

**AUSTIN CITY COUNCIL  
MINUTES****REGULAR MEETING  
THURSDAY, FEBRUARY 26, 2009**

**Invocation:** Pastor George Holcombe, Asbury United Methodist 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, February 26, 2009 in the Council Chambers of City Hall, 301 West Second Street, Austin, Texas.

Mayor Wynn called the Council Meeting to order at 10:30 a.m.

Mayor Wynn asked Council Members to report on upcoming agenda items; however, none were mentioned.

**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 February 11, 2009 Work Session and February 12, 2009 Regular meetings.  
The minutes from the meetings of February 11, 2009 work session and February 12, 2009 regular meeting were approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.
2. Authorize the fee simple acquisition of Lot 11A, of resubdivision of lots 10 and 11, Block 1, of Bergstrom Downs No. 1, locally known as 802 Patton Ave, from Moises and Magdalena Fajardo for the Airport Noise Mitigation Program, in the amount of \$115,000 for the land and improvements and \$32,000 relocation benefits, plus closing costs and moving related expenses in the amount of \$10,000, for an amount not to exceed \$157,000. Funding in the amount of \$157,000 is available in Fiscal Year 2008-2009 Capital Budget of the Department of Aviation using airport funds and available Federal Aviation Administration (FAA) Grants.  
The motion authorizing the fee simple acquisition was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.
3. Authorize the fee simple acquisition of Lot 12, Block 2, of Bergstrom Downs No. 1, locally known as 801 Patton Avenue, Austin, TX 78742 from Elizabeth J. Henckel for the Airport Noise Mitigation Program, in the amount of \$100,000.00 for the land and improvements and \$38,990.00 relocation benefits, plus closing costs and moving related expenses in the amount of \$10,000, for an amount not to exceed \$148,990. Funding in the amount of \$148,990 is available in Fiscal Year 2008-2009 Capital Budget of the Department of Aviation using airport funds and available Federal Aviation Administration (FAA) Grants.  
The motion authorizing the fee simple acquisition was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.

4. Authorize the fee simple acquisition of Lot 8, Block 2, Bergstrom Downs No. 1, locally known as 809 Patton Avenue, from Richard William Jacobs, Sr. and wife, Florence Lillian Jacobs for the Airport Noise Mitigation Program, in the amount of \$115,000 for the land and improvements and \$40,900 relocation benefits, plus closing costs and moving related expenses in the amount of \$10,000, for an amount not to exceed \$165,900. Funding in the amount of \$165,900 is available in Fiscal Year 2008-2009 Capital Budget of the Department of Aviation using airport funds and available Federal Aviation Administration (FAA) Grants.  
**The motion authorizing the fee simple acquisition was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**
5. Authorize the fee simple acquisition of Lot 12, Block 1, of Bergstrom Downs No. 1, locally known as 800 Patton Ave, from Juan and Antonio O. Jaimes for the Airport Noise Mitigation Program, in the amount of \$115,000 for the land and improvements and \$29,900 relocation benefits, plus closing costs and moving related expenses in the amount of \$10,000, for an amount not to exceed \$154,900. Funding in the amount of \$154,900 is available in Fiscal Year 2008-2009 Capital Budget of the Department of Aviation using airport funds and available Federal Aviation Administration (FAA) Grants.  
**The motion authorizing the fee simple acquisition was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**
6. Approve the negotiation and execution of a deed to the TRAVIS COUNTY HEALTHCARE DISTRICT for those certain tracts of real property located in Travis County, Texas, at the terminus of Lola Lane, consisting of approximately 1.25 acres and being further described in those deeds recorded at Volume 2255, Pages 199 to 211, of the Deed Records of Travis County, Texas.  
**The motion authorizing the negotiation and execution of a deed was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**
7. Approve the negotiation and execution of a deed to the TRAVIS COUNTY HEALTHCARE DISTRICT for the David Powell Clinic located at 4614 North IH 35.  
**The motion authorizing the negotiation and execution of a deed was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**
8. Approve the negotiation and execution of the following leases with the TRAVIS COUNTY HEALTHCARE DISTRICT: (a) a 25 year lease for the East Austin Clinic at 211 Comal Street, the Rosewood-Zaragosa Clinic at 2802 Webberville Road, the South Austin Clinic at 2529 South First Street, the ARCH Clinic at 500 East Seventh Street, the AK Black Clinic at 928 Blackson; (b) a 99 year ground lease for the Montopolis Clinic at 1200-B Montopolis Drive; and (c) a five (5) year lease for the fifth floor administrative office space in the RBJ Building at 15 Waller Street.  
**The motion authorizing the negotiation and execution of leases with the Travis County Healthcare District was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**
9. Approve negotiation and execution of an Interlocal Agreement between the City and Travis County to allow the City to design and construct improvements to Bullick Hollow Road in connection with the Water Treatment Plant No. 4 project. Funding is available in the Fiscal Year 2008-2009 Capital Budget of the Austin Water Utility. Reviewed by the Water and Wastewater Commission.  
**The motion authorizing the negotiation and execution of an interlocal agreement between the City and Travis County was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**

10. Authorize execution of Change Order #4 to the construction contract with SOUTHWEST CORPORATION, Austin, Texas, for the Reicher Ranch Renovations for Offices Rebid in the amount of \$57,493.19 for a total contract amount not to exceed \$717,003.51. Funding is available in the Fiscal Year 2008-2009 Capital Budget of the Austin Water Utility. 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 5.89% MBE and 10.10% WBE subcontractor participation to date including this change order. Recommended by the Water and Wastewater Commission.  
**The motion authorizing the execution of change order number 4 to the construction contract with Southwest Corporation was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**
11. Authorize negotiation and execution of a professional services agreement with one of the following firms: ACP VISIONING & PLANING, LTD, New York, NY (staff recommendation); WALLACE ROBERTS & TODD, LLC, Philadelphia, PA; or HNTB CORPORATION, Austin, TX to provide professional planning services for the Comprehensive Plan for the City of Austin, in an amount not to exceed \$1,300,000. Funding in the amount of \$1,300,000 is available in the Fiscal Year 2008-2009 Capital Budget of the Neighborhood Planning and Zoning Department. Best qualification statement of six (6) statements received. This contract will be 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 16.50% MBE and 14.20% WBE subconsultant participation.  
**This item was postponed to April 23, 2009 on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**
12. Authorize negotiation and execution of an amendment to the professional services agreement with LOCKWOOD, ANDREWS & NEWNAN, INC., Austin, Texas, for fee adjustment for Supplemental Agreement 3 for the Valve Replacement Project A for remaining post-bid and construction phase services in an amount not to exceed \$26,142; for a total agreement, including administratively approved Supplemental Amendment 2 for additional design services in the amount of \$30,704.42, not to exceed \$477,441. Funding in the amount of \$26,142 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) with 19.20% MBE and 9.97% WBE subcontractor participation to date. Recommended by Water and Wastewater Commission.  
**The motion authorizing the negotiation and execution of an amendment to the professional services agreement with Lockwood, Andrews & Newman, Inc. was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**
13. Authorize negotiation and execution of a professional services agreement with CH2M HILL, INC. Austin, TX to provide professional engineering services for the Water Distribution Control System and Lift Station Telemetry Supervisory Control and Data Acquisition Systems (SCADA) Improvements, in an amount not to exceed \$1,000,000. Funding is available in the Fiscal Year 2008-2009 Capital Budget of the Austin Water Utility. Best qualification statement of six (6) statements received. This contract will be 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 8.13% MBE and 4.31% WBE subconsultant participation. Recommended by Water and Wastewater Commission.  
**The motion authorizing the negotiation and execution of a professional services agreement with CH2M Hill, Inc. was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**
14. Authorize the negotiation and execution of a professional services agreement with Chris Levack, Austin, TX, in an amount not to exceed \$86,000, for the fabrication/installation of an artwork component in the

combination skate park and BMX bike course to be located next to the Austin Recreation Center, near 12th Street and Lamar Blvd. Funding is available in the Fiscal Year 2008-2009 Capital Budget of the Parks and Recreation Department. The Art in Public Place Panel approved the artist's final design on November 3, 2008 (5-1-0); The Austin Arts Commission unanimously approved the artist's final design on November 17, 2008.

**The motion authorizing the negotiation and execution of a professional services agreement with Chris Levack was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**

**Item 15 was pulled for discussion.**

16. Approve an ordinance accepting \$10,229 in grant funds from the Texas Department of Housing and Community Affairs, Community Services Block Grant, and amending the Fiscal Year 2008-2009 Health and Human Services Department Operating Budget Special Revenue Fund of Ordinance No. 20080908-002 to appropriate \$10,229 for the delivery of basic needs, case management, employment support, and preventive health services to low-income residents. Funding in the amount of \$10,229 is available from the Texas Department of Housing and Community Affairs, Community Services Block Grant. The grant period is January 1, 2009 through December 31, 2009. No City match is required.  
**Ordinance No. 20090226-016 was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**
17. Authorize negotiation and execution of an Interlocal Agreement between the City and the University of Texas School of Public Health-Austin for nutritional and physical activity interventions for the Health and Human Services Department's Health Promotion/ Disease Prevention Unit Diabetes Program, for the term February 26, 2009 through June 29, 2009, in an amount not to exceed \$30,000. Funding in the amount of \$30,000 is available in the Fiscal Year 2008-2009 Operating Budget for the Health and Human Services Department Special Revenue Fund. The grant period is for the period September 22, 2008 through June 29, 2009.  
**The motion authorizing the negotiation and execution of an interlocal agreement between the City and the University of Texas School of Public Health-Austin was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**
18. Approve an ordinance accepting \$50,000 in grant funds from the Texas Department of State Health Services, Community Diabetes Projects-Texas Diabetes Program; and amending the Fiscal Year 2008-2009 Health and Human Services Department Operating Budget Special Revenue Fund of Ordinance No. 20080908-002 to appropriate \$50,000 for the Health Promotion/Disease Prevention Unit. Funding in the amount of \$50,000 is available from the Texas Department of State Health Services. The grant period is from September 1, 2008 through August 31, 2009. A City match is not required.  
**Ordinance No. 20090226-018 was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**
19. Authorize the negotiation and execution of an interlocal agreement between the City of Austin and Capital Metropolitan Transportation Authority (Capital Metro) for the City of Austin Channel 6 staff to produce and televise Capital Metro Board of Directors meetings. There is no unanticipated fiscal impact. A fiscal note is not required. Funding to reimburse the City for costs associated with the agreement will be provided by the Capital Metropolitan Transportation Authority.  
**The motion authorizing the negotiation and execution of an interlocal agreement between the City of Austin and Capital Metropolitan Transportation Authority (Capital Metro) was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.**

20. Approve issuance of a street event permit for the FADO'S Irish Pub Festival, a fee-paid event in the 200 block of West 4th Street between Colorado Street and Lavaca Street. The event is scheduled for March 17, 2009 from 10:00 a.m. to midnight. There is no unanticipated fiscal impact. A fiscal note is not required.

The motion for issuance of a street event permit for the FADO's Irish Pub Festival was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.

21. 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 Cole's motion, Council Member Morrison's second on a 7-0 vote.

**Board**

**Nominated By:**

**Board of Adjustment**

Heidi Goebel (*alternate member*)

Mayor Wynn

22. Approve a resolution directing the City Manager to prepare an ordinance for council consideration regarding an enhanced process for review of economic incentive proposals. (Council Member Laura Morrison Council Member Randi Shade Council Member Lee Leffingwell)

Resolution No. 20090226-022 was approved on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.

23. Set a public hearing to receive citizen input on community needs for the development of the City's (1) five-year Consolidated Plan for Fiscal Years 2009 - 2014, as required by the U.S. Department of Housing and Urban Development; (2) the Annual Fiscal Year 2009-2010 Action Plan, as required by the U.S. Department of Housing and Urban Development; and (3) the Community Development 2009-2010 Program as required by Texas Local Government Code Chapter 373. (Suggested date and time: March 5, 2009, 6:00 p.m. at Austin City Hall, 301 W. Second Street, Austin, TX.).

The public hearing was set for March 5, 2009 at 6:00 p.m., Austin City Hall at 301 W. Second Street, Austin, TX on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.

24. Set a public hearing to consider an ordinance repealing and replacing Article 4 of Chapter 25-12 (The Electrical Code) of the City Code to adopt the 2008 National Electrical Code and local amendments to the Electrical Code. (Suggested date and time: March 5, 2009, 6:00 p.m. at Austin City Hall, 301 W. Second Street, Austin, TX.) Recommended by the Electric Board.

The public hearing was set for March 5, 2009 at 6:00 p.m., Austin City Hall at 301 W. Second Street, Austin, TX on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.

25. Set a public hearing to consider and approve amendments to Title 25 of the City Code, to grant a one-time extension of the period of time for projects and site plans to remain valid. (Suggested date and time: March 26, 2009, 6:00 p.m. at Austin City Hall, 301 W. Second Street, Austin, TX.) To be reviewed by the Planning Commission on February 24, 2009 and March 10, 2009.

The public hearing was set for March 26, 2009 at 6:00 p.m., Austin City Hall at 301 W. Second Street, Austin, TX on consent on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.

Item 26 was a briefing item set for 10:30 a.m.

Item 27 was an Executive Session item.

Items 28 and 29 were briefing items set for 2:00 p.m.

Items 30 through 46 were zoning items set for 4:00 p.m.

Items 47 through 51 were public hearing items set for 6:00 p.m.

**BRIEFING**

26. Presentation of Action Plan for Fiscal Year 2009 Budget  
The presentation was made by City Manager Mark Ott.

Mayor Pro Tem McCracken recessed the Council Meeting at 11:57 a.m.

Mayor Pro Tem McCracken called the Council Meeting back to order at 12:13 p.m.

**CITIZEN COMMUNICATION: GENERAL**

Rae Nadler - Olenick - Water fluoridation

Bill Boulton - False 311 calls - unnecessary City service expense

Bill Wigmore - Austin's recovery annual report as requested by Mayor Will Wynn

Gus Pena - 1.To discuss city issues 2. Crime is on the rise; we need all of the officers on the job, no layoffs 3. Please do not decrease funding for social service agencies; the need is greater in this recession and bad economy 4. Pray for out military veterans they need reentry programs, jobs, housing, treatment for mental health issues and PTSD 5. Do not cut funding for senior citizen and youth programs; fully fund the youth summer job programs

Pat Johnson - City issues

Jill Chamberlain - Discrepancies in the parks departments' information. **She was not present when her name was called.**

Paul Robbins - City issues

Nailah Sankofa - Black art programming and funding issues for black artists. **She was not present when her name was called.**

Mike Mchone - University neighborhood overlay district update of progress

Marita Hayden - Affordable housing

Mayor Wynn recessed the Council Meeting to go into Executive Session at 12:45 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.

27. Discuss legal issues related to the proposed Boardwalk on Lady Bird Lake. (Private Consultation with Attorney - Section 551.071).

Executive Session ended and Mayor Pro Tem McCracken called the Council Meeting back to order at 2:02 p.m.

### BRIEFINGS

28. Briefing on staff recommendations related to regulatory, operational, and enforcement requirements for outdoor music venues and live music at restaurants, and consideration of a related ordinance, including a temporary moratorium on the issuance or renewal of permits under Section 9-2-12 of the City Code. The presentation was made by Brent Lloyd, Law Department. Ordinance No. 20090226-028 was approved with the following amendment (Part 5) from Council Member Martinez on Council Member Martinez's motion, Council Member Leffingwell's second on a 6-0 vote. Mayor Wynn was off the dais. The friendly amendment to add a new part 6 and amend title of the ordinance from Council Member Morrison was accepted by the maker of the motion and Council Member Leffingwell, who seconded the motion. The amendments read as follows:  
Delete the existing Part 5 and insert the following:

#### **"PART 5. EXTENSION OF TEMPORARY MORATORIUM.**

1. The temporary moratorium on the issuance or renewal of permits for outdoor music venues adopted by Part 3 of Ordinance No. 20090115-055 is hereby extended until March 13, 2009. Accordingly, a permit or permit renewal under City Code Section 9-2-12 (*Permit for an Outdoor Music Venue*) shall not be issued until March 13, 2009.
2. The moratorium does not apply to new permits or permit renewals that would expire on or before March 24, 2009, which is the last day of the South by Southwest Music Festival. At the request of an applicant, the director is authorized to issue permits for outdoor music venues with an expiration on or before March 24, 2009."

Add a new section,

#### **"PART 6. DECLARATION OF EMERGENCY; EFFECTIVE DATE.**

1. Based on the findings set forth in Part 1 of this ordinance, the Council finds that confusion regarding the requirements applicable to outdoor music venues negatively affects citizens of the City of Austin, as well as restaurant and club owners. The Council further finds that continued issuance of outdoor music permits and permit renewals would undermine the process initiated by this ordinance to review and consider revisions to the regulatory, operational, and enforcement requirements applicable to outdoor music permits.

2. The Council further finds that these circumstances constitute an emergency. Because of the emergency, this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health, and safety.”

The title of the ordinance is replaced with the following:

“AN ORDINANCE RELATED TO REQUIREMENTS FOR OUTDOOR MUSIC VENUES; AMENDING CITY CODE SECTIONS 9-2-1 AND 9-2-12; ADDING A NEW CITY CODE SECTION 9-2-34; ADOPTING A TEMPORARY MORATORIUM ON THE ISSUANCE OF PERMITS FOR OUTDOOR MUSIC VENUES; AND DECLARING AN EMERGENCY.”

29. Sidewalk Master Plan briefing  
The presentation was made by Howard Lazarus, Director, and Annick Beaudet, Project Manager, Public Works Department.

Mayor Pro Tem McCracken recessed the Council Meeting at 2:53 p.m.

Mayor Pro Tem McCracken called the Council Meeting back to order at 4:01 p.m.

#### ZONING CONSENT ITEMS

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

30. 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 at 4808 William Cannon Drive 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 March 26, 2009 at the applicant's request on consent on Council Member Shade's motion, Council Member Martinez' second on a 4-0 vote. Mayor Wynn, Mayor Pro Tem McCracken and Council Member Cole were off the dais.
31. 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 March 26, 2009 at the applicant's request on consent on Council Member Shade's motion, Council Member Martinez' second on a 4-0 vote. Mayor Wynn, Mayor Pro Tem McCracken and Council Member Cole were off the dais.



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.

32. C14-2008-0159 - 3rd and Colorado Hotel - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 311 Colorado, 301 Colorado and 114 W. 3rd St. (Town Lake Watershed) from central business district (CBD) district zoning to central business district-central urban redevelopment (CBD-CURE) combining district zoning. Staff Recommendation: To grant central business district-central urban redevelopment (CBD-CURE) combining district zoning. Planning Commission Recommendation: To grant central business district-central urban redevelopment (CBD-CURE) combining district zoning. Applicant: S/H Austin Partnership (John Beauchamp). Agent: Drenner & Golden Stuart Wolff, LLP (Michele Haussmann). City Staff: Clark Patterson, 974-7691.  
**This item was postponed to March 26, 2009 at the applicant's request on consent on Council Member Morrison's motion, Council Member Cole's second on a 6-0 vote. Mayor Wynn was off the dais.**
33. 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 March 26, 2009 at the owner's request on consent on Council Member Morrison's motion, Council Member Cole's second on a 6-0 vote. Mayor Wynn was off the dais.**
34. NPA-2008-0012.03 - Pediatric Cardiology - Conduct a public hearing and approve an ordinance amending Ordinance No. 020801-91, the Upper Boggy Creek Neighborhood Plan, an element of the Austin Tomorrow Comprehensive Plan, to change the land use designation on the future land use map (FLUM) from civic to office for the property located at 1110 E. 32nd Street (Boggy Creek Urban Watershed). Staff Recommendation: To approve office land use designation. Planning Commission Recommendation: To approve office land use designation. Applicant: D. Byron Holt, M.D. Agent: Jim Wittliff. City Staff: Maureen Meredith, 974-2695.  
**The public hearing was closed and Ordinance No. 20090226-034 to change the land use designation to office land use designation was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 6-0 vote. Mayor Wynn was off the dais.**
35. C14-2008-0231 - Pediatric Cardiology - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1110 E. 32nd Street (Boggy Creek Watershed) from neighborhood office-historic landmark-neighborhood plan (NO-H-NP) combining district zoning to limited office-historic landmark-conditional overlay-neighborhood plan (LO-H-CO-NP) combining district zoning. Staff Recommendation: To grant limited office-historic

landmark-conditional overlay-neighborhood plan (LO-H-CO-NP) combining district zoning. Planning Commission Recommendation: To grant limited office-historic landmark-conditional overlay-neighborhood plan (LO-H-CO-NP) combining district zoning. Applicant: SWH Properties, L.L.C. (D. Byron Holt, M.D.). Agent: Land Answers Development Planning Consultants (Jim Wittliff). City Staff: Joi Harden, 974-2122.

**The public hearing was closed and Ordinance No. 20090226-035 for limited office-historic landmark-conditional overlay-neighborhood plan (LO-H-CO-NP) combining district zoning was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 6-0 vote. Mayor Wynn was off the dais.**

37. C14-2008-0250 - 112 Academy Drive - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 112 Academy Drive (East Bouldin Creek Watershed) from community commercial-historic landmark-neighborhood conservation combining district-neighborhood plan (GR-H-NCCD-NP) combining district zoning to commercial liquor sales-historic landmark-neighborhood conservation combining district-neighborhood plan (CS-1-H-NCCD-NP) combining district zoning. Staff Recommendation: To grant commercial liquor sales-historic landmark-neighborhood conservation combining district-neighborhood plan (CS-1-H-NCCD-NP) combining district zoning. Planning Commission Recommendation: To grant commercial liquor sales-historic landmark-neighborhood conservation combining district-neighborhood plan (CS-1-H-NCCD-NP) combining district zoning. Applicant: 112 Academy, LLC. Agent: Brown McCarroll, L.L.P. (Andy Martin). City Staff: Stephen Rye, 974-7604.

**The public hearing was closed and Ordinance No. 20090226-037 for commercial liquor sales-historic landmark-neighborhood conservation combining district-neighborhood plan (CS-1-H-NCCD-NP) combining district zoning was approved, including the following prohibited uses, on consent on Council Member Morrison's motion, Council Member Cole's second on a 6-0 vote. Mayor Wynn was off the dais. Prohibited uses are: liquor sales, adult oriented entertainment, and outdoor entertainment. In addition, there would be no applications for sound permits.**

39. C14-2008-0230 - 905 East Live Oak - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 905 East Live Oak Street (Blunn Creek Watershed) from single-family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning to family residence-neighborhood plan (SF-3-NP) combining district zoning. Staff Recommendation: To grant family residence-neighborhood plan (SF-3-NP) combining district zoning. Planning Commission Recommendation: To grant family residence-neighborhood plan (SF-3-NP) combining district zoning. Applicant and Agent: Greg Bodle. City Staff: Stephen Rye, 974-7604.

**The public hearing was closed and Ordinance No. 20090226-39 for family residence-neighborhood plan (SF-3-NP) combining district zoning was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 6-0 vote. Mayor Wynn was off the dais.**

42. C14-2008-0127 - Cantarra Commercial - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by zoning property locally known as 3112 1/2 Gregg Lane (Harris Branch Watershed) from interim-rural residence (I-RR) district zoning to neighborhood commercial (LR) district zoning with conditions. Staff Recommendation: To grant neighborhood commercial (LR) district zoning with conditions. Zoning and Platting Commission Recommendation: To grant neighborhood commercial (LR) district zoning with conditions. Applicant: Horizon Bank & Trust/Compass Bank (Joe C. Benson, Jr.). Agent: Carlson, Brigrance & Doering, Inc. (Jennifer Rummel). City Staff: Sherri Sirwaitis, 974-3057.

**The public hearing was closed and the first reading of the ordinance for neighborhood commercial (LR) district zoning with conditions was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 6-0 vote. Mayor Wynn was off the dais.**

45. C814-2008-0146 - Oertli PUD - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 12422 & 12424 Dessau Road and 1200 East Parmer Lane (Harris Branch/Walnut Creek Watershed) from development reserve (DR) district zoning and single-family residence-standard lot (SF-2) district zoning to planned unit development (PUD) district zoning. 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: Jerry Oertli Estate (Linda Oertli). Agent: Drenner & Golden Stuart Wolff, LLP (Michele Rogerson). City Staff: Clark Patterson, 974-7691.

The public hearing was closed and the first reading of the ordinance for planned unit development (PUD) district zoning with conditions was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 6-0 vote. Mayor Wynn was off the dais.

46. C8-85-161.01.3(86)(RCT) - Wells Branch Commercial Center - Conduct a public hearing and approve termination of a restrictive covenant requiring joint use and access for the property located at 1205 Wells Branch Parkway (Harris Branch Watershed). Staff Recommendation: To approve termination of the restrictive covenant. Planning Commission Recommendation: To approve termination of the restrictive covenant. Applicant: Michael Voticky. Agent: Ron Thrower. City Staff: Clark Patterson, 974-7691.

The public hearing was closed and the motion authorizing the termination of a restrictive covenant was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 6-0 vote. Mayor Wynn was off the dais.

### ZONING DISCUSSION ITEMS

36. C14-2007-0262 (Part) - Central Austin Combined Neighborhood Planning Area Vertical Mixed Use Building (V) Zoning Opt-in/Opt-Out Process - Conduct a public hearing and approve on first reading an ordinance amending Chapter 25-2 of the Austin City Code by applying Vertical Mixed Use Building (V) zoning regulations on Tract 10, located at 711 W. 38th Street. The Central Austin Combined Neighborhood Planning Area is bounded by 45th Street on the north, IH-35 on the east, Martin Luther King, Jr. Boulevard on the south, and Lamar Boulevard on the west, excluding the University of Texas at Austin campus (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 Tract 10 within the Central Austin Combined Neighborhood Planning Area from the overlay district. Planning Commission Recommendation: To grant vertical mixed use building (V) district zoning with Dimensional Standards on the GR-CO-NP portion of Tract 10. Applicant and Agent: Neighborhood Planning and Zoning Department. City Staff: Minal Bhakta, 974-6453.

The public hearing was closed and the first reading of the ordinance for vertical mixed use building (V) district zoning with Dimensional Standards on the GR-CO-NP portion of Tract 10 was approved with the following bonuses and restrictions on Council Member Leffingwell's motion, Council Member Cole's second on a 6-0 vote. Mayor Wynn was off the dais. The GR portion retains VMU zoning, and LO portion opt-out. The GR portion that remains VMU will receive all bonuses with the exception of no parking reduction, no head in parking. The restrictions are a minimum of 50% of the useable square footage above the first floor will be residential and a minimum of 10% of the rental units will be for families earning 60% or less of Austin MFI. If GR portion is developed as a VMU project, no dumpster or loading dock will be permitted on the LO-MU portion of the property within 70 feet of the South property line.

41. C14-2008-0247 - Buckets Deli - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 2020 East Cesar Chavez Street (Town Lake Watershed) from general commercial services-mixed use-conditional overlay-neighborhood plan (CS-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: Paul Rodriguez. Agent: Hajjar Sutherland & Kelly, L.L.P. (Kareem Hajjar). City Staff: Joi Harden, 974-2122. A valid petition has been filed in opposition to this rezoning request.

There was a motion to postpone this item to March 26, 2009 made by Council Member Martinez and seconded by Council Member Morrison. The owner and agent were directed to meet with the Small Business Development Program to redesign the business plan in order to come into compliance with the zoning category. The applicant was directed to meet with the neighborhood to mitigate the issues.

The substitute motion to postpone this item to March 12, 2009 was approved on Council Member Martinez' motion, Council Member Shade's second on a 6-0 vote. Mayor Wynn was off the dais."

40. C14-2008-0239 - Courtyard Park - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 5811 Southwest Parkway (Barton Creek Watershed - Barton Springs Zone) from neighborhood commercial-conditional overlay (LR-CO) combining district zoning to neighborhood commercial-conditional overlay (LR-CO) combining district zoning to change a condition of zoning. Staff Recommendation: To deny neighborhood commercial-conditional overlay (LR-CO) combining district zoning to change a condition of zoning. Planning Commission Recommendation: To grant neighborhood commercial-conditional overlay (LR-CO) combining district zoning to change a condition of zoning. Applicant: Realtex (Larry Rother). Agent: McDill Engineering (Tom McDill). City Staff: Stephen Rye, 974-7604.

The public hearing was closed and the first reading of the ordinance for neighborhood commercial-conditional overlay (LR-CO) combining district zoning to change a condition of zoning was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 6-0 vote. Mayor Wynn was off the dais.

A motion to reconsider Item 40 was approved on Council Member Morrison's motion, Council Member Cole's second on a 6-0 vote. Mayor Wynn was off the dais.

The public hearing was closed and Ordinance No. 20090226-040 for neighborhood commercial-conditional overlay (LR-CO) combining district zoning to change a condition of zoning was approved on Council Member Cole's motion, Council Member Morrison's second on a 6-0 vote. Mayor Wynn was off the dais.

38. C14-2008-0221 - Conn Tract - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by zoning property locally known as 11821-12124 South IH-35 Service Road Northbound (Onion Creek Watershed) from unzoned to general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning. Staff Recommendation: To grant community commercial-mixed use-conditional overlay (GR-MU-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning. Applicant: South IH-35 Investors, L.P. (C.W. Hetherly, Jr.) Agent: Graves, Dougherty, Hearon & Moody, P.C. (Peter Cesaro). City Staff: Wendy Rhoades, 974-7719.

The public hearing was closed and the first reading of ordinance for general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning was approved on Council Member Cole's motion, Council Member Shade's second on a 6-0 vote. Mayor Wynn was off the dais.

#### CONSENT DISCUSSION ITEM

15. Approve an ordinance amending the City's Economic Development Program related to "project-based" economic development incentives.

The motion to approve Ordinance No. 20090226-015 with the following amendment was made on Council Member Morrison's motion, Council Member Leffingwell's second. The amendment was to strike the last four words of page one of the ordinance.

The substitute motion to postpone this item to March 5, 2009 was approved on Council Member Leffingwell's motion, Council Member Morrison's second on a 7-0 vote. Direction was given to staff to prepare the ordinance in a way it is clear it only applies to the Chapter 380 agreements and not to Chapter 311, 312 agreements, nor tax increment financing agreements nor utility reimbursements agreements.

A motion to reconsider Item 15 was approved on Council Member Leffingwell's motion, Council Member Morrison's second on a 6-0 vote. Mayor Wynn was off the dais.

The motion to postpone this item to March 12, 2009 was approved on Council Member Leffingwell's motion, Council Member Morrison's second on a 6-0 vote. Mayor Wynn was off the dais.

Mayor Pro Tem McCracken recessed the Council Meeting at 5:40 p.m.

#### LIVE MUSIC

Randy Weeks

#### PROCLAMATIONS

Mayor Pro Tem McCracken called the Council Meeting back to order at 6:15 p.m.

#### ZONING DISCUSSION ITEMS CONTINUED

43. C14-2008-0214 - Tex-Tar Waterproofing - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 11600 N. IH-35 SVRD Southbound (Walnut Creek Watershed) from neighborhood commercial (LR) district zoning to general commercial services-conditional overlay (CS-CO) combining district zoning. Staff Recommendation: To deny general commercial services-conditional overlay (CS-CO) combining district zoning. Zoning and Platting Commission Recommendation: To deny limited industrial service-conditional overlay (LI-CO) combining district zoning. Applicant: Richard Johnson. Agent: Jackson Walker L.L.P. (Katherine Loayza). City Staff: Joi Harden, 974-2122.

The public hearing was closed and the first reading Ordinance No. 20090226-043 for general commercial services-conditional overlay (CS-CO) combining district zoning was approved on Council Member Cole's motion, Mayor Pro Tem McCracken's second on a 5-0 vote. Mayor Wynn and Council Member Martinez' were off the dais. Construction sales and service is the only CS use allowed but all LR uses are allowed.

**PUBLIC HEARINGS AND POSSIBLE ACTION**

51. Conduct a public hearing and consider an ordinance amending the Land Development Code, Chapter 25-10, to allow sidewalk signs in commercial areas of the City. To be reviewed by the Planning Commission on February 24, 2009.  
**This item was postponed to March 12, 2009 on Council Member Morrison's motion, Council Member Cole's second on a 4-0 vote. Mayor Wynn and Council Members Leffingwell and Martinez were off the dais.**
47. Conduct a public hearing for the full purpose annexation of Barclay Drive ROW Annexation Area (Approximately 0.10 acre in Travis County at the northernmost extent of Barclay Drive which is approximately 400 feet north of the intersection of Barclay Drive and Wild Briar Pass).  
**The public hearing was closed on Council Member Morrison's motion, Council Member Cole's second on a 4-0 vote. Mayor Wynn and Council Members Leffingwell and Martinez were off the dais.**
48. Conduct a public hearing for the full purpose annexation of the International Residence Apartments Annexation Area (Approximately 4 acres in southern Williamson County at the northeast corner of the intersection of Copper Creek Drive and Pond Woods Road).  
**The public hearing was closed on Council Member Cole's motion, Council Member Morrison's second on a 4-0 vote. Mayor Wynn and Council Members Leffingwell and Martinez were off the dais.**
49. Conduct a public hearing for the full purpose annexation of the South IH 35 Annexation Area (Approximately 58 acres in southern Travis County east of IH 35 approximately one half mile south of the intersection of IH 35 and Onion Creek Parkway)  
**The public hearing was closed on Council Member Cole's motion, Council Member Morrison's second on a 4-0 vote. Mayor Wynn and Council Members Leffingwell and Martinez were off the dais.**
50. Conduct a public hearing and consider a resolution approving a request by MARTEX-BBQ LLC, the owner of property located at 9207 North Lamar Boulevard, for a waiver from the distance requirement of City Code Section 4-9-4(A) which requires a minimum of 300 feet between a business that sells alcoholic beverages and a public school.  
**The public hearing was closed and Resolution No. 20090226-050 was approved on Council Member Martinez' motion, Council Member Leffingwell's second on a 6-0 vote. Mayor Wynn was off the dais.**
44. C14-2008-0248 - North Loop Pub - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 100 East North Loop Blvd. (Waller Creek Watershed) from community commercial-conditional overlay neighborhood plan (GR-CO-NP) combining district zoning to commercial-liquor sales-neighborhood plan (CS-1-NP) combining district zoning. Staff Recommendation: To grant commercial-liquor sales-conditional overlay-neighborhood plan (CS-1-CO-NP) combining district zoning. Planning Commission Recommendation: To grant commercial-liquor sales-conditional overlay-neighborhood plan (CS-1-CO-NP) combining district zoning. Applicant: Terrell Timmerman. Agent: Vincent Gerard & Associates (Vince Huebinger). City Staff: Clark Patterson, 974-7691.  
**The motion to deny the rezoning was made by Council Member Morrison's motion and seconded by Council Member Shade.**

The first reading of the ordinance for commercial-liquor sales-conditional overlay-neighborhood plan (CS-1-CO-NP) combining district zoning was approved on Council Member Martinez' motion, Mayor Pro Tem McCracken's second on a 4-2 vote. Those voting aye were: Mayor Pro Tem McCracken, Council Members Cole, Leffingwell, and Martinez. Those voting nay were: Council Members Morrison and Shade. Mayor Wynn was off the dais. Direction was given to staff to clarify the CS-1 uses that are permitted and provide the definition for CS-1 bar uses, develop a restrictive covenant that reflects the vision of the neighborhood for what a pub means, and to have guidance from members of the neighborhood planning team as to what the intent of the neighborhood plan was.

Mayor Pro Tem McCracken adjourned the meeting at 7:37 p.m. without objection.

The minutes for the Regular meeting of February 26, 2009 were approved on this the 5th day of March 2009 on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.