Riverside Drive, Austin, Texas, 78704, in an amount not to exceed \$100,000. Funding is available in the Fiscal Year 2008-2009 Operating Budget of Austin Energy in the Conservation Rebates and Incentives Fund. Recommended by the Resource Management Commission.  
**The motion for the issuance of a letter of intent for a rebate was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
3. Approve an ordinance ordering a general municipal election to be held on May 9, 2009, to elect the Mayor and City Council Members to Place 2, Place 5, and Place 6; ordering a special municipal election to be held on May 9, 2009, to elect a City Council Member to fill the unexpired term of Place 1; providing for the conduct of the election including authorizing the City Clerk to enter into election agreements with other local political subdivisions as may be necessary for the orderly conduct of the election; and declaring an emergency. Amount and Source of Funding: Funding in the amount of \$630,372 is available in the Fiscal Year 2008-2009 Operating Budget of the Office of the City Clerk.  
**Ordinance No. 20090129-003 was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
4. Authorize execution of Supplemental Amendment No.7 with TURNER COLLIE & BRADEN, Inc., Austin, Texas for additional engineering design and construction phase services related to the Wildhorse Ranch North Interceptor Extension north of Hwy 290 (Gilleland Creek Interceptor) in the amount of \$486,993 for a total contract amount not to exceed \$3,804,575. Funding in the amount of \$486,993 is available in the Fiscal Year 2008-2009 Capital Budget of the Austin Water Utility. This contract was awarded in compliance with Chapter 2-9B of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 13.6 % MBE and 17.2 % WBE subcontractor participation to date. Recommended by the Water and Wastewater Commission.  
**The motion authorizing the execution of supplemental amendment number 7 with Turner Collie & Braden, Inc. was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
5. Authorize negotiation and execution of Amendment No. 3 to the construction contract service agreement with TEPSCO, L.P., Deer Park, TX, to increase the second 12-month extension option by 180 days to allow for the completion of underground chilled water piping presently under construction. This contract will be awarded in compliance with Chapter 2-9A of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program) with 9.50% MBE and 9.52% WBE subcontractor participation to date. To be reviewed by the Electric Utility Commission on January 26, 2009. Recommended by the Electric Utility Commission  
**The motion authorizing the negotiation and execution of amendment number 3 to the construction contract service agreement with TEPSCO, L.P. was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
6. Authorize execution of a construction contract with AUSTIN FILTER SYSTEMS, INC., Austin, TX, for Thomas C. Green Water Treatment Plant Decommissioning and Deconstruction in the amount of \$4,782,000 plus a \$239,000 contingency, for a total contract amount not to exceed \$5,021,000. Funding in the amount of \$5,021,000 is available in the Fiscal Year 2008-2009 Capital Improvement Budget of the Austin Water Utility. Lowest bid of four (4) bids received. This contract will be awarded in compliance with Chapter 2-9A of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 9.28% MBE and 3.99% WBE subcontractor participation. Recommended by the Water and Wastewater Commission.

The motion authorizing the execution of a construction contract with Austin Filter Systems, Inc. was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.

7. Authorize execution of a construction contract with BENITEZ CONSTRUCTION, INC. (MBE 26.43%), Manor, TX for Water Reclamation Initiative Central Zone Projects Phase 1B - East 51st Street Pipeline in the amount of \$953,060.50 plus a \$95,306 contingency, for a total contract amount not to exceed \$1,048,366.50. Funding in the amount of \$1,048,366.50 is available in the Fiscal Year 2008-2009 Capital Budget of the Austin Water Utility. Lowest bid of thirteen (13) bids received. This contract will be awarded in compliance with Chapter 2-9A of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 5.02% African American, 4.30 % Hispanic, and 4.43% WBE subcontractor participation. Recommended by the Water and Wastewater Commission.  
The motion authorizing the execution of a construction contract with Benitez Construction, Inc. was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.
8. Authorize execution of change order # 6 to the construction contract with GIBSON & ASSOCIATES, INC., Balch Springs, TX for the 2008 Miscellaneous Bridge Maintenance Contract in the amount of \$84,050, for a total contract amount not to exceed \$562,894.60. Funding in the amount of \$84,050 is available in the Fiscal Year 2008-2009 Operating Budget of Public Works Department. This contract was awarded in compliance with Chapter 2-9A of the City Code (Minority Owned and Women-Owned Business Enterprise Procurement Program) through achievements of Good Faith Efforts with 0.00% MBE and 0.10% WBE subcontractor participation to date.  
The motion authorizing the execution of change order number 6 to the construction contract with Gibson & Associates, Inc. was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.
9. Approve an ordinance amending the Fiscal Year 2008-2009 Economic Growth and Redevelopment Services Office Operating Budget Special Revenue Fund of Ordinance No. 20080908-002 to adopt a budget for the Austin Downtown Public Improvement District (PID), with a beginning balance of \$810,954, Revenue of \$2,662,479, and Requirements of \$2,562,479. Funding in the amount of \$2,308,066 is available through 2009 assessments (at an approximate 96.7% collection rate); \$73,230 in collections from 2008, \$131,183 interest accrued in the PID Account and late payments; and a \$150,000 annual contribution from the City of Austin (\$75,000 Austin Convention Center Fund, and \$75,000 in the Water and Wastewater Utility Fund).  
Ordinance No. 20080129-009 was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.
10. Approve an ordinance amending the Fiscal Year 2008-2009 Economic Growth and Redevelopment Services Office Operating Budget Special Revenue Fund of Ordinance No. 20080908-002 to adopt a budget for the East Sixth Street Public Improvement District (PID), with a beginning balance of \$65,283, Revenue of \$87,687, and Requirements of \$83,687. Funding of \$3,275 in interest and late payments accrued in the PID account, and funding in the amount of \$41,616 is available through 2009 assessments (at an approximate 91.1% collection rate), a \$43,500 contribution from the City of Austin, reduced by \$704 shortfall in 2008 collections.  
Ordinance No. 20080129-010 was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.

Item 11 was pulled to be heard after the related Executive Session item.

Item 12 was pulled for discussion.

Items 13 and 14 were pulled to be heard after the related Executive Session item.

15. Approve an ordinance amending Ordinance 20080320-048 to correct the tract map to identify boundaries of the tracts for the VMU properties in the East MLK neighborhood planning area, so that the boundaries correspond to the tract table described in zoning Case C14-2007-0258.  
**Ordinance No. 20090129-015 was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
16. Approve a resolution adopting amendments to the Downtown Design Guidelines. Recommended by Design Commission.  
**Resolution No. 20090129-016 was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
17. Approve an ordinance accepting \$15,000 in grant funds from the Austin Community Foundation; and amending the Fiscal Year 2008-2009 Parks and Recreation Department Operating Budget Special Revenue Fund of Ordinance No. 20080908-002 to appropriate \$15,000 for the Totally Cool Totally Art After School Program operated by the Cultural Affairs Division of the Parks and Recreation Department. Funding in the amount of \$15,000 is available from the Austin Community Foundation. The grant period is January 1, 2009 through December 31, 2009. No City match is required.  
**Ordinance No. 20090129-017 was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
18. Approve a resolution adopting the Lady Bird Lake Trail Enhancement Plan.  
**Resolution No. 20090129-018 was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
19. Approve an ordinance establishing classifications and positions in the classified service of the Austin Police Department, eliminating the existing classifications of Police Corporal and Police Detective by combining those two classifications and creating a single new classification entitled "Police Corporal/Police Detective," and repealing Ordinance No. 20081218-040."  
**Ordinance No. 20090129-019 was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
20. Authorize award, negotiation, and execution of a contract with GEMINI SOLAR DEVELOPMENT COMPANY, LLC, San Francisco, CA, to purchase up to 30 megawatts of solar-generated power over a 25-year term at an estimated annual amount of \$10,000,000, for an estimated total contract amount of \$250,000,000. Funding will be provided through the Electric Fuel Charge revenue or future Green Choice revenue. Best evaluated proposal of 15 proposals received. This contract will be awarded in compliance with Chapter 2-9D of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program). No subcontracting opportunities were identified; therefore, no goals were established for this solicitation.  
**This item was postponed to February 12, 2009 on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
21. Authorize award and execution of Amendment No. 1 to the contract amount with PRINTMAILPRO.COM, Austin, TX for printing and mail processing services of delinquent notices for Municipal Court to increase the contract authorization in an amount not to exceed \$75,000, for a revised contract amount not to exceed \$125,000. Funding in the amount of \$75,000 is included in the Fiscal Year 2008-2009 Operating Budget of the Municipal Court. This contract will be awarded in compliance with

Chapter 2-9C of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program). No subcontracting opportunities were identified; therefore, no goals were established for this solicitation.

The motion authorizing the award and execution of amendment number 1 to the contract amount with Printmailpro.com was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.

22. Approve an ordinance amending Section 12-4-64(D) of the City Code to establish a maximum speed limit of 25 miles per hour on certain streets within the area bounded by Allandale Road, Burnet Road, Shoal Creek Boulevard, Hancock Drive, and West North Loop Boulevard; and correcting entries in Section 12-4-64(D). Funding in the amount of \$1,200 is available in the Fiscal Year 2008-2009 Operating Budget of the Public Works Department for installation of necessary signs.  
**Ordinance No. 20090129-022 was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
23. Approve appointments to citizen board and commissions, to Council subcommittees and other intergovernmental bodies and removal and replacement of members.  
**The following appointments were approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**

**Board**

**Nominated By:**

Downtown Austin Community Court Advisory Committee  
Colette Nies

Mayor Wynn

24. Approve an ordinance amending Chapter 2-1 of the City Code to repeal and replace Section 2-1-123 relating to the Child Care Council. (Council Member Randi Shade Council Member Laura Morrison Council Member Sheryl Cole)  
**Ordinance No. 20090129-024 was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
25. Approve a resolution directing the City Manager to amend the Guidelines for Non-City Use for City Hall to make City Council Chambers and the Boards & Commissions Room available as free speech venues on Tuesdays. (Council Member Randi Shade Council Member Lee Leffingwell Council Member Sheryl Cole)  
**Resolution No. 20090129-025 was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
26. Approve waiver of certain fees and requirements under City Code Chapter 14-8 for the Austin Jewish Academy's Bagelfest 5K, to be held on Sunday, March 8, 2009. (Mayor Pro Tem Brewster McCracken Council Member Randi Shade Mayor Will Wynn)  
**The motion authorizing the waiver of certain fees and requirements for the Austin Jewish Academy's Bagelfest 5K was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
27. Approve waiver of the signature requirement under City Code Chapter 14-8 for the Boy Scouts of America Capital Area Council's Report to State Parade to be held on Saturday, February 7, 2009. (Council Member Mike Martinez Council Member Lee Leffingwell Council Member Laura Morrison)  
**This item was withdrawn on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**

28. Approve waiver of certain fees and requirements under City Code Chapter 14-8 and authorize payment of certain costs associated with Celebrate Texas Incorporated's Texas Independence Day 5K Run and Parade, a City co-sponsored event, to be held on March 7, 2009. (Council Member Mike Martinez Mayor Will Wynn )  
**The motion authorizing the waiver of certain fees and requirements and authorizing the payment of certain costs associated with Celebrate Texas Incorporated's Texas Independence Day 5K Run and Parade was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
29. Approve waiver of certain fees and requirements under City Code Chapter 14-8 and authorize payment of certain costs associated with SXSW, Inc.'s annual South by Southwest Festival, a City co-sponsored event, to be held March 13-22, 2009. (Council Member Mike Martinez Council Member Sheryl Cole Mayor Will Wynn)  
**The motion authorizing the waiver of certain fees and requirements and authorizing the payment of certain costs associated with SXSW, Inc.'s annual South by Southwest Festival was approved on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
30. Set a public hearing to consider amending Chapter 25-2 of the City Code (Transit Oriented Development) related to compatibility standards and affordability requirements, and to eliminate a height prohibition in the Plaza Saltillo TOD; amending Chapter 25-4 (Project Circulation Plans); and other conforming amendments necessary to reflect adoption of transit oriented development (TOD) base district zoning and station area plans. (Suggested date and time: February 12, 2009 at 6:00 p.m., City Hall Council Chambers, 301 West Second Street.)  
**The public hearing was set for February 12, 2009 at 6:00 p.m., City Hall Council Chambers at 301 West Second Street, Austin, Texas on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**
31. Set a public hearing to consider an appeal by Andy Martin, representing AJHSCCM LP, of the Zoning and Platting Commission's decision allowing construction of buildings on a slope with a gradient of greater than 25% on property located at 9716 FM 2222, Austin, TX. (Suggested date and time: February 12, 2009, 6:00 p.m., at Austin City Hall, 301 West Second Street) Approval of this environmental variance was recommended by the Environmental Board on August 18, 2008 and recommended by the Zoning and Platting Commission on November 18, 2008.  
**The public hearing was set for February 12, 2009 at 6:00 p.m., Austin City Hall at 301 West Second Street, Austin, Texas on consent on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote.**

Items 32 through 35 were Executive Session items.

Items 36 and 37 were briefing items set for 2:00 p.m.

Items 38 through 51 were zoning items set for 4:00 p.m.

Items 52 through 54 were public hearing items set for 6:00 p.m.

#### **DISCUSSION ITEM**

12. Approve a resolution authorizing the City Manager to apply to the Texas Department of Housing and Community Affairs for Housing and Economic Recovery Act Neighborhood Stabilization Program funds to help mitigate the impact of the foreclosure crisis in Austin neighborhoods. Funding is provided through the Texas Department of Housing and Community Affairs.

Resolution No. 20090129-012 was approved on Council Member Martinez' motion, Council Member Morrison's second on a 7-0 vote.

Mayor Wynn recessed the Council Meeting to go into Executive Session at 11:14 p.m.

#### **EXECUTIVE SESSION**

The City Council went into Executive Session, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel, to discuss matters of land acquisition, litigation, and personnel matters as specifically listed on this agenda and to receive advice from Legal Counsel regarding any other item on this agenda.

The Mayor announced that Council would discuss items 11, 13, and 14 on the regular agenda during Executive Session.

32. Discuss legal issues related to property located at 328 Heartwood, concerning: appeal of site plan disapproval; pending code enforcement action; permitting issues; and a floodplain variance request.(Private Consultation with Attorney - Section 551.071). Related to Items # 53 and 54.  
This item was withdrawn.
33. Discuss matters relating to Austin Energy's generation resource plans. (Public Power Utility Competitive Matter - Section 551.086).
34. Deliberate the purchase, exchange, lease or value of real property locally known as the Lions Municipal Golf Course, generally located at the intersection of Lake Austin Boulevard and Enfield Road. (Real Property - Section 551.072). Related to Item #35.  
This item was withdrawn.
35. Discuss legal issues regarding the purchase, exchange, lease or value of real property locally known as the Lions Municipal Golf Course, generally located at the intersection of Lake Austin Boulevard and Enfield Road. (Private Consultation with Attorney - Section 551.071). Related to Item #34.  
This item was withdrawn.

Executive Session ended and Mayor Wynn called the Council Meeting back to order at 12:05 p.m.

#### **CITIZEN COMMUNICATION: GENERAL**

Gus Pena - 1.To Discuss City issues, 2.The recession is affecting many people especially the poor, the needy, the have nots and the less fortunate. Social service agencies will need an increase of funding to be able to meet the needs of all. 3. Our military veterans need affordable housing, mental health treatment, JOBS, Job training, and re entry programs.

Brian Leonard - Citizen Communication. He was not present when his name was called.

Rae Nadler-Olenick - Water Fluoridation

John R. Walsh - Issues facing Austin Cab Drivers servicing the downtown entertainment districts. He was not present when his name was called.

Nailah Sankofa - Funding for black artists and arts organization. She was not present when her name was called.

Alan Ruddy - Lake Austin Protection

John Hynes - The bright Future Initiative

Phillip A. Dick - Unfair justice and abuse of power. **She was not present when her name was called.**

Paul Robbins - City Issues

Richard Troxell - Homelessness in Austin.

### **DISCUSSION ITEMS CONTINUED**

11. Authorize negotiation and execution of an amended and restated Interlocal Agreement for Automatic Aid Assistance between the City of Austin and Travis County Emergency Service District Number 9 (TCESD# 9) to revise certain terms of the agreement in response to the decision of the arbitrator in the Peninsula Annexation Service Plan arbitration. Funding for the initial one-year term (calendar year 2009) and renewal terms is contingent upon available funding in future budgets. Related to Items #13 and 14.  
**This item was withdrawn.**
13. Approve an ordinance to annex the Peninsula Municipal Annexation Plan Area for full purposes. (The area is approximately 432 acres in Travis County located west of Westlake Drive approximately 210 feet south of the intersection of Westlake Drive and Trailview Mesa Drive). Funding necessary to provide general governmental services to this tract is available in the budgets of the departments which will be providing the services. Related to Items #11 and 14.  
**This item was withdrawn.**
14. Approve a resolution ordering City ad valorem taxes to be collected on properties located within the Lake Austin Shoreline Area adjacent to the Peninsula Annexation area (approximately 59 acres in Travis County located below the 504.9 foot mean sea level contour line). Funding necessary to provide general governmental services to this tract is available in the budgets of the departments which will be providing the services. Related to Items #11 and 13.  
**This item was withdrawn.**

Mayor Wynn recessed the Council Meeting at 12:30 p.m.

Mayor Wynn called the Council Meeting back to order at 3:10 p.m.

### **BRIEFINGS**

36. Briefing on the Business Retention and Enhancement pilot program  
The presentation was made by Rodney Gonzales, Acting Director for Economic Growth and Redevelopment Services.
37. Annual Update on the City of Austin and Lower Colorado River Authority Water Partnership  
The presentation was made by Rudy Garza, Assistant City Manager and Greg Meszaros, Director for Austin Water Utility.

Mayor Wynn recessed the Council Meeting at 3:33 p.m.

Mayor Wynn called the Council Meeting back to order at 4:07 p.m.



**ZONING CONSENT ITEMS**

The following zoning items were acted on by one motion. No separate action occurred on any of the items.

38. C14-2008-0094 - 8th Street Triangle - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 700 E. 8th (Waller Creek Watershed) from public (P) district zoning to central business district-central urban redevelopment (CBD-CURE) combining district zoning. First reading approved on December 11, 2008. Vote: 7-0. Applicant: City of Austin, Contract and Land Management. Agent: Lauraine Rizer. City Staff: Robert Heil, 974-2330. **Ordinance No. 20090129-038 for central business district-central urban redevelopment (CBD-CURE) combining district zoning was approved on consent on Council Member Morrison's motion, Mayor Pro Tem McCracken's second on a 7-0 vote.**
40. NP-2008-0025(Part) - Oak Hill Combined Neighborhood Plan - Approve second/third readings of ordinance amending the Austin Tomorrow Comprehensive Plan by adopting land use designation for Tract AG of the Oak Hill Combined Neighborhood Plan. Tract AG is located within a planning area generally bounded by Southwest Parkway to the north, Barton Creek Greenbelt to the east, FM 1826, Davis Lane, Clairmont Drive, Abilene Trail, Convict Hill Rd, and Loop 1 to the south, and Thomas Springs Road, Circle Drive and West View Road to the west on the Future Land Use map. The watersheds are Williamson Creek, Slaughter Creek, and Barton Creek - Barton Springs Zone Watershed. First reading was approved on October 23, 2008: Vote: 5-1 (Morrison voted Nay; Martinez off the dais.). City Staff: Maureen Meredith, 974-2695; Minal Bhakta, Department; 974-6453 and Gregory Montes, 974-2629. **This item was postponed to February 12, 2009 at the owner's request on consent on Council Member Morrison's motion, Mayor Pro Tem McCracken's second on a 7-0 vote.**
41. C14-2008-0115 - William Cannon - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 4808 West William Cannon Drive (Williamson Creek Watershed - Barton Springs Zone) from single-family residence-standard lot (SF-2) district zoning to neighborhood commercial-mixed use-conditional overlay-neighborhood plan (LR-MU-CO-NP) combining district zoning with conditions. At First reading on October 23, 2008, City Council approved LO-MU-CO-NP combining district zoning with conditions. Vote: 5-1 (Morrison voted nay; Martinez off the dais.) Applicant: Marcus Whitfield & Eskew Place, Ltd. (Gail and Marcus Whitfield). Agent: McClean & Howard, L.L.P. (Jeffrey Howard). City Staff: Wendy Rhoades, 974-7719. A valid petition has been filed in opposition to this rezoning request. **This item was postponed to February 12, 2009 at the owner's request on consent on Council Member Morrison's motion, Mayor Pro Tem McCracken's second on a 7-0 vote.**

**ZONING CONSENT ITEMS**

The following zoning items were acted on by one motion. No separate action occurred on any of the items. The public hearings were closed.

42. C14-2008-0222 - William Cannon Rezoning - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as the North side of West William Cannon Drive, between Beckett Road and Ridge Oak Road (Williamson Creek Watershed - Barton Springs Zone) from rural residence-neighborhood plan (RR-NP) combining district zoning to neighborhood commercial-mixed use-neighborhood plan (LR-MU-NP) combining district zoning. Staff Recommendation: To deny neighborhood commercial-mixed use-neighborhood plan (LR-MU-NP) combining district zoning. Planning Commission Recommendation: To be reviewed on March 10, 2009.

Applicant: John Rocha, Jewell Simmons, Lloyd Burt, Judy Grimes, Valerie Brinkman, Charles Spradling and Fast Enterprises (Frank Smith). Agent: Thrower Design (Ron Thrower). City Staff: Wendy Rhoades, 974-7719.

**This item was postponed to March 26, 2009 at the staff's request on consent on Council Member Morrison's motion, Mayor Pro Tem McCracken's second on a 7-0 vote.**

43. C14-2008-0236 - Roadway Express - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by zoning property locally known as 9018 Tuscany Way (Walnut Creek Watershed) from interim-rural residence (I-RR) district zoning to limited industrial service-conditional overlay (LI-CO) combining district zoning with conditions. Staff Recommendation: To grant limited industrial service-conditional overlay (LI-CO) combining district zoning with conditions. Zoning and Platting Commission Recommendation: To grant limited industrial service-conditional overlay (LI-CO) combining district zoning. Applicant: Roadway Express, Inc. (Matt Spronz). Agent: The Faust Group (Bill Faust). City Staff: Joi Harden, 974-2122.

**The public hearing was closed and Ordinance No. 20090129-043 for limited industrial service-conditional overlay (LI-CO) combining district zoning was approved on consent on Council Member Morrison's motion, Mayor Pro Tem McCracken's second on a 7-0 vote.**

44. C14-2008-0240 - 4701 N. IH-35 - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 4701 North IH-35 SVRD NB (also known as 4705 North IH-35 SVRD NBD) (Boggy Creek Watershed) from community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning to community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning to change a condition of zoning. Staff Recommendation: To grant community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning to change a condition of zoning. Planning Commission Recommendation: To grant community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning to change a condition of zoning. Applicant and Agent: Mike Dallas Properties (Mike Dallas). City Staff: Joi Harden, 974-2122.

**The public hearing was closed and Ordinance No. 20090129-044 for community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning to change a condition of zoning was approved on consent on Council Member Morrison's motion, Mayor Pro Tem McCracken's second on a 7-0 vote.**

48. C14-2008-0217 - Peaceful Hill Lane - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 8524 Peaceful Hill Lane (Onion Creek Watershed) from single-family residence-standard lot (SF-2) district zoning to general commercial services (CS) district zoning. Staff Recommendation: To grant limited office (LO) district zoning. Zoning and Platting Commission Recommendation: To grant community commercial-conditional overlay (GR-CO) combining district zoning with conditions. Applicant: Randall L. Smitheal Family Trust (Amanda Tatum/Jeremy Smitheal). Agent: McLean & Howard L.L.P. (Jeffrey S. Howard). City Staff: Wendy Rhoades, 974-7719.

**This item was postponed to February 12, 2009 at the neighborhood's request on consent on Council Member Morrison's motion, Mayor Pro Tem McCracken's second on a 7-0 vote.**

49. C14-2008-0237 - 0.49 Acres on Hudson Loop - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by zoning property locally known as 7810-7816 Hudson Loop (Williamson Creek Watershed - Barton Springs Zone) from interim-rural residence-neighborhood plan (I-RR-NP) combining district zoning to general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning. Staff Recommendation: To grant general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining

district zoning. Planning Commission Recommendation: To grant general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning. Applicant and Agent: City of Austin Neighborhood Planning and Zoning Department. City Staff: Wendy Rhoades, 974-7719.

**The public hearing was closed and Ordinance No. 20090129-049 for general commercial services-mixed use-conditional overlay-neighborhood plan (CS-MU-CO-NP) combining district zoning was approved on consent on Council Member Morrison's motion, Mayor Pro Tem McCracken's second on a 7-0 vote.**

50. C14H-2008-0023 - Bradford-Nohra House - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 4213 Avenue G (Waller Creek Watershed) from townhouse and condominium residence-neighborhood conservation combining district (SF-6-NCCD) combining district zoning to townhouse and condominium residence-historic landmark-neighborhood conservation combining district (SF-6-H-NCCD) combining district zoning. Staff Recommendation: To deny townhouse and condominium residence-historic landmark-neighborhood conservation combining district (SF-6-H-NCCD) combining district zoning. Historic Landmark Commission Recommendation: To grant townhouse and condominium residence-historic landmark-neighborhood conservation combining district (SF-6-H-NCCD) combining district zoning. Planning Commission Recommendation: To grant townhouse and condominium residence-historic landmark-neighborhood conservation combining district (SF-6-H-NCCD) combining district zoning. Applicant: Historic Landmark Commission. Agent: Neighborhood Planning and Zoning Department. City Staff: Susan Villarreal, 974-3524. A valid petition has been filed in opposition to this rezoning request. **This item was postponed to February 26, 2009 at the Council's request on consent on Council Member Morrison's motion, Mayor Pro Tem McCracken's second on a 7-0 vote.**

51. C814-06-0233 - Wildflower Commons Planned Unit Development - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 4700-5200 Block of SH 45 (Bear Creek Watershed; Slaughter Creek Watershed - Barton Springs Zone) from single-family residence-standard lot (SF-2) district zoning and general office (GO) district zoning to planned unit development (PUD) district zoning. The Land in the PUD is within the area known as the Barton Springs Zone in which the City's Save Our Springs (SOS) ordinance applies. Application of City ordinances to development of the land is affected by the "Settlement Agreement By and Between the City of Austin and the Bradley Parties" (commonly known as the Bradley Agreement) that ended litigation over development of the land in 2000. PUD zoning may also modify City ordinances applicable to development of the land. Staff Recommendation: To grant planned unit development (PUD) district zoning with conditions. Zoning and Platting Commission Recommendation: To grant planned unit development (PUD) district zoning with conditions. Applicant: Wildflower Commons, I, L.P. and Wildflower Commons II, L.P. (William S. Walters, III). Agent: Drenner & Golden Stuart Wolff L.L.P (Michele C. Haussmann). City Staff: Wendy Rhoades, 974-7719. **This item was postponed to February 12, 2009 at the Council's request on consent on Council Member Morrison's motion, Mayor Pro Tem McCracken's second on a 7-0 vote.**

### **ZONING DISCUSSION ITEMS**

39. C14-2008-0148 - 1410 West Ben White - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1410 West Ben White Blvd. (West Bouldin Creek Watershed) from community commercial (GR) district zoning to general commercial services-conditional overlay (CS-CO) combining district zoning. First reading approved on November 6, 2008. Vote: 7-0. Applicant: Cothron Partnership No. 2 LTD. (Olen Cothron). Agent: The Austin Company (Peter Von Wupperfeld). City Staff: Stephen Rye, 974-7605.

**Ordinance No. 20090129-039 for general commercial services-conditional overlay (CS-CO) combining district zoning with the additional permitted use for restaurant (general) was approved on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.**

45. C14-2007-0262 - Central Austin Combined Neighborhood Planning Area Vertical Mixed Use Building (V) Zoning Opt-in/Opt-Out Process - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by applying Vertical Mixed Use Building (V) zoning regulations to certain tracts within the Central Austin Combined Neighborhood Planning Area, bounded by 38th Street on the north, IH-35 on the east, Martin Luther King, Jr. Boulevard on the south, excluding the University of Texas at Austin campus, and Lamar Boulevard and 45th Street on the west (Shoal Creek, Waller Creek watersheds). Regulations governing Vertical Mixed Use Building dimensional standards; allowable uses for a Vertical Mixed Use Building in office base district zoning; relaxed parking standards for commercial uses in a Vertical Mixed Use Building; and affordability requirements for Vertical Mixed Use Building developments will be considered for adoption. The Austin City Council may consider adopting all or some of these regulations, or amending the Vertical Mixed Use (VMU) overlay district to exclude properties within the Central Austin Combined Neighborhood Planning Area from the overlay district. Planning Commission Recommendation: To grant vertical mixed use building (V) district and to exclude certain tracts from the vertical mixed use overlay district. Applicant and Agent: Neighborhood Planning and Zoning Department. City Staff: Minal Bhakta, 974-6453.  
**Tract 10, 711 W. 38<sup>th</sup> Street, was postponed to February 12, 2009 on Council Member Leffingwell's motion, Mayor Wynn's second on a 7-0 vote.**

**The public hearing was closed and the first reading of the ordinance with the following conditions was approved on Council Member Leffingwell's motion, Council Member Cole's second on a 7-0 vote. Tracts 2-6, 11-12, 14-52, 57-64, and 66-67 were excluded from the VMU Overlay District. Tracts 1, 7-9, 13 and 65 were approved for vertical mixed use building (V) zoning with only dimensional standards and additional uses in office districts. Tracts 53-56 were approved for vertical mixed use building (V) zoning (no dimensional standards, parking reduction or additional uses in office zoning districts). Tracts 101-102 were approved for vertical mixed use building (V) zoning with only dimensional standards. Tract 103 was approved for vertical mixed use building (V) zoning with only dimensional standards and additional uses in office districts. An affordability level of 60% of the median family income for 10% of rental units in a vertical mixed use building was included. The conditions were as follows: 15 feet sidewalk, no head-in parking, and residential only above first floor.**

46. C14-2008-0112 - Minware - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 4209 Clawson Road (West Bouldin Creek Watershed) from family residence (SF-3) district zoning to community commercial (GR) district zoning. Staff Recommendation: To grant limited office-conditional overlay (LO-CO) combining district zoning. Planning Commission Recommendation: To deny community commercial (GR) district zoning. Applicant and Agent: Robert W. Anderson, Jr. City Staff: Clark Patterson, 974-7691. A valid petition has been filed in opposition to this rezoning request.  
**The motion to deny the rezoning request was approved on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**
47. C14-2008-0117 - Rey de Bastos - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 5811 Manor Road (Fort Branch Creek Watershed) from community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning to commercial-liquor sales-mixed use-conditional overlay-neighborhood plan (CS-1-MU-CO-NP) combining district zoning. Staff Recommendation: To deny commercial-liquor sales-mixed use-conditional overlay-neighborhood plan (CS-1-MU-CO-NP)

combining district zoning. Planning Commission Recommendation: To deny commercial-liquor sales-mixed use-conditional overlay-neighborhood plan (CS-1-MU-CO-NP) combining district zoning. Applicant: Bernardo Segura Lujano and Angel Albiter Puebla. Agent: LOC Consultants, LLP (Sergio Lozano Sanchez). City Staff: Joi Harden, 974-2122.

The motion to deny the rezoning request was approved on Council Member Martinez' motion, Council Member Cole's second on a 7-0 vote.

Mayor Wynn recessed the Council Meeting at 5:33 p.m.

### LIVE MUSIC

Amy Cook

### PROCLAMATIONS

Mayor Wynn called the Council Meeting back to order at 6:34 p.m.

### PUBLIC HEARINGS AND POSSIBLE ACTION

53. Conduct a public hearing and consider an appeal by Ruben Rodriguez of the Planning Commission's decision to deny an appeal of an administrative disapproval of a site plan (328 Heartwood, SP-2008-0091D) for fill over 4 feet and construction of a retaining wall within the Critical Water Quality Zone of Williamson Creek. August 13, 2007: Board of Adjustment denied variance for a retaining wall and fence greater than 6 feet in height. September 10, 2008: Environmental Board recommended approval of the environmental variances. September 23, 2008: Planning Commission approved staff's recommendation to deny environmental variances. October 28, 2008: Planning Commission approved staff's recommendation to deny an appeal of administrative disapproval of a site plan. Related to Items #32 and 54.  
This item was postponed to February 12, 2009 on Council Member Leffingwell's motion, Council Member Morrison's second on a 5-0 vote. Mayor Pro Tem McCracken and Council Member Cole were off the dais.
54. Conduct a public hearing and consider an ordinance for floodplain variances requested by Mr. Aaron Googins, P.E., of King Engineering, Inc., on behalf of Mr. Ruben Rodriguez to retroactively allow the placement of fill and the construction of a retaining wall in the rear yard of the single-family residence at 328 Heartwood Drive in both the 25-year and 100-year floodplains of Williamson Creek. August 13, 2007: Board of Adjustment denied variance for a retaining wall and fence greater than 6 feet in height. September 10, 2008: Environmental Board recommended approval of the environmental variances. September 23, 2008: Planning Commission approved staff's recommendation to deny environmental variances. October 28, 2008: Planning Commission approved staff's recommendation to deny an appeal of administrative disapproval of a site plan. Related to Items #32 and 53.  
This item was postponed to February 12, 2009 on Council Member Leffingwell's motion, Council Member Morrison's second on a 5-0 vote. Mayor Pro Tem McCracken and Council Member Cole were off the dais.
52. Conduct a public hearing and consider an ordinance adopting the local standards of care for the Parks and Recreation Department's children's recreation program for 2009. Recommended by the Parks and Recreation Board  
The public hearing was closed and Ordinance No. 20090129-052 was approved on Council Member Martinez' motion, Council Member Shade's second on a 5-0 vote. Mayor Pro Tem McCracken and Council Member Cole were off the dais.

**Mayor Wynn adjourned the meeting at 6:37 p.m. without objection.**

**The minutes for the Regular meeting of January 29, 2009 were approved on this the 12th day of February 2009 on Council Member Martinez' motion, Council Member Shade's second on a 7-0 vote.**