

**AUSTIN CITY COUNCIL
MINUTES****REGULAR MEETING
THURSDAY, OCTOBER 1, 2009**

Invocation: Pastor Patrick Wilson, Westoak Woods Baptist 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, October 1, 2009 in the Council Chambers of City Hall, 301 West Second Street, Austin, Texas.

Mayor Leffingwell called the Council Meeting to order at 10:06 a.m.

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 regular meeting of September 24, 2009.
This item was withdrawn on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

Items 2 through 4 were pulled for discussion.

5. Authorize negotiation and execution of a construction contract with FACILITIES REHABILITATION INC. (MBE/MH - 96.30%), Taylor, TX, for the Decker Creek Power Station drainage improvements in an amount not to exceed \$135,006. Funding is available in the Fiscal Year 2009-2010 Capital Budget of Austin Energy. Lowest of eight (8) bids received. This contract will be awarded in compliance with Chapter 2-9A of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 96.30% MBE prime participation and 3.70% WBE subcontractor participation. Recommended by the Electric Utility Commission.
The motion authorizing the negotiation and execution of a construction contract with Facilities Rehabilitation Inc. was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
6. Authorize execution of a construction contract with SUPERIOR CONCRETE FENCE OF TEXAS, INC., Euless, TX, for Koenig Lane Substation Wall in the amount of \$81,424.25 plus a \$4,071.21 contingency, for a total contract amount not to exceed \$85,495.46. Funding is available in the Fiscal Year 2009-2010 Capital Budget of the Austin Energy. Funding is divided between Transmission (85%, \$72,671.46) and Distribution Substation (15%, \$12,824.00). Lowest bid of five (5) bids received. This contract will be awarded in compliance with Chapter 2-9A of the City Code (Minority-Owned and Women-Owned Business Enterprise Procurement Program) through the achievements of Good Faith Efforts with 14.00% MBE and 0.00% WBE subcontractor participation. Reviewed by the Electric Utility Commission.

The motion authorizing the execution of a construction contract with Superior Concrete Fence of Texas, Inc. was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

7. Authorize execution of a construction contract with SMITH CONTRACTING COMPANY, INC, Austin, TX, for the Blunn Creek - Warehouse Row Water Quality Ponds 1 & 2 in the amount of \$425,256 plus a \$42,525.60 contingency, for a total contract amount not to exceed \$467,781.60. Funding is available in the Fiscal Year 2009-2010 Capital Budget of the Watershed Protection Department. Lowest bid of ten (10) bids received. This contract will be awarded in compliance with Chapter 2-9A of the City Code (Minority Owned and Women Owned Business Enterprise Procurement Program) by meeting the goals with 10.24% MBE and 3.16% WBE subcontractor participation.

The motion authorizing the execution of a construction contract with Smith Contracting Company, Inc. was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

8. Authorize execution of a construction contract with CHASCO CONSTRUCTORS, LTD., LLP, Round Rock, TX, for the Lakewood Drive at Bull Creek Low Water Crossing Improvements in the amount of \$716,331.17 plus a \$35,816.56 contingency, for a total contract amount not to exceed \$752,147.73. Funding is available in the Fiscal Year 2009-2010 Capital Budget of the Watershed Protection Department. Lowest bid of eight (8) bids received. This contract will be awarded in compliance with Chapter 2-9A of the City Code (Minority Owned and Women-Owned Business Enterprise Procurement Program) through the achievements of Good Faith Efforts with 11.45% MBE and 7.93% WBE subcontractor participation. Recommended by the Parks and Recreation Board.

The motion authorizing the execution of a construction contract with Chasco Constructors, LTD., LLP was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

9. Authorize negotiation and execution of a 10-month lease renewal for 5,360 square feet of space for the Twin Oaks Branch Library, located at 2301 S. Congress Ave., Suite 7, from TWIN OAKS ASSOCIATES, LTD., Austin, TX, in an amount not to exceed \$54,940. Funding is available in the Fiscal Year 2009-2010 Operating Budget of the Library Department.

The motion authorizing the negotiation and execution of a lease renewal with Twin Oaks Associates, LTD. was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

10. Authorize negotiation and execution of a professional services agreement with the following five firms: HALFF ASSOCIATES, INC., Austin, TX; SURVEYING AND MAPPING (SAM) INC., Austin, TX; COBB, FENDLEY & ASSOCIATES, INC., Austin, TX; THE WALLACE GROUP, INC., Austin, TX; and TBE GROUP, INC./CARDNO TBE, Austin, TX, for the Subsurface Utility Engineering Services (SUE) Rotation List for various Capital Improvement Projects for an estimated period of two years or until financial authorization is expended, each agreement in an amount not to exceed \$400,000 per firm with the total amount for the five agreements not to exceed \$2,000,000. Funding is available in the Fiscal Year 2009-2010 Capital and/or Operating Budgets of the various departments for which services are needed. Best qualification statements of twelve (12) 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 9.54% MBE and 5.80% WBE subcontractor participation.

The motion authorizing the negotiation and execution of a professional services agreement with the following five firms: Halff Associates, Inc., Surveying and Mapping (Sam) Inc., Cobb, Fendley & Associates, Inc., The Wallace Group, Inc., and TBE Group, Inc./Cardno TBE was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

Item 11 was pulled for discussion.

12. Authorize the execution of Amendment No. 1 to the Memorandum of Cooperation between the City and AUSTIN INDEPENDENT SCHOOL DISTRICT, Austin, TX, to waive the temporary food event permit fee for any and all school-related non-profit entity events on an AISD school campus.
The motion authorizing the execution of amendment number one to the Memorandum of Cooperation between the City and Austin Independent School District was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
13. Approve negotiation and execution of an Interlocal Agreement with THE UNIVERSITY OF TEXAS AT AUSTIN for a Ryan White Act comprehensive HIV needs assessment for a 10-month period beginning October 1, 2009 in an amount not to exceed \$65,000. Funding in the amount of \$51,000 is available in the Fiscal Year 2008-2009 Operating Budget of the Health and Human Services Department Special Revenue Fund, Ryan White Part A HIV Emergency Relief Project grant program. Funding for the remaining balance is contingent upon future grant funds availability. The agreement period is October 1, 2009 to July 31, 2010. The grant period is March 1, 2009 to February 28, 2010.
The motion authorizing the negotiation and execution of an interlocal agreement with the University of Texas at Austin was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
14. Approve a resolution amending Chapters A and B of the City's Personnel Policies to include gender identity as it relates to conditions of work/discrimination, reporting violations and discrimination grievances.
Resolution No. 20091001-014 was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

Items 15 through 17 were pulled for discussion.

18. Authorize payment of membership fees to the Austin-San Antonio Corridor Council in an amount not to exceed \$50,000. Funding is available in the Fiscal Year 2009-2010 Operating Budget of the Planning and Development Review Department.
The motion authorizing the payment of membership fees to the Austin-San Antonio Corridor Council was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
19. Authorize payment of the City's annual membership dues in the Austin-San Antonio Intermunicipal Commuter Rail District, in an amount not to exceed \$49,500. Funding is available in the Fiscal Year 2009-2010 Operating Budget of the Planning and Development Review Department.
The motion authorizing payment of the City's annual membership dues in the Austin-San Antonio Intermunicipal Commuter Rail District was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

Item 20 was pulled for discussion.

21. Authorize award, negotiation, and execution of Amendment No. 9 to increase the contract with ABB, INC., Sugar Land, TX for a Supervisory Control and Data Acquisition/Energy Management System (SCADA/EMS) upgrade in an estimated amount not to exceed \$1,803,600, for a revised total estimated contract amount not to exceed \$18,062,335. Funding is available in the Fiscal Year 2009-2010 Capital Budget of Austin Energy. Contract Amendment. 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, negotiation and execution of amendment number nine to increase the contract with ABB, Inc. was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

Items 22 and 23 were pulled for discussion.

24. Authorize award and execution of Amendment No. 2 to a contract with GENERAL ELECTRIC INTERNATIONAL, Atlanta, GA, to increase the contract amount for the maintenance of Sand Hill Energy Center's gas and steam turbines in an amount not to exceed \$6,500,000, for a revised total estimated contract amount not to exceed \$37,107,414. Funding is available in the Fiscal Year 2009-2010 Operating Budget of Austin Energy. Contract Amendment. 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 amendment number two to a contract with General Electric International was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

25. Authorize award and execution of a contract with PDMA CORPORATION, Tampa, FL, for the purchase of an AC motor test system for Austin Energy facilities in an amount not to exceed \$76,645. Funding in the amount of \$64,120 is available in the Fiscal Year 2009-2010 Capital Budget of Austin Energy. Funding in the amount of \$12,525 is available in the Fiscal Year 2009-2010 Operating Budget of Austin Energy. Sole Source. 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 PDMA Corporation was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

26. Authorize award and execution of a 24-month revenue contract with UTILITY RECYCLING SERVICES, INC., Wills Point, TX, for the sale and disposal of obsolete transformers for Austin Energy in an amount not to exceed \$356,182 with three 12-month extension options in an amount not to exceed \$178,091 per extension option, for a total contract amount not to exceed \$890,455. The total revenue for Fiscal Year 2009-2010 is estimated to be \$178,091. Highest bid of six 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. Recommended by the Electric Utility Commission.

The motion authorizing the award and execution of a revenue contract with Utility Recycling Services, Inc. was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

27. Authorize award and execution of a 24-month requirements supply contract with MORNING PRIDE MFG, dba HONEYWELL FIRST RESPONDER PRODUCTS, Dayton, OH to provide firefighting bunker gear for the Austin Fire Department in an estimated amount not to exceed \$863,298 with four 12-month extension options in an estimated amount not to exceed \$431,649 per extension option, for a total estimated contract amount not to exceed \$2,589,894. Funding in the amount of \$431,649 is available in the Fiscal Year 2009-2010 Operating Budget of the Austin Fire Department. Funding for the remaining twelve months of the original contract period and extension options is contingent upon available funding

in future budgets. Lowest bid meeting specification of three 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 supply contract with Morning Pride MFG, doing business as Honeywell First Responder Products was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

28. Authorize award and execution of four 24-month requirements supply contracts for the supply of water pipe repair components with FERGUSON WATERWORKS, Georgetown, TX, in an estimated amount not to exceed \$170,368, with two 12-month extension options in an estimated amount not to exceed \$85,184 per extension option, for a total estimated contract amount not to exceed \$340,736; with MUNICIPAL WATER WORKS, Royse City, TX, in an estimated amount not to exceed \$44,734, with two 12-month extension options in an estimated amount not to exceed \$22,367 per extension option, for a total estimated contract amount not to exceed \$89,468; with HD SUPPLY WATERWORKS, Round Rock, TX, in an estimated amount not to exceed \$17,310, with two 12-month extension options in an estimated amount not to exceed \$8,655 per extension option, for a total estimated contract amount not to exceed \$34,620; and with ACT PIPE & SUPPLY, Pflugerville, TX, in an estimated amount not to exceed \$10,657, with two 12-month extension options in an estimated amount not to exceed \$5,328 per extension option, for a total estimated contract amount not to exceed \$21,313. Funding in the amount of \$121,534 is available in the Fiscal Year 2009-2010 Operating Budget of the Austin Water Utility. Funding for the remaining 12 months of the original contract period and extension options is contingent on available funding in future budgets. Lowest bids 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. Recommended by the Water and Wastewater Commission.

The motion authorizing the award and execution of four requirements supply contracts with Ferguson Waterworks, Municipal Water Works, HD Supply Waterworks, and ACT Pipe & Supply was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

29. Authorize award and execution of a 12-month requirements supply contract through the STATE OF TEXAS DEPARTMENT OF INFORMATION RESOURCES (DIR), Austin, TX, in an estimated amount not to exceed \$12,424,816 for the purchase of computer, telephone, and network hardware and \$3,007,040 for computer hardware, telephone, and network maintenance services for a total estimated contract amount not to exceed \$15,431,856. Funding in the amount of \$6,167,941 is available in the Fiscal Year 2009-2010 Operating Budgets of various departments. Funding in the amount of \$5,120,848 is available in the Fiscal Year 2009-2010 Capital Budgets of various departments. Funding in the amount of \$3,967,000 is available from Grants Budgets of various departments. Funding in the amount of \$176,067 is available in the Municipal Court Technology Fund. 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. However, SMBR will assist in the identification of subcontracting opportunities on a case by case basis.

The motion authorizing the award and execution of a requirements supply contract through the State of Texas Department of Information Resources (DIR) was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

30. Authorize award and execution of a 36-month requirements service/supply contract with BALAR EQUIPMENT CO., Houston, TX to provide repair services and captive repair parts for Vac-Con sewer

cleaners in an estimated amount not to exceed \$509,600, with three 12-month extension options in estimated amounts not to exceed \$241,920 for the first extension option, \$290,304 for the second extension option, and \$348,364 for the third extension option, for a total estimated contract amount not to exceed \$1,390,188. Funding in the amount of \$140,000 is available in the Fiscal Year 2009-2010 Operating Budget of the Financial and Administrative Services Department, Fleet Fund. Funding for the remaining 24 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 service/supply contract with Balar Equipment Co. was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

31. Adopt a resolution approving issuance by River Place Municipal Utility District of Unlimited Tax Refunding Bonds, Series 2009, in a principal amount not to exceed \$7,025,000; and approving the District's Bond Ordinance and Preliminary Official Statement in substantially the form provided by the District. The City is not responsible for payment of District bond debt service until annexation and dissolution of the District. If annexation occurs, the avoided debt service associated with the refunding would also benefit the City of Austin. There is no anticipated fiscal impact. A fiscal note is not required. **Resolution No. 20091001-031 was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.**

Item 32 was pulled for discussion.

33. Approve an ordinance amending Section 2-1-171 of the City Code (Public Safety Commission) to include additional organizations that may be represented on the Public Safety Commission. (Mayor Pro Tem Mike Martinez Mayor Lee Leffingwell)
Ordinance No. 20091001-033 was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

Item 34 was pulled for discussion.

35. Approve a resolution directing the City Manager to review the City's ability to provide free public wireless internet access at Austin-Bergstrom International Airport and report back to council within 120 days. (Mayor Pro Tem Mike Martinez Mayor Lee Leffingwell)
Resolution No. 20091001-035 was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
36. Approve a resolution directing the City Manager to develop a plan for a taxicab driver climate controlled facility at Austin-Bergstrom International Airport, and report back to Council within ninety days. (Mayor Pro Tem Mike Martinez Mayor Lee Leffingwell and Council Member Chris Riley)
Resolution No. 20091001-036 was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

Item 37 was pulled for discussion.

38. Approve a resolution directing the City Manager to ensure City use of treated and raw water is consistent with Chapter 6-4 Article 2 of the City Code (Water Use Management). (Council Member William Spelman Mayor Lee Leffingwell)
Resolution No. 20091001-038 was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

Action was taken on consent on item 39 but was reconsidered later in the meeting. See below.

40. Approve a resolution directing the City Manager to provide a quarterly update to the Council's Audit and Finance Committee on the financial status of Austin Energy, the Austin Water Utility, the General Fund, and other funds as requested by the Committee. (Council Member Sheryl Cole Council Member William Spelman Council Member Randi Shade)
Resolution No. 20091001-040 was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
41. Approve the waiver of certain rental fees for the Sunrise Service event sponsored by House the Homeless to be held on Sunday, November 22, 2009, at the Fanny Davis Gazebo on Auditorium Shores. (Mayor Pro Tem Mike Martinez Council Member Chris Riley Council Member Laura Morrison)
The motion approving the waiver of certain rental fees for the Sunrise Service event sponsored by Housing the Homeless was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
42. Approve waiver of certain fees and requirements under Chapter 14-8 of the City Code, and authorize reimbursement of certain costs for the City co-sponsored 2009 Fiesta de Independencia Celebration sponsored by Fiesta de Independencia Foundation that was held on September 14, 2009. (Mayor Pro Tem Mike Martinez Council Member Randi Shade)
The motion approving the waiver of certain fees and requirements and authorizing reimbursement of certain costs was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
43. Approve the waiver of certain rental fees for the Manos de Cristo event to be held on Sunday, October 25, 2009, at the Zilker Park Clubhouse. (Council Member Chris Riley Mayor Pro Tem Mike Martinez Council Member Sheryl Cole)
The motion approving the waiver of certain rental fees for the Manos de Cristo event was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
44. Approve the waiver of certain fees for the AIDS Walk Austin to be held on Sunday, October 18, 2009, beginning at Austin City Hall Plaza. (Council Member Laura Morrison Council Member Chris Riley Council Member Sheryl Cole)
The motion approving the waiver of certain fees for the AIDS Walk Austin was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
45. Approve the waiver of certain banner fees for the PeopleFund Conference on Economic Opportunity to be held on Saturday, October 25, 2009, at the Austin Community College's Eastview Campus. (Council Member Sheryl Cole Council Member Laura Morrison Council Member Randi Shade)
The motion approving the waiver of certain banner fees for the PeopleFund Conference on Economic Opportunity was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
46. Set a public hearing to consider an ordinance amending Chapter 25-2 of the City Code to change the interim zoning designations granted at annexation for standard and small single-family lots shown on an approved preliminary plan or final plat. (Suggested date and time: December 10, 2009, 6:00 p.m. at Austin City Hall, 301 W. Second Street, Austin, TX).

The public hearing was set for December 10, 2009 at 6:00 p.m., City Hall at 301 W. Second Street, Austin, TX on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

47. Set a Public Hearing to consider an ordinance amending Chapters 25-1 and 25-2 of the City Code to clarify that a Neighborhood Planning Contact Team may be an interested party for purposes of administrative appeals. (Suggested date and time: November 5, 2009 at 6:00 p.m., City Hall Council Chambers, 301 West Second Street, Austin, TX).

The public hearing was set for November 5, 2009 at 6:00 p.m., City Hall Council Chambers at 301 West Second Street, Austin TX on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

DISCUSSION ITEMS

2. Approve an ordinance adopting and levying a property (ad valorem) tax rate for the City of Austin for Fiscal Year 2009-2010. There is no unanticipated fiscal impact. A fiscal note is not required.
Ordinance No. 20091001-002 adopting a tax rate of 42.09 cents per \$100 valuation was approved on a roll call vote on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.
3. Approve a resolution declaring the City of Austin's official intent to reimburse itself from Certificates of Obligation in the amount of \$3,850,000 related to the purchase of real estate and warehouse space and associated facility repairs and improvements to the warehouse. \$3,850,000 in Certificates of Obligations to be issued in August 2010 or later. Related to Items #4 & 20.
Items 3, 4 and 20 were acted upon in a combined motion. See item 20 below.
4. Authorize the City Manager to negotiate and execute a contract to purchase in fee simple acquisition of real estate and warehouse space, described as 2.358 acres of land out of the J.C. Tannehill League in Travis County, Texas now known as Lot 2, Block A, Springdale Center, a subdivision in Travis County, Texas, from E. R. HOLDINGS, LLC, a Texas Limited Liability Company. Funding is available in the Fiscal Year 2009-2010 of the Capital Budget of the Austin Police Department. Related to Items #3 & 20.
Items 3, 4 and 20 were acted upon in a combined motion. See item 20 below.
20. Approve an ordinance amending the Fiscal Year 2009-2010 Police Department Capital Budget of Ordinance No. 200909014-03 to appropriate \$3,850,000 to purchase real estate, improvements, and warehouse space for an evidence storage facility and make facility repairs. Funding is available from a reimbursement resolution. Related to Items #3 & 4.
The joint motion to:
- approve Resolution No. 20091001-003 (3),
 - authorize the City Manager to negotiate and execute a contract with E. R. Holdings, LLC (4), and
 - approve Ordinance No. 20091001-020 (20)
- was approved on Council Member Spelman's motion, Mayor Pro Tem Martinez' second on a 7-0 vote.**
11. Approve an ordinance establishing an enhanced process of review of economic incentive proposals.
Ordinance No. 20091001-011 was approved on Council Member Morrison's motion, Council Member Spelman's second on a 7-0 vote.

15. Approve settlement of the City's claims against Jose I. Guerra, Inc. and Frank Lam and Associates, Inc. concerning the design of the airport parking garage.
The motion approving the settlement of the City's claim against Jose I. Guerra, Inc. , and Frank Lamb and Associates, Inc., by which the City will receive \$750,000, was approved on Mayor Pro Tem Martinez' motion, Council Member Morrison's second on a 7-0 vote.
16. Approve a settlement related to Cause No. D-1-GN-07-001790; Archer-Western Contractors, Ltd., an Illinois Limited Partnership v. City of Austin, Texas; In the 201st Judicial District Court of Travis County, Texas (concerns Ulrich Water Treatment Plant).
The motion to settle the above referenced lawsuit, by the City paying \$5,000,000 to Archer Western, was approved on Council Member Spelman's motion, Mayor Pro Tem Martinez' second on a 7-0 vote.
17. Approve a settlement related to Cause No. D-1-GN-08-001402; Marvin Clayborne and Stephan Center v. City of Austin; in the 98th Judicial District County of Travis, County Texas.
The motion to settle the above referenced lawsuit, by the City paying \$250,000 (to be split between the two plaintiffs in accordance with the mediated settlement agreement), was approved on Council Member Spelman's motion, Council Member Morrison's second on a 7-0 vote.
22. Authorize award and execution of a 12-month requirements supply and service contract with the STATE OF TEXAS DEPARTMENT OF INFORMATION RESOURCES (DIR) Austin, TX, for the purchase of computer hardware products including maintenance, training, information technology services and telecommunication products and services for Austin Energy in an estimated amount not to exceed \$10,536,384. Funding in the amount of \$9,221,356 is available in the Fiscal Year 2009-2010 Capital Budget of Austin Energy. Funding in the amount of \$1,315,028 is available in the Fiscal Year 2009-2010 Operating Budget of Austin Energy. This contract will be awarded in compliance with Chapter 2-9C 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. However, SMBR will assist in the identification of subcontracting opportunities on a case by case basis. Recommended by the Electric Utility Commission.
Items 22 and 23 were acted upon in a combined motion. See item 23 below.
23. Authorize award and execution of a 12-month requirements supply and service agreement with the STATE OF TEXAS DEPARTMENT OF INFORMATION RESOURCES (DIR) Austin, TX, for the purchase of computer software products including maintenance, training, and information technology services for Austin Energy in an estimated amount not to exceed \$12,331,750. Funding in the amount of \$6,578,694 is available in the Fiscal Year 2009-2010 Capital Budget of Austin Energy. Funding in the amount of \$5,753,056 is available in the Fiscal Year 2009-2010 Operating Budget of Austin Energy. This contract will be awarded in compliance with Chapter 2-9C 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. However, SMBR will assist in the identification of subcontracting opportunities on a case by case basis. Recommended by the Electric Utility Commission.
The joint motion authorizing the award and execution of requirements supply and service contract and agreement with the State of Texas Department of Information Resources (DIR) as follows was approved on Council Member Spelman's motion, Mayor Leffingwell's second on a 7-0 vote. Direction was given to staff to do the vulnerability assessment before any purchases are made.

- to purchase various computer, communication and network hardware products, technology implementation services and maintenance services (22).
 - to purchase various software products, technology implementation services and maintenance services (23).
34. Approve a resolution directing the City Manager to recommend a funding source for lease payments for the Lion's Municipal Golf Course other than the Golf Enterprise Operating Fund. (Mayor Pro Tem Mike Martinez Mayor Lee Leffingwell Council Member Randi Shade)
Resolution No. 20091001-034 was approved on Mayor Pro Tem Martinez' motion, Council Member Shade's second on a 7-0 vote.
32. Approve appointments and certain related waivers to citizen boards and commissions, to Council subcommittees and other intergovernmental bodies and removal and replacement of members.
The following appointments and waivers were approved on Council Member Shade's motion, Council Member Morrison's second on a 7-0 vote.

Board**Nominated By:**2006 Bond Oversight Committee

Moses Garcia
Paige Hill
Jennifer McPhail
Dave Sullivan

Council Member Spelman
Mayor Pro Tem Martinez
Council Member Morrison
Mayor Leffingwell

African American Resource Advisory Commission

Joi Harden
Greg Smith

Council Member Morrison
Council Member Cole

Board of Adjustment

Heidi Goebel

Council Member Spelman

Commission on Immigrant Affairs

Robert Martinez

Council Member Riley

Downtown Austin Community Court Advisory Committee

William Kelly

Mayor Leffingwell

Downtown Commission

Linda Guerrero (representative – Parks and Recreation Board)

Mayor Pro Tem Martinez

Electric Utility Commission

Gary "Bernie" Bernfeld

Mayor Pro Tem Martinez

Ethics Review Commission

Joseph "Jody" Hughes

Mayor Leffingwell

Historic Landmark Commission

Meghan Kleon

Council Member Spelman

Public Safety Commission

Ramey Ko

Council Member Morrison

Residential Design and Compatibility Commission
William Burkhardt

Council Member Riley

Waivers

As allowed by Section 2-1-27 of the City Code, Council waives the attendance requirement established by Section 2-1-26 for the following board member:

Early Childhood Council
Albert Black

37. Approve a resolution directing the City Manager to develop a menu of options to address safety issues at private construction sites. (Council Member William Spelman Mayor Pro Tem Mike Martinez and Council Member Chris Riley)
Resolution No. 20091001-037 was approved on Council Member Spelman's motion, Mayor Pro Tem Martinez' second, on a 7-0 vote.

Item 48 was an Executive Session item.

Items 49 through 60 were zoning items set for 2:00 p.m.

Items 61 through 65 were public hearing items set for 6:00 p.m.

Mayor Leffingwell recessed the Council Meeting to go into Executive Session at 11:35 a.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.

48. Discuss legal issues relating to labor negotiations with the Austin Fire department. (Private Consultation with Attorney - Section 551.071).

Executive Session ended and Mayor Leffingwell called the Council Meeting back to order at 12:21 p.m.

CITIZEN COMMUNICATIONS: GENERAL

Lee Rooney - Under aged drinking

Tom Jones - Watershed

Don Bolin - Veterans Day parade. He was not present when his name was called.

Pat Valls-Trelles - Animal issues

Brandon Mathis - Solar rebate program solar policy

Rae Nadler-Olenick - Water fluoridation and Citizens Communication

CarolAnneRose Kennedy - UNDERSTANDING ENGLISH: JOSE: CAN YOU SEE? She was not present when her name was called.

Ronnie Gjemre - Peace and freedom

Gus Peña - City issues

Paul Robbins - City issues He was not present when his name was called.

Mayor Leffingwell recessed the Council Meeting at 1:17 p.m.

Mayor Leffingwell called the Council Meeting back to order at 2:02 p.m.

ZONING CONSENT ITEM

49. C14-2009-0059 - Texas Association of Nurse Anesthetists - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 888 Banister Lane (West Bouldin Creek Watershed) from family residence (SF-3) district zoning to limited office-mixed use-conditional overlay (LO-MU-CO) combining district zoning. First reading approved on September 24, 2009. Vote 4-3 (Riley, Spelman, Morrison voted Nay). Texas Association of Nurse Anesthetists (Janet H. Morrow). Agent: Jackson Walker, LLP (Katherine Loayza). City Staff: Stephen Rye, 974-7604.

Ordinance No. 20091001-049 for limited office-mixed use-conditional overlay (LO-MU-CO) combining district zoning was approved on Council Member Council Member Morrison's motion, Council Member Spelman'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.

50. C14-2009-0069 - Cap'n Scrubby's Carwash - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 11007 FM 2222 (West Bull Creek Watershed) from single family residence-standard lot (SF-2) district zoning to community commercial (GR) district zoning. Staff Recommendation: To grant community commercial-conditional overlay (GR-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant community commercial-conditional overlay (GR-CO) combining district zoning. Applicant: William F. Schwartz Enterprises, Inc. (William F. Schwartz). Agent: LOC Consultants, Inc. (Sergio Lozano. City Staff: Clark Patterson, 974-7691.

The public hearing was closed and the first reading of the ordinance for community commercial-conditional overlay (GR-CO) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Cole's second on a 7-0.

51. C14-2009-0077 Balcones Place Condos - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 5011 Balcones Drive (Taylor Slough North Watershed) from general commercial services (CS) district zoning to multi-family residence-medium density-conditional overlay (MF-3-CO) combining district zoning. Staff Recommendation: To grant multi-family residence-medium density-conditional overlay (MF-3-CO) combining district zoning. Zoning and Platting Commission Recommendation: To be reviewed on

October 6, 2009. Applicant: Oakmont House LTD. (James David). Agent: Jim Bennett Consulting (Jim Bennett). City Staff: Clark Patterson, 974-7691.

This item was postponed on consent to November 5, 2009 at the staff's request on Council Member Spelman's motion, Council Member Cole's second on a 7-0.

52. C14H-2009-0012 - Baker-Allen House - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 2402 Harris Boulevard (Shoal Creek Watershed) from family residence (SF-3) district zoning to family residence-historic landmark (SF-3-H) combining district zoning. Staff Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Historic Landmark Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Planning Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Applicant and Agent: Florence Benson Wilkerson. City Staff: Steve Sadowsky, 974-6454.
The public hearing was closed and the first reading of the ordinance for family residence-historic landmark (SF-3-H) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Cole's second on a 7-0.
53. C14H-2009-0014 - McGee-Clark-Byrd House - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1520 Northwood Road (Shoal Creek Watershed) from family residence (SF-3) district zoning to family residence-historic landmark (SF-3-H) combining district zoning. Staff Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Historic Landmark Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Planning Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Applicants: Holmes and Joan Gwynn. City Staff: Steve Sadowsky, 974-6454.
The public hearing was closed and the first reading of the ordinance for family residence-historic landmark (SF-3-H) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Cole's second on a 7-0.
54. C14H-2009-0015 - Gardner House - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 2418 Jarratt Avenue (Shoal Creek Watershed) from family residence (SF-3) district zoning to family residence-historic landmark (SF-3-H) combining district zoning. Staff Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Historic Landmark Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Planning Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Applicants: David and Robin Jackson. City Staff: Steve Sadowsky, 974-6454.
The public hearing was closed and the first reading of the ordinance for family residence-historic landmark (SF-3-H) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Cole's second on a 7-0.
55. C14H-2009-0020 - Dr. Ralph E. and Anna Cloud House - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1718 Summitview Place (Shoal Creek Watershed) from family residence (SF-3) district zoning to family residence-historic landmark (SF-3-H) combining district zoning. Staff Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Historic Landmark Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Planning Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Applicants: Camille and Stephanie Tueni. City Staff: Steve Sadowsky, 974-6454.

The public hearing was closed and the first reading of the ordinance for family residence-historic landmark (SF-3-H) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Cole's second on a 7-0.

56. C14H-2009-0021 - Jackson-Novy-Kelly-Hoey House - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 2406 Harris Boulevard (Shoal Creek Watershed) from family residence (SF-3) district zoning to family residence-historic landmark (SF-3-H) combining district zoning. Staff Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Historic Landmark Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Planning Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Applicants: Robert and Michelle Kinney. City Staff: Steve Sadowsky, 974-6454.

The public hearing was closed and the first reading of the ordinance for family residence-historic landmark (SF-3-H) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Cole's second on a 7-0.

57. C14H-2009-0022 - Thomas House - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1603 Niles Road (Shoal Creek Watershed) from family residence (SF-3) district zoning to family residence-historic landmark (SF-3-H) combining district zoning. Staff Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Historic Landmark Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Planning Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Applicants: Roger Dale and Elizabeth Ann Linebarger. City Staff: Steve Sadowsky, 974-6454.

The public hearing was closed and the first reading of the ordinance for family residence-historic landmark (SF-3-H) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Cole's second on a 7-0.

58. C14H-2009-0023 - Webster House - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 706 Oakland Avenue (Shoal Creek Watershed) from multi-family residence-moderate-high density-neighborhood plan (MF-4-NP) district zoning to multi-family residence-moderate-high density-neighborhood plan-historic landmark (MF-4-H-NP) combining district zoning. Staff Recommendation: To grant multi-family residence-moderate-high density-neighborhood plan-historic landmark (MF-4-H-NP) combining district zoning. Historic Landmark Commission recommendation: To grant multi-family residence-moderate-high density-neighborhood plan-historic landmark (MF-4-H-NP) combining district zoning. Planning Commission recommendation: To grant multi-family residence-moderate-high density-neighborhood plan-historic landmark (MF-4-H-NP) combining district zoning. Applicants: Scott Marks and Lucy Wood. Steve Sadowsky, 974-6454.

The public hearing was closed and the first reading of the ordinance for multi-family residence-moderate-high density-neighborhood plan-historic landmark (MF-4-H-NP) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Cole's second on a 7-0.

59. C14H-2009-0024 - Aycock House - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1405 Wathen Avenue (Shoal Creek Watershed) from family residence (SF-3) district zoning to family residence-historic landmark (SF-3-H) combining district zoning. Staff Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Historic Landmark Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Planning Commission

Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Applicant: Chandler Ford. City Staff: Steve Sadowsky, 974-6454.

The public hearing was closed and the first reading of the ordinance for family residence-historic landmark (SF-3-H) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Cole's second on a 7-0.

60. C14H-2009-0027 - Potter-Pincoffs House - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 2607 Wooldridge Drive (Shoal Creek Watershed) from family residence (SF-3) district zoning to family residence-historic landmark (SF-3-H) combining district zoning. Staff Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Historic Landmark Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Planning Commission Recommendation: To grant family residence-historic landmark (SF-3-H) combining district zoning. Applicants: Ken and Angela Hashman. City Staff: Steve Sadowsky, 974-6454.

The public hearing was closed and the first reading of the ordinance for residence-historic landmark (SF-3-H) combining district zoning was approved on consent on Council Member Spelman's motion, Council Member Cole's second on a 7-0.

DISCUSSION ITEM CONTINUED

39. Approve a resolution appointing a new Acting City Auditor and setting compensation and benefits. (Council Member Sheryl Cole Council Member Randi Shade Council Member Laura Morrison)
Resolution No. 20091001-039 was approved on consent on Mayor Pro Tem Martinez' motion, Council Member Cole's second on a 7-0 vote.

A motion to reconsider item 39 to allow Council comment was approved on Council Member Cole's motion, Mayor Leffingwell's second on a 7-0 vote.

Resolution No. 20091001-039 was approved appointing Corrie Stokes as the Acting City Auditor on Council Member Cole's motion, Council Member Morrison's second on a 7-0 vote.

Mayor Leffingwell recessed the Council Meeting at 2:12 p.m.

LIVE MUSIC

Leather Bag

PROCLAMATION

Proclamation -- National Forum for Black Public Administrators Week -- to be presented by Mayor Lee Leffingwell and to be accepted by Anthony Snipes and Deborah Britton

Proclamation -- COA Combined Charities Campaign Kick-Off-- to be presented by Mayor Lee Leffingwell and to be accepted by Karen Sharp

Proclamation -- HopeLine Domestic Violence Awareness Month-- to be presented by Mayor Lee Leffingwell and to be accepted by Brent Carter

Proclamation -- 2009 Binational Health Week -- to be presented by Council Member Randi Shade and to be accepted by Cordelia Stough

Proclamation -- CenTex Voluntary Organizations Active in Disaster Day -- to be presented by Council Member Randi Shade and to be accepted by Toni Silver

Distinguished Service Award -- Taylor Dudley -- to be presented by Council Member Sheryl Cole and to be accepted by the honoree

Proclamation -- TexHealth Central Texas Awareness Month -- to be presented by Council Member Laura Morrison and to be accepted by James Rodriguez

Mayor Leffingwell called the Council Meeting back to order at 6:29 p.m.

PUBLIC HEARINGS AND POSSIBLE ACTION

61. Conduct a public hearing for the full purpose annexation of the Shaw Lane Quarry Annexation Area (Approximately 197 acres in eastern Travis County approximately 2,225 feet south of the intersection of McKinney Falls Parkway and Shaw Lane).
The public hearing was closed on Council Member Riley's motion, Council Member Morrison's second on a 5-0 vote. Mayor Pro Tem Martinez and Council Member Cole were off the dais.
62. Conduct a public hearing for the full purpose annexation of Reserve at Westhill Annexation Area (approximately 7 acres in northern Travis County at the northwest corner of the intersection of Yaupon Drive and Texas Plume Road).
The public hearing was closed on Council Member Morrison's motion, Council Member Spelman's second on a 5-0 vote. Mayor Pro Tem Martinez and Council Member Cole were off the dais.
63. Conduct a public hearing for the full purpose annexation of the Ferguson Lane - Brown Lane Annexation Area (approximately 22 acres in eastern Travis County east of Brown Lane and west of Ferguson Lane approximately 875 feet north of the intersection of Ferguson Lane and Brown Lane).
The public hearing was closed on Council Member Morrison's motion, Council Member Riley's second on a 5-0 vote. Mayor Pro Tem Martinez and Council Member Cole were off the dais.
64. Conduct a public hearing for the full purpose annexation of the Northwest Hills Ranch Annexation Area (approximately 20 acres in northern Travis County east of D K Ranch Road approximately 275 feet south of the intersection of D K Ranch Road and Texas Plume Road).
The public hearing was closed on Council Member Morrison's motion, Council Member Shade's second on a 6-0 vote. Mayor Pro Tem Martinez was off the dais.
65. Conduct a public hearing and consider an ordinance for floodplain variances requested by Mr. Efrain V. Avila for an existing development that converted an attached garage into a habitable area at the single-family residence at 306 Heartwood Drive. This structure is in the 25-year and 100-year floodplains of Williamson Creek. The applicant also requests waiving the requirement to dedicate a drainage easement to the full limit of the 100-year floodplain to exclude the footprint of the existing house from the easement dedication requirement.
The motion to close the public hearing and approve the ordinance failed on Council Member Spelman's motion, Council Member Morrison's second on a 2-4-1 vote. Those voting aye were: Council Members Morrison and Spelman. Those voting nay were: Mayor Leffingwell and Council Members Cole, Riley and Shade. Mayor Pro Tem Martinez abstained.

The public hearing was closed and motion to deny the request for a waiver was approved on Council Member Riley's motion, Council Member Shade's second on a 4-2-1 vote. Those voting

aye were: Mayor Leffingwell and Council Members Cole, Riley and Shade. Those voting nay were: Council Members Morrison and Spelman. Mayor Pro Tem Martinez abstained.

Mayor Leffingwell adjourned the meeting at 7:14 p.m. without objection.

The minutes for the regular meeting of October 1, 2009 were approved on this the 15th day of October 2009 on Council Member Shade's motion, Council Member Morrison's second on a 7-0 vote.