



Austin City Council MINUTES

SPECIAL CALLED MEETING - SEPTEMBER 21, 1992
1:30 P.M. - BUDGET AND OTHER ITEMS

Mayor Todd called to order the special called meeting of the Council, noting the presence of all members of the Council.

ORDINANCES

1. Approve second reading of an Ordinance adopting and approving the Operating Budget for the fiscal year beginning October 1, 1992 and terminating September 30, 1993, and making appropriations for each department, project and account, including the errata.

Motion

Councilmember Garcia made a motion, seconded by Councilmember Nofziger, to approve second reading of an Ordinance adopting and approving the Operating Budget for the fiscal year beginning October 1, 1992 and terminating September 30, 1993, and making appropriations for each department, project and account, including the errata.

Amendment to the Motion

Councilmember Garcia offered an amendment to the motion, seconded by Councilmember Nofziger, "to amend the General Fund expenditures and balance in the following manner: Increase the beginning balance by \$717,804.00 and appropriate those \$717,804.00 in the following manner: 1. 6.5% increase in funding for social services for half a year including Austin Project and HIV funding for \$308,000.00. 2. Allocate matching funds for a park playscape in the amount of \$20,000.00. 3. Restore the Salinas Nutrition site for \$17,300.00. 4. Allocate to Urban Forest expenditures \$100,000.00 for tree maintenance. 5. Continue the Mendez summer library program for \$40,100.00. 6. Fund school based health clinic pilot project for \$132,000.00. 7. Allocate \$16,000.00 for EMS radios. 8. Fund one FTE

for the Human Resource Department for use for the summer youth employment program in the amount of \$33,000.00. 9. Change one FTE from Health and Human Services to Child Care Coordinator support, for no additional funding. 10. Fund an air quality position for nine (9) months for \$51,404.00 - The amendment to the motion was accepted by Councilmember Nofziger.

Friendly Amendment to Amendment to the Motion

Councilmember Epstein offered a friendly amendment to delete the wording (in No. 7.) concerning the Austin Project and HIV in the addition of money to social services and put a period after half a year. Her friendly amendment was accepted.

Mayor Pro Tem Urdy discussed the equipment needed for EMS and said, "if we can tack that on as a goal for the coming year".

Roll Call on Amendment with Amendment

7-0 Vote

Friendly Amendment to the Motion

Councilmember Larson offered an amendment to the Motion to "increase the 1992-93 miscellaneous audit revenue in the amount of \$180,000.00 and increase appropriations by \$180,000.00 to fund personnel and related computer equipment, authorizing three additional positions and transferring \$95,000.00 and two positions to the Financial Services Department." The amendment was accepted by the maker and second to the motion.

Friendly Amendment to the Motion

Councilmember Epstein offered a friendly amendment to authorize 40 additional positions to the Electric Utility Fund by the conversion of temporary employees. The amendment was accepted.

Friendly Amendment to the Motion

Councilmember Reynolds offered a friendly amendment to the motion to "reduce the transfer from the drainage fund to the Capital Budget for the Barton Springs Zone retrofit project by \$330,000.00, reduce the thirty day reserve in the Drainage Fund by \$18,528.00 and increase the transfer from the Drainage Fund and Environmental Conservation Fund of \$348,528.00 to be spent for the toxic waste spill study, and \$250,000.00 and increase the monitoring in the Eastman non-urban watershed area of \$98,528.00." The friendly amendment was accepted.

Friendly Amendment to the Motion

Councilmember Garcia offered a friendly amendment, which was accepted, to increase cultural arts funding by \$94,656 for a total of \$1,444,798.00.

Friendly Amendment to the Motion

Councilmember Nofziger offered a friendly amendment to the motion by stating the Economic Development Fund has \$100,000 for the Music Loan Program. (The City does not make the actual loan but guarantees a loan.) The amendment was accepted.

Friendly Amendment to the Motion

Councilmember Garcia offered a friendly amendment, which was accepted, to "amend the tourism and promotion fund as follows: Reduce rental expenses by \$75,000 and increase the allocation for contracted marketing by \$75,000 and reduce the personnel expenses in the convention center by the same amount." The amendment was accepted.

Roll Call on Friendly Amendment

6-1 Vote, Councilmember Reynolds voted No.

Roll Call on Main Motion as Amended

6-1 Vote, Councilmember Epstein voted No.

2. Approve second readings of an Ordinance adopting and approving the Capital Budget for the fiscal year beginning October 1, 1992 and terminating September 30, 1993, and making appropriations for each project and account, including the errata.

Motion

Councilmember Garcia made a motion, to approve, seconded by Councilmember Epstein.

Amendment to Motion

Councilmember Garcia offered an amendment to the motion, seconded by Councilmember Nofziger, as follows: "Amend the Capital Budget by designating the sale of \$8,000,000.00 in bonds for 1992 for Balcones Canyonland Conservation Project, or the following, should the project not be approved: (All money from bond authorizations)

Sidewalks, \$1,454,000; Drainage, \$500,000; parks \$193,000 and \$549,000; fire \$1,272,000; police \$1,250,000, asbestos abatement and ADA retrofit \$500,000; Little Walnut and other creeks \$468,000; parks \$1,814,000.

Roll Call on Amendment to the Motion

5-2 Vote, Councilmembers Epstein and Larson voted No.

Roll Call on Motion

7-0 Vote

3. Approve second reading of an Ordinance fixing and levying Municipal Ad Valorem taxes for the City of Austin, Texas, in the amount of 64.10 cents for fiscal year year 1992-93; and for each year thereafter until otherwise provided; directing the assessment and collecting thereof; approval of property tax exemptions for historic property, persons with disabilities and elderly person; directing the assessment and collecting thereof; validating all prior Ad Valorem taxes.

Approved .6410, on Councilmember Garcia's motion, Councilmember Nofziger's second, 6-1 Vote, Councilmember Epstein voted No.

4. Approve second reading of certain ordinances authorizing fees, fines and other charges for City services and use of City facilities.

On Councilmember Garcia's motion, Councilmember Nofziger's second, 6-1 Vote, Councilmember Epstein voted No.

5. Approve second reading of an Ordinance adopting Water and Wastewater rates.

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

6. Approve second reading of an Ordinance providing for the number and rank of positions in the classified Civil Service of the Police Department and Fire Department.

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

RESOLUTIONS

7. Authorize extension of existing Social Service contracts at their current funding level through March 31, 1993 and requesting the Community Action Network (CAN) to prepare a revised allocation plan

for social service expenditures addressing the increase in demand for human services, HIV/AIDS, teen pregnancy and the Austin Project.

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

8. Approve a resolution related to use of the proposed Drainage Utility fee increase (residential fee increase \$.50; commercial fee increase \$5.40 per acre per month) to assessments and expenditures within the service area of the Drainage Utility and related matters.

On Councilmember Garcia's motion, Mayor Pro Tem Urdy's second, 7-0 Vote.

9. Approve negotiation and execution of the Cultural Arts contracts. (No citizen sign-up)

\$1,444,798, on Councilmember Garcia's motion, Councilmember Epstein's second, 7-0 Vote.

10. Authorize postponement of the South Austin Outfall, Phase II Project for one (1) year.

Withdrawn

11. Adopt amendments to the Interagency Plan for the Balcones Canyonlands Conservation Plan proposed by Travis County.

COMPLETE TRANSCRIPT OF DISCUSSION ATTACHED.

On Councilmember Garcia's motion, Councilmember Nofziger's second, 5-2 Vote, Councilmembers Epstein and Larson voted No.

EXECUTIVE SESSION (No Public Discussion on These Items)

Mayor Todd announced that Council would enter into Executive Session pursuant to Article 6252-17, Texas Revised Civil Statutes Annotated to receive advice from Legal Counsel, to discuss matters of land acquisition, litigation, and personnel matters. No final action will be taken on any subject or matter unless specifically listed on the agenda for this meeting.

Pending/Contemplated Litigation, Section 2, Paragraph e

12. Discuss settlement of Houston Lighting & Power Company v. City of Austin, No. 87-S-0616-C and 87-S-0403-C.

Land Acquisition, Section 2, Paragraph f

13. Discussion of land purchase of Balcones Canyonlands Conservation Plan.

RECESS

Council recessed its meeting from 4:25 to 4:50 P.M. for executive session.

ACTION ON THE FOLLOWING

14. Approve settlement of Houston Lighting & Power Company v. City of Austin No. 87-S-0616-C, and Houston Lighting & Power Company v. City of Austin, No. 87-S-0403-C.

In the amount of \$8.76 million, on Councilmember Garcia's motion, Councilmember Reynolds' second, 7-0 Vote.

ADJOURN - Council adjourned its meeting at 5:28 P.M., on Councilmember Epstein's motion, Councilmember Garcia's second, 7-0 Vote.

11. Adopt amendments to the Interagency Plan for the Balcones Canyonlands Conservation Plan proposed by Travis County.

MAYOR TODD: What I would like to do, if we could, is to move to Item 11, the BCCP, in its order. It will be after our executive session, which is on the same item, but we do have Judge Aleshire from Travis County Commissioners' Court and I know he's got a busy schedule. I would like to recognize him for comments under Item 11, at this time. Judge?

JUDGE ALESHIRE: Mayor, I was going to be on hand if there were any questions about what the Commissioners' Court did or why we did it.

MAYOR TODD: I think, it will be helpful. I was out of town this weekend although I did hear some of the conservation. I made a comment, today, that my phone bill was greater than my hotel bill, for Saturday night, but I heard some of it by phone. I think, Judge, if you don't mind it will be helpful. We are making copies of the resolutions to be passed out as well as the modified plan. My understanding is that ya'll adopted that, this morning, with modifications from the draft we approved, last Wednesday. It might help us if you sort of explain just very briefly the theory and we will have the executive session and then the act, later on.

JUDGE ALESHIRE: We proceeded, last Friday morning, on the consideration of the agency plan that ya'll had already adopted. However, we have also been operating under the assumption for a number of weeks that there was no necessity for the county to make any kind of commitment that would be considered a legal commitment. So, in our discussion, Friday morning, we were considering amendments to the resolution not necessarily the plan but to the resolution that would make it clear that the county was not at this time, even though we were going on with the plan and we were approving the plan that we were not, doing anything that would legally bind the county, at the call of an election, to issue bonds or spend any money on this until we got to the point where we were ready to make that a final decision. Nor to contribute any of our park land to the preserves. We also wanted to make it abundantly clear that we won't do anything that would authorize taking land off the tax rolls in the southwest Travis County Road District. We have explained that to everyone because the County Commissioners' Court serves as the board of directors to the road district. We feel a strong responsibility not to do anything or help anyone else do anything that would undermine the financial integrity of that district. After the city staff looked at the amendments that we were proposing they felt that perhaps it was creating something that was so indefinite that it might not meet the standards required for the attorney general's approval of your bonds. That is not the result we wanted. We are joining with you to proceed to issue your bonds. So, we were asked then to take a look at what kind of commitment could the county make, at this time. We sent our lawyers away to work on trying to write this in a way that even if it did imply a commitment on the part of the county that it was a commitment that we understood, that it was specified and that it was what we were prepared to make. As to what you have before you it is a commitment on the part

of the county which we are willing to stand by. It has conditions for those commitments, as we expected. The other issue is that or at least there were rumors going around that perhaps there was some other land transactions anticipated that could affect the taxable value of the road district and we wanted to make it abundantly clear, in this plan, that if that is what is going on that we weren't party to it and that we understood that ya'll wouldn't be parties to it and that we were going on with this as specified. So, we wrote provisions into the plan to make it clear that the property in the road district is not going to be put into the preserve unless the road district issues can be worked out. Mayor, I think, you were clear in your comments when we met, last Tuesday, and you were clear in your comments before the Commissioners' Court, this morning, that that has not been our intent and that we are not doing anything to try to damage the financial integrity of the road district and to proceed with this. The other change that we made is to add to the resolution, to make it clear for anyone, that the Travis County Commissioners' Court is unanimously committed to proceeding with the development of the Habitat Conservation Plan. We added that at the Last Result Clause. That it is our present intent to participate in a BCCP. That doesn't mean that we have dropped every question we've got and know that every question as been resolved but we are satisfied that we now have before us a plan that lays the groundwork for us to proceed. I guess, the other major issue that, I think, we've dealt with and that we feel more comfortable with in our version of this plan, from what was there before, we've tried to make it clear that the county is willing to proceed with the bond election and to ask our voters for permission to issue the amount of bonds necessary to carry the plan forward. We also think it is important though that the private sector funding that is necessary to make this a financially equitable plan between the local public funding and the private funding will need to be secured in some better fashion than it has been in previous versions of the plan. That security could come either in the form of the passage of statutes imposing a fee that we could count on. The posting of the letters of credit, bonds or some other mechanism and that this is left open for further planning or further options to try to make sure that the affluent of the county and the city plop down millions of dollars worth of money to buy preserves. That what we've got has better ideas and better security from where the money is going to come from to manage those preserves. We raise that concern because we want this to work and we want it to be a fair deal. So, that is where we are and we have unanimously passed this.

MAYOR TODD: Thank you, Judge. I appreciate those comments very much. Members do you have questions? Councilmember Garcia?

COUNCILMEMBER GARCIA : Thank you, Mayor. Judge on page 9 no sorry page 10 in paragraph 3-1. The lower part of that paragraph talks about prior to the approval and execution of a local agreement by the governing body of any member. That member has the right to.....

JUDGE ALESHIRE: I'm sorry, Gus, we must not have the same....

COUNCILMEMBER GARCIA : I'm sorry, page 11.

JUDGE ALESHIRE: Okay.

MAYOR TODD: These accountants sometimes have trouble counting sometimes.

COUNCILMEMBER GARCIA : Yes, you are the one with a degree. I have difficulty with it.

MAYOR TODD: Show the councilmember having no comment.

COUNCILMEMBER GARCIA : I'm CPA designation passing the whole thing.

MAYOR TODD: Show the councilmember not spoken on the comment.

COUNCILMEMBER GARCIA : The lower part which is highlighted. Prior to the approval of the execution of the interlocal agreement. The members (excuse me I'm skipping some) have the right to endorse participation in the BCCP if a few of the following conditions exist. To me that seems to cripple the plan, somewhat. Did ya'll talk about this particular portion?

JUDGE ALESHIRE: Yes, in fact, it was a part of our... We had a motion, last Friday, and it was to give instructions to our staff working in the attorney's office over the weekend. There may come a time when we agree to a different financing mechanism for this plan than what is currently proposed but we are not prepared today to say that if no one else participates in this that we are absolutely going to proceed with this plan as far as county participation and that is why this provision is written here. It says that and this is up until the time we sign an interlocal agreement. We understand it if we sign an interlocal agreement that the provisions that we've got is a former legal contract and that we will have a very firm and clear legal obligation to proceed from. So, that is why it says prior to the approval of execution of an interlocal agreement but if we see that others bail out or don't do what they are expected to do and it appears to be that in order to proceed we will have to take a burden that is more than we can then we wanted an option, in essence, to withdraw from participation. It will be only under those conditions. I do not anticipate, if good faith is shown all the way around, that this will ever be a provision that will be exercised. The county believes that, today, with this that we have a plan that can exist, at least, between the City Council and the Commissioners' Court if not with other entities, as well. That we have a plan that is implementable.

COUNCILMEMBER GARCIA : I can understand the position of the county wanting these guarantees but as we had understood it the plan was going to be in a state of flux so to speak.

JUDGE ALESHIRE: It still is.

COUNCILMEMBER GARCIA : But this one says that you will not completely... The withdrawn member determines you will draw if they determine that BCCP when implemented would not completely fulfill both the state, environmental, and economic purposes or would not, in fact, fully provide. To me, that is subjective terms.

JUDGE ALESHIRE: Yes, sir, The wording that you see before you was requested by the LCRA, this morning. That is not our wording. That wording and number two down there that you see now was the final wording requested by the LCRA.

MAYOR TODD: Gus, if I can I think that it basically has to do with the overall approval process of the planning and making sure it has the substantial chance for viability.

COUNCILMEMBER GARCIA : I understand that but if we are going to proceed with buying the six tracts, that we have talked about buying, I can see that the other groups can get out by just using the subjective criteria and saying that well this isn't fully right for their economic and environmental benefits.

JUDGE ALESHIRE: Then we don't get a BCCP. We don't get a Habitat Conservation Plan. You won't have a countywide habitat conservation plan with only your purchase. A lot more has to be done in order to make that work. But with your purchase it is still possible to have a Habitat Conservation Plan it just wouldn't be countywide and it wouldn't be on the scale that is there. That is what this plan is intending to provide; the framework in which we can adjust this on and the basis of what if you can accomplish the whole thing exactly like it's laid out. If that is what all the parties want to follow through on in this plan you can. If you have it modified or scaled back or something like that that is what this plan allows you to do.

COUNCILMEMBER GARCIA : In discussion with LCRA did they ask that this be the words so that they would approve the plan?

JUDGE ALESHIRE: Yes, we have a provision like that in here. In the version from the weekend they asked for wording changes that would make it more flexible, from their perspective, and we agreed to it and we passed it.

COUNCILMEMBER GARCIA : What I'm trying to figure out is is this plan going to be further amended by them or did you in essence take in all of their recommendations?

JUDGE ALESHIRE: To the best of my understanding the LCRA, the city staff and the county staff all met before we voted on this, this morning. My understanding is that there is no intention at this time, as far as I know, for the LCRA to need amendments to this to proceed but, of course, I haven't heard from their board members.

COUNCILMEMBER GARCIA : This work was more with staff?

JUDGE ALESHIRE: Yes, sir.

COUNCILMEMBER GARCIA : Okay, thank you.

MAYOR TODD: Any other questions of Judge Aleshire? Judge, I appreciate your attendance. Thank you, very much. We will move back then to the first item on the agenda.

(later)

MAYOR TODD: Councilmember Garcia for a motion on Item 11.

COUNCILMEMBER GARCIA : Before, I make a motion I would like to have the councilmembers refer to page 9 of the plan. On page 9 of the Interagency Plan.

MAYOR TODD: The one that was revised.

COUNCILMEMBER GARCIA: The one that has all of the highlights. On top of page 5 in parentheses then there are two paragraphs. One is headed with the Resolution Trust Corporation and the other one with Private Lands. The last highlighted clause in the Resolution Trust Corporation reads as follows, "Save and except for emergency services such as Police, Fire, and EMS as well as public roads and utility facilities and their associated easements and property interests". That clause should be removed. There should be a period after the word land owners and that clause needs to be added to the paragraph and headed up on Private Lands so that at the end of that paragraph where it says section 2.3.4 "have been satisfied" comma "save and except" the clause will go there.

MAYOR TODD: Okay, so you are smoothing out that last clause down to the next paragraph?

COUNCILMEMBER GARCIA: That is correct.

MAYOR TODD: All right, that is the motion is there a second.

COUNCILMEMBER NOFZIGER: Second.

MAYOR TODD: Second by Councilmember Nofziger. Is there a discussion? All in favor say aye. Councilmember Epstein, do you have a question?

COUNCILMEMBER EPSTEIN: Yea a little bit of discussion for a minute. I really have to commend our County Commissioners, as a Travis County resident and I guess everybody here is. I think, we ought to have to be proud of the work that they have done and I just hope that we can use them as a standard for review because they really went through here and looked at how this plan might obligate the county and made sure that they were not

obligated in any way by this plan. They have provided themselves many ways to get out of the plan and they focused on the park plan dedication. The plan proposes that more than 2,500 acres of city park land be dedicated. The county focused on that and revised that. We haven't estimated, I believe, yet the costs of the park land that is going to be designated. I question what a November '93 County Bond Election would do to the 3 to 5 year land acquisition. If Joe could answer that question. How does that fit in? I presume that will work.

JOE LESSARD: (sound is too low)

COUNCILMEMBER EPSTEIN: The county has a bond election a year from November. Will that meet the requirements that we are looking for in the plan?

JOE LESSARD: I think so. We had anticipated that all of their bonds will be issued, next year, in the financial plan and we had been anticipating that there might be an election as early as the spring of next year, in '93. So, I think, the plan lays out that '93 is the year that we would be looking for with their funds. Let me double check that for you. In the 1993-94 Budget Year we show that their funds would, according to this plan. If we were to slip a year it would not necessarily give us a problem we would probably have to work through our real estate divisions and try to identify the parcels and begin negotiations and hold off on actually committing ourselves but right now it shows the 1993-94 year which will be within our time frame.

COUNCILMEMBER EPSTEIN: Okay. So, that's the last time for it to be resolved. The County Commissioners' resolution says that the court possesses a present intention to participate in the BCCP. They don't say that they possess an intention to participate, they don't say they participate, they don't say they intent to participate, they say they presently intend to participate and that is so many steps away from being a planned participant. How do you envision the attorney general will react to that given that is really what we are trying to achieve here the participation of several governing bodies so that the attorney general will approve the bond sale? How do you think that...?

JOE LESSARD: That language was from the attorney general's office. They understood as we talked to them about trying to define the plan which we talked to you about before. What they said is that we understand that circumstances may change in the future and that there are decisions that the council and other governmental bodies need to make that you have your full discretion in making those decisions but, right now, on this plan your present intention has to be to go forward and implement it.

COUNCILMEMBER EPSTEIN: Okay. So, they as little as they could were going to do it. I know that in looking over the changes, they've made it very clear that their participation was contingent upon many things taking place. I think, my last concern is that given the fact the county

reserves the right to withdraw completely from the plan and that each of the other possible participants can do that as well let's assume the worst case scenario. That only 22 million dollars will be available and say the city spent that. We take 22 million dollars and we buy a designated habitat land. Will we be able to have a plan with that land purchase and the dedication of the 2,500 acres for public park land? Is that going to be sufficient to free up western Travis County as you proposed?

JOE LESSARD: Those lands in and of themselves will not be sufficient to free up all of Travis County as you indicated.

COUNCILMEMBER EPSTEIN: How much will it free up?

JOE LESSARD: The ratio for Golden Creek is 5 to 1. So if we had 10,000 acres roughly in our purchase plus some another 2,500 acres it will be 5 times that.

COUNCILMEMBER EPSTEIN: You are assuming now that all of the 10,000 acres made in the initial purchase and all of the park land is all workable park land. That it is all workable for the habitat.

JOE LESSARD: I'm just using that roughly, as a example, of how a take ratio will be developed.

COUNCILMEMBER EPSTEIN: Now, we've talked about take ratio. Let me see if I can't phrase it a little different.

JOE LESSARD: I need to clarify it a little bit. It's one fifth of that amount not 5 times. Let me clarify it. The ratio for every 5 acres we preserve one acre is free.

COUNCILMEMBER EPSTEIN: Okay. What I'm trying to figure out is let's say that nobody else participates financially. Which is entirely possible and that the city is the only governing body that is coming up with money to buy land. When we exhaust our 22 million dollars and when this community gives up the 2,500 acres of park land if that is all we've got what have we got?

JOE LESSARD: Immediately what you have and I would assume that you would go forward with a 10a permit under those circumstances the city would have a permit for development of any of its proposed projects. Then you would most likely have a gap there between what we needed for our purposes and what the land would actually free up. So, there would be a gap there that would be available, I assume, to the public or we may want to contract with other governmental entities to come into our 10a. What we would then fall back to is the Contingency Plan which is outlined in here. It talks about over time incrementally doing a land banking approach rather than the straight forward which is let's buy in 3 years and get 10a permit quickly. We would go through this land banking approach from which we would accumulate land over time through dedication, donation, or through

voluntary compliance with the plan so that we could expand the 10a permit and still target a regional plan.

COUNCILMEMBER EPSTEIN: Okay. But we don't know that we could get a 10a permit after all of the city's expenditure and donations.

JOE LESSARD: Well, we think the city could get a 10a permit for the take ratio that would be applicable to the land that we hold. That would most likely cover city project's and then there would be excess available to the community. So, we think we could do that but what we can't get immediately is a regional permit. So, what we would basically be on the road toward is an incremental approach to adding to that preserve system to try to get to a regional plan at some point in the future. That would depend upon how willing developers are to do donations and to come in under our plan and to financially come in under our plan, as well. So, we would be in a different operating mode in terms of trying to acquire the permit.

COUNCILMEMBER EPSTEIN: Okay. Many of the land purchases are in the City of Austin. How much land within the City of Austin is subject to habitat restrictions, of any kind?

JOE LESSARD: I don't have an exact number of acres for you councilmember but it is a minimum amount. I say 500 acres or less would be my guess.

COUNCILMEMBER EPSTEIN: Okay, so the worst case scenario would be we would expand the 22 million dollars plus and the city could free up 500 acres. That is the worst case. Is that accurate?

AUSTAN LIBRACH: Your question is how much we would free up with what is purchased with the 22 million?

COUNCILMEMBER EPSTEIN: Yes, assuming all goes well and we get the 10a permit.

AUSTAN LIBRACH: There would be at the five to one ratio and there is also a ten to one ratio for the Vireo.....

COUNCILMEMBER EPSTEIN: Okay, let me ask you since you're bringing that up. Has U.S. Fish and Wildlife pledged that this ratio of land that we are thinking about buying... Is this ratio a reality? I know that the plan said that you would recommend.

AUSTAN LIBRACH: Yes, the five to one ratio is something that they are aware of and we have.....

COUNCILMEMBER EPSTEIN: Have they approved it? Did it come from them? How do we know? They are the ones that are going to tell us what we are required to do. I'm trying to get a level of confidence about...

AUSTAN LIBRACH: There has been a great number of discussions with Fish

and Wildlife about the biology of the plan, the sufficiency of the plan and the take release ratios in all aspects of the plan. They have sat in on all of the meetings that the executive committee has had over that four or five year period and they have reviewed the biology subsequent to that that was presented in the February draft of the plan and have indicated that with some suggestions that they think that would suffice should we submit that in application in the future. They have also indicated that, as I understand it, they would be willing to discuss something called a prelisting agreement. So that we can deal with the sufficiency of the plan should there be other species listed in the future such as the Barton Springs Salamander. So, they are well aware of all of this. They haven't necessarily approved any of it though. They have just indicated that is giving us a indication that it is in the direction that they are likely to favorably approve. There is still the EIS to be accomplished and some other work that has to be done before they would give us any indication, finally, what they would say. That probably is going to take us another year and a year and a half before that point where we can expect to get a answer or a permit from the Fish and Wildlife Service. The ten to one ratio for the Vireo is not something that they have seen. That is fairly new. It's something that has just come up recently. In prior discussions the Vireo land had been bought for that particular period of time. Until the land is acquired from the Vireo there would be no take effect. In further discussions with executive committee members and biologists we think a ten to one ratio would work. So, that is fairly new but with regard to all of the rest, I think, they are well aware of it.

COUNCILMEMBER EPSTEIN: Another question which is twofold. One is the idea of the plan is to protect endangered species and habitat and the other is to facilitate development. When do you expect the first development to happen after this year's purchase? We are going to do an 8 million dollar purchase this year. Is somebody going to be able to do something this year that they wouldn't have otherwise or is it going to be two years? When do you see a development starting to happen because of the plan?

AUSTAN LIBRACH: When the regional permit is approved by the Fish and Wildlife Service which we project to be January or February of 1994.

COUNCILMEMBER EPSTEIN: So...

AUSTAN LIBRACH: Now, there is some discussion that in other communities like Riverside, California and perhaps some other places where they have had a interim permit procedure approved by the Fish and Wildlife Service. It is something that I don't think we've really looked at yet in great detail here locally but that is something that would possibly be something to cover the period of now and January and February of 1994 but I don't know if there has been any real analysis of that possibility, yet.

COUNCILMEMBER EPSTEIN: In January of 1994. So, if somebody has a couple of acres and they want to put a house on it how would you recognize this? This is a make believe situation. How would you advise them? Would you

advice them to wait until the Habitat Plan is approved or would you advise them to get a permit on their own? What would you suggest?

AUSTAN LIBRACH: The whole purpose of the regional permit is to be able to help folks like that who are small land owners as well as large land owners to be able to come in under the regional umbrella. Our sense is that it, in the UT economic study, seems to indicate that it is going to be fairly costly for individuals to move forward to get a 10a permit or a section 7 permit on their own. It might range upward to \$9,000 an acre. This is the UT estimate. So, we feel like the regional permit route will be more cost effective for an individual, for most individuals, and that we should help them. However, it won't be in place until February of 1994 and then you've got a take release ratio at that point. Which means if there is a whole lot of development in the pipe line there will have to be some decision made about which ones go first and which ones get to make use of the take release ratio.

COUNCILMEMBER EPSTEIN: So, without the plan it costs them \$9,000 an acre and with the plan a little over a \$1,000 a acre?

AUSTAN LIBRACH: That's correct.

COUNCILMEMBER EPSTEIN: So, we are basically saving folks \$8,000 a acre because of the plan.

AUSTAN LIBRACH: We think the numbers could be in that range. Yes.

COUNCILMEMBER EPSTEIN: Okay, you mentioned something just a moment ago. If I don't recall that there has been a tremendous amount of talk about this document, despite what we are saying about a resolution. The talk is that this document really is not capped in stone at all and I guess that's part of it being a resolution and not an ordinance and it is really a tool to facilitate the issue with the bonds and everybody is saying don't worry about the numbers because everything could change so don't take it too seriously but let me ask you first of all on the record can the city amend this document?

JOE LESSARD: The amendment procedure in the document.

COUNCILMEMBER EPSTEIN: If we amend the document then does the county have to amend it and the participating entities have to amend the document.

JOE LESSARD: Yes. The others, basically our partners, in this will have to amend the document, as well.

COUNCILMEMBER EPSTEIN: Okay, so it's not that easy to really amend the document. We just can't do it.

JOE LESSARD: That's correct but our anticipation was that amendments would come forward in the application process. We would be working toward

the application process in March. This is what we are looking at and any amendments and all refinements would come forward at the same time so that all of the entities could see everything in sort of a unified package as it should be submitted for the 10a permit.

COUNCILMEMBER EPSTEIN: Let me ask you a question while I remember the other question that I had, Austan. You mentioned that the 10a permit wouldn't be expected until February of '94.

AUSTAN LIBRACH: That's correct.

COUNCILMEMBER EPSTEIN: That is when people could start applying and getting the ability to develop?

AUSTAN LIBRACH: They could apply earlier but there is a moratorium or a inability to move forward now in some development because they are habitat lands. At the point the region receives the permit from Fish and Wildlife it would allow whatever mechanism we put in place to allow development to move forward we would then be allowed to move forward.

COUNCILMEMBER EPSTEIN: Okay, but you are projecting the collection of fees a long time before the permit. Right?

AUSTAN LIBRACH: Well, we haven't really decided yet. It's not spelled out in the Interagency Plan exactly when the fee collection process would start. I think, that is part of what we have to do over the next six months before we come up with an application to Fish and Wildlife is to iron out that kind of detail and some other details that haven't really been flushed out completely.

COUNCILMEMBER EPSTEIN: Okay, but in a year you lock in the fees coming in. That's when they hit the books.

AUSTAN LIBRACH: Nominally, the fees would start when the permit is issued. As with the permit it would roughly start with the beginning of fiscal year after this coming one. So, we would assume those fees would start then. It's possible that a jurisdiction member could decide that it wants to get a head start it wants to start the process and we may uncover a reason to start it earlier and, of course, we would be free to do that.

COUNCILMEMBER EPSTEIN: Okay, if somebody wants to develop in west Travis County and they are on habitat who and when can they start applying and paying fees?

AUSTAN LIBRACH: That's the big unknown question, at this point. One of the ones that we have laid out in the chart, the time line, that says this is a series of questions having to do with approvals and the payment of fees and so on. It still all has to be worked out. So, there is still a great deal of that kind of detail work that has to be done before we are

ready to submit an application and the other side of it is the EIS that has to be done. Those are the two main things that, I think, are out there.

COUNCILMEMBER EPSTEIN: Do you envision that what we are doing here will stymie an individual who want to proceed on their own?

AUSTAN LIBRACH: No, I don't think so. This plan in all of its components, I think, is voluntary. It's hoped that it is helpful to those who feel like it might help them but it doesn't require that anyone participate. I think, as a matter of fact it probably provides because of the endowment and because of the fact that biologically we specified certain lands that we would like to see in the preserve that it provides everybody, whether they go on their own or not, a road map. A way in which they can provide funds or provide lands if they choose to do it on their own as opposed to being a part of the other regional permit.

COUNCILMEMBER EPSTEIN: Thank you.

MAYOR TODD: We do have two speakers on this Robert Singleton and Al St. Louis.

ROBERT SINGLETON: With everything that has happened in the last two weeks it is kind of hard to remember what I'm watching, sometimes. At various times I've been reminded of the closing hours of the session of the Texas Legislature, _____ out on Wall Street or Let's Make a Deal. In the last two weeks we have seen Audubon Society members blast members of Save Barton Creek Association, Earth Firsters, and Gail Gimberling holding a joint press conference, councilmembers talking to puppets and me agreeing with Charlie Waits. I think at least...

MAYOR TODD: That is most unusual.

ROBERT SINGLETON: I think at least two of the things are mentioned in the Book of Revelations as signs of the last days. But enough of that I'm here to talk you out of signing on to this interagency agreement. I think, the point Gus made when he suggested that that paragraph be shifted is indicative of why you should take more time on this document. He caught and quite rightly that in the rush to get this document out a sentence which made no sense had been created and that the only way to put it back together was to boldly take one half of a paragraph out and stick it back where the county intended to put it in the first place. My question is if they make sentences as blatantly hard to understand and as nonsensical as it was in the draft you are given what else is in there that they are asking you to sign on in a short notice? I'm going to suggest one thing that it is just terribly wrong in asking you to sign on for is page 10. I'm going to try to summarize this and I will try to do it accurately. It says that no member of the BCCP can take any action which is going to lessen the value of property in the southwest Travis County Road District. My question to you is (and I would suggest you to get legal to answer this for you) by signing this is the county giving up any of their zoning and

land use authority? Here is an example. Let's say some of the Barton Creek property comes to you and is part of a plan that they are submitting in the southwest Travis County Road District. They are required to dedicate park land. Does the taking out of that park land from the southwest park way road district in violation of this agreement? Have and effect well you said we can't prove that. How about a zoning action that decreases the value of property without directly taking any of it out of the road district. Is that a violation of the spirit of the agreement? Basically, I'm asking you for what I've been asking you for all along. The only thing which you can do, which is possible, is to attempt to sever the land acquisition from the BCCP. It is not an indication that you are not supporting the BCCP. I'm just saying go out and spend the 16 million dollars to acquire the land now while it's available. If the county doesn't like that that is their business. They can't stop you from purchasing this. Once that is done then go back and start on a BCCP that works. No one as suggested to me that this Interagency Plan or any draft in the BCCP that does not include Sweet Water Ranch and the Uplands can be biologically valid. I think, that has been gone over time and again. I haven't heard anybody come up here and say there is another configuration for the plan which satisfies the mandate for the endangered species act and that is crucial because if it doesn't all you are going to do is approve a plan that Fish and Wildlife is going to throw back to you and say, "Start over".

MAYOR TODD: Al St. Louis and the last speaker will be Roger Baker.

AL ST. LOUIS: Thank you, Mr. Mayor and councilmembers. My main concern about this plan, as it stands now after the county has polished it up in their interest, is that Barton Creek is left adrift. To me, if you want to talk about wildlife Barton Creek is a key habitat. Much of the wildlife endangered and non-endangered thrive in the Barton Creek area because of the relatively continuously flow of water. So, this plan without Barton Creek is not very attractive and it is also not consistent with what was promised the voters. So, I would hope you would do something and I'd rather it be what Mr. Singleton suggested which sounds promising to me. Do something to try to get some of the land along Barton Creek before it's developed before we face a treat like today from one current development with all the golf courses and chemicals and fertilizers and other forms of pollution which threaten Barton Springs. Here we have a chance to prevent that from happening particularly with the Sweet Water and Upland tracts. So, let's do what we can to try to get that land pinned down and not just lose it like it seems to be happening, right now. We are losing the good parts of this plan which is the Barton Creek portion. So, I hope that you would do something whether it's a resolution to encourage the county to speedup whatever they could do to get that road district question resolved. I hate to see Barton Creek held hostage to junk bonds and a road district and that is the way this thing stands, right now. This is going to cause a lot of people who want to see this plan and want to see a good sound plan a lot of discomfort in the way this thing has suddenly shifted to drop in Barton Creek and anything within that southwest road district from the

plan. So, I think, something needs to be done then and I hope you can stir some thinking about this rather than changing the plan or changing the land purchase. Let's try to get some of Barton Creek back in there because that is really a critical area. Thank you.

COUNCILMEMBER EPSTEIN: If I may add and, I think, the speaker knows this. Al, before you go out of earshot. A fraction of the land prior to the two tracts, Sweet Water Ranch and the Uplands, are in the Barton Creek portion. They are not in the recharge zone but that doesn't lessen the need to have those, in the plan, as the other speaker mentioned. However, I'm sure we must know that 100% of the land that is designated as Barton Creek Wilderness Park and 100% of that 20 million dollars that the voters approved is for land that is in the watershed and is in the recharge zone. So, I look forward to your support to see that... We have two opportunities to buy Barton Creek land proposition 10 and proposition 11. I've been asserting to my colleagues that more funds should be designated for those propositions and I'm sure that you would be glad to know that they are directly upstream of Barton Springs and they are 100% in the recharge zone.

AL ST. LOUIS: Well, that is a good point councilmember. My concern is that this term recharge zone when it applies to Barton Creek is somewhat arbitrary in the sense that you have one aquifer adjacent to another aquifer and running water from one aquifer going into the other aquifer. So, you have surface water from one aquifer through what, I think, is the Trinity Aquifer which also recharges the Edwards Aquifer and you have underground activity, as well. In other words we don't know the extent to which one aquifer underground to this _____ honeycomb recharges its....

COUNCILMEMBER EPSTEIN: Well, I'm not an engineer.

AL ST. LOUIS: I'm not an engineer either.

COUNCILMEMBER EPSTEIN: I didn't ask for a response. My colleagues are being very generous for the time I've allocated for me to ask questions and to respond. I just want to let you know that it is definitive that 100% of the land purchases that voters approved for the Barton Creek Wilderness Park is in the recharge zone and it's within the city's ETJ. It's directly upstream from Barton Springs and if you want to protect Barton Springs and buy the land right there we have another opportunity and that is through the funds for the River Disposal.

AL ST. LOUIS: Well, I'm grateful for that opportunity I hope we don't lose both of these opportunities and the voters certainly expect something from both of these opportunities to protect Barton Creek. It is really one creek and we need to treat it that way and not try to arbitrarily divide it up whether it's geographic (city vs. county) or one recharge/one aquifer vs. another aquifer. It's one body of water really and if we look at it that way we will value and appreciate the whole system and why it's important to protect all of it if we can.

Special Called Meeting
September 21, 1992 / Item 11
Page 15 of 15

MAYOR TODD: Thank you, Al. The last speaker is Roger Baker.

ROGER BAKER: Hi, there council as you might imagine I haven't had a chance to read the county's sort of version of the document and frankly I think that the public should have a right to read all of that and not have a process that is kind of like wired together at the last minute. It sounds like a political soap opera to me. I think, we ought to have sound policies other than bond house dates establishing the basis for this progress. I think, it ought to have a firm biological basis so we know what we are doing instead of having to maneuver at the last minute and negotiate with the county. So, that would be my perspective on what I see is happening, right now. So, I would like to see exactly what the county is negotiating with us about. Thank you.

MAYOR TODD: Thank you, Roger. All right, council are we ready for a vote on this? We are on Item 11 which is to approve the amendments offered by the county with the BCCP. All in favor say aye.

MAYOR TODD, MAYOR PRO TEM URDY, COUNCILMEMBERS GARCIA, NOFZIGER, & REYNOLDS: Aye.

MAYOR TODD: All opposed say aye.

COUNCILMEMBER EPSTEIN & COUNCILMEMBER LARSON: Aye.

MAYOR TODD: Okay, show that passing 5-2

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