

**AUSTIN CITY COUNCIL
MINUTES****REGULAR MEETING
THURSDAY, MARCH 5, 2009**

Invocation: Rabbi Neil Blumofe, Congregation Agudas Achim

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, March 5, 2009 in the Council Chambers of City Hall, 301 West Second Street, Austin, Texas.

Mayor Wynn called the Council Meeting to order at 10:20 a.m.

Announcement of future agenda items from Council:

Council Members Martinez and Morrison indicated on March 12, 2009 they would bring recommendations from the Live Music 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 February 26, 2009 Regular meeting.
The minutes from the meeting of February 26, 2009 were approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.
2. Approve the issuance of a Letter of Intent for a rebate to the Austin Travis County Mental Health and Retardation (ATCMHMR) Center for the installation of a solar photovoltaic system at the new facility located at 6222 N. Lamar, Austin, Texas, in an amount not to exceed \$100,000. Funding is available in the Fiscal Year 2008-2009 Operating Budget of Austin Energy Conservation Rebates and Incentives Fund. Recommended by the Resource Management Commission.
The motion authorizing the issuance of a letter of intent was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.
3. Approve an ordinance amending City Code Chapter 15-9 as it relates to utility service contracts and the adjustment of utility bills. Recommended by the Electric Utility Commission.
Ordinance No. 20090305-003 was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

Item 4 was pulled for discussion.

5. Authorize negotiation and execution of a professional services agreement with H.R. GRAY, Austin, TX to provide professional value engineering services for the Waller Creek Tunnel Project, in an amount not

to exceed \$300,000. Funding is available in the Fiscal Year 2008-2009 Capital Budget of the Watershed Protection and Development Review Department. Best qualification statement of two (2) 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.

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

6. Authorize negotiation and execution of a Construction Manager at Risk (CM@R) contract with DPR CONSTRUCTION, INC., Austin, TX for pre-construction phase services for the Austin Energy New System Control Center-Reissue project, in an amount not to exceed \$145,000. Funding is available in the Fiscal Year 2008-2009 Capital Budget of Austin Energy. Best qualification statement of nine (9) 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). No subcontracting opportunities were identified; therefore, no goals were established for this solicitation. Recommended by the Electric Utility Commission.

The motion authorizing the negotiation and execution of a Construction Manager at Risk (CM@R) contract with DPR Construction, Inc. was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

7. Approve an ordinance accepting \$14,420 in grant funds from the U.S. Department of Health and Human Services, Health Resources and Services Administration; and amending the Fiscal Year 2008-2009 Health and Human Services Department Operating Budget Special Revenue Fund Ordinance No. 20080908-002 to appropriate \$14,420 for the Ryan White Part A Minority AIDS Initiative grant program. Funding in the amount of \$14,420 is available from the Department of Health and Human Services Health Resources and Services Administration. The grant period is from August 1, 2008 to July 31, 2009. No City match is required.

Ordinance No. 20090305-007 was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

8. Authorize negotiation and execution of four 12-month contracts, to be effective March 1, 2009, with one 12-month renewal option for the delivery of human immunodeficiency virus/acquired immune deficiency syndrome related services with the following providers: AIDS Services of Austin, Inc. in an amount not to exceed \$233,605 with a 12-month renewal option in an amount not to exceed \$233,605 for a total contract amount not to exceed \$467,210; Austin Travis County MHMR in an amount not to exceed \$53,673 with a 12-month renewal option in an amount not to exceed \$53,673 for a total contract amount not to exceed \$107,346; The Wright House Wellness Center, Inc. in an amount not to exceed \$122,762 with a 12-month renewal option in an amount not to exceed \$122,762 for a total contract amount not to exceed \$245,524; and Project Transitions, Inc. in an amount not to exceed \$87,849 with a 12-month renewal option in an amount not to exceed \$87,849 for a total contract amount not to exceed \$175,698. Funding in the amount of \$290,435 is available in the Fiscal Year 2008-2009 Approved Operating Budget of the Health and Human Services Department (HHSD). The contract period is March 1, 2009 to February 28, 2010. Funding for the five (5) months of the contract period October 1, 2009 through February 28, 2010, or for any extension options is contingent on available funding in future budgets.

The motion authorizing the negotiation and execution of four contracts with the following providers: AIDS Services of Austin, Inc.; Austin Travis County MHMR; The Wright House Wellness Center, Inc.; and Project Transitions, Inc. was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

9. Authorize negotiation and execution of a Records Interlocal Agreement between the City and Travis County Healthcare District (District) relating to the retention and storage of access to and disposal of City Community Care Services Department (CCSD) records and Human Resources Department personnel records of CCSD employees who will become employees of the District on March 1, 2009, for an initial term of one year beginning on March 1, 2009, with 14 automatic one-year renewal terms.
The motion authorizing the negotiation and execution of a records interlocal agreement between the City and Travis County Healthcare District (District) was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

Item 10 was pulled for discussion.

11. Approve a resolution authorizing the application for \$19,674 in grant funds from the State of Texas, Governor's Office, Criminal Justice Division, Safe and Drug-Free Schools and Communities Act Grant Program for the operation of the APD Gang Prevention Project. Funding is available from the State of Texas, Governor's Office, Criminal Justice Division, Safe and Drug-Free Schools and Communities Act Grant Program for the grant period September 1, 2009 - August 31, 2010. This is the third year of a 5-year grant project. There is no required match.
Resolution No. 20090305-011 was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.
12. Approve a resolution authorizing the application for grant funding from the State of Texas, Governor's Office, Criminal Justice Division, Violence Against Women Act grant program in the amount of \$124,071 for three (3) existing full-time equivalent (FTE) Victim Services Counselors for the Austin Police Services for Victims of Domestic Violence Project. Funding is available from the State of Texas, Governor's Office, Criminal Justice Division, Violence Against Women Act grant program for the period September 1, 2009 to August 31, 2010. The required cash match of \$66,808 is included in the Approved Budget and will be met by accounting for a portion of the salary of an existing APD Victim Services Supervisor.
Resolution No. 20090305-012 was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.
13. Approve a resolution adopting the 2008 Sidewalk Master Plan (Pedestrian Master Plan Phase II) for the City of Austin to prioritize the need for absent sidewalks, update the City's Americans with Disabilities Transition Plan, and recommend a funding schedule for sidewalk improvements. Recommended by the Mayor's Committee for People with Disabilities, the Planning Commission and the Urban Transportation Commission. Related to Item #14.
Resolution No. 20090305-013 was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.
14. Authorize execution of a first amendment to an Interlocal Agreement between the City of Austin and the Capital Area Council of Governments relating to the Pedestrian Master Plan (Phase II) that will modify the scope of the agreement and add \$49,973.76 to the agreement for a total agreement amount not to exceed \$599,476.76. Funding in the amount of \$49,973.76 is available in the Fiscal Year 2008-2009 Capital Budget of the Public Works Department. Related to Item #13.
The motion authorizing the execution of a first amendment to an interlocal agreement between the City of Austin and the Capital Area Council of Governments was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.
15. Authorize award and execution of a 24-month requirements supply contract with DEALERS ELECTRICAL SUPPLY CO., Austin, TX, for ION(r) meters in an estimated amount not to exceed \$1,003,382, with three 12-month extension options in an estimated amount not to exceed \$501,691 per

extension option, for an estimated contract amount not to exceed \$2,508,455. Funding in the amount of \$234,122 is available in the Fiscal Year 2008-2009 Operating Budget of Austin Energy. Funding in the amount of \$602,029 is available in the Fiscal Year 2008-2009 Capital Budget of Austin Energy. Funding for the remaining 17 months of the original contract period and extension options is contingent upon available funding in future budgets. Lowest bid meeting specification of two bids 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. Recommended by the Electric Utility Commission.

The motion authorizing the award and execution of a requirements supply contract with Dealers Electrical Supply Co. was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

Item 16 was pulled for discussion.

17. Authorize award and execution of a 12-month requirements supply contract with GT DISTRIBUTORS, INC., Austin, TX for flame resistant work shirts in an estimated amount not to exceed \$172,963, with four 12-month extension options in an estimated amount not to exceed \$172,963 per extension option, for a total estimated contract amount not to exceed \$864,815. Funding in the amount of \$100,895 is available in the Fiscal Year 2008-2009 Operating Budget of Austin Energy. Funding for the remaining five months of the original contract period and extension options is contingent upon available funding in future budgets. Terry Nicholson, Senior Buyer/322-6586. 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.

The motion authorizing the award and execution of a requirements supply contract with GT Distributors, Inc. was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

18. Authorize award and execution of a 12-month requirements service contract with OSIsoft, Inc., Houston, TX for the maintenance and support of the Process Integration (PI) System for Austin Energy power plants in an estimated amount not to exceed \$59,875, with four 12-month extension options in an estimated amount not to exceed \$59,875 per extension option, for a total estimated contract amount not to exceed \$299,375. Funding in the amount of \$34,927 is available in the Fiscal Year 2008-2009 Operating Budget of Austin Energy. Funding for the remaining five months of the original contract period and extension options is contingent upon available funding in future budgets. Sole Source. 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. Recommended by the Electric Utility Commission.

The motion authorizing the award and execution of a requirements service contract with OSIsoft, Inc. was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

19. Authorize award and execution of a contract with TECHLINE INC., Austin, TX for the purchase of fiberglass utility poles in an amount not to exceed \$90,716. Funding is available in the Fiscal Year 2008-2009 Capital Budget of Austin Energy. Lowest bid meeting specification of two bids 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. Recommended by the Electric Utility Commission.

The motion authorizing the award and execution of a contract with Techline Inc. was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

20. Authorize award and execution of a 12-month requirements service contract with TEXAS DISPOSAL SYSTEMS, INC, Austin, TX for the management and disposal of industrial Class 2 non-hazardous waste for Austin Energy in an estimated amount not to exceed \$305,458, with three 12-month extension options in an estimated amount not to exceed \$305,458 per extension option, for a total estimated contract not to exceed \$1,221,832. Funding in the amount of \$178,184 is available in the Fiscal Year 2008-2009 Operating Budget of Austin Energy. Funding for the remaining five months of the original contract period and extension options is contingent upon available funding in future budgets. Lowest bid of two bids received. 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 a requirements service contract with Texas Disposal Systems, Inc. was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.
21. Authorize award and execution of a 12-month supply requirements contract with POLYDYNE, INC., Riceboro, GA, for the purchase of liquid emulsion polymer for the Austin Water Utility in an estimated amount not to exceed \$858,808, with three 12-month extension options in estimated amounts not to exceed \$901,748 for the first extension option, \$946,836 for the second extension option, and \$994,183 the third extension option, for a total estimated contract amount not to exceed \$3,701,575. Funding in the amount of \$500,972 is available in the Fiscal Year 2008-2009 Operating Budget of the Austin Water Utility. Funding for the remaining five months of the original contract period and extension options is contingent upon available funding in future budgets. Lowest bid of four bids 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. Recommended by the Water and Wastewater Commission.
The motion authorizing the award and execution of a supply requirements contract with Polydyne, Inc. was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.
22. Authorize award and execution of a 36-month requirements supply contract with AIRGAS SOUTHWEST, Austin, TX, for the purchase of medical grade oxygen for the Emergency Medical Services Department and the Austin Fire Department in an estimated amount not to exceed \$456,513, with three 12-month extension options in an estimated amount not to exceed \$152,171 per extension option, for a total estimated contract amount not to exceed \$913,026. Funding in the amount of \$8,636 is available in the Fiscal Year 2008-2009 Operating Budget of the Austin Fire Department. Funding in the amount of \$80,130 is available in the Fiscal Year 2008-2009 Operating Budget of the Emergency Medical Services Department. Funding for the remaining 29 months of the original contract period and extension options is contingent upon available funding in future budgets. Sole bid 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.
The motion authorizing the award and execution of a requirements supply contract with Airgas Southwest was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.
23. Authorize execution of nine-month requirements supply contract through the TEXAS MULTIPLE AWARD SCHEDULE (TXMAS) with GRAINGER, INC., Austin, TX, to purchase industrial supplies and equipment in an estimated amount not to exceed \$1,687,500, with one 12-month extension option in an estimated amount not exceed \$2,250,000, for a total estimated contract amount not to exceed \$3,937,500. Funding in the amount of \$1,312,500 is available in the 2008-2009 Operating Budget of

various City departments. Funding for the remaining extension options is contingent upon available funding in future budgets. This contract will be awarded in compliance with Chapter 2-9D of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program). This contract is a Cooperative Purchase; therefore, it is exempted under Chapter 791 of the Texas Local Government Code and no goals were established for this solicitation.

The motion authorizing the execution of a requirements supply contract through the Texas Multiple Award Schedule (TXMAS) with Grainger, Inc. was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

24. Authorize award and execution of a 36-month requirements supply contract with PHILIPS ELECTRONICS NORTH AMERICA CORPORATION, Seattle, WA for the purchase of automated external defibrillators and supplies for the Austin Fire Department and the City of Austin/Travis County Emergency Medical Services Department in an estimated amount not to exceed \$813,000, with three 12-month extension options in estimated amounts not to exceed \$321,000 for the first extension option, \$346,000 for the second extension option, and \$371,000 for the third extension option, for a total estimated contract amount not to exceed \$1,851,000. Funding in the amount of \$56,666 is available in the Fiscal Year 2008-2009 Operating Budget of the Austin Fire Department. Funding in the amount of \$57,333 is available in the Fiscal Year 2008-2009 Operating Budget of the Emergency Medical Services Department. Funding in the amount of \$50,000 is available in the Fiscal Year 2008-2009 Operating Budgets of various City departments. Funding for the remaining 28 months of the original contract period and extension options is contingent upon available funding in future budgets. Single Source. 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 a requirements supply contract with Philips Electronics North America Corporation was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

25. Authorize award and execution of a 36-month requirements service contract with SUPERIOR SEPTIC/CLEAN CAN, Round Rock, TX for the rental and maintenance of portable toilets in an estimated amount not to exceed \$253,569, with three 12-month extension options in an estimated amount not to exceed \$84,523 per extension option, for a total estimated contract amount not to exceed \$507,138. Funding in the amount of \$56,349 is available in the Fiscal Year 2008-2009 Operating Budget of the Parks and Recreation Department. Funding for the remaining 28 months of the original contract period and extension options is contingent upon available funding in future budgets. Lowest bid of five bids 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.

The motion authorizing the award and execution of a requirements service contract with Superior Septic/Clean Can was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

26. Authorize award and execution of an Interlocal Agreement with the CITY OF SEATTLE, WASHINGTON, for a bi-lateral agreement to allow each municipality to utilize each others' contracts for goods and services. Procurements under this Interlocal Agreement will not be made unless funds are available in appropriate departmental budgets. This contract will be awarded in compliance with Chapter 2-9D of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program). This contract is a Cooperative Purchase; therefore, it is exempted under Chapter 791 of the Texas Local Government Code and no goals were established for this solicitation. Related to items # 27, 28 and 49.

The motion authorizing the award and execution of an interlocal agreement with the City of Seattle, Washington was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

27. Approve a resolution declaring the City of Austin's official intent to reimburse itself from Contractual Obligations in the amount of \$7,600,000 related to parking pay station \$7,600,000 in Contractual Obligations to be issued in August 2009 or later. Related to items # 26, 28 and 49
Resolution No. 20090305-027 was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.
28. Authorize award, negotiation, and execution of a 36-month requirements supply contract with PARKEON, Moorestown, NJ, through an Interlocal Agreement with the City of Seattle, for a "pay and display" pay station parking management system in an estimated amount not to exceed \$8,399,743. Funding in the amount of \$46,525 is available in the Fiscal Year 2008-2009 Operating Budget of the Transportation Department. Funding in the amount of \$7,148,700 is available in the Fiscal Year 2008-2009 Capital Budget of the Transportation Department. Funding for the remaining 30 months of the original contract period is contingent upon available funding in future budgets. This contract will be awarded in compliance with Chapter 2-9D of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program). This contract is a Cooperative Purchase; therefore, it is exempted under Chapter 791 of the Texas Local Government Code and no goals were established for this solicitation. Related to items # 26, 27 and 49
The motion authorizing the award, negotiation and execution of a requirements supply contract with Parkeon through an interlocal agreement with the City of Seattle was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.
29. 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 Morrison's motion, Council Member Cole's second on a 7-0 vote.

Board

Nominated By:

Travis County Healthcare District Board of Managers

Rosie Mendoza

Council

30. Approve a resolution directing the City Manager to negotiate and execute a Managed Growth Agreement with Austin Presbyterian Theological Seminary for a period extending until November 18, 2017. (Mayor Pro Tem Brewster McCracken Council Member Sheryl Cole)
Resolution No. 20090305-030 was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.
31. Set a public hearing to consider the permanent use of approximately 6,824 SF (0.157 acre) and approximately 2,832 SF (0.065 acre) for a temporary staging area to allow for the construction of a new bridge over Bull Creek for the Lakewood Drive Low Water Crossing at Bull Creek Project through dedicated parkland known as the Bull Creek Park in accordance with Sec. 26.001 et seq. of the Texas Parks and Wildlife Code. (Suggested date and time: April 2, 2009 at 6:00 p.m., Austin City Hall, 301 West Second St., Austin, TX). All costs associated with construction, as well as any parkland restoration, will be paid by requester. Reviewed by the Parks and Recreation Board.
The public hearing was set for April 2, 2009 at 6:00 p.m., Austin City Hall at 301 West Second Street, Austin, TX on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

49. Approve an ordinance amending the Fiscal Year 2008-2009 Transportation Department Capital Budget of Ordinance No. 20080908-003 to increase appropriations by \$7,600,000 for the replacement of parking meters with pay stations for a total appropriation of \$7,600,000. Funding in the amount of \$7,600,000 is available in tax-supported General Obligation Contractual Obligations to be issued in August 2009 or later. Related to items # 26, 27 and 28
Ordinance No. 20090305-049 was approved on consent on Council Member Morrison's motion, Council Member Cole's second on a 7-0 vote.

Item 32 was an Executive Session item.

Items 33 and 34 were briefing items set for 2:00 p.m.

Items 35 through 42 were zoning items set for 4:00 p.m.

Items 43 through 48 were public hearing items set for 6:00 p.m.

DISCUSSION ITEMS

4. Approve Service Extension Request No. 2771 for wastewater service not to exceed an Estimated Peak Wet Weather Flow of 12 gallons per minute (gpm) for MARY LEIDEN, the owner of a proposed development of 14 Single Family Residences located within the Drinking Water Protection Zone in the City's Limited Purpose jurisdiction and within the Robert E. Lee Road Interceptor Study Area not designated for centralized service at 3301 STONERIDGE RD, AUSTIN, TX 78746. There is no unanticipated fiscal impact. Reviewed by the Water and Wastewater Commission. Not recommended by the Environmental Board.
The motion to deny service extension request number 2771 was approved on Council Member Leffingwell's motion, Council Member Morrison's second on a 7-0 vote.
10. Approve a resolution approving the alignment of the Boardwalk Trail at Lady Bird Lake as a preliminary concept for purposes of beginning the planning and design phase of the project. Recommended by the Parks and Recreation Board.
Resolution No. 20090305-010 was approved on Mayor Pro Tem McCracken's motion, Council Member Leffingwell's second on a 7-0 vote.
16. 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. Gemini has agreed to provisions of the Third Party MBE/WBE Subcontracting agreements. SMBR will work with Gemini on expenditures related to this project. Recommended by the Electric Utility Commission.
The motion authorizing the award, negotiation and execution of a contract with Gemini Solar Development Company, LLC was approved with additional direction on Council Member Leffingwell's motion, Council Member Martinez' second on a 7-0 vote. The direction is as follows:
1. The contract with Gemini will include a provision that any Investment Tax Credits or similar rebates or incentives recovered through the solar project be passed through to the City of Austin/Austin Energy and be used solely to buy down the cost of the project related Green Choice Batch and to reduce any related fuel cost charge passed on to the utility customer base.

2. Creation of a stakeholder process by a Council appointed Task Force composed of members from all sides of the issue to work together to formulate the renewable energy plan (including a focus on conservation, the current financial climate, updated demand forecasts, changing technology and state and federal stimulus programs) that allows for input prior to the project's selection by Austin Energy for bid or proposal. The Task Force should be diverse, representative of all sides, and not weighted in favor of any particular interest.
3. The project as proposed will be added into a Green Choice program for solar only.

CITIZEN COMMUNICATION: GENERAL

Stephen Truesdell – Firefighters

Rae Nadler-Olenick - Water fluoridation

Sylvia Mendoza - City issues

Melissa Perkins - Present video clip pertaining to BFI purpose land bill expansion

Paul Robbins - City issues His time was deferred to item No. 16.

Gus Pena - 1.To discuss city issues and the budget 2. Increase funding for social service agencies. The need increases for the poor, the needy and the have nots 3.Hopefully Austin will benefit from the stimulus package from Washington 4. Please don't layoff employees. The unemployment ranks are high enough without having to add to them 5. Please pray for and support our military veterans. Veterans need re entry programs, counseling, jobs, mental health and P.T.S.D. treatment, health care and affordable housing 6. Thank you for the community forums on the budget 7. Do not cut funding for youth and senior citizen programs

Robert MacDonald - "Violence of Homelessness"

Jill Chamberlain - Incorrect information from the parks department

Michael Lumbley - Regarding the proposed Webberville utility solar array. His time was transferred to Stephen Truesdell.

Mike Abkowitz - Including housing opportunities for the homeless in the City of Austin consolidated plan.

Girard Kinney - Cherrywood Green and ATT

Mayor Wynn recessed the Council Meeting to go into Executive Session at 1:06 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.

32. Discuss legal issues and possible settlement of an EPA claim related to the Malone Service Company Superfund Site, Texas City Texas, under the Comprehensive Environmental Response, Compensation, and Liability Act, commonly known as the federal "superfund" law. (Private Consultation with Attorney - Section 551.071).

Executive Session ended at 1:20 p.m.

Mayor Wynn recessed the Council Meeting at 1:23 p.m.

Mayor Wynn called the Council Meeting back to order at 3:38 p.m.

BRIEFINGS

33. Briefing on Neighborhood Housing & Community Development's Austin Housing Market Study
The presentation was made by Margaret Shaw, Director of Neighborhood Housing, and Heidi Aggeler, Managing Director of BBC Research & Consulting.
34. Austin City Council Agenda Process Briefing
The presentation was made by Anthony Snipes Chief of Staff; Greg Guernsey, Director of Neighborhood Planning and Zoning Department; and Jenny Gilchrist, Division Chief of the Law Department. Direction was given to staff to review the number of items from Council with other cities compared to size of staff to determine workload requirements.

ZONING CONSENT ITEMS

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

35. C14-2007-0144 - 800 West Avenue - Approve third reading of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 800 West Avenue (Shoal Creek Watershed) from general office (GO) district zoning and limited office (LO) district zoning to downtown mixed use-conditional overlay (DMU-CO) combining district zoning. First reading approved on November 29, 2007. Vote: 7-0. Second reading approved on August 18, 2008. Vote: 5-1 (Morrison voted Nay; Shade off the dais). Applicant: Joseph T. Wells. Agent: Armbrust and Brown (Lynn Ann Carley.) City Staff: Robert Heil, 974-2330. A valid petition has been filed in opposition to this rezoning request.
This item was withdrawn on consent on Council Member Cole's motion, Council Member Shade's second on a 7-0 vote.
36. C14-2008-0217 - Peaceful Hill Lane - Approve second/third readings of 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 warehouse/limited office-conditional overlay (W-LO-CO) combining district zoning with conditions. First reading approved on February 12, 2009. Vote: 7-0. 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.
Ordinance No. 20090305-036 for warehouse/limited office-conditional overlay (W-LO-CO) combining district zoning with conditions was approved on consent on Council Member Cole's motion, Council Member Shade's second on a 7-0 vote.
37. C14-2008-0221 - Conn Tract - Approve second reading of 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. First reading approved on February 26,

2009. Vote: 6-0. (Mayor Wynn off the dais). 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 second reading of the ordinance for general commercial services-mixed use-conditional overlay (CS-MU-CO) combining district zoning was approved on consent on Council Member Cole's motion, Council Member Shade'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.

41. NPA-2008-0019.01 - 3301 Kings Lane - Conduct a public hearing and approve an ordinance amending Ordinance No. 040826-57, the Central Austin Combined Neighborhood Plan, an element of the Austin Tomorrow Comprehensive Plan, to change the land use designation on the future land use map (FLUM) from single family to neighborhood mixed use for the property located at 3301 Kings Lane (Waller Creek Watershed). Staff Recommendation: To approve neighborhood mixed use land use designation. Planning Commission Recommendation: To deny neighborhood mixed use designation. Applicant: David Heaps. Agent: Phil Moncada. City Staff: Victoria Craig, 974-2857.
This item was postponed to March 12, 2009 at the neighborhood's and applicant's request on Council Member Leffingwell's motion, Council Member Cole's second on a 7-0 vote.
42. C14-2008-0223 - David Heaps - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 3301 Kings Lane (Waller Creek Watershed) from limited office-neighborhood plan (LO-NP) combining district zoning to limited office-mixed use-neighborhood plan (LO-MU-NP) combining district zoning. Staff Recommendation: To grant limited office-mixed use-neighborhood plan (LO-MU-NP) combining district zoning. Planning Commission Recommendation: To grant single-family residence-small lot-neighborhood plan (SF-4A-NP) combining district zoning. Applicant: David Heaps & Associates (David Heaps). Agent: A.E.C. Inc. (Phil Moncada). City Staff: Clark Patterson, 974-7691. A valid petition has been filed in opposition to this rezoning request.
This item was postponed to March 12, 2009 at the neighborhood's and applicant's request on Council Member Leffingwell's motion, Council Member Cole's second on a 7-0 vote.

ZONING DISCUSSION ITEMS

38. C14-2007-0262 - Central Austin Combined Neighborhood Planning Area Vertical Mixed Use Building (V) Zoning Opt-in/Opt-Out Process - Approve second/third readings of 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 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 properties within the Central Austin Combined Neighborhood Planning Area from the overlay district. First reading for Tract 10 was approved on February 26, 2009. Vote: 6-0(Mayor Wynn off the dais). Applicant and Agent: Neighborhood Planning and Zoning Department. City Staff: Minal Bhakta, 974-6453.

The second reading of the ordinance with the following conditions was approved on Mayor Pro Tem McCracken's motion, Council Member Cole's second on a 7-0 vote. Tracts 2-6, 10B, 11-12, 14-52, 57-64, and 66-67 were excluded from the VMU Overlay District. Tracts 1, 7-9, 10A, 13 and 65 were approved for vertical mixed use building (V) zoning with only dimensional standards and additional uses in office districts with Council directed conditions. 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. An affordability level of 60% of the median family income for 10% of rental units in a vertical mixed use building was included. Council adopted staff's recommendation about how to achieve the intent of the motion to include the 35' setback for the 1A and 2A building sites and to protect trees within 15' of the curb line for the rest of the perimeter. Direction was given to staff to look at the language for street setback to see if minor modifications could bring the parties closer together on the trees.

Mayor Wynn recessed the Council Meeting at 5:25 p.m.

LIVE MUSIC

Rattletree Marimba

PROCLAMATIONS

Mayor Wynn called the Council Meeting back to order at 6:15 p.m.

PUBLIC HEARINGS AND POSSIBLE ACTION

48. Conduct a public hearing and consider an appeal by Helen and Charles Heard, Niyanta and Bill Spelman, and John Mayfield of an administrative site plan (SP-2007-0321C) for a proposed religious assembly/education building for the Hyde Park Baptist Church located at 3901 Speedway. This item was postponed to April 23, 2009 on Mayor Pro Tem McCracken's motion, Council Member Leffingwell's second on a 4-0 vote. Council Members Cole, Morrison and Shade were off the dais.

ZONING DISCUSSION ITEMS CONTINUED

39. NPA-2008-0021.01 - 1406 Parker - Conduct a public hearing and approve an ordinance amending Ordinance No. 20061116-055, the East Riverside-Oltorf Combined Neighborhood Planning Area, an element of the Austin Tomorrow Comprehensive Plan, to change the land use designation on the Future Land Use Map (FLUM) from single-family use to multi-family use for the property located at 1406, 1408, 1504 and 1506 Parker (Town Lake Watershed). Staff Recommendation: To approve higher-density-single family use designation. Planning Commission Recommendation: To approve higher-density-single family use designation. Applicant and Agent: Ryan Diepenbrock. City Staff: Jacob Browning, 974-7657. The public hearing was closed and the first reading of the ordinance to change the land use designation on the Future Land Use Map to higher-density-single family use designation was approved on Council Member Cole's motion, Mayor Pro Tem McCracken's second on a 5-2 vote. Those voting aye were: Mayor Wynn, Mayor Pro Tem McCracken and Council Members Cole, Martinez and Shade. Those voting nay were: Council Members Leffingwell and Morrison.
40. C14-2008-0162 - 1406 Parker - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1406, 1408, 1504 and 1506 Parker

Lane (Town Lake Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to multi-family residence-medium density-neighborhood plan (MF-3-NP) combining district zoning. Staff Recommendation: To grant townhouse and condominium residence-conditional overlay-neighborhood plan (SF-6-CO-NP) combining district zoning. Planning Commission Recommendation: To grant townhouse and condominium residence-conditional overlay-neighborhood plan (SF-6-CO-NP) combining district zoning. Applicant and Agent: Ryan Diepenbrock. City Staff: Joi Harden, 974-2122. A valid petition has been filed in opposition to this rezoning request.

The public hearing was closed and the first reading of the ordinance for townhouse and condominium residence-conditional overlay-neighborhood plan (SF-6-CO-NP) combining district zoning was approved with the following limitations and with conditions on Council Member Cole's motion, Mayor Pro Tem McCracken's second on a 5-2 vote. Those voting aye were: Mayor Wynn, Mayor Pro Tem McCracken and Council Members Cole, Martinez and Shade. Those voting nay were: Council Members Leffingwell and Morrison. The limitations were as follows: 25' setback at the rear of all the lots with a vegetative buffer and a 2 story height limit or 35 feet. Direction was given to staff to conduct more analysis of the impact of this zoning category and the conditions on the actual site and advise Council.

PUBLIC HEARINGS AND POSSIBLE ACTION CONTINUED

43. 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 Mayor Pro Tem McCracken's motion, Council Member Shade's second on a 6-0 vote. Council Member Cole was off the dais.
44. 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 Mayor Pro Tem McCracken's motion, Council Member Shade's second on a 6-0 vote. Council Member Cole was off the dais.
45. 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 Mayor Pro Tem McCracken's motion, Council Member Morrison's second on a 7-0 vote.
47. Conduct a public hearing and 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 (NEC) and local amendments to the Electrical Code. On January 14, 2009, the Electric Board recommended Council adopt the 2008 National Electrical Code and local amendments.
The public hearing was closed and Ordinance No. 20090305-047 was approved on Mayor Pro Tem McCracken's motion, Council Member Morrison's second on a 7-0 vote.
46. Conduct 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.
The public hearing was closed on Council Member Martinez' motion, Council Member Shade's second on a 7-0 vote.

Mayor Wynn adjourned the meeting at 8:29 p.m. without objection.

The minutes for the Regular meeting of March 5, 2009 were approved on this the 12th day of March 2009 on Council Member Morrison's motion, Council Member Martinez' second on a 7-0 vote.