



**Austin City Council
MINUTES**

**REGULAR MEETING
THURSDAY, NOVEMBER 6, 2003**

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, October 30, 2003 in the Board Room at Lower Colorado River Authority Hancock Building, 3700 Lake Austin Boulevard.

Invocation: Rev. Edwin Wilder

Mayor Wynn called the Council Meeting to order at 10:10 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 Alvarez' motion, Council Member Thomas' second on a 7-0 vote.

1. Approval of minutes from the meeting of October 30, 2003.
The minutes from the meeting of October 30, 2003 were approved.
2. Approve negotiation and execution of an amendment to an Austin-Bergstrom International Airport Concession Agreement with Austin Airport Business Center Group, Inc., and the assignment of the amended Concession Agreement to Charles Bush Entertainment, Inc., to convert the Airport Business Center into a Cyber Bar/Café and Starbucks Coffee Shop. (Revenue generating concession agreement. Estimated revenue to the City the first year is \$64,000.) (Recommended by Austin Airport Advisory Commission.)
This item was postponed to November 20, 2003.
3. Authorize acceptance of grants from the Federal Aviation Administration, the Transportation Security Administration, and other agencies of the United States Government in an amount not to exceed \$30,000,000, to the City of Austin, Department of Aviation, for Austin-Bergstrom International Airport for Fiscal Year 2003-2004. (Grant reimbursement will apply to projects in the Fiscal Year 2003-2004 Approved Capital and/or Operating Budgets of the Aviation Department. Grant funds will be placed in the Airport Capital Fund, the ABIA Improvement Funds and/or the ABIA Operating Fund.) (Recommended by the Austin Airport Advisory Commission.)
The motion authorizing the acceptance of grants was approved.

4. Amend Ordinance No. 030909-1, the Fiscal Year 2003-2004 Operating Budget for the Community Care Services Department's Travis County Reimbursed Fund, by accepting and appropriating \$58,974 in funding from Travis County, increasing expenditures by the same amount and adding 1.0 full time equivalent (FTE) to the Austin/Travis County Medical Assistance Program. Budget to be receipted in revenue to the Travis County Reimbursed Fund in the amount of \$58,974. This budget amendment is in accordance with the terms of the Interlocal Cooperation Agreement. (Funding has been requested in the Fiscal Year 2003-2004 Operating Budget of the Community Care Services Department as a reimbursement from Travis County.)
Ordinance No. 031106-4 was approved.
5. Approve an Ordinance setting the assessment rate and proposed 2004 assessment roll for the Austin Downtown Public Improvement District (PID). (The 2004 assessment rate of \$0.10/\$100 valuation is estimated to produce \$1,207,396 at a 96% collection rate.) (Related Items 6, 46)
Ordinance No. 031106-5 was approved.
6. Approve a Resolution adopting the Downtown Austin Alliance Service Plan and Budget for 2004-2005. (The Downtown Austin Alliance submitted a 2004-2005 budget for the PID in the amount of \$1,348,569. This will be funded from a total of \$1,448,569. This amount includes \$1,207,396 in 2004 assessments (at a 96% collection rate), \$54,203 from higher collections from 2003, \$36,970 from interest accrued in the PID Account and late payments; and a \$150,000 annual contribution from the City of Austin (\$75,000 Austin Convention Center Fund, and \$75,000 in the Water & Wastewater Utility Fund). Appropriation of the \$1,448,569 in the Economic Growth and Redevelopment Services Department Special Revenue Fund will require City Council authorization, and possible adjustment, after the assessment roll hearing on December 4, 2003. \$100,000 of the total amount will be retained as a reserve fund to cover revenue adjustments to the assessment roll.) (Related Items 5, 46)
Resolution No. 031106-6 was approved.
7. Approve Amendment Two to the Interlocal Cooperation Agreement with Travis County for the provision of emergency medical services in Travis County outside the City's corporate limits, as well as some personnel and equipment for STAR Flight services. (Funding in the amount of \$7,731,129 is included in the Fiscal Year 2003-2004 Operating Budget of the EMS Travis County Reimbursed Fund. Additional funding in the amount of \$68,000 is included in the Fiscal Year 2003-2004 Operating Budget of the EMS County First Responder Grant Fund.)
The motion authorizing Amendment Two to the Interlocal Cooperation Agreement was approved.
8. Amend Ordinance No. 030908-04, the Fiscal Year 2003-2004 Approved Fees and Fines Budget to increase the patient transport fees for STAR Flight by \$400 for in-county transports and \$600 for out-of-county transports. The amended Fiscal Year 2003-2004 patient transport fees for STAR Flight will be \$2,000 for in-county transports and \$4,000 for out-of-county transports.
Ordinance No. 031106-8 was approved.
9. Amend Ordinance No. 030908-02, the Fiscal Year 2003-2004 Capital Budget of the Financial & Administrative Services Department Budget to appropriate \$3,685,000 for acquisition of Lot 1A, Block "A", TRACOR INDUSTRIAL SUBDIVISION AMENDED, and approximately 2.2 acres out of the Jess C. Tannehill Survey No. 29 in Travis County, Texas from Motorola, Inc. (\$3,685,000 will be funded by the future issuance of Certificates of Obligation that will be supported by future departmental operating budgets.) (Related Items 10, 25)
This item was postponed indefinitely.

10. Approve a resolution declaring the City's official intent to reimburse itself, as required under Section 103 of the Internal Revenue Code, from the sale proceeds of tax-exempt obligations that the City will issue in the future for the payment of \$3,685,000 in costs related to Lot 1A, Block "A", TRACOR INDUSTRIAL SUBDIVISION AMENDED, and approximately 2.2 acres out of the Jess C. Tannehill Survey No. 29 in Travis County, Texas from Motorola Inc. (Funding in the amount of \$3,685,000 to be reimbursed from the issuance of Certificates of Obligation in August 2004 or later.) (Related Items 9, 25)
This item was postponed indefinitely.
11. Approve a recodification ordinance repealing and replacing Title 1 of the Code relating to General Provisions, readopting offenses, and creating penalties.
Ordinance No. 031106-11 was approved.
12. Approve a recodification ordinance repealing and replacing Title 7 of the Code relating to Human Resources and Civil Rights, readopting offenses, and providing penalties.
Ordinance No. 031106-12 was approved.
13. Approve a recodification ordinance repealing and replacing Title 17 of the Code relating to Transportation Services, repealing Code Chapter 8-17 relating to ground transportation passenger services; repealing Code Chapter 8-18 relating to vehicle towing services; repealing Code Chapter 8-19 relating to vehicles used as escorts; repealing Code Chapter 8-20 relating to valet parking services; readopting offenses; and providing penalties.
Ordinance No. 031106-13 was approved.
14. Approve a resolution directing the Planning Commission to consider neighborhood plans for the following neighborhoods: Riverside, Pleasant Valley, Parker Lane, South River City, St. Edwards, West Congress, East Congress and Sweetbriar.
Resolution No. 031106-14 was approved.
15. Approve execution of a contract with MUNIZ CONCRETE AND CONTRACTING, INC., (MBE/MH), Austin, TX, for construction of playground improvements and ADA accessibility for Chestnut Park Development in the amount of \$268,800.00 for the Base Bid, \$15,100.00 for Alternate # 1, \$18,950.00 for alternate #2, for a total approval amount of: \$302,850.00. (Funding in the amount of \$302,850.00 is available in the Fiscal Year 2003-2004 approved Capital Budget of the Parks and Recreation Department.) 73.34% MBE and 4.95% WBE subcontractor participation.
This item was postponed indefinitely.
16. Authorize the acceptance of \$348,421 in renewal grant funding from the Corporation for National and Community Services "Special Volunteer Programs to Support Homeland Security"; amend Ordinance No. 030909-01 the Fiscal Year 2003-2004 operating budget, Police Department Special Revenue Fund, by increasing the FTE grant funding from 1.5 to 2.0 to support homeland defense volunteers in the Office of Emergency Management. (Funding is available in the Fiscal Year 2003-2004 Operating Budget, Police Department Special Revenue Fund for the grant period October 1, 2003 to September 30, 2004. An in-kind match of \$85,522 is provided, and represents existing APD personnel working on volunteer programs.)
The motion authorizing the acceptance of renewal grant funding and approval of Ordinance No. 031106-16 was approved.

17. Authorize execution of an Interlocal Agreement with Travis County for the City of Austin to provide in funding in the amount of \$35,000 for the Travis County District Court Drug Diversion Program. (Funding is available in the Fiscal Year 2003-2004 Operating Budget, Police Department Special Revenue Fund U. S. Department of Justice, Bureau of Justice Assistance, Local Law Enforcement Block Grant (LLEBG) Program.) (Recommended by the Local Law Enforcement Block Grant Advisory Board.)
The motion authorizing execution of an Interlocal Agreement was approved.
18. Authorize the filing of eminent domain proceedings to acquire a permanent wastewater easement comprised of 764 square feet of land and 192 square feet of land, and a temporary work space easement comprised of 187 square feet of land and a temporary staging area and material storage site easement comprised of 2,835 square feet of land out of 0.09 acre in the Manor Hills Subdivision, Section 7, Travis County, Texas, located at 4701 Creekwood Road, from Nelson Mack and Denise Mack, for the Austin Clean Water Project, in the amount of \$1,245. (Funding is included in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.)
Resolution No. 031106-18 was approved.
19. Authorize the filing of eminent domain proceedings to acquire one temporary ingress and egress easement comprised of 5,235 square feet of land out of Lot 26, Block A, The Highlands of University Hills, Section 2, Travis County, Texas, located along the east line of Bristol Drive, south of Bristol Circle, from Anthony R. Bertucci and spouse, Mildred L. Bertucci, for the Austin Clean Water Project, in the amount of \$4,211. (Funding is included in the Fiscal Year 2003-2004 Capital Budge of Austin Water Utility.)
Resolution No. 031106-19 was approved.
20. Authorize the filing of eminent domain proceedings to acquire two permanent wastewater easements comprised of 2,202 square feet of land and 6,509 square feet of land, a permanent access easement comprised of 6,980 square feet of land, two permanent wastewater line easements for subterranean tunnels comprised of 12,754 square feet of land and 14,012 square feet of land and two temporary working space easements comprised of 4,940 square feet of land and 30,481 square feet of land out of an 8.454 acre tract, of the J. Applegate Survey 58, Abstract 29, Travis County, Texas, located along the north line of US Highway 290 East, just east of Creekside Drive, from Walnut Creek Partners, L. P., in the amount of \$142,908, as part of the Austin Clean Water Project - Little Walnut South. (Funding is included in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.)
Resolution No. 031106-20 was approved.
21. Authorize the filing of eminent domain proceedings to acquire one permanent wastewater easement comprised of 26,981 square feet of land, one permanent access easement comprised of 27,188 square feet of land and one temporary working space easement comprised of 6,486 square feet of land out of 10.097 acres, of the Creeks subdivision, Travis County, Texas, located at 1901 East Anderson Lane, from Alliance FH Portfolio Limited Partnership, for the Austin Clean Water Project, in the amount of \$17,815. (Funding is included in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.)
Resolution No. 031106-21 was approved.

22. Authorize the filing of eminent domain proceedings to acquire one permanent wastewater easement comprised of 7,500 square feet of land and one temporary working space easement comprised of 5,608 square feet of land out of Lot 1, Old San Francisco Addition, Travis County, Texas, located at 8709 North Interstate Highway 35, from ACFI OSF, LLC., for the Austin Clean Water Project, in the amount of \$40,831. (Funding is included in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.)
Resolution No. 031106-22 was approved.
23. Authorize the filing of eminent domain proceedings to acquire a permanent access easement comprised of 2,887 square feet of land out of Lot 8-A, Resubdivision of Lot 62, Manor Hills, Section 8, Travis County, Texas, located at 2215 East 51st Street, from Fifty-first Creekside Apartments Inc., a Texas corporation, for the Austin Clean Water Project, in the amount of \$964. (Funding is included in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.)
Resolution No. 031106-23 was approved.
24. Approve a resolution authorizing the fee simple acquisition of 1,666 square feet of right-of-way, 1,284 square foot of temporary construction easement and 4 square foot of utility easement located at 406 West 38th Street, from the Junior Helping Hand Home for Children, for the Guadalupe Street and 38th Street Project, in the amount of \$54,115. (Funding is available in the Fiscal Year 1999-2000 Amended Capital Budget of the Transportation, Planning & Sustainability Department.)
Resolution No. 031106-24 was approved.
25. Approve the negotiation and execution of a purchase of real estate, including office building improvements, from MOTOROLA, INC., 3102 N. 56th Street, Phoenix, Arizona 85018, for Lot 1A, Block "A", TRACOR INDUSTRIAL SUBDIVISION AMENDED, and approximately 2.2 acres out of the Jess C. Tannehill Survey No. 29 in Travis County, Texas, for use by the Austin Fire Department, Emergency Medical Services Department, Financial and Administrative Services Department, and Austin Police Department, in an amount not to exceed \$3,685,000. (Funding is available in the Fiscal Year 2003-2004 Capital Budget of the Financial and Administrative Services Department.) (Related Items 9, 10)
This item was postponed indefinitely.

Item 26 was pulled for discussion

27. Approve a resolution authorizing the fee simple acquisition of a 0.501 acre tract of land out of the Noel M. Bain Survey No. 1, Abstract No. 61, locally known as 7528 Towery Lane, from James and Fannie Knapp, for the Airport Noise Mitigation Program, in the amount of \$70,000 for the land and improvements, \$23,603.50 relocation benefits and a payment not to exceed \$20,000 in order to perform the necessary ADA accessibility modifications to their replacement home, plus closing costs and moving related expenses in the amount of \$10,000, for an amount not to exceed \$123,603.50. (Funding in the amount of \$123,603.50 is available in the Fiscal Year 2002-2003 Capital Budget of the Department of Aviation using airport funds and available Federal Aviation Administration (FAA) Grants)
Resolution No. 031106-27 was approved.

28. Approve a resolution authorizing the fee simple acquisition of Lot 44 and 45, Linda Vista subdivision, locally known as 10507 Linda Vista, from E.D. Rodriguez, for the Airport Noise Mitigation Program, in the amount of \$49,000 for the land and improvements and \$31,301.95 relocation benefits, plus closing costs and moving related expenses in the amount of \$15,000, for an amount not to exceed \$95,301.95. (Funding in the amount of \$95,301.95 is available in the Fiscal Year 2002-2003 Capital Budget of the Department of Aviation using airport funds and available Federal Aviation Administration (FAA) Grants.)
Resolution No. 031106-28 was approved.
29. Approve an ordinance vacating a portion of undeveloped street right-of-way adjacent to 1023 and 1025 West Milton Street to be used for a driveway and landscaping. (\$2,300 will be deposited into the General Fund.) (Recommended by Zoning & Platting Commission; Recommended by Urban Transportation Commission.)
Ordinance No. 031106-29 was approved.
30. Authorize acceptance of \$371,740 in Transportation Equity Act for the 21st Century (TEA-21) grant funds for the Austin Bicycle Commuting Project; amend Ordinance No. 030908-02 the Fiscal Year 2003-2004 Amended Capital Budget of the Transportation, Planning & Sustainability Department by appropriating \$371,740 in grant funds and creating a new project called "Austin Bicycle Commuting Project." (Funding is available in TEA-21 funds through the Federal Highway Administration. No City match is required.)
The motion authorizing the acceptance of \$371,740 and approval of Ordinance No. 031106-30 was approved.
31. Authorize acceptance of \$160,000 in grant funds from the Texas Department of Transportation (TxDOT); amend Ordinance No. 030908-02, the Fiscal Year 2003-2004 Amended Capital budget of the Transportation, Planning and Sustainability Department. Total project cost is \$464,240. Grant funding of \$371,740 is available in Transportation Equity Act for the 21st Century (TEA-21) funds through the Federal Highway Administration. \$92,500 for the City's match requirement is available in the Fiscal Year 2003-2004 Amended Capital Budget of the Transportation, Planning & Sustainability Department.
The motion authorizing the acceptance of grant funds and approval of Ordinance No. 031106-31 was approved.
32. Authorize negotiation and execution of an Amendment to an Interlocal Agreement with Capital Metropolitan Transportation Authority for the Build Greater Austin Program to extend the agreement to September 30, 2004, and to incorporate provisions required by the Federal Transportation Administration (FTA) for federally funded contracts. (Related Item 33)
Resolution No. 031106-32 was approved.
33. Amend Ordinance No. 030908-02 the Fiscal Year 2003-2004 Capital Budget of the Transportation, Planning & Sustainability Department, by: (1) Appropriating \$707,850 to a new account entitled "Traffic Signalization (BGA Funding)"; (2) Appropriating \$774,324 for "Sidewalk and Curb Ramp Projects (BGA Funding);" (3) Appropriating \$2,817,127 for "Street Reconstruction (BGA Funding)." (\$4,299,301 in revenue is available from an interlocal agreement with Capital Metropolitan Transportation Authority for Build Greater Austin 2004 funding.) (Related Item 32)
Ordinance No. 031106-33 was approved.

Item 34 was pulled for discussion.

35. Approve an ordinance on 2nd & 3rd readings, to annex the Onion Creek Municipal Annexation Plan Area for full purposes. (Approximately 1222 acres located on the east side of IH 35 at the Onion Creek Parkway/IH 35 intersection approximately 7/10 of a mile south of the Slaughter Ln/IH 35 intersection). (Funding necessary to provide general governmental services to this tract is available in the budgets of the City departments which will be providing the services.)
Ordinance No. 031106-35 was approved.
36. Approve an ordinance to annex the Bull Creek Ranch area (Approximately 12 acres) located in Travis County south of Old Lampasas Trail at the intersection of Old Lampasas Trail and Spicewood Springs Road, and including Old Lampasas Trail right-of-way (ROW) for approximately one quarter of a mile and Spicewood Springs ROW for approximately 440 feet; to grant SF2 interim zoning designation for lot 20 of the Bull Creek Ranch Subdivision (C8-01-0257.0A) and SF6 interim zoning designation for lots 1-19 of the Bull Creek Ranch Subdivision (C8-01-0257.0A); to waive zoning application fees for property within the annexed area for a period of one year from the effective date of annexation and to delay the enforcement of fireworks sales regulations in the expanded 5000 foot area adjacent to the city limits of this annexation area for 20 days after the effective date. (Funding necessary to provide general governmental services to this tract is available in the budgets of the department which will be providing the services.)
Ordinance No. 031106-36 was approved.
37. Approve an ordinance to annex the Canyon Creek West Area (Approximately 132 acres) located in Travis County east of FM 620 and approximately three tenths of a mile north of the intersection of FM 620 and Boulder Lane; to waive zoning application fees for property within the annexed area for a period of one year from the effective date of annexation; and to delay the enforcement of fireworks sales regulations in the expanded 5000 foot area adjacent to the city limits of this annexation area for 20 days after the effective date. (Funding necessary to provide general governmental services to this tract is available in the budgets of the department which will be providing the services.)
Ordinance No. 031106-37 was approved.
38. Approve an ordinance to annex the Howard Lane at Dessau Road area (Approximately 290 acres) located in Travis County northwest of the intersection of Fish Lane and Dessau Road; to waive zoning application fees for property within the annexed area for a period of one year from the effective date of annexation; and to delay the enforcement of fireworks sales regulations in the expanded 5000 foot area adjacent to the city limits of this annexation area for 20 days after the effective date. (Funding necessary to provide general governmental services to this tract is available in the budgets of the department which will be providing the services.)
Ordinance No. 031106-38 was approved.

39. Approve an ordinance to annex the Parkway / Howard Lane ROW Area (Approximately 82 acres) located in Travis County north of Howard Lane, approximately two tenths of a mile east of the intersection of IH 35 and Howard Lane including Howard Lane right-of-way (ROW), from approximately two tenths of a mile east of the intersection of IH 35 and Howard Lane to the intersection of Howard Lane and Spring Heath Road; grant LI interim zoning designation for the Tech Ridge Section Four (SP-00-2124D) portion of this area; to waive zoning application fees for property within the annexed area for a period of one year from the effective date of annexation; and to delay the enforcement of fireworks sales regulations in the expanded 5000 foot area adjacent to the city limits of this annexation area for 20 days after the effective date. (Funding necessary to provide general governmental services to this tract is available in the budgets of the department which will be providing the services.)
Ordinance No. 031106-39 was approved.

40. Board and Commission Appointments.
The following appointments were made:

<u>Board/ Appointee</u>	<u>Consensus/ Council Nominee</u>	<u>Appointment/ Reappointment</u>
<u>Bond Oversight Committee</u>		
Thomas Lewis	Consensus	Reappointment
Dave Sullivan (Planning Commission Representative)	Consensus	Reappointment
<u>Design Commission</u>		
Eleanor McKinney	Consensus	Reappointment

41. Approve a resolution directing the City Manager to include the closure of Holly Units 3 and 4 by December 31, 2007 in the Strategic Plan being developed by Austin Energy. (Council Member Raul Alvarez, Mayor Pro Tem Jackie Goodman and Council Member Danny Thomas)
Resolution No. 031106-41 was approved.
42. Waive \$2,800 in permit fees under Chapter 15-11 of the Code for the Texas Book Festival to be held November 6-10, 2003. (Mayor Will Wynn and Council Member Brewster McCracken)
The motion authorizing the waiving of \$2,800 in permit fees was approved.

Item 43 was pulled for discussion.

44. Set a public hearing regarding an amendment to the East César Chávez Neighborhood Plan for, an element of the Austin Tomorrow Comprehensive Plan, for property located at 1001 E 3rd St. (Suggested date and time: November 20, 2003 at 6:00 p.m., Lower Colorado River Authority, Hancock Building) (On November 11, 2003 the amendment will be consider by the Planning and Commission Board.)
The public hearing was set for November 20, 2003 at 6:00 p.m., Lower Colorado River Authority, Hancock Building.

45. Set a public hearing to consider an ordinance amending Sections 25-2-840 and 25-5-4 of the City Code relating to Telecommunications Tower Antennae. (Suggested date and time: December 4, 2003 at 6:00 p.m., Lower Colorado River Authority, Hancock Building) (Recommended by the Council Committee for Infrastructure, the Planning Commission Codes and Ordinance Committee and the Planning Commission.)
Resolution No. 031106-45 was approved.
46. Set a public hearing on the Austin Downtown Public Improvement District (PID) 2004 assessments. (Suggested date and time: December 4, 2003 at 6:00 p.m., Lower Colorado River Authority, Hancock Building) (Related Items 5, 6)
The public hearing was set for December 4, 2003 at 6:00 p.m., Lower Colorado River Authority, Hancock Building.

Items 47 through 49 were Executive Session items

Item 50 was a Briefing

Items 51 through 53 and Z-1 to Z-4 were Zoning items set for 4:00 p.m.

Items 54 through 63 were public hearings set for 6:00 P.M.

64. Set a public hearing to receive public comment regarding the proposed modifications to the Urban Renewal Plan for the Brackenridge Urban Renewal Area. (Suggested date and time: December 11, 2003 at 6:00 p.m., Lower Colorado River Authority, Hancock Building) (Set for review at the Urban Renewal Board, November 17, 2003 and the Planning Commission, November 25, 2003.)
The public hearing was set for December 11, 2003 at 6:00 p.m., Lower Colorado River Authority, Hancock Building.

Mayor Wynn recessed the Council Meeting to go into Executive Session at 10:34 a.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 26 on the regular agenda during Executive Session.

47. Discuss legal issues relating to the labor negotiations for a Meet and Confer contract with the Austin Police Association.
48. Discuss legal issues related to *F.L. Vivion, et al. v. City of Austin*, Cause Number GN 103302, in the 261st Judicial District Court of Travis County, Texas. (concerns the City's transportation user fee and drainage fee)
This item was postponed to December 4, 2003.

Item 49 was discussed later in Executive Session

Executive Session ended at 12:03 p.m.

Mayor Wynn called the Council Meeting back to order at 12:04 p.m.

CITIZEN COMMUNICATIONS: GENERAL

Ann del Llano – Public Safety

Jennifer L. Gale – Good Austin Police Department recognition of our Officer's hard work.

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

EXECUTIVE SESSION CONTINUED

49. Discuss legal issues related to *Lowe's Home Centers, Inc. v. City of Austin*, Cause No. GN300629, in the 98th Judicial District Court of Travis County, Texas (concerning development of the Lowe's tract, approximately 31 acres in the Barton Springs Zone located at the Northwest corner of Brodie Lane and Allegro Lugar, in the Barton Springs Zone). (Related Item 43)

Executive Session ended at 2:00 p.m.

Mayor Wynn called the Council Meeting back to order at 2:02 p.m.

BRIEFING

50. Update from the Renaissance Market Commission.
The presentation was made by Robert Edgecomb, Renaissance Market Committee.

DISCUSSION ITEMS CONTINUED

34. Amend Ordinance No. 030908-02, the 2003-04 Capital Budget of the Transportation, Planning & Sustainability Department by appropriating \$23,802,000 in Capital Metro Transit Authority funding for regional mobility roadway improvement, sidewalk, bicycle, and traffic signalization projects. (\$23,802,000 in revenue is available from an interlocal agreement with Capital Metropolitan Transportation Authority (1/4 cent of each cent collected within the City's jurisdiction).)
Ordinance No. 031106-34 was approved with the following amendments on Council Member Slusher's motion, Mayor Wynn's second on a 7-0 vote. The amendment from Council Member Slusher was to add to the first item that the North Gateway Transportation Plan would be brought back to Council before sending out the Request for Proposal. The friendly amendment from Council Member Alvarez was to set aside \$50,000 a portion of the \$1,000,000 allocated for the transient 7th Street improvement project, for transit improvements at the southeast corner of 7th and Pleasant Valley for beautification of the library, including improving the transient corner of the library and creating a pedestrian entrance to the library from the transient center. This was accepted by the maker and Mayor Wynn, who seconded the motion.

26. Authorize the City Manager, or designee, to negotiate and execute all documents related to the purchase of approximately 3.655 acres of land near Seaholm Power Plant, west of West Avenue and south of West 3rd Street, from Union Pacific Railroad, Omaha, Nebraska, in an amount of \$2,957,425. (Funding in the amount of \$1,500,000 is available in the Fiscal Year 2003-2004 Approved Capital Budget of Austin Energy and \$1,457,425 is available in the Fiscal Year 2003-2004 Amended Capital Budget of the Transportation, Planning and Sustainability Department.) Resolution No. 031106-26 was approved on Council Member Slusher's motion, Council Member Dunkerley's second on a 7-0 vote.

Mayor Wynn recessed Council Meeting at 2:38 p.m.

Mayor Wynn called the Council Meeting back to order at 4:04 p.m.

ZONING ITEMS

51. Approve an ordinance amending Ordinance No. 030130-Z-7, relating to property located at 7300 to 7320 Riverside Drive (the Steiner Tract) in the Montopolis Neighborhood Plan Area, to correctly reflect a residential land use for the property on the Future Land Use Map as approved by City Council. (Planning Commission: No recommendation)
Ordinance No. 031106-51 was approved on Council Member Dunkerley's motion, Council Member McCracken's second on a 7-0 vote.

ZONING DISCUSSION ITEM

52. C14-03-0058 - Lake Austin Montessori - Approve first reading of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 701 Norwalk lane and 2502 West 7th Street (Johnson Creek Watershed) from family residence (SF-3) district zoning to neighborhood office-mixed use-conditional overlay (NO-MU-CO) combining district zoning. Zoning and Platting Commission Recommendation: To deny neighborhood office-mixed use-conditional overlay (NO-MU-CO) combining district zoning. Applicant: Joseph Draker. Agent: Central Austin Real Estate (Richard Glasheen). City Staff: Glenn Rhoades, 974-2775. Note: A valid petition has been filed in opposition to this rezoning request. (continued from 7/17/03)
The motion to deny rezoning was approved on Mayor Pro Tem Goodman's motion, Council Member McCracken's second on a 6-1 vote. Those voting aye were: Mayor Wynn, Mayor Pro Tem Goodman, Council Members Alvarez, Dunkerley, McCracken and Slusher. Those voting nay were: Council Member Thomas.
53. C14-03-0086 - Eckerd's - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as R.R. 620 North and El Salido Parkway (Lake Creek Watershed) from limited office-conditional overlay (LO-CO) conditional district zoning to neighborhood commercial-conditional overlay (LR-CO) combining district zoning. First reading: October 9, 2003. Vote: 7-0. Conditions met as follows: Conditional overlay incorporates the conditions imposed by Council on first ordinance reading. Applicant: Magna Properties (Elias Sarkis). Agent: Crocker Consultants (Sarah Crocker). City Staff: Sherri Gager, 974-3057. Note: A valid petition has been filed in opposition to this rezoning request.
Ordinance No. 031106-53 with the following amendments was approved on Mayor Pro Tem Goodman's motion, Council McCracken's second on a 7-0 vote.
1. The maximum height for a building or structure on the Property is 30 feet from ground level.
 2. A building or structure on the Property may not exceed a two-story height.

3. The maximum interior gross floor area of a building or structure on the Property is 13,813 square feet.

This was accepted by Council Member McCracken, who seconded the motion.

ZONING CONSENT ITEMS

The following zoning and discussion 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 Mayor Pro Tem Goodman's motion, Council Member McCracken's second on a 7-0 vote.

- Z-1 C14-03-0146 - Plaza Volente - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 11521 R.R 620 North (Bull Creek Watershed) from community commercial-conditional overlay (GR-CO) combining district zoning to community commercial-conditional overlay (GR-CO) combining district zoning in order to change a condition of zoning. Zoning and Platting Commission Recommendation: To grant community commercial-conditional overlay (GR-CO) combining district zoning. Applicant: London Enterprises 620 Joint Venture (Mike London). Agent: Bury & Partners, Inc. (James B. Knight). City Staff: Sherri Gager, 974-3057.
The first reading for community commercial conditional overlay (GR-CO) combining district zoning was approved.
- Z-2 C14-03-0141 - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1505 Bouldin Avenue (West Bouldin Creek Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to single family residence small lot-neighborhood plan (SF-4A-NP) combining district zoning. Planning Commission Recommendation: To be considered by the Commission on November 11, 2003. Applicant: Mayhen, LLC (Mayo/Hendrix) Agent: Vincent Gerard & Associates (Vincent Huebinger). City Staff: Annick Beaudet, 974-2975.
This item was postponed to November 20, 2003.

Items Z-3 and Z-4 were pulled for discussion.

Mayor Wynn recessed the Council Meeting at 5:27 p.m. for Live Music and Proclamations.

LIVE MUSIC

Matt the Electrician

PROCLAMATIONS

Proclamation - Geographic Information Systems (GIS) Day - to be presented by Mayor Will Wynn and to be accepted by Dean LaBonte

Proclamation - Austin International Adoption Fair - to be presented by Mayor Will Wynn and to be accepted by Shawn Constant

Proclamation - Christmas at Caswell House - to be presented by Mayor Will Wynn and to be accepted by Lindy Jordan

Proclamation - "Harvest for Hunger" Concert - to be presented by Mayor Will Wynn and to be accepted by Ray Fernandez, Roger Heaney and Tracy Walker

Mayor Wynn called the Council Meeting back to order at 6:33 p.m.

PUBLIC HEARINGS AND POSSIBLE ACTION

54. Conduct a public hearing for the full purpose annexation of Abbott / Merriltown Tract (Approximately 37 acres) located in Travis County northwest of the intersection of Burnet Road and McNeil-Merriltown Road).
This item was withdrawn.
55. Conduct a public hearing for the full purpose annexation of Chappell Hill Area (Approximately 26 acres) located in Travis County southeast of the intersection of Chappell Lane and Mayo Street).
The public hearing was closed on Council Member Dunkerley's motion, Mayor Wynn's second on a 5-0 vote. Mayor Pro Tem and Council Member Slusher were off the dais.
56. Conduct a public hearing on the full purpose annexation of Clayton's Crossing Area (Approximately 5 acres) located in Travis County south of the intersection of Fittonia Drive and Yaupon Drive).
The public hearing was closed on Council Member Dunkerley's motion, Mayor Wynn's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.
57. Conduct a public hearing for the full purpose annexation of Brandt Road Industrial Park Area (Approximately 26 acres) located in Travis County south of Brandt Road approximately one quarter of a mile east of the intersection of IH 35 and Brandt Road).
The public hearing was closed on Council Member Dunkerley's motion, Mayor Wynn's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.
63. Conduct a public hearing and consider an ordinance to amend the City Code by adopting a new Title 30 relating to regulation of subdivisions in the extraterritorial jurisdiction within Travis County, in accordance with the Agreement on Subdivision Platting in the Extraterritorial Jurisdiction Between the City of Austin and Travis County (HB1445).
The first reading of the ordinance was approved on Mayor Pro Tem Goodman's motion, Council Member Thomas' second on a 7-0 vote.

ZONING DISCUSSION ITEMS

- Z-4 C14H-03-0002 - HAMPTON ROAD CALCASIEU HOUSES - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 3403 and 3407 Hampton Road (Waller Creek Watershed) from family residence (SF-3) district, to family residence (SF-3-H) historic combining district. Planning Commission recommendation: Forward without a recommendation. Historic Landmark Commission recommendation: To grant family residence (SF-3-H) historic combining district. Applicant: Historic Landmark Commission. Property Owner: Nick Cochrane. Agent: Chris Pezold. City Staff: Steve Sadowsky, Transportation, Planning and Sustainability Department, 974-6454. (First reading only) Note: A valid petition has been filed by the property owner in opposition to this rezoning request.

This item was deferred to the first meeting after the Historic Preservation Task Force reports to Council or no later than the first meeting in April on Council Member McCracken's motion, Mayor Pro Tem Goodman's second on a 4-3 vote. Those voting aye were: Mayor Pro Tem Goodman and Council Members Alvarez, Dunkerley and McCracken. Those voting nay were: Mayor Wynn and Council Member Slusher and Thomas.

PUBLIC HEARINGS CONTINUED

58. Conduct a public hearing and consider an ordinance amending Sections 25-7-96 and 25-7-152 of the City Code relating to administrative variances regarding development in a floodplain and the dedication of easements and rights-of-way for drainage. (Recommended by Planning Commission. Not Recommended by Environmental Board.)

The public hearing was closed on Council Member Dunkerley's motion, Mayor Wynn's second on a 6-0 vote. Council Member Slusher was off the dais.

The first and second readings of the ordinance were approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.

59. Conduct a public hearing and consider an ordinance amending Section 25-4-2 of the City Code excepting a small parcel of land within the City from the requirement to plat if the parcel was in its current configuration on January 1, 1995 and other conditions are met. (Recommended by Planning Commission.)

The public hearing was closed on Council Member Dunkerley's motion, Mayor Wynn's second on a 6-0 vote. Council Member Slusher was off the dais.

The first and second readings of the ordinance were approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.

60. Conduct a public hearing and consider an ordinance amending Section 25-5-2(D)(1) of the City Code to provide that a site plan is not required if the limits of construction for a development is 3000 square feet or less. (Recommended by Planning Commission.)

The public hearing was closed on Council Member Dunkerley's motion, Mayor Wynn's second on a 6-0 vote. Council Member Slusher was off the dais.

The first and second readings of the ordinance were approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.

SPECIAL CALLED MEETING

Mayor Wynn recessed the Regular Council Meeting at 8:05 p.m. to go into the Special Called Meeting. See separate minutes.

Mayor Wynn called the Council Meeting back to order at 9:16 p.m.

The motion to waive the rules and allow Council to meet after 10 p.m. was approved on Council Member Slusher's motion, Council Member Thomas' second on a 7-0 vote.

ZONING DISCUSSION ITEMS CONTINUED

- Z-3 C14-03-0119 - Wal-Mart - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 0 East Ben White Boulevard (Blunn Creek Watershed) from family residence (SF-3) district zoning to limited industrial service (LI) district zoning. Zoning and Platting Commission Recommendation: To grant limited industrial service (LI) district zoning. Applicant: Joe Jung. Agent: Armbrust & Brown, LLP. (Richard Suttle, Jr.). City Staff: Annick Beaudet, 974-2975.**

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

The first reading adopting Zoning and Platting Commission's recommendation for LI district zoning was approved on Council Member Dunkerley's motion, Council Member McCracken's second on a vote. Council directed staff to bring this item back for final action on November 20, 2003,

DISCUSSION ITEMS CONTINUED

- 65. Direct the City Manager to develop a scope of work for and complete a study of the effects of big box retail centers on the local economy, small local businesses, and wages. (Council Member Daryl Slusher and Council Member Raul Alvarez, and Mayor Pro Tem Jackie Goodman)**
Resolution No. 031106-65 was approved as amended below on Council Member Slusher's motion, Council Member Alvarez' second on a 7-0 vote. The amendment was to instruct the City Manager to bring back a scope of work and the cost for the study for Council consideration at the November 20, 2003 meeting.

PUBLIC HEARINGS CONTINUED

- 61. Conduct a public hearing and consider an ordinance amending Chapters 25-2, 25-3, and 25-6 of the City Code relating to restaurant uses. (Recommended by Planning Commission with amendments.)**
The public hearing was closed on Council Member Slusher's motion, Council Member Alvarez' second on a 7-0 vote.

The motion to postpone this item to November 20, 2003 was approved on Mayor Pro Tem Goodman's motion, Council Member Thomas' second on a 7-0 vote.

62. Conduct a public hearing and consider an ordinance amending Section 25-6 of the City Code related to requirements for off-street parking, off-street loading, and bicycle parking. (Recommended by Planning Commission with amendments.)
The public hearing was closed on Mayor Pro Tem Goodman's motion, Council Member Slusher's second on a 7-0 vote.

The motion to postpone this item to November 20, 2003 was made by Mayor Pro Tem Goodman and seconded by Council Member Thomas.

The substitute motion to give the first reading adopting staff's recommendation 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.

SPECIAL CALLED MEETING

Mayor Wynn recessed the Regular Council Meeting at 12:46 a.m. to go into the Special Called Meeting. See separate minutes.

Mayor Wynn called the Council Meeting back to order at 1:40 a.m.

DISCUSSION ITEMS CONTINUED

43. Consider settlement of *Lowe's Home Centers, Inc. v. City of Austin*, Cause No. GN300629, in the 98th Judicial District Court of Travis County, Texas (concerning development of the Lowe's tract, approximately 31 acres in the Barton Springs Zone located at the Northwest corner of Brodie Lane and Allegro Lugar, in the Barton Springs Zone). (Related Item 49)(Mayor Pro Tem Jackie Goodman and Council Member Brewster McCracken)

The first reading of the ordinance approving the settlement with the following direction to staff was approved on Mayor Pro Tem Goodman's motion, Council Member McCracken's second on a 4-3 vote. Those voting aye were: Mayor Wynn, Mayor Pro Tem Goodman, and Council Members Dunkerley and McCracken: Those voting nay were: Council Members Alvarez, Slusher and Thomas. The staff direction was to send the settlement to the Environmental Committee, Zoning and Platting Commission and Planning Commission for review. Staff will collate comments from the three boards and present to Council. The settlement will be put back on the Council agenda on December 4, 2003 for a full public hearing. The agreement will be put on the City's website for citizen review.

The motion to adjourn the meeting at 2:31 a.m. was approved on Council Member Slusher's motion, Mayor Wynn second on a 7-0 vote.

The minutes for the meeting of November 6, 2003 were approved on this the 20th day of November, 2003 on Council Member Dunkerley's motion, Council Member McCracken's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.