



**Austin City Council
MINUTES**

**REGULAR MEETING
THURSDAY, FEBRUARY 12, 2004**

Invocation: Pastor Karl Gronberg, Gethsemane Lutheran Church

The following represents the actions taken by the Austin City Council in the order they occurred during the meeting. While the minutes are not in sequential order, all agenda items were discussed. The City Council of Austin, Texas, convened in a regular meeting on Thursday, February 12, 2004 in the Board Room at Lower Colorado River Authority Hancock Building, 3700 Lake Austin Boulevard.

Mayor Wynn called the Council Meeting to order at 10:18 a.m.

CONSENT AGENDA

The following items were acted on by one motion. No separate discussion or action occurred on any of the items. The consent items were approved on Council Member Thomas' motion, Council Member McCracken's second on a 7-0 vote.

Meeting Minutes

1. Approval of minutes from the meeting of February 5, 2004.
The minutes from the meeting of February 5, 2004 were approved
2. Approve issuance of a rebate in the amount of \$48,668.90 to the Del Valle Independent School District for the installation of high efficiency air conditioning equipment at the John Ojeda Junior High School, located at 4900 McKinney Falls Parkway in Austin, Texas. (Funding is available in the Fiscal Year 2003-2004 Amended Operating Budget of the Electric Utility Department, Conservation Rebates and Incentive Fund.) (Recommended by the Electric Utility Commission. Recommended by the Resource Management Commission.)
The motion authorizing the issuance of a rebate was approved.
3. Authorize execution of a construction contract with PEPPER-LAWSON CONSTRUCTION, L.P., Houston, TX for the construction of the Northeast Interim Wastewater Treatment Plant in the amount of \$5,319,000 plus a \$250,000 contingency, for a total authorized amount not to exceed \$5,569,000. (Funding in the amount of \$5,569,000 is included in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.) Lowest bid of five received. 23.19 % MBE and 3.93 % WBE subcontractor participation. (Recommended by Water and Wastewater Commission) (Related Items 4, 5)
The motion authorizing the execution of a construction contract was approved.

4. Authorize execution of a contract with BLUEBONNET ELECTRIC COOPERATIVE, Giddings, TX for constructing primary power feed and a second dual power feed to the Northeast Interim Regional Wastewater Treatment Plant site at Wild Horse Ranch for the amount of \$175,350 plus a \$25,000 contingency for a total contract amount not to exceed \$200,350. (Funding in the amount of \$200,350 is included in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.) (Recommended by Water and Wastewater Commission) (Related Items 3, 5)
The motion authorizing the execution of a contract was approved.
5. Authorize negotiation and execution of Amendment No. 3 to the professional services agreement with TURNER COLLIE & BRADEN, INC., Austin, TX for construction/warranty phase services on the Northeast Interim Regional Wastewater Treatment Plant and the north interceptor, and additional design of the initial section of the Gilleland Creek Interceptor in the amount not to exceed \$913,967 for a total contract amount not to exceed \$3,106,759. (Funding in the amount of \$913,967 is included in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.) 18.0 % MBE and 19.2 % WBE subcontractor participation to date. (Recommended by Water and Wastewater Commission) (Related Items 3, 4)
The motion authorizing the negotiation and execution of Amendment No. 3 to the professional services agreement was approved.

Items 6 and 7 were pulled for discussion.

8. Approve an ordinance authorizing acceptance of grant funding from the National Center for Civic Innovation in conjunction with the Sloan Foundation in the amount of \$30,000 and amending the Fiscal Year 2003-2004 Financial and Administrative Services Operating Budget, Special Revenue Fund of Ordinance 030909-01, by appropriating \$30,000 for the Government Performance Reporting Demonstration Project. (Funding is available in National Center for Civic Innovation funds through the Sloan Foundation.)
Ordinance No. 040212-8 was approved.
9. Approve an ordinance amending the Fiscal Year 2003-2004 Operating Budget of Ordinance No. 030909-1 to appropriate \$1,300,000 to the Austin Police Department Operating Budget for public safety equipment and to reduce the General Fund Ending Balance by the same amount. (Funding in the amount of \$1,300,000 is available from the Fiscal Year 2003-2004 General Fund Approved Ending Balance.) (Related Item 30)
Ordinance No. 040212-9 was approved.
10. Approve execution of a 12-month contract with CHILD INC., Austin, TX, to provide childcare services for the period of January 1, 2004 through December 31, 2004, in an amount not to exceed \$84,928. (Funding in the amount of \$63,696 is available in the Neighborhood Housing and Community Development (NHCD) Department Special Revenue Fund, the Community Development Block Grant (CDBG - 29th year). Funding for the final three months of the contract is subject to available CDBG funding.)
The motion authorizing the execution of a contract was approved.

Item 11 was pulled for discussion.

12. Approve an ordinance to establish classifications and number of positions in the classified service of the Police Department and repealing Ordinance No. 040115-12. (Funding is included in the Fiscal Year 2003-2004 Approved Operating Budget of the Austin Police Department.)
Ordinance No. 040212-12 was approved.

13. Approve a resolution authorizing the fee simple acquisition of a manufactured home and travel trailer located on Lot 22, Linda Vista Subdivision, locally known as 10906 Linda Vista, from Raymond Pumphrey for the Airport Noise Mitigation Program, in the amount of \$19,200 for the improvements and \$53,657.50 relocation benefits, plus closing cost and moving related expenses in the amount of \$10,000, for an amount not to exceed \$82,857.50. (Funding in the amount of \$82,857.50 is available in Fiscal Year 2003-2004 Capital Budget of the Department of Aviation using airport funds and available Federal Aviation Administration (FAA) Grants.)
Resolution No. 040212-13 was approved.
14. Approve a resolution to authorize the fee simple acquisition of 7516-C Towery Lane, from Margaret M. Woodworth for the Airport Noise Mitigation Program, in the amount of \$8,825 for the land and improvements and \$41,609.55 in relocation benefits, plus closing costs and moving related expenses in the amount of \$10,000, for an amount not to exceed \$60,434.55. (Funding in the amount of \$60,434.55 is available in Fiscal Year 2003-2004 Capital Budget of the Department of Aviation using airport funds and available Federal Aviation Administration (FAA) Grants.)
Resolution No. 040212-14 was approved.
15. Approve a resolution authorizing the filing of eminent domain proceedings to acquire from Meadows of Carson Creek Corporation, a Texas Corporation, eight easements described as follows: (A) out of Lot 11, Block A, Carson Creek Addition, Section 4, Travis County, TX, located at 9316 Carson Creek Boulevard (1) an 887 square foot permanent wastewater line easement and (2) a 1,798 square foot temporary working space easement; (B) out of Lot 12, Block A, Carson Creek Addition, Section 4, Travis County, TX, located at 9318 Carson Creek Boulevard (3) a 2,328 square foot wastewater line easement, (4) a 4,769 square foot temporary working space easement, (5) a 1,554 square foot water and wastewater easement, (6) a 1,321 square foot temporary working space easement, (7) a 1,578 square foot water line easement, and (8) 1,248 square foot temporary working space easement, in the amount of \$2,171 for the Del Valle Annexation Project. (Funding is included in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.)
Resolution No. 040212-15 was approved.
16. Authorize execution of a construction contract with HEYL CONSTRUCTION, LTD, Leander, TX, for the Austin Clean Water Program: Upper Tannehill - Briarcliff and Belfast Wastewater Improvements Project, in the amount of \$644,721 plus a \$64,472.10 contingency, for a total contract amount not to exceed \$709,193.10. (Funding in the amount of \$709,193.10 is included in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.) Second lowest bid of five received. 22.66% MBE and 8.04% WBE subcontractor participation.
The motion authorizing the execution of a construction contract was approved.
17. Authorize execution of a construction contract with CASH CONSTRUCTION COMPANY, LTD, Pflugerville, TX for the Austin Clean Water Program - Little Walnut/Buttermilk @ Centre Creek Project in the amount of \$3,009,857 plus a \$300,985.70 contingency, for a total contract amount not to exceed \$3,310,842.70. (Funding in the amount of \$3,310,842.70 is included in the Fiscal Year 2003-2004 Approved Capital Budget of the Austin Water Utility.) Lowest bid of seven received. 18.39% MBE and 3.20% WBE subcontractor participation.
The motion authorizing the execution of a construction contract was approved.

18. Authorize execution of a construction contract with JORDAN-WHITFIELD, INC., Austin, TX, for the Walnut Creek Wastewater Treatment Plant Metals Digestion Laboratory Renovations in an amount not to exceed \$181,600. (Funding in the amount of \$181,600 is included in Fiscal Year 2003-2004 Approved Capital Budget of the Austin Water Utility.) Lowest bid of four received. 13.49% MBE and 0.00% WBE subcontractor participation. (Recommended by Water and Wastewater Commission.)
The motion authorizing the execution of a construction contract was approved.
19. Authorize execution of a construction contract with T MORALES CO. LLC, (FH, 43.74%), Florence, TX, for South Austin Regional Wastewater Treatment Plant Train C Substation Consolidated in the amount of \$9,989,000 plus a \$450,000 contingency, for a total contract amount not to exceed \$10,439,000. (Funding in the amount of \$10,439,000 is included in the Fiscal Year 2001-2002 Amended Capital Budget of the Austin Water Utility.) Lowest bid of two received. 50.75% MBE and 8.72% WBE contractor participation. (Recommended by the Water & Wastewater Commission.)
The motion authorizing the execution of a construction contract was approved.
20. Authorize execution of a construction contract with EMCON/OWT, Inc., Brecksville, OH, for the FM 812 Landfill Leachate Disposal Improvements Project in the amount of \$1,064,724 plus a \$106,472 contingency, for a total contract amount not to exceed \$1,171,196. (Funding in the amount of \$1,171,196 is available in Fiscal Year 2003-2004 Capital Budget of the Solid Waste Services Department.) Public Health and Safety Exemption. No subcontracting opportunities were identified; therefore, no goals were established for this project. (Recommended by Solid Waste Services Commission.)
The motion authorizing the execution of a construction contract was approved.

Items 21 and 22 were pulled for discussion.

23. Authorize negotiation and execution of a professional services agreement with the following eighteen firms: SURVEYING AND MAPPING, INC., Austin, TX; MARTINEZ, WRIGHT & MENDEZ, INC. (MBE/MH 96.95%), Austin, TX; LANDMARK SURVEYING, INC., (WBE/FR 91.48%), Austin, TX; MCGRAY & MCGRAY LAND SURVEYORS, INC. (WBE/FR 94.53%), Austin, TX; MACIAS AND ASSOCIATES, INC. (MBE/MH 91.48%), Austin, TX; CANALES, MARTINEZ AND NASH SURVEYING CO., (MBE/MH 91.03%), Austin, TX; BAKER-AICKLEN & ASSOCIATES, INC., Round Rock, TX; CAPITAL SURVEYING CO., INC., Austin, TX; BURY+PARTNERS, Inc., Austin, TX; HALFF ASSOCIATES, INC., Austin, TX; LOOMIS AUSTIN, INC., Austin, TX; ZAMORA-WARRICK AND ASSOCIATES, L.L.C. (MBE/MH 95.95%), Austin, TX; CFX, L.P., (WBE/FR 88%), Austin, TX; SURVCON, INC., Austin, TX; CHAPARRAL PROFESSIONAL LAND SURVEYING, INC., Austin, TX; CARTER & BURGESS, INC., Austin, TX; RALPH HARRIS SURVEYOR, INC., Austin, TX; I.T. GONZALEZ ENGINEERS, (MBE/MH 90.98%), Austin, TX, for surveying services for a period of two years or until financial authorization is expended, in an amount not to exceed \$2,650,000, with a total of the eighteen agreements not to exceed \$2,650,000. (Funding in the amount of \$2,650,000 is available in the Fiscal Year 2003-2005 Approved Capital Budgets and/or Operating Budget of the Public Works Department and various other department for which services are needed.) Best eighteen qualification statements of twenty-eight received. Participation goals stated in the solicitation were 5.47% MBE and 3.05% WBE.
The motion authorizing the negotiation and execution of a professional services agreement was approved.

24. Authorize execution of a contract with COOPER TURBOCOMPRESSOR, Bensalem, PA, for one air compressor in an amount not to exceed \$95,795. (Funding is available in the Fiscal Year 2003-2004 Approved Capital Budget of the Electric Utility Department) Low bid of four bids received. This contract will be awarded in compliance with Chapter 2-9 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 execution of a contract was approved.

Item 25 was pulled for discussion.

26. Authorize execution of a contract through the Texas Building and Procurement Commission with their contract vendor TOTER INC., Statesville, NC for the purchase of garbage carts for the Solid Waste Services Department in an amount not to exceed \$350,306.40. (Funding is available in the Fiscal Year 2003-2004 Approved Operating Budget of the Solid Waste Services Department.) Cooperative Purchasing.

The motion authorizing the contract was approved.

27. Authorize execution of a 12-month supply agreement with LONE STAR READY MIX (WBE/FH), Austin, TX and CEMEX CONSTRUCTION MATERIALS, Austin, TX for ready mix concrete for the Public Works Department in an amount not to exceed \$140,930, with two 12-month extension options in an amount not to exceed \$140,930 per extension option, for a total contract amount not to exceed \$422,790. (Funding in the amount of \$82,209 is available in Fiscal Year 2003-2004 Approved Operating Budget of the Public Works Department. Funding for the remaining five months of the original contract period and the extension options is contingent upon available funding in future budgets.) Lowest bid of two bids received. This contract will be awarded in compliance with Chapter 2-9 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 execution of a supply agreement was approved.

28. Authorize execution of a 12-month service agreement with Complete Communication Services, Inc. dba CO COM CABLING SYSTEMS, (WBE/FR) 100%, Pflugerville, TX for maintenance of fiber optic cable on the Greater Austin Area Telecommunications Network (GAATN), including purchase, install and modify the fiber optic cable and to provide for moves, additions and changes (MAC) to GAATN connections in an amount not to exceed \$1,010,000, with four 12-month extension options in an amount not to exceed \$575,000 for the first extension option; \$550,000 for the second extension option; \$400,000 for the third extension option; and \$400,000 for the fourth extension option, for a total agreement amount not to exceed \$2,935,000. (Funding in the amount of \$450,090 is included in the Fiscal Year 2003-2004 Operating Budget of the Communications and Technology Management Office of the Financial and Administrative Services Department. Funding in the amount of \$559,910 is included in the Fiscal Year 2003-2004 Capital Budget of the Communications and Technology Management Office of the Financial and Administrative Services Department. Funding for the extension options is contingent upon available funding in future budgets.) Sole Source. 100% WBE participation as prime contractor

The motion authorizing the execution of a service agreement was approved.

29. Authorize execution of a 12-month service agreement with SILVER ASSOCIATES, Inc., (MBE/MB), Houston, TX, ACCURATE PERSONNEL INC., Houston, TX and CERTIPHARM, INC., (MBE/ME), Killeen, TX for temporary licensed pharmacists and pharmacy technicians in an amount not to exceed \$372,424. (Funding in the amount of \$217,247 is available in the Fiscal Year 2003-2004 Operating Budget of the Community Care Services Department. Funding for the remaining five months of the original contract period is contingent upon available funding in future budgets.) Low bids of four bids received. This contract will be awarded in compliance with Chapter 2-9 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 execution of a service agreement was approved.

30. Authorize execution of a contract with GT DISTRIBUTORS, INC., Austin, TX, for the purchase of 730 Taser International Model X26E Tasers and accessories in an amount not to exceed \$686,815. (Funding in the amount of \$108,048.18 is available in the Fiscal Year 2003-2004 Operating Budget Special Revenue Fund of the Austin Police Department and \$578,766.82 is available in the Fiscal Year 2003-2004 Amended Operating Budget of the Austin Police Department.) Lowest bid of two bids received. This contract will be awarded in compliance with Chapter 2-9 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. (Related Item 9)

The motion authorizing the execution of a contract was approved.

31. Approve an ordinance amending City Code Section 12-4-42 by adding a portion of Exchange Drive to the list of streets having a maximum speed limit of 40 miles per hour. (Funding in the amount of \$600 is available in the Fiscal Year 2003-2004 Operating Budget of the Transportation, Planning & Sustainability Department for the installation of the appropriate speed limit signs.)

Ordinance No. 040212-31 was approved.

32. Board and Commission Appointments.

The following appointments were made:

Board/ Appointee	Consensus/ Council Nominee	Appointment/ Reappointment
<u>Community Development Commission</u>		
Ruby Roa	Council Member Dunkerley's	Appointment

Item 33 was pulled for discussion.

34. Approve a resolution expressing concern over the effects and implementation of the consolidation of state agencies mandated by House Bill 2292, recently passed by the 78th Legislature. (Council Member Brewster McCracken, Council Member Danny Thomas and Council Member Raul Alvarez)

Resolution No. 040212-34 was approved. Mayor Wynn abstained.

35. Approve a resolution regarding the recommendations of the Downtown Commission for the Rainey Street Neighborhood, generally bounded on the west by Waller Creek, the south by Town Lake, the east by IH-35 and the north by Cesar Chavez Street. (Council Member Raul Alvarez, Council Member Brewster McCracken and Council Member Betty Dunkerley)

Resolution No. 040212-35 was approved.

Items 36 through 38 were pulled for discussion.

Item 39 through 44 were Executive Session items.

Item 45 was a Bond Sale set for a 2:00 P.M. time certain.

AHFC 1-3 items were set for a 2:15 P.M. time certain.

Items 46-47 and Z-1 through Z-10 were Zoning items set for 4:00 P.M. time certain.

Items 48-50 were Public Hearings set for 6:00 P.M. time certain.

Item 51 was pulled for discussion.

52. Authorize execution of a contract through the State of Texas, Texas Building and Procurement Commission, with MOBILE VISION, INC., Euless, TX, for 165 video/audio mobile law enforcement recording systems in an amount not to exceed \$500,775. (Funding in the amount of \$473,460 is available in the Fiscal Year 2003-2004 Amended Operating Budget of the Austin Police Department. Funding in the amount of \$27,315 is available in the Fiscal Year 2002-2003 Capital Budget of the Communications and Technology Management Office of the Financial Services Department.) Purchasing Cooperative.

The motion authorizing the execution of a contract was approved.

DISCUSSION ITEMS

36. Approve a resolution directing the City Manager to initiate the street vacation process for the 400 block of San Antonio, begin discussions with the General Services Administration regarding the reopening of the 300 block of 9th Street, and to study the possibility of the extension of Nueces Street South to connect with Cesar Chavez. (Mayor Will Wynn, Council Member Brewster McCracken, and Mayor Pro Tem Jackie Goodman)

Resolution No. 040212-36 was approved on Mayor Pro Tem Goodman's motion, Council Member Dunkerley's second on a 7-0 vote.

6. Authorize the City Manager or her designee to negotiate and execute a Disposition and Development Agreement and related documents with AMLI AUSTIN RETAIL, L.P., a Texas Limited Partnership, Dallas, TX, to assign the Block 2 and Block 4 Retail Subleases with Computer Sciences Corporation, on the terms set forth in the Term Sheet attached hereto as Exhibit "A", and on such additional terms and conditions as are deemed favorable, necessary or required. (City will not fund development of the retail spaces. AMLI Austin Retail will provide all funding for the \$5.5 million Development Budget to develop, market, lease and manage the retail spaces. Further, AMLI will reimburse \$362,500 to the City for constructing sanitary sewer lines and five grease traps serving the retail spaces.) (Recommended by the Downtown Commission.) (Related Items 7, 22)

The motion authorizing the City Manager or her designee to negotiate and execute a Disposition and Development Agreement and related documents was approved on Council Member Slusher's motion, Council Member Thomas' second on a 7-0 vote. Staff was directed not to execute the agreement until it is reviewed by Council Members.

7. Approve an ordinance amending the Fiscal Year 2003-2004 Economic Growth and Redevelopment Services Office Capital Budget of Ordinance No. 030908-02 to appropriate \$180,000 to the New City Hall project for the purchase and installation of a parking control system and equipment; and amending the Fiscal Year 2003-2004 Operating Budget for the Economic Growth and Redevelopment Services Office of Ordinance No. 030909-01 to increase Special Revenue Fund by an amount of \$182,500 for future payment of tenant finish-out allowances associated with development and leasing of the New City Hall retail spaces. (Funding in the amount of \$362,500 will be provided by a reimbursement received from AMLI AUSTIN RETAIL, L.P., as part of the proposed 2nd Street Retail Disposition and Development Agreement.) (Funding in the amount of \$362,500 is available from AMLI Austin Retail, L.P., as part of the Disposition and Development Agreement for the 2nd Street Retail Project. AMLI will reimburse the City \$362,500 for constructing sanitary sewer lines and five grease traps serving the retail spaces. AMLI's good faith negotiation deposit (\$250,000 was deposited in November 2000; with interest earned, the deposit is now estimated to be \$277,000) will be provided to the City as part of its \$362,500 reimbursement.) (Recommended by the Downtown Commission.) (Related Items 6, 22)

Ordinance No. 040212-7 was approved on Council Member Slusher's motion, Council Member Thomas' second on a 7-0 vote.

22. Authorize negotiation and execution of change order # 10 to the construction contract with Construction Manager at Risk, HENSEL PHELPS CONSTRUCTION COMPANY, Austin, TX, for repair and repaving of Cesar Chavez Street, and the installation of parking garage control equipment in the New City Hall - Building and Public Plaza (Phase III) in the amount of \$345,000, for a total contract amount not to exceed \$33,242,000. (Funding in the amount of \$180,000 is available in the Fiscal Year 2003-2004 Capital Budget of the Economic Growth and Redevelopment Services Office; \$165,000 is available in the Fiscal Year 2003-2004 Capital Budget of the Public Works Department.) 13.84% MBE and 12.75% WBE subcontractor participation to date. (Related Items 6, 7)

The motion authorizing the negotiation and execution of change order #10 to the construction contract was approved on Council Member Slusher's motion, Council Member Thomas' second on a 7-0 vote.

CITIZEN COMMUNICATIONS: GENERAL

Robert Singleton - Disposition of Mueller. **He was not present when his name was called.**

Mary Lehmann - Disposition of Mueller

Scott Johnson - Concerns regarding Urban Forestry Board Appointees. **He was not present when his name was called.**

Pat Johnson - Towing of Vehicles on Public Property between 6th & 8th Street

Jimmy Castro - Texas Beef

Suzana Almanza - 11th Anniversary of Tank Farm Closure! Time to talk about redevelopment of 52 acres.

Sylvia Herrera, Ph. D. - Tank Farm Relocation 11th Anniversary, February 18th: Pressing toward a Tank Farm Redevelopment Plan

Jennifer L. Gale - All we need downtown is one Austin Police Officer to notarize a complaint from an allegedly injured individual to put a stop to racially prejudiced personnel. **She was not present when her name was called.**

Jose Quintero - The City of Austin Working/Together with GNDC to Gentrify East Central Barrio's

Mayor Wynn recessed the Council Meeting to go into Executive Session at 12:25 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.

Private Consultation with Attorney - Section 551.071

39. Discuss legal issues relating to the labor negotiations for a Meet and Confer contract with the Austin Police Association.
40. Discuss legal issues related to *F.L. Vivion, et al. v. City of Austin*, Cause No. GN 103302, in the 261st Judicial District Court of Travis County, Texas. (Concerns the City's transportation user fee and drainage fee)
41. Discuss legal issues in Cause No. GV2-01195; *City of Austin v. Hanson Pipe & Products, Inc. et al.*, in the 261st Judicial District Court of Travis County, Texas. (Concerns the Ullrich 72-inch water line)

42. Discuss legal issues related to *Northwest Austin Municipal Utility District No. 1, et al. v. City of Austin, et al.*, Cause No. GN203378 in the 53rd Judicial District Court of Travis County, Texas. (Concerns challenge to City's right to collect ad valorem taxes within the municipal utility district)
43. Discuss legal issues related to *Brian Rodgers v. City of Austin and Endeavor Real Estate Group, L.L.C.*, Cause No. GN30466 in the 345th Judicial District Court of Travis County, Texas. (Concerns the City's Economic Development Agreement with Endeavor Real Estate)
This item was withdrawn from the agenda.

Item 44 was discussed later in Executive Session.

Executive Session ended and Mayor Wynn called the Council Meeting back to order at 2:22 p.m.

DISCUSSION ITEMS CONTINUED

11. Authorize negotiation and execution of an amendment to the outside counsel contract with SCOTT, DOUGLASS & MCCONNICO, L.L.P, Austin, TX, in *F.L. Vivion, N.K. Ballard, L.I. Ballard et al. v the City of Austin*; Cause No. GN103302; in the 261st Judicial District, Travis County, Texas, in the amount of \$350,000, with a total contract amount not to exceed \$593,000. (Funding in the amount of \$350,000 is available in the Fiscal Year 2003-2004 Approved Operating Budget of the Liability Reserve Fund.) (Related Executive Session, Item 40)
The motion authorizing the negotiation and execution of an amendment to the outside counsel contract was approved on Council Member Dunkerley's motion, Mayor Wynn's second on a 7-0 vote.

Bond Sales

45. Approve an ordinance authorizing the issuance of approximately \$52,715,000 City of Austin, Texas, Hotel Occupancy Tax Revenue Refunding Bonds, Series 2004, including approval and authorization of all related documents pertaining thereto. (No fiscal impact during fiscal year 2003-2004. \$686,165 estimated debt service requirement and \$600 estimated annual paying agent/registrar fee was included in the fiscal year 2003-2004 Approved Budget of the Hotel Tax Revenue Bond Redemption Fund.) (On July 22, 2003, the Audit and Finance Committee approved the Hotel Occupancy Tax Revenue Refunding transaction. On July 31, 2003 the City Council approved the issuance of Hotel Occupancy Tax Revenue Refunding Bonds contingent upon the satisfaction of parameters specified in the ordinance with a deadline to execute the refunding of November 7, 2003. A present value savings of the 4.25% or better was not met prior to November 7, 2003, therefore the transaction was not executed.)
Ordinance No. 040212-45 was approved on Council Member Dunkerley's motion, Mayor Pro Tem Goodman's second on a 7-0 vote.
37. Approve an ordinance on 2nd/3rd reading appointing the Presiding Judge, Associate Judges, Downtown Austin Community Court Judge and Substitute Judges to the City of Austin Municipal Court for the 2004-2005 judicial term, and setting compensation and benefits. (Mayor Will Wynn, Mayor Pro Tem Jackie Goodman and Council Member Brewster McCracken)
The second reading of the ordinance was approved on Council Member Slusher's motion, Mayor Wynn's second on a 4-3 vote. Those voting aye were: Mayor Wynn and Council Members Dunkerley, McCracken, and Slusher. Those voting nay were: Mayor Pro Tem Goodman and Council Members Alvarez and Thomas.

BOARD OF DIRECTORS MEETING OF AUSTIN HOUSING FINANCE CORPORATION.

Mayor Wynn recessed the Council Meeting at 2:27 p.m. to go into the Board of Director's Meeting of the Austin Housing Finance. See separate minutes.

AHFC adjourned and the regular Council meeting was called back to order at 2:32 p.m.

DISCUSSION ITEMS CONTINUED

25. Authorize execution of a 12-month service agreement with DIAMOND DETECTIVE AGENCY, INC., Chicago, IL for security guard services in an amount not to exceed \$107,134.80, with two 12 -month extension options in an amount not to exceed \$107,134.80 per extension option, for a total agreement amount not to exceed \$321,404.40. (Funding in the amount of \$44,639.50 is available in the Fiscal Year 2003-2004 Approved Operating Budget of the Austin Water Utility Department. Funding for the remaining seven months of the original contract period and extension options is contingent upon available funding in future budgets.) Low bid meeting specification of ten bids received. This contract will be awarded in compliance with Chapter 2-9 of the City Code (Minority-Owned and Women-Owned Business Enterprise Procurement Program). No subcontracting opportunities were identified; therefore M/WBE goals were not established for this solicitation.
The motion authorizing the service agreement was approved on Council Member Dunkerley's motion, Mayor Wynn's second on a 7-0 vote.
38. Approve a resolution initiating an amendment to Chapter 25-10 (Sign Regulations) of the Code to establish regulations regarding the relocation of certain signs in the Desired Development Zone. (Council Member Betty Dunkerley, Council Member Brewster McCracken, and Council Member Danny Thomas)
Resolution No. 040212-38 was approved on Council Member McCracken's motion, Council Member Dunkerley's second on a 4-3 vote. Those voting aye were: Mayor Wynn and Council Members Dunkerley, McCracken and Thomas. Those voting nay were Mayor Pro Tem Goodman and Council Members Alvarez and Slusher.
51. Approve a resolution directing the City Manager to develop a mitigation plan for the Barton Springs Zone to allow development to off-set additional impervious cover through the use of established mitigation measures and to present the plan to City Council on or before May 27, 2004. (Mayor Will Wynn, Mayor Pro Tem Jackie Goodman, and Council Member Brewster McCracken)
Resolution No. 040212-51 was approved on Council Member McCracken's motion, Mayor Pro Tem Goodman's second on a 7-0 vote.

Mayor Wynn recessed the Council Meeting to go into Executive Session at 3:22 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.

Private Consultation with Attorney - Section 551.071

The Mayor announced that Council would discuss item number 21 on the regular agenda during Executive Session.

Executive Session ended and Mayor Wynn called the Council Meeting back to order at 4:19 p.m.

21. Authorize execution of a construction contract with CAPITAL EXCAVATION COMPANY, INC., Austin, TX, for street reconstruction and utility improvements on Lamar Boulevard from Town Lake Bridge to West 24th Street in the amount of \$12,668,950.44, plus a bonus potential amount not to exceed \$360,000, plus a 25%, \$3,157,237.61, contingency, for a total contract amount not to exceed \$16,186,188.05. (Funding in the amount of \$10,258,756.35 is available in the Fiscal Year 2003-2004 Capital Budget of the Public Works Department; \$40,000 is available in the Fiscal Year 2002-2003 Amended Capital Budget of Transportation, Planning & Sustainability Department; \$2,903,487.49 is available in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility; and \$2,983,944.20 is available in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.) Only one responsive bid received. 5.546% MBE and 18.07% WBE subcontractor participation.

The motion authorizing the execution of a construction contract was approved on Council Member McCracken's motion, Mayor Wynn's second on a 7-0 vote.

ZONING CONSENT ITEMS

The following zoning items were acted on by one motion. No separate discussion or action occurred on any of the items. The second and third readings were approved on Council Member McCracken's motion, Council Member Thomas' second on a 7-0 vote.

46. C14-03-0148 - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 5220 Jim Hogg Avenue (Shoal Creek Watershed) from multifamily residence medium density (MF-3) district zoning to community commercial-conditional overlay (GR-CO) combining district zoning. First reading on December 11, 2003. Vote: 7-0. Conditions met as follows: Conditional overlay incorporates the conditions imposed by Council on first ordinance reading. Applicant: Anthony George. Agent: Jim Bennett. City Staff: Glenn Rhoades, 974-2775.
Ordinance No. 040212-46 was approved.
47. C14-03-0168 - Nokonah - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 721-729 North Lamar Boulevard (Shoal Creek Watershed) from downtown mixed use-central urban redevelopment (DMU-CURE) combining district zoning to downtown mixed use-conditional overlay-central urban redevelopment (DMU-CO-CURE) combining district zoning. First reading on January 29, 2004. Vote: 5-0, B. McCracken - off dais, D. Thomas - absent. Conditions met as follows: Conditional Overlay incorporates the conditions imposed by Council on first ordinance reading. Applicant: Nokonah Partners Limited (Robert Trimble). Agent: LS Johnston Architects (Linda Johnston). City Staff: Glenn Rhoades, 974-2775.
Ordinance No. 040212-47 was approved.

ZONING CONSENT ITEMS

The following zoning items were acted on by one motion. No separate discussion or action occurred on any of the items. The public hearings were closed and consent items were approved on Council Member Thomas' motion, Council Member McCracken's second on a 7-0 vote.

Item Z-1 was pulled for discussion.

Z-2 C14H-03-0007 - The Violet Crown - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1504 West Lynn Street from family residence (SF-3) district to family residence-historic (SF-3-H) combining district. Historic Landmark Commission Recommendation: To grant family residence-historic (SF-3-H) combining district. Zoning and Platting Commission Recommendation: To grant family residence-historic (SF-3-H) combining district. Applicant: Andrew and Carol Reifsnnyder (owners). City Staff: Steve Sadowsky, Historic Preservation Office, Transportation, Planning and Sustainability Department, 974-6454.
Ordinance No. 040212-Z2 for family residence-historic (SF-3-H) combining district was approved.

Z-3 C14H-03-0013 - Brunson House - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 200 The Circle from multi-family residence moderate high density neighborhood conservation combining district (MF-4-NCCD) to multi-family residence moderate high density - historic- neighborhood conservation combining district (MF-4-H-NCCD). Historic Landmark Commission Recommendation: To grant multi-family residence moderate high density - historic - neighborhood conservation combining district (MF-4-H-NCCD). Zoning and Platting Commission Recommendation: To grant multi-family residence moderate high density - historic - neighborhood conservation combining district (MF-4-H-NCCD). Applicant: Danette Chimenti (owner). City Staff: Steve Sadowsky, Historic Preservation Office, Transportation, Planning and Sustainability Department, 974-6454.
Ordinance No. 040212-Z-3 for multi-family residence moderate high density - historic - neighborhood conservation combining district (MF-4-H-NCCD) was approved.

Z-4 C14H-03-0014 - R.L. White House. Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1503 Lorrain Street from multi-family residence medium density (MF-3) district to multi-family residence medium density-historic (MF-3-H) combining district. Historic Landmark Commission Recommendation: To grant multi-family residence medium density-historic (MF-3-H) combining district. Zoning and Platting Commission Recommendation: To grant multi-family residence medium density-historic (MF-3-H) combining district. Applicant: Will and Amy Hornaday (owners). City Staff: Steve Sadowsky, Historic Preservation Office, Transportation, Planning and Sustainability Department, 974-6454.
Ordinance No. 040212-Z-4 for grant multi-family residence medium density-historic (MF-3-H) combining district was approved.

- Z-5 C14H-03-0022 - Adams House. Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 2200 Windsor Road from family residence (SF-3) district to family residence-historic (SF-3-H) combining district. Historic Landmark Commission Recommendation: To grant family residence-historic (SF-3-H) combining district. Zoning and Platting Commission Recommendation: To grant family residence-historic (SF-3-H) combining district. Applicant: John and Karen Oswalt (owners). City Staff: Steve Sadowsky, Historic Preservation Office, Transportation, Planning and Sustainability Department, 974-6454.
Ordinance No. 040212-Z-5 for family residence-historic (SF-3-H) combining district was approved.
- Z-6 C14H-03-0023 - Lucille Fisher House. Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1505 Wooldridge Drive from family residence (SF-3) district to family residence-historic (SF-3-H) combining district. Historic Landmark Commission Recommendation: To grant family residence-historic (SF-3-H) combining district. Zoning and Platting Commission Recommendation: To grant family residence-historic (SF-3-H) combining district. Applicant: O.B. Jackson, Jr. (owner). City Staff: Steve Sadowsky, Historic Preservation Office, Transportation, Planning and Sustainability Department, 974-6454.
Ordinance No. 040212-Z-6 for family residence-historic (SF-3-H) combining district was approved.

Items Z-7 through Z-10 were pulled for discussion.

ZONING DISCUSSION ITEMS

- Z-10 C14-03-0120 - Centrum - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 3413 North Hills Drive, 6415 Hart Lane and 6426 Mopac Expressway (Shoal Creek Watershed) from limited office-conditional overlay (LO-CO) combining district zoning and general office-conditional overlay (GO-CO) combining district zoning to general office-conditional overlay (GO-CO) combining district zoning for Tract A and community commercial-conditional overlay (GR-CO) combining district zoning for Tract B. Zoning and Platting Commission Recommendation: To grant neighborhood commercial-mixed use-conditional overlay (LR-MU-CO) combining district zoning. Applicant: Balcones Centrum Ltd. (Gerald Kucera). Agent: Crocker Consultants (Sarah Crocker). City Staff: Glenn Rhoades, 974-2775. (Continued from 2/5/04)
The first reading of the ordinance for general office-conditional overlay (GO-CO) combining district zoning for Tract A and community commercial-conditional overlay (GR-CO) combining district zoning for Tract B was approved on Council Member Slusher's motion, Council Member McCracken's second on a 7-0 vote. The neighborhood agreement was read into the record and included in this action.

- Z-1 Conduct a public hearing and approve an ordinance to amend the Central East Austin Neighborhood Plan, an element of the Austin Tomorrow Comprehensive Plan, to change the Future Land Use Map from single-family residential land use designation to a multi-family residential land use designation for 2017 & 2101 E. 8th Street. (Planning Commission Recommendation: To deny the plan amendment request. Vote: 5-0. (NS-1st, MC-2nd; MA & DS-absent, LO-on leave).) (Related Item Z-7)

This item was postponed to March 4, 2004 at the neighborhood association's request on Mayor Pro Tem Goodman's motion, Council Member Alvarez' second on a 7-0 vote

- Z-7 C14-03-0096 - Central East Austin Planning Area Rezoning - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 2017 and 2101 East 8th Street (Town Lake Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to multifamily residence moderate-high density (MF-4) district zoning. Planning Commission Recommendation: To deny multi-family residence moderate-high density (MF-4) district zoning. Applicant: Louree Atkins. Agent: Bernice Butler. City Staff: Annick Beaudet, 974-2975 (Related Item Z-1)

This item was postponed to March 4, 2004 at the neighborhood association's request on Mayor Pro Tem Goodman's motion, Council Member Alvarez' second on a 7-0 vote

- Z-8 C14-03-0163 - 26th Street Partners - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 713 West 26th Street (Shoal Creek Watershed) from multifamily residence moderate-high density (MF-4) district zoning to multifamily residence highest density-conditional overlay (MF-6-CO) combining district zoning. Planning Commission Recommendation: To grant multifamily residence highest density (MF-6-CO) combining district zoning. Applicant: 26th Street Partners LLC (James Martindale). Agent: Jim Bennett. City Staff: Glenn Rhoades, 974-2775.

The public hearing was closed on Council Member McCracken's motion, Council Member Dunkerley's second on a 7-0 vote.

Ordinance No. 040212-Z-8 for multifamily residence highest density (MF-6-CO) combining district zoning was approved on Council Member Slusher's motion, Council Member Dunkerley's second on a 6-0-1 vote. Mayor Pro Tem Goodman abstained.

LIVE MUSIC

Fast Lane

PROCLAMATIONS

Proclamation - insure-a-kid Awareness Week - to be presented by Mayor Will Wynn and to be accepted by Carolyn Schwarz

Certificates of Congratulations - Volunteers of the Month for January and February - to be presented by Mayor Will Wynn and Council Member Brewster McCracken and to be accepted by Sam & Dorothy Zuckero and the St. Ignatius Care Team

Distinguished Service Award - Charles Hill - to be presented by Mayor Will Wynn and to be accepted by the honoree

The Mayor called the Council Meeting back to order at 6:17 p.m.

PUBLIC HEARINGS AND POSSIBLE ACTION

48. Conduct a public hearing on the full purpose annexation of Northtown Triangle Area (Approximately 0.105 acres in Travis County north of Howard Lane, approximately one-half mile east of the intersection of IH-35 and Howard Lane.)
The public hearing was closed on Council Member McCracken's motion, Mayor Wynn's second on a 7-0 vote.
49. Conduct a public hearing for the full purpose annexation of the Prosser Estate Area (Approximately 21 acres) located in Travis County west of Bradshaw Road, approximately three-tenths of a mile north of the intersection of River Planation Drive and Bradshaw Road.
The public hearing was closed on Council Member Alvarez' motion, Council Member Thomas' second on a 7-0 vote.
50. Conduct a public hearing for the full purpose annexation of the ZT Scott Area (Approximately 269 acres) located in Travis County approximately one-tenth of a mile south of the intersection of Bradshaw Road and Old Lockhart Highway.
The public hearing was closed on Mayor Pro Tem Goodman's motion, Council Member Thomas' second on a 7-0 vote.

ZONING DISCUSSION ITEMS CONTINUED

- Z-9 C14-03-0144 - 37th Street Houses - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 609 West 37th Street (Waller Creek Watershed) from limited office (LO) district zoning to single family residence small lot (SF-4A) district zoning. Planning Commission Recommendation: To grant single family residence small lot (SF-4A) district zoning. Applicant: Lee Properties (Robert Lee). Agent: Lopez-Phelps and Associates (Amelia Lopez-Phelps). City Staff: Glenn Rhoades, 974-2775. Note: A valid petition has been filed in opposition to this rezoning request. (Continued from 1/29/04)

The public hearing was closed on Council Member Dunkerley's motion, Council Member McCracken's second on a 7-0 vote.

Ordinance No. 040212-Z-9 for single-family residence small lot (SF-4A) district zoning was approved on Council Member Alvarez' motion, Council Member McCracken's second on a 6-1 vote. Mayor Pro Tem Goodman voted no.

Mayor Wynn recessed the Council Meeting to go into Executive Session at 7:19 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.

Personnel Matters - Section-551.074

44. Evaluate the performance of and consider compensation and benefits for the City Auditor.
(Related Item 33)

Executive Session ended and Mayor Wynn called the Council Meeting back to order at 8:03 p.m.

DISCUSSION ITEMS CONTINUED

33. Approve a resolution regarding the performance evaluation and compensation package for the City Auditor. (Related Item 44)(Mayor Will Wynn)
Resolution No. 040212-33 continuing the same compensation and benefit package for the City Auditor and acknowledging an exemplary job was approved on Mayor Pro Tem Goodman's motion, Mayor Wynn's second on a 7-0.

The motion to adjourn the meeting at 8:05 p.m. was approved on Council Member Slusher's motion, Council Member Dunkerley's second on a 7-0 vote.

The minutes for the Regular Meeting of February 12, 2004 were approved on this the 26th day of February, 2004 on Council Member McCracken's motion, Council Member Dunkerley's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.