



Austin City Council MINUTES

APRIL 18, 1991

MEETING CALLED TO ORDER - 1:00 P.M.

1. Approved Minutes for Regular Meeting of April 11, 1991

On Councilmember Epstein's motion, Councilmember Larson's second, 4-0 Vote, Mayor Pro Tem Urdy, Councilmembers Barnstone and Carl-Mitchell out of the room.

1:00 P.M. - CITIZEN COMMUNICATIONS

2. Mr. Seymour Heinfling, to request that Capital Metro extend its bus route to the new Veteran's Administration Medical Clinic at 2901 Montopolis Drive was not present.
3. Mr. David Elliott discussed City issues.
4. Ms. Juliet C. Milk spoke to emphasize the importance of nutrition services in Public Health and for the Austin-Travis County community at large.
5. Mr. Richard Trachtenburg discussed improving communication between the staff, Council, and the public during the Austin City Council meeting.
6. Melba Lav-Garcia discussed proposals submitted to Council.

1:30 P.M. - BOARD AND COMMISSION REPORTS

7. Report/Request by the German American Association of Austin.

Mrs. Renata Anderson appeared before Council to request that Austin and Koblenz, Germany become Sister Cities.

ITEMS CONTINUED FROM PREVIOUS MEETINGS

8. C14-88-0103 - EAST 11TH STREET NEIGHBORHOOD CONSERVATION COMBINING

DISTRICT (NCCD), by East 11th Street Village Association, Inc., bounded by East 12th Street, Juniper Street, south of Hackberry Street, south of East 8th Street, west of San Marcos Street, and south of East 11th Street, east of Navasota Street, south of Rosewood Street and west of Angelina Street, and I.H. 35, from SF-3, SF-3-H, MF-3, LO, GO-CO, LR, CS, CS-H, CS-1-H, CS-1-CO, to SF-3-NCCD, SF-3-H-NCCD, MF-3-NCCD, LO-NCCD, LR-NCCD, CS-NCCD, CS-NCCD, CS-H-NCCD, CS-1-H-NCCD, CS-1-CO-NCCD. (Public Hearing held April 11, 1991 - No citizen sign-up) Consideration of an Ordinance waiving the development fees for Sub-Districts 1&2 within the 11th Street Neighborhood Conservation Combining District (NCCD).

FIRST READING ONLY

(A PARTIAL TRANSCRIPT OF THIS ITEM IS IS ATTACHED TO THESE MINUTES)

Motion

Mayor Pro Tem Urdy made a motion, seconded by Mayor Cooke, to approve Planning Commission's recommendation, First Reading Only.

Friendly Amendment

Councilmember Carl-Mitchell offered a friendly amendment, which was accepted by the maker and the second of the motion, to designate "the edge of the hotel is on the edge of the property along IH 35 and that the footprint do not extend east further than 100 feet, or be placed within 100 feet of the IH 35 property line on the property."

Friendly Amendment

Councilmember Carl-Mitchell offered a friendly amendment, accepted by the maker and the second of the motion, to limit Parcel A, which is on the north side, to FAR of 3.75.

Friendly Amendment

Councilmember Carl-Mitchell offered a friendly amendment, which was accepted by the maker and second of the motion, "that before second reading that urban design standards be incorporated into the site plan here, that address the issues of the back of the project and the parking garage, that specifies the landscape improvement, park zones be included on the parking garage, the improvement of the openings in the parking garage along San Marcos and 11th Street."

Friendly Amendment - Discussed and Withdrawn

Councilmember Carl-Mitchell offered a friendly amendment to limit the height on Tract B to 100 feet, with an FAR of 2.75. - After discussion the friendly amendment was withdrawn.

Councilmember Nofziger said "the neighborhood would like to see action

11. Amended the FY 1990-91 Environmental and Conservation Services Department (ECSD) Operating Budget by appropriating \$409,927 for the purchase of garbage containers and capital equipment associated with the semi-automated collection pilot program and general operations of Solid Waste Services (SWS) from the ECSD/SWS unreserved ending balance to SWS Operating Budget. (Related to Item 28)

On Councilmember Nofziger's motion, Councilmember Carl-Mitchell's second, 7-0 Vote.

12. Amended the Health & Human Services Department Operating Budget by increasing expenditures by \$8,000 and expense refunds by the same amount to accept a Tuberculosis Control Grant increase from the Texas Department of Health to purchase a Single-Phase Generator for X-ray equipment.

13. Amended the FY 1990-91 Operating Budget by appropriating \$660,523 in the Liability Reserve Fund and authorizing expenditures in an amount not to exceed \$400,000 for anticipated claims and damages, and transferring \$260,523 into the General Fund; increase the Fire Department's Operating Budget for claims associated with the firefighters lawsuit settlement agreement.

14. Approved annexation of 8.178 acre tract by Springwoods Municipal Utility District (The tract contains Springwoods Park and the Municipal Utility District Office). [No fiscal impact].

#12-14 on Councilmember Carl-Mitchell's motion, Councilmember Larson's second, 6-0 Vote, Mayor Pro Tem Urdy out of the room.

3:00 P.M. - ELECTRIC UTILITY (Items 15-26)

15. ELECTRIC UTILITY COMMISSION REPORT

Report submitted by Robert Floyd, Chairperson, Electric Utility Commission.

16. RESOURCE MANAGEMENT COMMISSION REPORT

Report given by Ken Altes, Chairperson, Resource Management Commission.

17. Monthly Management Report (Fiscal, Operations, Fuel)

John Moore, Director of Electric Utility, reported.

18. Monthly Utility Receivable Report

Director of Finance Betty Dunkerly reported.

which would protect the likelihood of their property taxes increasing to downtown levels as we go through this project."

Amendment to Motion

Mayor Pro Tem Urdy said he wanted to amend the motion to remove items 4, 8 and 11 of the Planning Commission's recommendations. Mayor Cooke accepted the amendment.

Council discussion, led by Mayor Pro Tem Urdy, indicated they will want to look at Items 1 and 6 more closely.

Friendly Amendment

Councilmember Larson offered the following friendly amendment, which was accepted by the maker and the second to the motion: "In relation to the Planning Commission recommendation number 12, the one that addresses the landscaping along San Marcos Street; the way the Planning Commission recommended that was that the landscaping should vary from a 50-foot depth to a 40-foot depth..... the applicant would prefer that read 17-foot to 22-foot."

Friendly Amendment

Councilmember Larson offered a friendly amendment, accepted by the maker and the second to the motion, to allow 24 months, rather than 18 months, for negotiation, acquiring at least one other property, and getting the financing in place.

Roll Call on Motion with Amendments

7-0 Vote

9. Direct the City Manager not to open Palm Pool for the 1991 swimming season. (Councilmember Bob Larson)

Directed City Manager to keep the pool open, on Councilmember Carl-Mitchell's motion, Mayor Pro Tem Urdy's second, 4-1-1 Vote, Councilmember Epstein voted No, Councilmember Larson abstained.

ORDINANCES

10. Amended the 1990-91 Operating Budget by accepting \$4,415 from the Texas Commission on the Arts for a grant for the enhancement of educational programs in visual, performing and literary arts and appropriating \$4,415 to the Parks and Recreation Department.

On Councilmember Carl-Mitchell's motion, Councilmember Larson's second, 6-0 Vote, Mayor Pro Tem Urdy out of the room.

19. Approve execution of a contract with INTERNATIONAL GAS CONSULTING, INC., Houston, Texas, to study the feasibility of developing a natural gas storage facility in the total amount of \$62,764. (Funding included in Electric Utility Operations & Management Budget). Low bid of three (3) bids. 0% M/WBE Subcontractor Participation. The prime did not identify any subcontracting opportunities. Reference File No. 910056-2RW.

Postponed

20. Approved execution of a contract with DATA AIDS COMPANY, Austin, Texas, for the purchase of Fiber Optic Cable and Accessories in the total amount of \$150,678.62. (Funding included in Electric Utility C.I.P. Budget). Low bidder of five (5) meeting specifications. 0% M/WBE Subcontractor Participation. The prime did not identify any subcontracting opportunities. Reference File No. 910174-3RF.

On Councilmember Carl-Mitchell's motion, Councilmember Larson's second, 6-0 Vote, Mayor Pro Tem Urdy out of the room.

21. Approved execution of a contract with AAR ENERGY SERVICES, Plano, Texas, for the purchase of Gas Turbine Equipment Specialty Tools for the Decker Power Plant, in an amount not to exceed \$120,519. (Funding included in Electric Utility Operations & Management Budget). Single Bid. 0% M/WBE Subcontractor Participation. The prime did not identify any subcontracting opportunities. Reference File No. 910294-1CM

On Councilmember Larson's motion, Councilmember Nofziger's second, 6-0 Vote, Councilmember Barnstone out of the room.

22. Approved execution of a contract with GULFGATE ENGINEERING, INC., Houston, Texas, for two (2) Lubricating Oil Purification and Conditioning Systems for the Holly Power Plant, in an amount not to exceed \$106,624. (Funding included in Electric Utility C.I.P. Budget). Low bid of four (4) bids. 0% M/WBE Subcontractor Participation. The prime did not identify any subcontracting opportunities. Reference File No. 910254-1CM.

On Councilmember Carl-Mitchell's motion, Councilmember Nofziger's second, 6-0 Vote, Councilmember Barnstone out of the room.

23. Approved execution of an agreement with the City of Austin and the Lower Colorado River Authority (LCRA) for the construction of certain transmission lines including a circuit for the LCRA at an estimated cost of \$8,500,000, and providing certain future transmission-system rights, and for the purchase of two transmission lines and related rights-of-way from the LCRA in an amount of \$12,000,000. The cost of the agreement is estimated to be \$20,500,000. (Funding included in Electric Utility CIP Budget).

On Councilmember Carl-Mitchell's motion, Mayor Pro Tem Urdy's second, 6-0 Vote, Councilmember Barnstone out of the room.

24. Approved selection (RFQ) of AUSLAND ARCHITECTS, Austin, Texas, and negotiation and execution of a contract to provide the architectural services for expansion of the Electric Utility Department's facilities at South Austin Service Center in an amount not to exceed \$485,000. (Funding included in Electric Utility C.I.P. Budget). Prime recommendation of twenty-seven (27). 15% MBE and 25% WBE Subcontractor Participation.

On Councilmember Nofziger's motion, Councilmember Larson's second, 6-0 Vote, Councilmember Barnstone out of the room.

25. Approved execution of a contract with MARLEY HEAT TRANSFER, Houston, Texas, for the purchase of replacement Feedwater Heaters for the Holly and Decker Power Plants, in an amount not to exceed \$455,325. (Funding included in Electric Utility C.I.P.). Low bid of two (2). 0% M/WBE Subcontractor participation. The prime identified one area of subcontracting and has committed to make every effort to subcontract to a certified minority firm. Reference File No. 910295-30P.

On Councilmember Nofziger's motion, Mayor Cooke's second, 6-0-1 Vote, Councilmember Epstein abstained.

26. Approved execution of contracts with WESTINGHOUSE ELECTRIC CORPORATION, San Antonio, Texas, and GENERAL ELECTRIC COMPANY, Houston, Texas, the Original Equipment Manufacturers for the purchase of turbine generation and auxiliary maintenance overhaul services for Holly and Decker Power Plant, in the amount of \$150,000. (Funding included in the Electric Utility Operations and Maintenance Budget). Sole Source. 0% M/WBE Subcontractor participation. The prime did not identify any subcontracting opportunities.

On Councilmember Carl-Mitchell's motion, Councilmember Larson's second, 6-0 Vote, Mayor Pro Tem Urdy out of the room.

RESOLUTIONS

27. Approved execution of a contract with WALLACE & TIERNAN CO., Dallas, Texas, for the purchase of a lime slaker and feed unit, in an amount not to exceed \$40,157. (Funding included in the 1990-91 Operating Budget of the Water and Wastewater Department). Low bid of four (4). 0% M/WBE Subcontractor participation. The prime did not identify any subcontracting opportunities. Reference No. 910124-11I.

On Councilmember Carl-Mitchell's motion, Councilmember Nofziger's second, 7-0 Vote.

28. Approved execution of a contract with ZARN, INC., Reidsville, NC, in an amount not to exceed \$27,321 and TOTER, INC., Statesville, NC, in an amount not to exceed \$244,305, for garbage containers for semi-automated collection, with

an option to extend the contracts for one additional twelve (12) month period in an amount not to exceed \$27,321 and \$244,305 respectively, for a total amount not to exceed \$543,252. (Funding in the amount of \$320,703 included in the 1990-91 Operating Budget of the Environmental and Conservation Services Department; the remaining \$222,549 is funded by a budget amendment from the Solid Waste Services unreserved ending balance). Low bid of three (3). 0% M/WBE Subcontractor participation. (Zarn - The prime identified one area of subcontracting and will utilize a certified WBE firm, amount unknown at this time. Toter - The prime identified three areas of subcontracting. The prime listed three potential M/WBE's who have been invited to apply for certification). [Related to Item 11]

On Councilmember Carl-Mitchell's motion, Councilmember Nofziger's second, 7-0 Vote.

29. Approved negotiation and execution of a twelve (12) month service agreement with NCNB TEXAS, Austin, Texas for administration of the Home Energy Loan Program, in an amount not to exceed \$858,300, with the option to extend for up to two (2) twelve (12) month periods, in an amount not to exceed \$858,300 for each period, for a total amount not to exceed \$2,574,900. (Funding included in the 1990-91 Operating Budget of the Environmental and Conservation Services Department). Best proposal of three (3). 0% M/WBE Subcontractor participation. The prime did not identify any subcontracting opportunities. Reference No. 910215-3CM.

On Mayor Pro Tem Urdy's motion, Mayor Cooke's second, 6-1 Vote, Councilmember Barnstone voted No.

30. Approved execution of a four (4) month interim contract with HELPING OUR BROTHERS OUT, INC., (HOB0), Austin, Texas, for the provision of daytime shelter and other support services for the homeless, in the amount of \$37,167. (Funding included in the Social Services Homeless Fund).

31. Approved Change Order No. 1 to the contract with the Gunita Company, Houston, Texas, for work done on an emergency basis in conjunction with the Ullrich Water Treatment Plant Expansion, Contract 5, in the amount of \$70,264.24.

32. Approved application for and acceptance of two mini-grants totaling \$3,000 from the Texas Commission on the Humanities Mini-Grant Program for a lecture/reception on "O. Henry's Austin during the late 1800's" and an educational program for the 786 Locomotive.

33. Approved an Interlocal Agreement with the Austin Independent School District for noise compatibility project for soundproofing of public schools in the vicinity of Robert Mueller Airport. [No fiscal impact].

34. Set a public hearing to amend the solid waste collection rates for the neighborhoods included in the pilot program for volume based fees (Pay As You Throw). Date and time: April 25, 1991 at 5:30 p.m.

35. Set a public hearing to enact an Ordinance to: (a) waive the assessment of Capital Recovery Fees in the amount of \$431,640 for the City's Fire/Police Joint Training Facility at Shaw Lane and McKinney Falls Parkland; and (b) waiving that portion of the Capital Recovery Fee Ordinance requiring that when these fees are waived, an equivalent amount of City funds be deposited in the Capital Recovery Fee Account. Date and time: April 25, 1991 at 6:00 p.m.

46. Approved execution of a contract with ROLLINS ENVIRONMENTAL SERVICE, INC., for the removal and disposal of certain evidentiary materials confiscated by the Austin Police Department.

#30-35 and 46 on Councilmember Carl-Mitchell's motion, Councilmember Nofziger's second, 7-0 Vote.

36. 5:00 P.M. - MONTHLY HOUSING STATUS REPORT

Report not given separately from the Austin Housing Finance Corporation meeting.

RECESS

Council recessed its regular meeting from 5:03 to 5:12 P.M. in order to hold its meeting as the Board of Directors of the Austin Housing Finance Corporation.

PUBLIC HEARINGS AND APPROVAL OF ORDINANCES/RESOLUTIONS

37. 5:30 P.M. - Approve an Ordinance regulating phosphorous in detergents. (Mayor Lee Cooke)

Motion

The Council, on Councilmember Carl-Mitchell's motion, Councilmember Nofziger's second, voted to continue the hearing to May 16, 1991 at 6:30 P.M. (5-0 Vote, Mayor Pro Tem Urdy and Councilmember Barnstone out of the room.)

38. 6:30 P.M. - Citizen Input on community needs to be addressed by activities funded under the 17th Year (Fiscal Year 1991-92) Community Development Block Grant.

Motion

The Council, on Councilmember Epstein's motion, Councilmember Nofziger's second, closed the public hearing. (4-0 Vote, Mayor Cooke, Mayor Pro Tem Urdy, Councilmember Barnstone out of the room.)

ITEMS FROM COUNCIL

39. Adopt a Resolution opposing the Environmental Charter Amendments.
(Councilmember Bob Larson).

Postponed to April 25, 1991.

40. Approved an Ordinance waiving the requirement that carnival activity be conducted 1,000 feet from residential property for the Ben Hur Shrine Temple Carnival at Nelson Field. (Councilmember Louise Epstein).

On Councilmember Epstein's motion, Councilmember Larson's second, 7-0 Vote.

41. Direct the City Manager to issue a Request for Qualifications (RFQ) for an Owner Controlled Insurance Program for the City of Austin Capital Improvements Program (C.I.P.) [Mayor Lee Cooke and Mayor Pro Tem Charles Urdy]

Postponed to April 25, 1991.

42. Amend Sections 11-2-7 and/or 11-2-47 of the Code of the City of Austin, 1981, as amended to provide for greater protection for neighborhoods being used as "thru truck routes." (Councilmember Bob Larson)

Council directed the City Manager to bring back an ordinance in 30 days.

43. Approve a work plan recommended by the City Council Hospital Subcommittee regarding: a) Health Services Financing District b) the creation of a County based non-profit hospital corporation c) the formation of a Hospital Planning Board. (Mayor Pro Tem Charles Urdy and Councilman Robert Barnstone)

Agenda item April 25, 1991 at 2:30 P.M.

47. Approved a Resolution authorizing the establishment of a pilot program to convert 20 City vehicles from petroleum-based fuel to compressed natural gas fuel by the end of fiscal year 1992 (five vehicles budgeted for conversion in FY 1990-91.) [Funding in the amount of \$3,000 provided from the General Services Department, \$12,000 from the Water and Wastewater Utility. The City Manager is to report back on financing options for FY 1990-92.](Councilmembers Smoot Carl-Mitchell and Michael "Max" Nofziger)

On Councilmember Carl-Mitchell's motion, Councilmember Epstein's second, 7-0 Vote.

EXECUTIVE SESSION (No Public Discussion on These items)

Mayor Cooke announced that Council would go into Executive Session pursuant to Article 6252-17, Texas Revised Civil Statutes Annotated, to discuss matters of land acquisition, litigation, and for personnel matters. No final action, decision, or vote by the City Council will be taken on any subject or matter unless specifically listed on the agenda for this meeting.

44. **Pending/Contemplated Litigation - Section 2, Paragraph e**

Discussion of settlement offer in David Callahan and Mary Callahan v. City of Austin and Michael Anthony Martinez, Cause No. 491-284

RECESS - Council recessed its meeting from 9:35 to 9:40 for executive session.

ACTION ON THE FOLLOWING

45. Approved settlement of David Callahan and Mary Callahan v. City of Austin and Michael Anthony Martinez, Cause No. 491-284, in the amount of \$200,000.00

On Councilmember Carl-Mitchell's motion, Councilmember Epstein's second, 5-0 Vote, Mayor Pro Tem Urdy and Councilmember Barnstone out of the room.

ADJOURN - The meeting was adjourned at 9:41 P.M.

COUNCIL MEETING TRANSCRIPT
APRIL 18, 1991
ITEM 8

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ITEMS CONTINUED FROM PREVIOUS MEETINGS

ITEM 8 - C14-88-0103 - EAST 11TH STREET NEIGHBORHOOD CONSERVATION
COMBINING DISTRICT (NCCD), BY EAST 11TH STREET VILLAGE ASSOCIATION, INC.

(Discussion in process)

MAYOR PRO TEM URDY:(continuing). So with that understanding, and I know there are some proposed amendments to this, but I would move approval of the Planning Commission's recommendation.

MAYOR LEE COOKE: We have a motion and I will make a second on that. We have a motion and second on the floor to adopt the Planning Commission's recommendation. Discussion on the motion?

COUNCILMEMBER CARL-MITCHELL: Yes Mayor, I have a couple of things I would like to add to that. Hopefully as friendly amendments.

MAYOR: Councilmember Carl-Mitchell.

CARL-MITCHELL: One, the hotel footprint is 30,000 square feet? I would like in terms of the site plan here that that be put, uh, the edge of the hotel is on the edge of the property along IH 35 and that footprint do not extend back further than 100 feet, or be placed within 100 feet of the IH 35 property line on the property.

TRACY WATSON: The edge of IH 35 right-of-way, the hotel and its height would go no further east than 100 feet?

CARL-MITCHELL: No further east than 100 feet.

WATSON: Ok.

CARL-MITCHELL: And I think the applicant's agreeable to that. And since the area, they can put the hotel.....

MAYOR: Do you accept that as a friendly amendment?

URDY: Uh.....

WATSON: For the record, the applicants can support that amendment.

URDY: I don't see a problem with that.

CARL-MITCHELL: The other thing I have is to limit the ----- area ratio on Parcel B which is the, excuse me, Parcel A, which is the north side, to FAR of 3.75.

WATSON: We can accept that.

MAYOR: Do you accept that as a friendly amendment? (PAUSE) Accepted.

WATSON: That was Parcel A, Councilmember?

CARL-MITCHELL: Parcel A. That's the north side..... And also that, and I believe I talked to the applicant yesterday about this, that before second reading that urban design standards be incorporated into the site plan here, that address the issues of the, really the back of the project and the parking garage, that specifies the landscape improvement, park zones be included on the parking garage, the improvement of the openings in the parking garage along San Marcos and 11th Street.

WATSON: That's great. We like to call it the front of the East Side.

CARL-MITCHELL: And I would like that language before second reading, you'll have the language ----- . I really want to see it as part of the site plan you're reading from.

URDY: Let me clarify first of all that my motion did not include first reading, ----- . I don't know if staff ----- .

WATSON: It would need to be first reading only because we have a number of these things that have to be prepared. There are about three different elements. Have to put some of the things in the ordinance, some in restrictive covenants, others can be handled through amendments to the report. Basically ----- to be accomplished, it would be first reading only.

URDY: OK, ----- I don't have any problem with that.

CARL-MITCHELL: ----- One thing I think is part of the Planning Commission recommendation is ----- the Council agree on the site plan. And this is, staff, I understand is how that works. I see that as very similar to the Planning Commission review of the Hill Country Roadway Ordinance site plan. And frankly, Dr. Urdy, one thing I would do is bring that directly to the City Council.

URDY: Yes.....(CARL-MITCHELL/DR. URDY TALKING)

CARL-MITCHELL: And I think what we ought to do is bring it directly to the City Council and that the site plan is not released until after that hearing, but also that hearing to be held within a, probably within 21 days of when the staff is ready to release the site plan, it gets put on our agenda.

WATSON: To have a public hearing, or just a review?

CARL-MITCHELL: I think it should be a public hearing. Same as the Planning Commission ----- Hill Country Roadway site plan ----- . My point I made earlier, is what I want to do is I think that if we put the criteria into the site plan we give to the staff then I think there should be a Council review of that, given the magnitude of this project, but I also don't want to have it postponed forever just for the sake of postponing it. So I would like to have it set up that the Council post

that and have action on that within that 21-day period.

URDY: I don't really have any problem with Council review on that. I'm not sure that I want to mandate a public hearing. We, of course, would have citizen input but a public hearing is another.....

CARL-MITCHELL: I think, frankly, we should have a public hearing. That's why I said, in terms of processing, it's the same as Planning Commission review.

URDY: That's always generally approved, it's always an option. But if you mandate a public hearing, you've got all the time limitations and everything and I'm not sure that that is

MAYOR: Well, I would like to have it on the agenda for the citizens to speak on it, but as far as going through all the notification of a public hearing I would prefer that we not do that.

URDY: Because you get into the -----, and the time for posting and all of those things.....

CARL-MITCHELL: That's fine. I just want to be sure there is that public review. And the last thing is, and it might be controversial, is that I do have a problem with the height on Tract B. And I think what I would like to do is limit the height on that tract to 100 feet. On their proposal it's 150. On the north part of Parcel B the height limit should be the same as proposed on both areas as less than 100 feet. It's the north half of this is recommended by the applicant for 150 feet and I think Planning Commission recommended that too. I would like to reduce that to 100 feet and a ---- area ratio of 2.75.....

MAYOR: I don't know if I'll accept that.

URDY: Yes, and I don't really get that, since we're passing this only on first reading, I would rather at some point and time review it because I'm not real sure and

CARL-MITCHELL: Well, why don't we do this. I'll probably ----- before we get to third reading on that, what I'll do is -----, if I could ask the applicant to go down and take another look at that and see where we are and see if those two zones can be rezoned, and I think ----- 100 feet, and I will be happy to sit down with you..... So, I will leave that out of my proposed amendment.

URDY: Well, and I ----- to the applicant, but I was referring to speaking to the Neighborhood Conservation District, because I have not had an opportunity to discuss that with anyone, that's coming up today. So I would rather have time to discuss that with

CARL-MITCHELL: That's fine, Dr. Urdy. We'll have time to discuss it before third reading.

MAYOR: OK, we have a motion and second with several friendly amendments proposed by Councilmember Carl-Mitchell, now we'll go to Councilmember

Nofziger.

COUNCILMEMBER NOFZIGER: Yes, I would like to inquire when this will be back for second reading. If staff can have all those changes made in a week, or will it be two weeks, or.....

WATSON: These are not staff changes, sir. The ordinance we can have ready fairly soon. The rest depends on the applicant to amend the documents and prepare the restrictive covenants.

NOFZIGER: What is your best guess when this will return to Council for second reading?

WATSON: I prefer you ask them how much time they're going to need to get these things changed. We could probably turn it around in two or three weeks.

NOFZIGER: Two to three days?

WATSON: Weeks.

NOFZIGER: Weeks. Mayor, one of the concerns of the neighborhood is about the impact on property taxes of the homeowners in that neighborhood and I would like the staff to recommend to Council some ways that we might be able to protect the homeowners in that area. And if we can, perhaps the community development commission might have some suggestions or perhaps know some ways that you can recommend to us to give the homeowners in that area some protection.

MAYOR: Would you clarify what you're talking about specifically?

NOFZIGER: Yes, that is one of the items that the neighborhood had suggested they would like to see included in this arrangement is protection from the likelihood of their property taxes increasing as we go through this project, being in the neighborhood. (SOMEONE IN BACKGROUND TALKING). Yes, yes. And rather than see their property taxes on a single-family home go up to downtown levels, it would give the neighborhood some comfort and I would certainly like to see something that you might recommend that we can offer some protection to the homeowners from seeing their property taxes escalate.

-----: Councilmember, if I may, another opportunity to do something immediately also, there are a couple of Planning Commission recommendations that we would like to see excluded from this since they are not really zoning issues. One of them is number 11 which refers to tax ----- financing. We would like to suggest that you strike that from the Planning Commission recommendation. The other one I would like to ask you strike from the Planning Commission recommendation but we can certainly take it as direct from the Council was Planning Commission recommendation number 4 which talked about creation of NCCDs for the Guadalupe and the other neighborhoods. One thing that that might do would be to allow them to prepare a neighborhood plan for the stability of their neighborhood and, again, with the NCCD process that would zone the entire neighborhood one thing and, again, that restriction of only

annual or within one year, amendments. I think that might provide some stability as well.

MAYOR: Ok, let me speak to the maker about striking those two items from the Planning Commission.

URDY: Yes, I believe ----- now, but I lost track of which numbers they are.

MAYOR: Four and 11. (PAUSE). Ok, that's duly noted. Councilmember Barnstone?

URDY: I haven't finished ----- . Because I want to be sure that we make note of that, particularly with regard to Councilmember Nofziger's suggestion that ----- make a note in there ----- .

NOFZIGER: Excuse me, Dr. Urdy, but that might be one of the ways that staff would recommend to address the problem. And, not to make this an amendment to the motion but rather in the nature of direction to staff, if ya'll might recommend some ways, this could certainly be ----- to let us consider then on second reading.

MAYOR: Consideration of including ----- NCCD for ----- public input. OK, Mayor Pro Tem, other comments before we go to Councilmember Barnstone.

URDY: Yes Mayor. I would like to say that that includes Guadalupe as well as Albertson(?) Neighborhood Association. That proposal is proposed to apply to both of those ----- (UNCLEAR) ----- . In looking at that, we would look at both of these in establishing an NCCD? ----- (UNCLEAR) ----- supporting both of those as well as ----- . Use that mechanism to.....

MAYOR: OK, for the Council's approval that is duly noted. Councilmember Barnstone?

COUNCILMEMBER BARNSTONE: Mayor, I also want to underscore the importance of the point that Councilmember Nofziger raised about the tax on residential or ----- . We do have some rather direct ways of influencing that, we appoint those commissioners, and we can also send a Council resolution that states our intent about whether rezoning in that area for the same purposes. And so that can go on to those taxing authorities with a resolution from the Council stipulating that we do not intend to extend ----- Guadalupe neighborhood. I would also like to say that I want to commend the applicant for all the work that they have done in bringing the neighborhood into it. I really appreciate even their continued presence here of Reverend Skifford and Reverend Harris and Father Artis, who have been here today and waited all these long hours to have this issue pass, and that underscores the importance in which they view this problem. I would like to make a personal request of the applicant that they spend just a little more time with the Guadalupe Neighborhood Association, ----- citizens of that organization, and they have concerns that have to be addressed that (on San Marcos) what kind of face is given to that neighborhood is very,

very important. So I make a personal request that you spend some time with those folks and see if we can accommodate their needs for that ----- . It is a very sensitive neighborhood and they ----- that have done extraordinary things to stabilize that neighborhood and we do not want them to be threatened because I think they have done ----- , they have done a great deal to rebuild that neighborhood and it is a fragile situation. So, we don't want to move backwards on this.

CARL-MITCHELL: Mayor?

MAYOR: Yes, Councilmember Carl-Mitchell.

CARL-MITCHELL: I know we put on the initiating ----- of due process. Do we need to do anything else to move that forward?

WATSON: I think that during the process we could bring back to you an ordinance effectively. If you pass this as it is, you will be waiving fees for subdistricts one and two.....(CARL-MITCHELL, WATSON TALKING AT ONCE).

CARL-MITCHELL: What I'm talking about, The Guadalupe Neighborhood, the NCCD, initiating that, do we need to do anything else to ----- have that process underway.

WATSON: Waive the filing fee. (CARL-MITCHELL, WATSON TALKING AT ONCE)

CARL-MITCHELL: Let's bring that back quickly and we ought to do that. We've done that in other NCCDs.

MAYOR: OK, further comments?

URLY: Yes, Mayor. On the Planning Commission recommendation ----- staff. There are also a couple of things I need to address. And there may be a couple of others we can deal with ----- , and I'll ask staff to develop their recommendation, an alternative on this. But there was another one, Planning Commission recommendation number 8 that addressed when development should begin in one subdistrict or the other. And I think we need to leave that out since they are two separate subdistricts and one owner does not own the other, so

MAYOR: OK, so you're talking about 4, 8, and 11 of the Planning Commission recommendations being removed from your motion, and as a second I accept those three.

URLY: Right. And there is one other, number 1 which we agreed to and I believe the developer agreed to this, in working with the surrounding neighborhoods on this issue, the minority contracting commitments. This I believe, ----- is not a zoning issue. They are working on that and will continue to work on that, to include it as a requirement as much as possible. As I understand it, there ----- (UNCLEAR) ----- is not really a zoning issue. And the other question that staff raised is number 6 about the ----- (UNCLEAR) ----- and I would prefer to look at that as part of the site plan because I have not seen the ----- . But on all of the others, I would ask staff to bring back before second

reading how they would recommend we handle that particular question. It's a very important one to the neighborhood. And so I don't want to try to delete it at this point because I don't have any substitute for it, but if you would bring back what you would recommend. But I think we can safely delete, we're deleting ----- NCCD. Well zoning types, well they're not zoning types, but number 4, 8, and 11, we're including a requirement in number 1 but not as part of the zoning, and you'll recommend that as planned.

WATSON: You would like us to bring you that agreement with second reading?

URDY: Yes, I would like to see that. And I believe staff is working on ----- agreement.

CARL-MITCHELL: But Mayor, on this what you're doing is that one has to be executed before third reading. ----- a minority contract. Execute a contract. On the zoning, you're saying is contingent upon execution of the contract. Then 8 was just improvements within subdistrict 1 has to be concurrent with improvements in subdistrict 2. That one, we're deleting?

URDY: Right. ----- (UNCLEAR) ----- . But that's our responsibility to have staff to look at the neighborhoods to try to look into those NCCDs in those other two neighborhoods, and that's not a part of this zoning but it is a part of something that we want to look at.

CARL-MITCHELL: And on 6, I would be very interested in seeing what staff comes back with. I would also say, just for the record, and I've talked to the applicant about this, that I don't think it's appropriate to have access on East 9th Street into this project. ----- the recommendation, so..... I feel very strongly about that.

WATSON: ----- We're not going to be able to give you a real definitive answer on that until or unless we see a PIA on what they're specifically proposing to see if it is legal for public safety use or not to establish -----.

CARL-MITCHELL: Well, I think, ----- more information.

URDY: But I would like to see how you would propose to deal with that issue and whether or not we can, given that we're going to review the site plan, whether we can still view it with those requirements within the public safety requirements of this whole thing in the site, and all of that. I mean I'm just asking. I don't want to go into all that because I don't know how to answer that question. But I would like to look at that. So I'm not asking to take that out at all or to change it at this point. We'll have an opportunity when we come back to see what we want to do with that. But I just wanted to raise that since it is an important issue. And I believe those are the only ones in the Planning Commission recommendation that are excepted.

MAYOR: Well for the record, the second accepts those changes by the maker.

COUNCILMEMBER LARSON: Mayor?

MAYOR: Councilmember Larson.

LARSON: In relation to the Planning Commission recommendation number 12, and this is the one that addresses the landscaping along San Marcos Street. The way the Planning Commission recommended that was that the landscaping should vary from a 50-foot depth to a 40-foot depth. That does create some problems, I understand, and the applicant was saying that they would prefer that read 17-foot to 22-foot. Is that correct?

APPLICANT: That is correct, and we have provided each of you with our response to these conditions, ones we can and cannot live with. And I would encourage ya'll to look at those, if you haven't had the opportunity to. That is one of the problems that we have, correct.

LARSON: They are willing to extend to increase the minimum of 15-foot to 17-foot, however they are asking they be released from the 40-foot maximum to a 22-foot. It's my impression that they can do something very appropriate on the lower foot, ----- that varies from 17- to 22-foot. So I would suggest that as a friendly amendment if the maker of the motion is inclined to accept that.

URDY: Yes, I think that was one of the recommendations we had last week and I think had included.

MAYOR: Maker accepts that, second accepts that.

LARSON: And also, addressing again the issue of the hole in the doughnut, and as that relates to item number 2 from the Planning Commission about the 18-month maximum period for all this to happen. It's obvious from that hole in the doughnut there is still a property to be acquired. ----- rezoning, including that one particular property in the NCCD, will not make the house go away. The house can still stay. And the fact that the owner doesn't get to sell, the house will stay there. However, if we ----- that property and decided to keep it single family, that does exclude the project, and it doesn't even give the parties, I believe, much opportunity to negotiate. In fact, not including it could very well make it difficult, I would perceive, on pursuing the financing for the project. This, in fact, the bank (the theoretical bank) sees that hole in the doughnut. That could really delay this project and I think have an adverse effect to it. And so, I would recommend that we include that property at this time, especially on first reading. However, given the fact that there is still some negotiating going on and these folks still have to acquire at least one property, and we all agree that this is a project that we want to see happen, it's a project that I think is overall good for the community, good for the city. I would like to ask the question why, you know, if it takes 19 months or 20 months to consummate this deal and put everything in place and acquire this property, why would we want to see it all go away? Why do we want to restrict this to 18 months? And I know we don't want it to go on for years and years and years, but I would suggest the friendly amendment, and that's the friendly amendment

we at least give these folks 24 months given the fact that they do have to negotiate, acquire another property (at least one), and then get all the financing in place. So I would ask that we give them another six months on this and extend that 18 months to 24 months, if the maker of the motion is so inclined.

MAYOR: Mayor Pro Tem Urdy?

URDY: Yes Mayor. Personally, I haven't had any discussion with anybody on that. I don't have any problem with it. I don't want, you know, ----- Councilmembers or not, does not see the problem, it doesn't mean, I don't know.....

MAYOR: This project is so complex and it's so sensitive that I think 18 months, while I think the Planning Commission was really trying to work out a lot of issues and we're trying to ----- today, I would be inclined to support the 24-month option, if you want to accept that as a friendly amendment.

URDY: I don't really have a problem with it.....

MAYOR: Councilmember Carl-Mitchell?

CARL-MITCHELL: Let me point out that I don't think there's much difference between 18 and 24 months but I want to make it clear ----- (SEVERAL TALKING AT ONCE)... But let me point out, I think it's not a ----- but I think we make a better statement at 18 months. Remember it has to be ----- by the Council to roll the zoning back. It doesn't just automatically happen. And the way I have always seen that 18-month deadline is that it is not the project is finished and on line and everything, it's that the site plan has been approved, they acquired the property obviously before then, they -----, and there has been significant progress made on their ----- . And I want to point out the 18 months, you know the world doesn't fall-in in 18 months from the final adoption of the ordinance. So, it doesn't really ----- one way or the other, because Council would have to initiate the roll back in any case whether it's 18 months or 24 months. If they came in and said hey, we've got a building permit and our bulldozers are going to start day 18-months-plus-one, and we're going to start -----, I don't think Council is going to say well, ----- . I don't think it's going to happen.

URDY: But a lot of things that must be in process before they can do some of those things that are exceeded by the 18 months, and so if those things are not in process even though a good while before that ----- . And so, that's why I don't have a problem with the 24 months.

MAYOR: Do you want to accept that?

URDY: Yes, I will accept that.

MAYOR: OK, so 24 has been accepted as a friendly amendment, and accepted by the second. We now have, I think, actually three friendly

amendments by Councilmember Carl-Mitchell, and two directives. And we have two friendly amendments by Councilmember Larson. And we have a directive also by Councilmember Nofziger. So those are the changes. And then I think that Mayor Pro Tem made it clear that three items, I think 4, 8, and 11 are excluded from the Planning Commission's recommendation. I think that's a simile of the motion as amended at this particular time, Councilmembers. Further discussion on the motion as amended? First reading. (PAUSE) Sensing none, call the roll.

CITY CLERK ALDRIDGE: Mayor Pro Tem Urdy?

URDY: Yes.

CLERK: Councilmember Larson?

LARSON: Yes.

CLERK: COUNCILMEMBER CARL-MITCHELL?

CARL-MITCHELL: Yes.

CLERK: Councilmember Epstein?

EPSTEIN: Yes.

CLERK: Councilmember Nofziger?

NOFZIGER: Yes.

CLERK: Councilmember Barnstone?

BARNSTONE: Yes.

MAYOR: Thank you all for being here. We'll now go to our 3:00 o'clock Electric Utility Board -----ETCETERA, ETCETERA-----.