



**AUSTIN CITY COUNCIL  
MINUTES**

**REGULAR MEETING  
THURSDAY, JUNE 7, 2012**

**Invocation:** Justin Lopez, Local Missions Pastor, The Austin Stone

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, June 7, 2012 in the Council Chambers of City Hall, 301 West Second Street, Austin, Texas.

Mayor Leffingwell called the Council Meeting to order at 10:04 a.m.

**CONSENT AGENDA**

The following items were acted on by one motion.

1. Approve the minutes of the Austin City Council Austin Energy work session of May 16 and 17, 2012, work session of May 22, 2012, and regular meeting of May 24, 2012.  
The minutes from the City Council Austin Energy work session of May 16 and 17, 2012, work session of May 22, 2012 and regular meeting of May 24, 2012 were approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.
2. Approve the issuance of a Letter of Intent for a performance-based incentive to BAE SYSTEMS for the generation of solar energy at their facility located at 6500 Tracor Lane #27 in Austin, Texas, for a total amount not to exceed \$390,000 over a 10-year period.  
The motion to approve the issuance of a letter of intent for a performance-based incentive to BAE Systems was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.
3. Approve the issuance of a Letter of Intent for a performance-based incentive to the TEXAS PARKS AND WILDLIFE DEPARTMENT for the generation of solar energy at their facility located at 4200 Smith School Road in Austin, Texas, for a total amount not to exceed \$170,000 over a 10-year period.  
The motion to approve the issuance of a letter of intent for a performance-based incentive to the Texas Parks and Wildlife Department was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.
4. Approve the issuance of Letters of Intent for rebates to LENNAR HOMES for the installation of solar energy systems designed to serve 10 new construction residential homes in the Bradshaw Crossing and Colorado Crossing developments for a total amount of \$83,481.30.  
The motion to approve the issuance of letters of intent for rebates to Lennar Homes was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.

5. Approve an ordinance naming an unnamed street, located south of E. Riverside Drive and 732 feet east of Faro Drive, to "RIVERS EDGE WAY".  
**This item was withdrawn on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**
6. Authorize execution of a construction contract with BALLOU PAVEMENT SOLUTIONS, INC., for 2012 Miscellaneous Streets Slurry and Micro-Surfacing Project in an amount not to exceed \$1,648,655.  
**The motion authorizing the execution of a construction contract with Ballou Pavement Solutions, Inc. was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**

**Items 7 through 10 were pulled for discussion.**

11. Approve an ordinance authorizing the acceptance of \$45,828 in grant funds from the TEXAS DEPARTMENT OF STATE HEALTH SERVICES (DSHS), COMMUNITY PREPAREDNESS SECTION; and amending the Fiscal Year 2011-2012 Health and Human Services Department Operating Budget Special Revenue Fund (Ordinance No. 20110912-005) to appropriate \$45,828 to the Public Health Emergency Preparedness Program.  
**Ordinance No. 20120607-011 was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**
12. Authorize negotiation and execution of an amendment to the Interlocal Agreement with the Austin Independent School District (AISD) for Facility Construction and Use of the J. J. Pickle Elementary School/St. John's Community Center campus for a term of one year, to reimburse AISD for certain operating and maintenance services provided from September 1, 2011 through August 31, 2012, in an amount not to exceed \$250,000, with options to renew for up to four 12-month terms in an amount not to exceed \$250,000 per renewal term, for a total not to exceed amount of \$1,250,000.  
**The motion authorizing the negotiation and execution of an amendment to the interlocal agreement with the Austin Independent School District was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**
13. Approve a resolution authorizing payment to TEXAS DEPARTMENT OF TRANSPORTATION for the City's 10% participation in utility relocation costs due to right-of-way acquisition for U.S. Highway 183 from RM 620 to north of Lakeline Boulevard, in accordance with the June 2, 1999 Modified Agreement to Contribute Funds (City Form), in an amount not to exceed \$73,234.01.  
**Resolution No. 20120607-013 was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**

**Item 14 was pulled for discussion.**

15. Approve an ordinance to amend Ordinance No. 20120405-085, to correct a portion of the legal description for the property located at 7016 East Ben White Boulevard Westbound as described in Zoning Case No. C14-2011-0169.  
**Ordinance No. 20120607-015 was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**

**Item 16 was pulled for discussion.**

17. Authorize award and execution of a 3-month requirements service contract through the TEXAS LOCAL GOVERNMENT PURCHASING COOPERATIVE (BUYBOARD) with GOVDEALS, INC. for auction services in an estimated amount not to exceed \$58,831, with two 12-month extension options in estimated amounts not to exceed \$282,389 for the first extension option, and \$338,866 for the second extension

option, for a total estimated contract amount not to exceed \$680,086. (Notes: This Cooperative Purchase is exempt from the MBE/WBE Ordinance. This exemption is 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 contract.)

**The motion authorizing the award and execution of requirements service contract through the Texas Local Government Purchasing Cooperative (BuyBoard) with Govdeals, Inc. was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**

18. Authorize award and execution of a 36-month service contract with STRUCTURAL TECHNOLOGY, INC., to provide annual inspection and testing of aerial devices and grounds ladders for the Fleet Services Department in an amount not to exceed \$527,800 with three 12-month extension options in estimated amounts not to exceed \$250,560 for the first extension option, \$300,672 for the second extension option, and \$360,807 for the third extension option, for a total estimated contract amount not to exceed \$1,439,839. (Notes: 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 service contract with Structural Technology, Inc. was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**

19. Authorize award and execution of a 24-month requirements service contract with H. BROWN MACHINE SHOP, INC., for the purchase of heavy hauling services to transport electric utility equipment for Austin Energy in an estimated amount not to exceed \$1,864,000 with three 12-month extension options in an estimated amount not to exceed \$932,000 per extension option, for a total estimated contract amount not to exceed \$4,660,000. (Notes: 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 H. Brown Machine Shop, Inc. was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**

20. Authorize award and execution of a supply contract with TBEA USA CORPORATION, for the purchase of 362kV capacitive coupled voltage transformers for Austin Energy in an amount not-to-exceed \$132,324 ( Notes: 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 supply contract with TBEA USA Corporation was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**

21. Approve ratification of Amendment No. 1 to the contract with POWER SYSTEMS MFG., LLC., for a long term maintenance agreement for the gas turbine and generator unit #5 at Austin Energy's Sand Hill Energy Center, to increase the contract authorization in an estimated amount not to exceed \$9,000,000, for a revised total contract amount not to exceed \$31,937,248. (Notes: This contract was 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 to ratify amendment number one to the contract with Power Systems MFG., LLC. was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**

22. Authorize award and execution of four 24-month requirements supply agreements for the purchase of luminaries, floodlights, and associated parts for Austin Energy with: POWER SUPPLY in an estimated amount not to exceed \$10,562,358, with three 12-month extension options in an estimated amount not to exceed \$5,281,179 per extension option, for a total estimated contract amount not to exceed \$26,405,895; with TECHLINE INC. in an estimated amount not to exceed \$4,474,196, with three 12-month extension options in an estimated amount not to exceed \$2,237,098 per extension option, for a total estimated contract amount not to exceed \$11,185,490; with KBS ELECTRICAL DISTRIBUTORS INC. in an estimated amount not to exceed \$40,950, with three 12-month extension options in an estimated amount not to exceed \$20,475 per extension option, for a total estimated contract amount not to exceed \$102,375; and with PRIESTER-MELL & NICHOLSON, in an estimated amount not to exceed \$32,952, with three 12-month extension options in an estimated amount not to exceed \$16,476 per extension option, for a total estimated contract amount not to exceed \$82,380. The annual amount for all luminaries, floodlights, and associated parts required under these agreements will be for a total estimated amount not to exceed \$7,555,228 each and combined. (Notes: 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 four requirements supply agreements with Power Supply; Techline, Inc.; KBS Electrical Distributors, Inc.; and Priester-Mell & Nicholson was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.
23. Authorize award and execution of a 24-month requirements supply contract with PENNSYLVANIA BREAKER, LLC., for the purchase of 145kV dead tank circuit breakers for use at Austin Energy substations in an estimated amount not to exceed \$1,597,800, with three 12-month extension options in an estimated amount not to exceed \$798,900 per extension option, for a total estimated contract amount not to exceed \$3,994,500. (Notes: 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 Pennsylvania Breaker, LLC. was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.

Item 24 was pulled for discussion.

25. Authorize award and execution of Amendment No. 1 to a contract with SARTIN SERVICES, INC., to install a Wireless Vital Signs Monitor (WVSM) in an ambulance bus for Emergency Medical Services in an amount not to exceed \$109,750 for a revised total contract amount not to exceed \$496,076.33. (Notes: This Cooperative Purchase is exempt from the MBE/WBE Ordinance. This exemption is 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 contract.)  
The motion authorizing the award and execution of amendment number one to a contract with Sartin Services, Inc. was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.
26. Authorize award and execution of a 36-month requirements service contract with YOSAN, INC. dba INTERNATIONAL BUILDING SERVICES, or one of the other qualified bidders for IFB-BV No. PAX0217, to provide window cleaning services for various City Departments at various City locations, in an estimated amount not to exceed \$325,780, with three 12-month extension options in estimated amounts not to exceed \$154,656 for the first extension option, \$185,587 for the second extension option, and \$222,705 for the third extension option, for a total estimated contract amount not to exceed \$888,728. (Notes: 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 Yosan, Inc. doing business as International Building Services was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**

27. Authorize award and execution of a 53-month requirement services contract through the TEXAS MULTIPLE AWARD SCHEDULE (TXMAS) with NEOPOST INC., for installation, leasing and maintenance of mail sorting, stacking and inserter machines for the Building Services Department, in an estimated contract amount not to exceed \$130,000. (Notes: 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. )

**The motion authorizing the award and execution of a requirement services contract through the Texas Multiple Award Schedule (TXMAS) with Neopost, Inc. was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**

28. Authorize award and execution of Amendment No. 1 to a contract with OVERDRIVE, INC., to increase the contract amount for downloadable library materials for the Library Department in an amount not to exceed \$2,184,000 for the initial 36-month contract period for a revised total estimated contract amount not to exceed \$2,484,000. (Notes: 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 amendment number one to a contract with Overdrive, Inc. was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**

29. Authorize award and execution of Amendment No. 2 to a contract with IPS GROUP, INC., for the single space parking meter system including equipment, back office support, and parts for the Transportation Department, to increase the first 12-month extension option in an amount not to exceed \$61,000 and to increase the remaining four 12-month extension options in amounts not to exceed \$161,600, \$59,600, \$182,600 and \$77,600 respectively, for a total contract amount not to exceed \$1,382,050. (Notes: 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 amendment number two to a contract with IPS Group, Inc. was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.**

30. Authorize award and execution of four contracts for the purchase and installation of furnishings and fixtures for Austin Energy's new System Control Center through the TEXAS MULTIPLE AWARD SCHEDULE (TXMAS) cooperative purchasing program with: ROCKFORD BUSINESS INTERIORS in an estimated amount not to exceed \$1,420,038; AUSTIN BUSINESS FURNITURE in an estimated amount not to exceed \$1,198,370; and OFFICE SOURCE LTD. in an estimated amount not to exceed \$34,386 and through the Cooperative Purchasing Network (TCPN) with GRAINGER, INC. in an estimated amount not to exceed \$29,775 for a total estimated amount not to exceed \$2,682,569 each and combined. (Notes: 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 award and execution of four contracts through the Texas Multiple Award Schedule (TXMAS) cooperative purchasing program with Rockford Business Interiors;**

Austin Business Furniture; Office Source Ltd.; and Grainger, Inc. was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.

31. Authorize the negotiation and execution of bond purchase agreements with 31 firms in Exhibit A to provide professional underwriting transaction services for negotiated municipal bond sales for the Financial Services Department, Treasury Office, for a period of three-years, with two 12-month extension options. (Notes: 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 bond purchase agreements with 31 firms per Exhibit A was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.

Items 32 through 34 were pulled for discussion.

35. Approve an ordinance amending City Code Chapter 10-5, relating to the sanitary condition of real property, to add flexibility in regulations concerning high weeds and grasses, to promote water quality, habitat preservation, and efficient maintenance of publicly maintained lands.  
Ordinance No. 20120607-035 was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.
36. 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 were approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.

Board/Nominee

Nominated by

Zoning and Platting Commission  
Sean Compton

Council Member Riley

37. Approve an ordinance amending Chapter 2-2 of the City Code to achieve the recommendation of the Charter Revision Committee regarding enhancing reporting of independent expenditures in City elections.  
The first reading of the ordinance was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.

Items 38 and 39 were pulled for discussion.

40. Approve a resolution amending Resolution No. 20120524-092 to establish membership of the Council Special Committee on Economic Incentives and provide additional policy direction. (Notes: SPONSOR: Council Member Mike Martinez CO 1: Council Member Kathie Tovo CO 2: Council Member Laura Morrison)  
Resolution No. 20120607-040 was approved on consent on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.
41. Set a public hearing to receive citizen comments on the City's Draft Fiscal Year 2012-13 Action Plan, as required by the U.S. Department of Housing and Urban Development; and the Community Development 2012-2013 Program as required by Texas Local Government Code Chapter 373. (Suggested date and time: June 14, 2012, 4:00 p.m., at Austin City Hall, 301 West Second Street, Austin, TX.)  
The public hearing was set on consent for June 14, 2012 at 4:00 p.m., City Hall at 301 West Second Street, Austin, TX on Council Member Martinez' motion, Council Member Spelman's second on a 7-0 vote.

Item 42 were Executive Session item.

Items 43 through 50 were zoning items set for 2:00 p.m.

Item 51 was briefing item set for 2:00 p.m.

Items 52 through 57 were public hearing items set for 4:00 p.m.

### DISCUSSION ITEMS

32. Authorize award, negotiation, and execution of a ten-year revenue contract with ARAMARK SPORTS AND ENTERTAINMENT SERVICES OF TEXAS, LLC, or the other qualified offeror to RFP PAX0105, to provide catering and concession management services for the Austin Convention Center Department in an estimated annual net revenue amount of \$2,000,000.  
**This item was postponed to June 28, 2012 to allow the City Auditor's report to be completed on Mayor Pro Tem Cole's motion, Council Member Spelman's second on a 7-0 vote.**

16. Authorize negotiation and execution of an Interlocal Agreement between the City of Austin and the University of Texas in an amount not to exceed \$240,000 to acquire access to conference services and facilities.  
**The motion authorizing the negotiation and execution of an interlocal agreement between the City of Austin and the University of Texas was approved on Council Member Martinez' motion, Mayor Pro Tem Cole's second on a 7-0 vote.**

24. Authorize award and execution of three 24-month requirements supply agreements for the purchase of street light poles and pole parts for Austin Energy with TECHLINE INC. in an estimated amount not to exceed \$761,049, with three 12-month extension options in an estimated amount not to exceed \$380,525 per extension option, for a total estimated contract amount not to exceed \$1,902,623; POWER SUPPLY, INC. in an estimated amount not to exceed \$47,854, with three 12-month extension options in an amount not to exceed \$23,927 per extension option, for a total estimated contract amount not to exceed \$119,635; and KBS ELECTRICAL DISTRIBUTORS, INC. in an estimated amount not to exceed \$33,176, with three 12-month extension options in an amount not to exceed \$16,588 per extension option, for a total estimated contract amount not to exceed \$82,940. The annual amount for all street light poles and pole parts required under these agreements will be for a total estimated amount not to exceed \$421,040 each and combined. (Notes: 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 three requirements supply agreements with Techline, Inc.; Power Supply, Inc.; and KBS Electrical Distributors, Inc. was approved on Mayor Pro Tem Cole's motion, Council Member Spelman's second on a 7-0 vote.**

33. Approve first reading of an ordinance amending Ordinance No. 20070517-064, regarding the franchise to Lone Star Cab Company, to allow for additional franchise permits.  
**The motion to postpone this item to June 14, 2012 was made by Council Member Riley and seconded by Council Member Tovo.**

**There was a substitute motion made by Council Member Martinez and seconded by Council Member Morrison to leave the public hearing open and adopt the first reading of the ordinance. This motion was approved on a 5-2 vote. Those voting aye were: Mayor Leffingwell, Mayor Pro Tem Cole, and Council Members Martinez, Morrison and Spelman. Those voting nay were Council Members Riley and Tovo.**

34. Approve first reading of an ordinance amending Ordinance No. 20100527-047, regarding the franchise to Austin Cab I, Inc., DBA Austin Cab, to allow for additional franchise permits.  
The motion to postpone this item to June 14, 2012 was made by Council Member Riley and seconded by Council Member Tovo.

There was a substitute motion made by Council Member Martinez and seconded by Council Member Spelman to leave the public hearing open and adopt the first reading of the ordinance. This motion was approved on a 5-2 vote. Those voting aye were: Mayor Leffingwell, Mayor Pro Tem Cole, and Council Members Martinez, Morrison and Spelman. Those voting nay were Council Members Riley and Tovo.

39. Approve an ordinance repealing and replacing Chapter 4-6 of the City Code regarding pawnshops and dealers in secondhand goods. (Notes: SPONSOR: Mayor Pro Tem Sheryl Cole CO 1: Council Member William Spelman)  
This item was postponed to June 28, 2012 on Mayor Pro Tem Cole's motion, Council Member Spelman's second on 7-0 vote.

Items 7-9 were approved on one combined motion

7. Approve an ordinance amending the Fiscal Year 2011-2012 Economic Growth and Redevelopment Services Office Capital Budget (Ordinance No. 20110912-006) to increase appropriations by \$6,120,000, for a total appropriation of \$9,900,000, for the purchase of 315 spaces in the Seaholm parking garage structure. Related to Items #8, 9, 10 and 14.  
Ordinance No. 20120607-007 was approved on Mayor Pro Tem Cole's motion, Council Member Morrison's second on a 7-0 vote.
8. Approve an ordinance amending the Fiscal Year 2011-2012 Economic Growth and Redevelopment Services Office Capital Budget (Ordinance No. 20110912-006) to increase appropriations by \$9,209,250, for a total appropriation of \$20,400,000, for Seaholm Redevelopment District roadways and related infrastructure. Related to Items #7, 9, 10 and 14.  
Ordinance No. 20120607-008 was approved on Mayor Pro Tem Cole's motion, Council Member Morrison's second on a 7-0 vote.
9. Approve an ordinance amending Ordinance No. 20080410-023, relating to the negotiation and execution of a Master Development Agreement (MDA) and amending the MDA with SEAHOLM POWER DEVELOPMENT LLC for the Seaholm Power Plant Redevelopment Project. Related to Items #7, 8, 10 and 14.  
Ordinance No. 20120607-009 with the following friendly amendments was approved on Mayor Pro Tem Cole's motion, Council Member Morrison's second on a 7-0 vote.  
The amendments from Council Member Morrison were to include these items in the Seaholm Power Plant Ground Floor Restrictions so it will read, "The retail use only restriction on the ground level of the power plant (the "Ground Level") will be modified to allow office or service uses if:  
(A) the Ground Level includes space for a public space of at least 1,000 gross square feet providing views into the turbine hall volume (including clerestory windows and ceiling), focused on promoting sustainable building design and educating the public regarding the history of the property as a power plant and containing a coffee and/or juice bar or comparable public type use; and  
(B) the Ground Level includes space for a public restaurant or comparable public type use of at least 5,000 gross square feet facing the plaza and containing at least 1,000 square feet of dining space overlooking the turbine hall from the mezzanine level of the power plant near a historic boiler of the power plant; and  
(C) the Ground Level includes space for a public space of at least 1,000 gross square feet at the main entry of the power plant providing views into the turbine hall volume and containing a



continuous public art display. The public art display will be provided by and, with owner's reasonable cooperation, managed by the City.

The uses and square footage described in (A), (B) and (C) above may be reasonably allocated by owner among the spaces described in those sections.

Additionally, 24 months prior to the end of each office or service uses lease (total term not to exceed 20 years) of the Ground Level, the owner shall submit to the City Manager (to be distributed to the City Council) a report from a mutually acceptable independent research publication or an independent commissioned study indicating whether the retail leasing market supports leasing of the power plant for retail uses (the initial lease of the Ground Level for office and service uses is allowed). If the report supports leasing the power plant (including the Ground Level) for retail uses, then owner must lease the Ground Level for retail uses; otherwise, the owner may continue to lease the Ground Level for office or service uses.

Additionally, if the current proposed lease is not executed and at the end of each lease (total term not to exceed 20 years) of the basement of the power plant, the City will have the continuing, exclusive 60 day right to negotiate a civic and/or public lease of up to 45,000 square feet in the basement of the power plant building upon market terms.

These amendments were accepted by the maker of the motion.

The amendment from Council Member Tovo was to extend the affordable housing component to forty years. This was accepted by the maker of the motion and Council Member Morrison who seconded the motion.

10. Approve a resolution declaring the City of Austin's official intent to reimburse itself from Certificates of Obligation in the amount of \$29,100,000 for the infrastructure projects, including parking, in the Seaholm Development District. Related to Items #7, 8, 9 and 14.  
Resolution No. 20120607-010 was approved on Mayor Pro Tem Cole's motion, Council Member Spelman's second on a 7-0 vote.
14. Authorize the negotiation and execution of all documents and instruments necessary or desirable to acquire 315 public parking spaces located in a parking structure in the Seaholm Subdivision, out of Lots 2 and 3, in Austin, Travis County, Texas, from SEAHOLM POWER DEVELOPMENT, LLC for an amount not to exceed \$9,900,000. Related to Items #7, 8, 9 and 10.  
The motion authorizing the negotiation and execution of all documents and instruments necessary or desirable to acquire public parking spaces from Seaholm Power Development, LLC was approved on Council Member Spelman's motion, Council Member Tovo's second on a 7-0 vote.

#### CITIZEN COMMUNICATIONS: GENERAL

Will McLeod -- City issues TBD

Richard Viktorin -- Formula 1, EGRSO, Jon Hockenyos/TXP economic validation study

Gavino Fernandez, Jr. -- "Celebrating the 4th of July in the Barrio Parade" Saturday, June 30, 10 a.m., Cesar Chavez Street & Pleasant Valley Rd. to Fiesta Gardens Cristo Rey Church Jamica

Tim Jones -- The Clean Air Force Central Texas

Stewart Snider -- Geographic representation

Jessica Ellison -- Geographic representation

Frances McIntyre -- Geographic representation

Carlos León -- Signs, signs, everywhere signs

Carolannrosefromthedeaf KENNEDY\$ -- Incessant arguing with bologna SANDITCHES

Walter Olenick -- Fluoride

Mayor Leffingwell recessed the Council Meeting to go into Executive Session at 12:50 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.

42. Discuss legal issues related to Open Government matters (Private consultation with legal counsel pursuant to Section 551.071 of the Government Code).

Executive Session ended at 2:05p.m.

Mayor Leffingwell called the Council Meeting back to order at 3:35 p.m.

#### ZONING CONSENT ITEMS (PUBLIC HEARINGS)

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

45. C14-2008-0159(RCA) - 3rd & Colorado - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 301 and 311 Colorado Street, and 114 West 3rd Street (Town Lake Watershed) to amend a portion of the Restrictive Covenant as it relates to certain uses and development standards. Staff Recommendation: To grant an amendment to a portion of the Restrictive Covenant as it relates to certain uses and development standards. Planning Commission Recommendation: To grant an amendment to a portion of the Restrictive Covenant as it relates to certain uses and development standards. Applicant: S/H Austin Partnership (John Beauchamp). Agent: Winsted, P.C. (Michele Haussmann). City Staff: Clark Patterson, 974-7691.  
This item was postponed on consent to August 2, 2012 at the applicant's request on Council Member Spelman's motion, Council Member Morrison's second on a 7-0 vote.
46. C14-2012-0028 - 3rd & Colorado - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 301 and 311 Colorado Street, and 114 West 3rd Street (Town Lake Watershed) from central business district-central urban redevelopment district (CBD-CURE) combining district zoning to central business district-central urban redevelopment district (CBD-CURE) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant central business district-central urban redevelopment district (CBD-CURE) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To grant central business district-central urban redevelopment district (CBD-CURE) combining district zoning, to change a condition of zoning. Applicant: S/H Austin Partnership (John Beauchamp). Agent: Winsted, P.C. (Michele Haussmann). City Staff: Clark Patterson, 974-7691.  
This item was postponed on consent to August 2, 2012 at the applicant's request on Council Member Spelman's motion, Council Member Morrison's second on a 7-0 vote.
47. C14-2011-0065 - The Austin Hotel - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 800 and 804 Congress Avenue (Town Lake Watershed) from central business district (CBD) and central business district-historic landmark (CBD-H) combining district zoning to central business district-central urban

redevelopment district (CBD-CURE) combining district zoning and central business district-historic landmark-central urban redevelopment district (CBD-H-CURE) combining district zoning. Staff Recommendation: To grant central business district-central urban redevelopment district (CBD-CURE) combining district zoning and central business district-historic landmark-central urban redevelopment district (CBD-H-CURE) combining district zoning. Planning Commission Recommendation: To grant an indefinite postponement as requested by the applicant. Applicant: Gone to Texas Capital One, L.P. (David Kahn), The Karotkin Family Real Estate Trust (Doris Karotkin, Trustee). Agent: Winstead, P.C. (Michele Haussmann). City Staff: Clark Patterson, 974-7691.

**This item was postponed on consent indefinitely at the applicant's request on Council Member Spelman's motion, Council Member Morrison's second on a 7-0 vote. (Under the City Code, items postponed indefinitely are withdrawn from the active agenda and must be re-noticed before being placed back on the council agenda.)**

48. C14-2011-0165 - Randerson Creekside Rezoning - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 3108 E. 51st Street (Fort Branch Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to multi-family residence-low density-neighborhood plan (MF-2-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 multi-family residence-low density-conditional overlay-neighborhood plan (MF-2-CO-NP) combining district zoning. Owner/Applicant: CNB Austin (Mark Kalish). Agent: Central Texas Development Assessments (Mike Wilson). City Staff: Heather Chaffin, 974-2122.

**This item was postponed on consent to June 14, 2012 at the staff's request on Council Member Spelman's motion, Council Member Morrison's second on a 7-0 vote.**

49. C14-2012-0002 - The Domain - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 10728-11306 and 11500-11900 Burnet Road; 3300 West Braker Lane; 11105 and 11401-11925 Domain Drive, and 2900-3210 Esperanza Crossing (Walnut Creek Watershed) from major industrial-planned development area (MI-PDA) combining district zoning to major industrial-planned development area (MI-PDA) combining district zoning, to change a condition of zoning. Staff Recommendation: To grant major industrial-planned development area (MI-PDA) combining district zoning, to change a condition of zoning. Planning Commission Recommendation: To grant major industrial-planned development area (MI-PDA) combining district zoning, to change a condition of zoning. Owner/Applicant: RREEF Domain, LP (Chad Marsh); Domain Retail I, LP (Chad Marsh), Domain Parkside I, LP (Robert Shaw). Agent: Winstead PC (Michele Haussmann). City Staff: Sherri Sirwaitis, 974-3057.

**This item was postponed on consent to June 28, 2012 at the applicant's request on Council Member Spelman's motion, Council Member Morrison's second on a 7-0 vote.**

50. C14-2010-0087 (RCA) - The Domain Restrictive Covenant Amendment - Conduct a public hearing and approve a restrictive covenant amendment for property locally known as 10728-11306 and 11500-11900 Burnet Road; 3300 West Braker Lane; 11105 and 11401-11925 Domain Drive, and 2900-3210 Esperanza Crossing (Walnut Creek Watershed) to amend Section 1 of the restrictive covenant to relocate the 1-acre of zero impervious cover within the nine acre park area. Staff Recommendation: To grant the Restrictive Covenant Amendment. Planning Commission Recommendation: To grant the Restrictive Covenant Amendment. Owner/Applicant: RREEF Domain, LP (Chad Marsh); Domain Retail I, LP (Chad Marsh), Domain Parkside I, LP (Robert Shaw). Agent: Winstead PC (Michele Haussmann). City Staff: Sherri Sirwaitis, 974-3057.

**This item was postponed on consent to June 28, 2012 at the applicant's request on Council Member Spelman's motion, Council Member Morrison's second on a 7-0 vote.**

DISCUSSION ZONING ITEMS

Items 43 and 44 were approved on one combined motion

43. NPA-2012-0025.01 -4806 1/2 Trail West Drive (Estates of Travis Country) - Conduct a public hearing and approve an ordinance amending Ordinance No. 20081211-096, the Oak Hill Combined Neighborhood Plan, an element of the Austin Tomorrow Comprehensive Plan, to change the land use designation on the future land use map (FLUM) on property locally known as 4806 1/2 Trail West Drive (Barton Creek-Barton Springs Zone) from Civic to Single Family land use. Staff Recommendation: To grant the change in the FLUM to Single Family land use. Planning Commission Recommendation: To grant the change in the FLUM to Single Family land use. Owner: Austin Independent School District (Paul Turner). Applicant: Independent Realty, L.L.C. (Nicholas Dean and Misha Spiridonov). Agent: Jim Bennett Consulting (Jim Bennett). City Staff: Maureen Meredith, 974-2695.

**This item was postponed to June 28, 2012 at the neighborhood's request on Council Member Morrison's motion, Council Member Spelman's second on a 7-0 vote.**

44. C14-2012-0016 - Estates of Travis Country - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 4806 1/2 Trail West Drive (Barton Creek Watershed-Barton Springs Zone) from public-neighborhood plan (P-NP) combining district zoning to single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning. Staff Recommendation: To grant single family residence-standard lot-neighborhood plan (SF-2-NP) combining district zoning. Planning Commission Recommendation: To grant single family residence-standard lot-conditional overlay-neighborhood plan (SF-2-CO-NP) combining district zoning. Owner: Austin Independent School District (Paul Turner). Applicant: Independent Realty (Nicholas Dean and Misha Spiridonov). Agent: Jim Bennett Consulting (Jim Bennett). City Staff: Clark Patterson, 974-7691.

**This item was postponed to June 28, 2012 at the neighborhood's request on Council Member Morrison's motion, Council Member Spelman's second on a 7-0 vote.**

BRIEFINGS

51. CD-2012-0002 - Development Assessment of Sunfield Planned Unit Development, also known as Sunfield Municipal Utility District #2, located at the southwest corner of Turnersville Road and South Turnersville Road, within the Rinard Creek, Plum Creek and Onion Creek Watersheds.  
**The presentation was made by Jerry Rusthoven, Manager, Planning and Development Review Department, and John Joseph, representative for the applicant.**

PUBLIC HEARINGS AND POSSIBLE ACTION

52. Conduct a public hearing to consider an ordinance granting a site specific amendment to City Code section 25-8-514 (Save Our Springs Initiative) and a variance to City Code section 25-8-482 (Critical Water Quality Zone) to allow construction of temporary access and staging areas, and to repair a culvert and dam in the Critical Water Quality Zone of Barton Creek. This action concerns land located within the Barton Springs Zone.

**The public hearing was conducted and the motion to close the public hearing and approve Ordinance No. 20120607-052 was approved on Council Member Morrison's motion, Council Member Martinez' second on a 7-0 vote.**

54. Conduct a public hearing to consider an appeal by Kerri and Max Krupp (appellant), along with David Cancialosi (appellant's agent) of a decision by the Residential Design and Compatibility Commission (RDCC) denying a modification request for an addition of a second story dwelling unit above an existing detached garage located at 3700 Lawton Avenue to increase the floor-to-area ratio (FAR) by 5.2%.

The public hearing was conducted and the motion to close the public hearing and grant the appeal was approved on Council Member Martinez' motion, Council Member Spelman's second on a 5-2 vote. Those voting aye were Mayor Leffingwell, Mayor Pro Tem Cole and Council Members Martinez, Riley and Spelman. Those voting nay were: Council Members Morrison and Tovo.

56. Conduct a public hearing and consider a resolution regarding a request by Speedy Shop Food Store #409, located at 6707 Cameron Rd., for a waiver from the distance requirement of City Code Section 4-9-4 which requires a minimum of 300 feet between a business that sells alcoholic beverages and a public school.

This item was postponed to June 28, 2012 at the applicant's request on Council Member Morrison's motion, Mayor Leffingwell's second on a 7-0 vote.

57. Conduct a public hearing and consider a resolution regarding a request by Speedy Shop Food Store #407, located at 1320 E Oltorf St., for a waiver from the distance requirement of City Code Section 4-9-4 which requires a minimum of 300 feet between a business that sells alcoholic beverages and a public school.

This item was postponed to August 2, 2012 at the applicant's request on Mayor Pro Tem Cole's motion, Council Member Morrison's second on a 7-0 vote.

Mayor Leffingwell recessed the Council Meeting to go into Live Music and Proclamations at 5:25 p.m.

#### LIVE MUSIC

Nano Whitman

#### PROCLAMATIONS

Certificates of Congratulations -- Business Success Skills Graduates -- to be presented by Mayor Lee Leffingwell and to be accepted by the honorees

Distinguished Service Award (retirement) -- Barbara Hinojosa, EMS -- to be presented by Mayor Lee Leffingwell and to be accepted by the honoree

Certificate of Congratulations -- Homeland Security and Emergency Management Accreditation -- to be presented by Mayor Lee Leffingwell and to be accepted by Otis Latin

Certificate of Graduation -- AustinCorps Students -- to be presented by Mayor Lee Leffingwell and to be accepted by the honorees

Mayor Leffingwell called the Council meeting back to order at 6:52 p.m.

#### PUBLIC HEARING CONTINUED

55. Conduct a public hearing and consider an ordinance establishing revised electric rates and charges for Austin Energy customers.

The public hearing was conducted and the motion to close the public hearing and approve Ordinance No. 20120607-055 with the following amendments was approved on Council Member Spelman's motion, Council Member Morrison's second on a 7-0 vote.

The motion to amend the Community Benefits Charges Schedule to change the Customer Assistance Program Charge for residential customers from a fixed charge to a volumetrically based one and striking the \$1.50 monthly charge and replacing it with a charge of 0.172 cents per kWh was approved on Council Member Tovo's motion, Council Member Martinez' second on a 6-1 vote. Mayor Leffingwell voted no.

The following friendly amendments from Council Member Tovo were accepted by the maker of the motion and Council Member Morrison who seconded the motion.

The motion was to amend the adopted ordinance and the Community Benefit Charges rate schedule to add language making Council findings regarding the need to provide rate relief and weatherization assistance to low-income residential customers, and to provide specific requirements and guidelines for the operation of the Customer Assistance Program.

There was an amendment to add this language to the ordinance, "Part 10. The Council finds that rising utility rates affect low-income residential households and that it is necessary and reasonable to provide discounted rates, targeted energy efficiency programs, and bill payment assistance for residential customers with an inability to pay due to poverty. To mitigate the effect of the rate increase on low-income residential households, the Council establishes a Customer Assistance Program as set forth in the Community Benefit Charge Rate Schedule." Renumber subsequent provisions accordingly.

There was an amendment to add to the Community Benefit Charges Schedule the following language, "The Customer Assistance Program (CAP) funds programs to help qualifying low-income and other disadvantaged residential customers, including bill discounts, payment assistance, and free weatherization services. The Customer Assistance Program is available to residential customers receiving assistance from Medicaid, the Supplemental Nutritional Assistance Program (SNAP), the Telephone Lifeline Program, and the Children's Health Insurance Program. Customers enrolled in the CAP are exempt from the monthly Customer Charge and CAP Charge, shall receive a minimum 10 percent discount on kilowatt-hour-based charges, and are eligible for additional bill-payment assistance and weatherization assistance. Eligible residential customers will be matched for automatic enrollment through a third-party, though self-enrollment will be available directly through Austin Energy. "

Funding for the CAP shall be made available at the level of revenues collected through the CAP Charge, including unexpended but re-appropriated funds. Information regarding the CAP shall be made available quarterly, including the number of residential customers enrolled automatically and through self-enrollment, the total and average amount of benefits provided, and the number of residential customers referred to the low-income weatherization program. With Council approval funds unspent at the end of a fiscal year shall be rolled over to the next fiscal year's budget for the CAP and low-income weatherization programs.

The friendly amendment to Council Member Tovo's amendment, from Council Member Spelman, was to direct staff to use the following priority for getting citizens into the CAP program: Medicaid, SNAP, Chip and Lifeline. This was accepted by Council Member Tovo.

The following friendly amendment from Council Member Tovo was accepted by the maker of the motion and Council Member Morrison who seconded the motion. The friendly amendment was to combine the community benefits charges in the Community Benefits Charges schedule from three discreet charges into one combined charge. The three rates should be added together for each customer class and the resulting combined rate should be inserted into the month charges table for each class. The Community Benefit Charges schedule should be amended to be re-entitled Community Benefit Charge (singular). This will require changes to numerous rate schedules. Accordingly the City Manager is directed to incorporate the necessary changes into the final ordinance document filed with the City Clerk.

Council Member Morrison's amendment was to adjust the residential rate tiers to the first tier from 2.0 to 1.8 cents per kWh October through May and 3.5 to 3.3 cents per kWh June through

September. The second tier would move from 5.2 to 5.6 cents per kWh October through May and 7.7 to 8.0 cents per kWh June through September. This was accepted by the maker of the motion.

Council Member Morrison's friendly amendment was to Part 4 of the ordinance so it would read, "Part 4. The Council further finds that the 2009 test year data, adjusted for known and measurable changes, support an annual utility revenue requirement of \$1,123,477,268 under current City financial and reserve policies. To mitigate the magnitude of rate increase required to achieve this requirement, the Council adopts these retail rate schedules to achieve annual revenues of \$1,089,529,780. It is the intent of the City Council to move toward full recovery of utility revenue requirements through the further examination of reserve policies, prudent cost reduction measures, and allocations of off-system sales net revenue, the implementation of revised retail rate schedules by October 1, 2014 (to the extent then supported by most recent available test year data), and the automatic expiration of all existing fixed-rate service contracts pursuant to their terms on May 31, 2015. Renumber subsequent provisions accordingly. This was accepted by the maker.

The following motion failed on Council Member Morrison's motion, Council Member Tovo's second on a 3-4 vote. Those voting aye were: Council Member Martinez, Morrison and Tovo. Those voting nay were: Mayor Leffingwell, Mayor Pro Tem Cole, and Council Members Riley and Spelman. The amendment was to strike the following paragraph from the Regulatory Charge schedule, "The Regulatory Charge may be adjusted administratively to reflect any changes made to the above cost categories. ERCOT transmission service charges are allocated to each rate class in accordance with the rate class's percentage share of the ERCOT average coincident peak demand for the months of June through September underlying the most recent wholesale transmission service charge matrix. All other costs will be allocated on the rate class's percentage load share of annual kWh service area sales."

To the Regulatory Charge Schedule add, "Changes to the Regulatory Charge shall be determined after notice and public hearing under City Code Section 2-5-45."

To the Community Benefit Charge, add, "This Charge shall be determined through the City budget process."

Strike the word "administratively" where it appears in the Power Supply Adjustment Schedule.

To the Power Supply Adjustment Schedule add, "The Power Supply Adjustment, and changes made thereafter, shall be determined after notice and public hearing under City Code Section 2-5-45. Unless done to eliminate an over or under recovery as provided below, adjustments to the Power Supply Adjustment will be made annually to take effect on bills rendered after the following January 1."

In the second-to-last paragraph of the Fuel Adjustment Clause, strike the words "Austin Energy shall adjust the FAC" and replace with "the FAC will be adjusted."

In the last paragraph of the Fuel Adjustment Clause, strike the words, "Austin Energy may," and replace with "the FAC may be adjusted."

In the Fuel Adjustment Clause, strike the sentence, "The fuel rate shall be effective January 1<sup>st</sup>, unless adjusted for over- or under-recovery."

To the Fuel Adjustment Clause add, "Changes to the Fuel Rate shall be determined after notice and public hearing under City Code Section 2-5-45. Unless done to eliminate an over or under recovery as provided below, the City Council will adjust the Fuel Rate annually to take effect on bills rendered after the following January 1."

There was a friendly amendment made by Mayor Leffingwell to affirm that the only exception to our existing policy with regard to affordability is to remain in the bottom fifty percent and to limit increase to no more than 2% a year be waived only for this phase we are doing right now. This was accepted by the maker of the motion and Council Member Morrison who made the second.

The following friendly amendment from Council Member Tovo was accepted by the maker of the motion and Council Member Morrison who seconded the motion. The amendment was to strike the following paragraph from the Regulatory Charge schedule: "The Regulatory Charge may be adjusted administratively to reflect any changes made to the above cost categories. ERCOT transmission service charges are allocated to each rate class in accordance with the rate class's percentage share of the ERCOT average coincident peak demand for the months of June through September underlying the most recent wholesale transmission service charge matrix. All other costs will be allocated on the rate class's percentage load share of annual kWh service area sales."

To the Regulatory Charge Schedule add: "Changes to the Regulatory Charge shall be determined after notice and public hearing under City Code Section 2-5-45."

To the Community Benefit Charge, add: "This Charge shall be determined through the City budget process."

The following friendly amendment from Council Member Spelman was accepted by Council Member Morrison who seconded the main motion. The amendment was to add the following to the end of the Power Supply Adjustment and the Fuel Adjustment Clause section of the Electric Rate Schedules (p. 36): "At least once each year, the utility will publicly present a report to the Electric Utility Commission that provides the underlying calculations for the PSA by customer class. These calculations will break out fuel costs, ERCOT charges and credits, including ancillary service sales, and purchased power costs and revenues, including bilateral sales. They will also show the extent of over- or under-recovery of PSA costs for the previous twelve months."

Within 30 days, following any adjustment to the PSA to eliminate any over- or under-recovery of costs, the utility will publicly present a report to the Electric Utility Commission that provides the underlying calculations for the PSA both pre- and post-adjustment by customer class.

The friendly amendment from Mayor Pro Tem Cole was to include a way for customers to make a voluntary contribution to the CAP program in the Austin Energy bills. This was accepted by the maker of the motion and Council Member Morrison who seconded the motion.

Direction was given to the City Manager to include in the budgetary process that staff begin looking for cost saving opportunities in Austin Energy.

The friendly amendment from Council Member Spelman was to add a new Part 12 to read as follows, "The Council adopts as policy that Austin Energy's rates should be reviewed at least once every five years. The Council will establish a process for rate policy development and decision making that will ensure that all customer classes have an opportunity to participate and that their interests are considered. As part of this process, the City will hire a consumer advocate who is knowledgeable and experienced in ratemaking issues to represent residential and small business customers. The Council may also hire an impartial hearing examiner to conduct the review and make recommendations."

#### DISCUSSION ITEM CONTINUED



38. Approve a resolution directing the City Manager and the Electric Utility Commission to study and evaluate governance models for publically-owned electric utilities and report their findings and recommendations to the City Council by October 31, 2012. (Notes: SPONSOR: Council Member William Spelman CO 1: Mayor Pro Tem Sheryl Cole CO 2: Council Member Chris Riley)

Resolution No. 20120607-038 was approved with the following amendment on Mayor Pro Tem Cole's motion, Council Member Spelman's second on a 7-0 vote. The amendment was to add to the "BE IT RESOLVED paragraphs a second sentence, "The study should also include the scope of work of the governing body including, but not limited to, regular reporting, reviews and decision making."

Mayor Pro Tem Cole recessed the Council meeting at 8:43 p.m.

Mayor Leffingwell called the meeting back to order at 8:50 p.m.

The motion to waive the Council rules and go past 10 p.m. was approved on Mayor Pro Tem Cole's motion, Council Member Riley's second on 7-0 vote.

53. Conduct a public hearing and consider an ordinance amending Title 25 of the City Code to address the short term rental of residential units.

The public hearing was conducted and the motion to close the public hearing and approve the first reading of the ordinance with the following direction to staff was approved on Council Member Riley's motion, Mayor Pro Tem Cole's second on a 5-2 vote. Those who voted aye were: Mayor Leffingwell, Mayor Pro Tem Cole and Council Members Martinez, Riley and Spelman. Those who voted nay were: Council Member Morrison and Tovo. The direction to staff was to incorporate the following elements of the Planning Commission recommendation in the ordinance.

For Type 1 rentals:

- Applies to owner-occupied homes, registered homesteads, and short term leases that do not exceed 90 days per year cumulatively.
- Requires payment of the hotel occupancy tax (HOT), registration, inspections or conditional overlay (CO), information packets for tenants (which should include information about occupancy limits).
  - Inspections are only required for those properties that do not have a CO or have a safety-related complaint registered against them.
  - Registration could be voided if there are three or more valid citations against the tenants of the property.
- A secondary residential unit on the same property may be rented on a short term basis for more than a cumulative total of 90 days per year.

Type 2 rentals (non-owner occupied):

- Mirrors Type 1, but applicable to units that are not owner-occupied, homestead exempted, or are rented for more than 90 days cumulatively per year.
- Includes a cap of 3% by zip code of all single-family, detached residential units allowable as Type 2 short term rentals.
  - This number is based on the concentration of short term rental in 78704 –
    - $127 \text{ (non-owner occupied total)} + 97 \text{ (half of unknown ownership total)} = 224.$
    - $224/7186 = \text{approximately } 3\%.$

Create a website that includes information about registration, HOT payment, and a requirement of a local contact designated for each property. This website should serve as a resource for both owners and neighbors of short term rentals (STRs).

The substitute motion to close the public hearing and approve the ordinance with the following amendments failed on Council Member Morrison's motion, Council Member Tovo's second on a 2-

**5 vote.** Those voting aye were Council Member Morrison and Tovo. Those voting nay were: Mayor Leffingwell, Mayor Pro Tem Cole and Council Members Martinez, Riley and Spelman.

The amendment from Council Member Morrison was to amend Section 25-2-893 (C) (Accessory Use for a Principal Residential Use) to add an additional permitted accessory use for:

- “the short-term rental of a residential dwelling unit or secondary apartment for periods less than 30 days and not more than an annual total of 90 days in a calendar year, provided that a dwelling unit on-site is owner-occupied and has at least a partial residence homestead exemption as defined under state law.”

The amendment from Council Member Tovo was to direct staff to draft language to reflect the following:

- A property used as a commercial short-term rental, where there is no residential homestead exemption, that was in existence within the 90 days preceding the Board of Adjustment ruling on June 13, 2011, shall have 3 years to come into compliance with the city code from the date this ordinance goes into effect.
- Hotel Occupancy Tax receipts shall serve as the evidence used to determine whether or not the commercial short-term rental use was in existence during this time period.

This was accepted by the maker of the motion.

Mayor Leffingwell adjourned the meeting at 12:20 a .m. without objection.

The minutes for the regular meeting of June 7, 2012 were approved on this the 14th day of June 2012 on Mayor Pro Tem Cole’s motion, Council Member Spelman’s second on a 7-0 vote.

## EXHIBIT A

**Firms approved by Council to provide professional underwriting transaction services  
for negotiated municipal bond sales**

Bank of America Merrill Lynch  
Barclays  
BOSC, Inc  
Cabrera Capital Markets, LLC\*  
CITI  
Coastal Securities, Inc.  
Comerica Securities, Inc.  
Edward Jones  
Estrada Hinojosa & Company, Inc\*  
Fidelity Capital Markets  
FirstSouthwest Company  
George K. Baum & Company  
Goldman, Sachs & Co.  
Hutchinson, Shockey, Erley & Co.  
Jefferies & Company, Inc.  
JPMorgan Securities, LLC  
Loop Capital Markets, LLC\*  
M.R. Beal & Company\*  
Mesirow Financial, Inc.  
Morgan Stanley  
Piper Jaffray & Co.  
RBC Capital Markets  
Ramirez & Co., Inc.\*  
Raymond James | Morgan Keegan  
Rice Financial Products Company\*  
Robert W. Baird & Company  
Samco Capital Markets, Inc.  
Siebert, Brandford, Shank & Co., LLC\*  
Southwest Securities  
Stifel, Nicolaus & Company, Inc.  
Wells Fargo  
\* = indicates MBE/WBE firm