



## Austin City Council MINUTES

FEBRUARY 10, 1994 - 1:00 P.M.

Mayor Todd called to order the meeting of the Council, noting the absence of Councilmember Urdy.

### MINUTES APPROVED

1. Approval of Minutes for Regular Meeting of February 3, 1994 and Special Meetings of February 2, 1994, and February 3, 1994 (10:00 a.m. and 5:00 p.m.)  
Postponed

### CITIZEN COMMUNICATIONS: GENERAL

2. Ms. Teresa A. Elliott, to present a \$10,000 check towards playscape renovations from the Southwest Area Chamber of Commerce.
3. Mr. Rich Elmer, to discuss parking meters planned for 1100 & 1200 block of Colorado in front of the Westgate Building in lieu of existing two hour parking.
4. Mr. Scott Stevens, to discuss lifting the moratorium of issuing shuttle service permits.  
Withdrew
5. Mr. James Allman, to discuss the 6,000 homes in Austin in the 100-year floodplain.
6. Ms. Charlene Shillman, to discuss clearing up the debt at Brackenridge Hospital with the money saved by supporting the Pryor Plan for the future Museum of Fine Arts, Austin.  
Not present
7. Mr. Lance Winters, to discuss the 90 foot antenna to be built in Tarrytown Subdivision by Cellular One, a client of Austin American Statesman and the newspaper's omission of important facts about this case.
8. Mr. Leonard Lyons, to discuss "there's many a slip between the spoon and the lip."  
Not present
9. Mr. Richard Hill, to discuss current policy issues of concern to members of the Real Estate Council.
10. Mr. Paul Bury, to discuss current policy issues of concern to members of the Real Estate Council.  
Withdrew

### ITEMS CONTINUED FROM PREVIOUS MEETING

11. Approve second reading of an ordinance amending Chapter 12-5 of the City Code entitled "Smoking in Public Places" to prohibit smoking in public places. (Councilmember Gus Garcia and Mayor Bruce Todd) [Public Hearing Closed - No Citizen Sign-Up]

Mayor Todd brought up the item for second reading and recognized Councilmember Garcia for any amendments.

Amendment to Motion

Councilmember Garcia offered an amendment which would hold the current ordinance (Ordinance No. 860116I) harmless. Councilmember Shea seconded the motion.

Clarification to Motion

Mayor Todd offered the following clarification to the motion: "The amendment we are going to be voting on is an amendment to instruct staff, legal to add the language necessary to make sure that nothing in this proposed ordinance in any way adds to or adds to the number or amount of smoking area presently being restricted or say it in another way decreases the amount of non-smoking presently provided in the area covered by the present ordinance which are the restaurants."

Roll call on the motion showed a 6-0 vote, Councilmember Urdy absent.

Amendment to Motion

Mayor Todd offered an amendment as follows: "The owner, lessee or any person in charge of a public place that designates one or more areas as designated smoking areas for the public shall not require an employee to work in a designated smoking area if the employee requests to work in a non-smoking area." Councilmember Shea seconded the motion.

Roll Call on the amendment showed a 6-0 vote, Councilmember Urdy absent.

Amendment to Motion

Mayor Todd offered an amendment as follows: "Any building or facility or portion thereof owned or occupied under the management or control of the City shall be designated as 100 per cent non-smoking." Mayor Pro Tem Nofziger seconded the motion.

Roll call showed a 4-2 vote, Councilmembers Goodman and Reynolds voting NO, Councilmember Urdy absent.

Amendment to Motion

Mayor Todd offered an amendment as follows: "In bars, lounges, taverns and live music venues and bars located within restaurants it is a minimum of 50 per cent of the floor area must be designated non-smoking immediately." Councilmember Garcia seconded the motion.

Roll call showed a 3-3 vote, Mayor Pro Tem Nofziger and Councilmembers Goodman and Reynolds voting NO, Councilmember Urdy absent.

Amendment to Motion

Mayor Todd offered an amendment as follows: "Smoking will be banned in all restaurants without bars and in the entire dining area of restaurants with bars immediately." Councilmember Garcia seconded the motion.

Roll call showed a 3-2-1 vote, Mayor Pro Tem Nofziger and Councilmember Reynolds voting NO, Councilmember Goodman abstaining, Councilmember Urdy absent.

#### Amendments to Motion

Councilmember Reynolds offered the following amendments, which were accepted by acclamation:

1. Add definition of service line which means any indoor line in which one or more persons are waiting for or receiving service of any kind whether or not such service involved exchange of money.
2. Under 12-5-4, page 4 add language which says "the owner, lessee or other person charged with a public place shall post a sign or signs in each area designated for smoking."
3. Under 12-5-5, (A)(6)(c), (A)(7)(c) and (A)(8)(c) change "non-smoking" to "smoking" and under (A)(9)(c) and (A)(10)(c) change "dining area" to "smoking area".
4. Under 12-5-5, (A)(9)(b) and (A)(9)(c) add: "The area reserved for smoking is not larger in size than that proportionate to the number of users normally requesting a smoking area".

Councilmember Shea asked if the Council was going to add the additional language from the existing ordinance there. Councilmember Reynolds stated that Number 2 in the ordinance could be brought up as a separate amendment put wherever needed in the new ordinance.

5. Under 12-5-5, (A)(14) and (15) add "not to exceed an area larger in size and that proportioned to the number of users normally requesting a smoking area".

Councilmember Shea offered the following amendment, which was accepted by acclamation:

In Sections 12-5-5 (A)(9)(b), 12-5-5 (A)(10)(b), 12-5-5 (A)(14) and 12-5-5 (A)(15) after "users normally requesting a smoking area," insert "as can be demonstrated by the owner, lesee, or other person in charge. The smoking section shall be situated so the ventilation minimizes the effect of smoke in nonsmoking areas, and so that air from the smoking area is not drawn across a nonsmoking area."

#### Amendment to Motion

Councilmember Shea offered the following amendment:

Under Section 12-5-1 - DEFINITIONS, add: "Separate HVAC System means a physically separate heating, ventilation and air conditioning system with a separate intake, outtake, and duct work that exchanges air equal to or greater than 20 times per hour."

Mayor Todd seconded the motion. Roll call on the motion showed a 3-2-1 vote, Mayor Pro Tem Nofziger and Councilmember Reynolds voting NO, Councilmember Goodman Abstaining, Councilmember Urdy absent.

#### Amendment to Motion

Councilmember Shea offered the following amendment:

"Air filters used in HVAC systems and other air filtration devices under this ordinance shall be disposed of in compliance with requirements as established by the Texas Natural Resources Conservation Commission."

Councilmember Reynolds seconded the motion. Roll call on the motion showed a 6-0 vote, Councilmember Urdy absent.

### Roll Call on Main Motion

Roll call on the main motion showed a 4-2 vote, Mayor Todd and Councilmember Garcia voted NO, Councilmember Urdy absent.

12. Approve second/third readings of an ordinance amending Chapter 7-1 of the City Code, "Discrimination in Housing" to retain the current investigative and enforcement procedures for complaints filed under the basis of creed, status as a student, marital status, sexual orientation or age. (No fiscal impact.)

Approve with the change of Section 7-1-141(E) to read: To induce or attempt to induce any person to sell or not to sell or rent or not to rent any dwelling by representations regarding the entry of prospective entry into the neighborhood of a person or persons of a particular creed, status as a student, marital status, sexual orientation or age; and Section 7-1-142 be amended by deleting the word "commercial" in the third line of the section.

13. Approve second/third readings of an ordinance amending Chapter 7-1 of the City Code, "Discrimination in Housing" to be substantially equivalent to the Federal Fair Housing Act. (No fiscal impact.)

#12-13 on Councilmember Garcia's motion, Councilmember Goodman's second, 6-0 vote, Councilmember Urdy absent.

14. Approve a resolution expressing the Council's intent to schedule special Council worksessions each week to address Brackenridge Hospital issues and to limit the Council meeting agendas to Brackenridge Hospital issues and items necessary to City of Austin operations for the next ninety days. (Councilmember Ronney Reynolds)

On Councilmember Reynolds' motion, Councilmember Goodman's second, 1-5 vote, Mayor Todd, Mayor Pro Tem Nofziger and Councilmembers Garcia, Goodman, and Shea voted NO, Councilmember Urdy absent.

### ORDINANCES

15. Amend Part I(A) of Ordinance No. 930915-F, by revising the classifications for City of Austin Firefighters by adding one Assistant Fire Chief position and deleting one Firefighter position; the total number of positions authorized remains unchanged. (Funding is available in the 1993-94 Fire Department operating budget.)  
Pulled Off

### RESOLUTIONS

16. Approve the filing of eminent domain proceedings to acquire the following: (1) wastewater easement containing 2,134 square feet of land; (2) temporary workspace easement containing 3,557 square feet of land; and (3) materials storage easement containing 5,000 square feet of land out of Lot "H", Mountain Shadows, a subdivision in Austin, Travis County, Texas, owned by Harold and Roberta Hudson for the Hilltop Acres Wastewater Improvements, Phase II Project. (Appraised value is \$480.)

17. Ratify an amendment to the City's contract with KPMG PEAT MARWICK, Austin, Texas, for the purpose of auditing the financial statements of the Brackenridge Hospital Fund, in the amount of \$75,000. (Funding is available in the Hospital Fund.)
18. Approve a contract with the law firm of FULBRIGHT & JAWORSKI for legal analysis of issues related to Brackenridge Hospital, in an amount not to exceed \$61,000. (Funding is available in the 1993-94 operating budget of Brackenridge Hospital.)
19. Authorize negotiation and execution of a twelve (12) month contract amendment to an existing Health and Human Services Department Social Services contract with AUSTIN-TRAVIS COUNTY MENTAL HEALTH AND MENTAL RETARDATION CENTER for the provision of roving leader program services, in an amount not to exceed \$85,000, for a revised total contract amount of \$2,062,377, with a one (1) month extension option in an amount not to exceed \$7,083, for a revised total contract amount not to exceed \$2,168,327. (Funding in the amount of \$85,000 is available in the 1993-94 operating budget of the Police Department; funding for the extension option is contingent upon availability of funding in future budgets.)
20. Approve execution of a twelve (12) month service agreement with TEXAS DISPOSAL SYSTEMS, INC., Austin, Texas, for garbage disposal services in the downtown area, in the amount of \$139,146, with the option to extend for two (2) twelve (12) month periods, in the amount of \$139,146 for each extension period, for a total amount of \$417,438. (Funding in the amount of \$92,764 is available in the 1993-94 operating budget for Solid Waste Services; funding for the final four (4) months of the original contract period and the extension options is contingent upon availability of funding in future budgets.) Low bid of three (3). No M/WBE Subcontracting opportunities were identified.
21. Approve the execution of an Interlocal Agreement with the City of Sunset Valley to jointly regulate basic tier cable television rates, and related equipment charges. (Estimated revenue to the City is \$150.)
22. Set a public hearing to amend the Land Development Code, Section 13-1-32 providing alternatives for posting fiscal surety for independent school districts and community college projects. (Suggested date and time: February 24, 1994 at 4:30 p.m.)
23. Set a public hearing to gather citizen input on the Conserve as You Grow Strategy and Interlocal Agreement for the Balcones Canyonlands Conservation Plan. (Suggested date and time: February 24, 1994 at 5:00 p.m.)

#### ITEMS FROM COUNCIL

24. Approve a resolution encouraging consideration of veterans' hiring and job training program inducements in future hiring decisions. (Councilmember Gus Garcia)

25. Approve a resolution endorsing the Latino Music Awards Show Project, and direct the City Manager to provide appropriate assistance and support for this project. (Councilmember Gus Garcia)

#16-25, on Councilmember Garcia's motion, Councilmember Goodman's second, 6-0 vote, Councilmember Urdy absent.

26. Approve a resolution creating the New Airport Terminal Task Force to work with Aviation staff and the Terminal Design Team for 60 days to assure that the facility will represent the City of Austin. (Mayor Pro Tem Michael "Max" Nofziger)

On Mayor Pro Tem Nofziger's motion, Councilmember Garcia's second, 6-0 vote, Councilmember Urdy absent.

#### 4:00 P.M. - ZONING HEARINGS AND APPROVAL OF ORDINANCES

27. C14-73-073 - PETER B. HALL, by Elizabeth Juen, Area bounded by U.S. Hwy. 183, Rutherford Lane and Centre Park Drive. TERMINATION OF RESTRICTIVE COVENANT. Planning Commission Recommendation: To approve request to terminate the restrictive covenant. POSTPONE TO MARCH 24, 1994, AT APPLICANT'S REQUEST.
28. C14-93-0165 - NEW AIRPORT AT BERGSTROM (Richard Pautz), by City of Austin - Aviation Department (Holland Young), 2500 East State Highway 71. From UNZ to AV. Planning Commission Recommendation: To Grant AV, Aviation Services, zoning subject to compliance with the Integrated Pest Management Program. APPROVE PLANNING COMMISSION RECOMMENDATION - ORDINANCE

#27-28 on Councilmember Garcia's motion, Councilmember Goodman's second, 5-0 vote, Councilmember Reynolds out of the room, Councilmember Urdy absent.

#### PUBLIC HEARINGS AND APPROVAL OF ORDINANCES/RESOLUTIONS

29. 4:30 P.M. - Amend Section 13-2-176 of the Land Development Code to amend the conditions for exemptions relating to the Convention Center Combining District. (Recommended by Planning Commission)

Close Public Hearing and approve ordinance on Councilmember Goodman's motion, Councilmember Garcia's second, 6-0 vote, Councilmember Urdy absent.

30. 4:45 P.M. - Amend Section 13-2-226 of the Land Development code to authorize certain additional activities and use in the AV, Aviation District. (Recommended by Planning Commission)

Close Public Hearing and approve on Councilmember Goodman's motion, Councilmember Shea's second, 6-0 vote, Councilmember Urdy absent.

**Aviation (Items 31-33)**

31. **5:00 P.M.** - Public Hearing on Airport Part 150 Noise Compatibility Report.  
Close Public Hearing on Councilmember Garcia's motion, Councilmember Shea's second, 6-0 vote, Councilmember Urdy absent.
32. Approve the recommendations of the Part 150 Noise Compatibility Study Report and direct submission of the Report to the Federal Aviation Administration for approval. (Reviewed by Airport Advisory Board)
33. Approve the submission of a Preapplication, Application and Acceptance of Noise Compatibility grants from the Federal Aviation Administration (FAA), in an amount not to exceed \$30,000,000. (FAA grant reimbursement will apply to projects approved by Council in the 1993-94 and the 1994-95 CIP budget.) [Reviewed by Airport Advisory Board]  
#32-33 approved on Councilmember Garcia's motion, Councilmember Goodman's second, 4-0 vote, Mayor Pro Tem Nofziger and Councilmember Reynolds out of the room, Councilmember Urdy absent.
34. **5:30 P.M.** - Public hearing on establishing a community curfew in the Dove Springs neighborhood. (Councilmember Gus Garcia)  
Close Public Hearing on Councilmember Shea's motion, Councilmember Goodman's second, 5-0 vote, Councilmember Reynolds out of the room.
35. **6:45 P.M.** - Public hearing on establishing a daytime truancy curfew. (Mayor Bruce Todd)  
Close Public Hearing on Mayor Pro Tem Nofziger's motion, Councilmember Shea's second, 5-0 vote, Councilmember Reynolds out of the room.
36. **7:00 P.M.** - Amend the Land Development code by adding a definition of municipal solid waste landfill; adding Section 13-1-37 requiring a permit from the Texas Natural Resources Conservation Commission before final approval of certain applications for development on former landfill sites; and adopting a local amendment to the 1991 Uniform Building Code to provide inspection standards for such development. (Recommended by Planning Commission)  
Close Public Hearing and approve amendment on Councilmember Garcia's motion, Councilmember Goodman's second, 5-0 vote, Reynolds out of the room.

**EXECUTIVE SESSION**

Council held executive session 3:50 to 4:05 P.M. for discussion on Item 40.

**Pending/Contemplated Litigation - Section 551.071**

37. Discuss City of San Antonio, Texas et al v. Westinghouse Electric Corporation, Cause No. 90-5-00684-C, in the 23rd District Court of Matagorda County, Texas.

38. Discuss Houston, Lighting & Power Company, v. City of San Antonio, et al., Cause No. 88-923-E, in the 101st District Court of Dallas County, Texas.

Advice from Counsel - Section 551.071

39. Discuss ownership interest in South Texas Nuclear Plant.
40. Discuss legal issues regarding the application of SOS Ordinance to Lot 1, Section II, Wallingwood Subdivision, Site Plan Case No. SP-93-0245C.

ACTION ON THE FOLLOWING

41. Consider application for Limited Adjustment pursuant to Subsection 13-7-36.8 and Subsection 13-1-305 of the Austin City Code to determine whether application of the SOS Ordinance to the development project known as Lot 1, Section II, Wallingwood Subdivision; Site Plan Case No. SP-93-0245C would violate the United States or Texas Constitution or federal or state statutes.

Approve staff recommendation on Councilmember Garcia's motion, Councilmember Shea's second, 6-0 vote, Councilmember Urdy absent.

42. APPOINTMENTS

BOARD OF ADJUSTMENTS - Wanda Penn, Keith Warner  
BUILDING STANDARDS BOARD - Jerry Garcia  
CAPITAL METROPOLITAN TRANSIT AUTHORITY BOARD - Scott Polikav  
CHILD CARE COUNCIL - Gale Spear  
EMPLOYEES RETIREMENT SYSTEM OF THE CITY OF AUSTIN - Elizabeth Gonzales  
LIBRARY COMMISSION - Stephen Rodi, Juanita Solis, Lori Doubrava, Geneva Herrera-Govea  
MEDICAL ASSISTANCE PROGRAM ADVISORY BOARD - Jim Joy  
SOLICITATION BOARD - Shawna Russell

On Councilmember Garcia's motion, Councilmember Shea's second, 6-0 vote, Councilmember Urdy absent.

ADJOURN at 8:20 P.M. on Councilmember Shea's motion, Councilmember Goodman's second, 6-0 vote.

The Council recessed from 4:25 until 5:03 p.m. on Councilmember Garcia's motion, Councilmember Shea's second, 6-0 vote, Councilmember Urdy absent.

The Council recessed from 6:05 until 6:35 p.m. on Councilmember Garcia's motion, Councilmember Goodman's second, 4-0 vote, Mayor Pro Tem Nofziger and Councilmember Shea out of the room, Councilmember Urdy absent.

APPROVED ON THE 10th DAY OF March, 1994.

Approve minutes of Regular Meeting of February 10, 1994, on Councilmember Garcia's motion, Mayor Pro Tem Nofziger's second, 6-0 vote.