



**Austin City Council
MINUTES**

**REGULAR MEETING
THURSDAY, FEBRUARY 27, 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, February 27, 2003 in the Board Room at Lower Colorado River Authority Hancock Building, 3700 Lake Austin Boulevard.

Invocation: Elder Carlton Harris, Horizon Worship Center

Mayor Garcia called the Council Meeting to order at 12:08 p.m.

Mayor Garcia recessed the meeting at 12:11 p.m. to go into Executive Session

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.

Item 1 was discussed later in Executive Session.

2. Discuss legal issues regarding waiving one additional East Austin Redevelopment Area HUD 108 Loan Program Guideline for the Eleven East Project Loan and Restating and Amending the Lease between the City of Austin (Neighborhood Housing and Community Development) and the Austin Revitalization Authority.

Item 3 was discussed later in Executive Session.

4. Discuss legal issues related to the City's application for certificates of convenience and necessity for water and wastewater service before the Texas Commission on Environmental Quality.
No discussion was held on this item.

Item 70 was discussed later in Executive Session.

Executive Session ended at 1:35 p.m.

Mayor Garcia called the regular Council meeting back to order at 1:36 p.m.

CITIZEN COMMUNICATIONS: GENERAL

5. Sylvia Herrera - Close the Holly Power Plant – Now – Protect the Children's Health.
6. Susana Almanza - Close the Holly Power Plant Now! Protect the Children from Emissions!
7. Sara Breuer - Close the Holly Power Plant - **ABSENT**
8. Connie Leaverton - Close the Holly Power Plant – Now! Health Issues
9. Gavino Fernandez - Close the Holly Power Plant Now!
10. Paul Hernandez - Close Holly Power Plant Now!
11. Wilton Stone – Resolution - **ABSENT**
12. Grace Lehto - Stop the Flooding. Clear Carson Creek
13. Joaquin Fox - Announcement of Mayoral Candidacy - **ABSENT**
14. Gus Pena - Listen to the will and cries of the poor; Have Nots and Disenfranchised and their needs and concerns. Continue the push for Low Income Affordable Housing, Affordable Housing, and Transitional Housing for the Homeless Families. Approve the Old Mueller Site for the New Hospital. Easy Access, Cost Effective for the Taxpayers. - **ABSENT**

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 Mayor Pro Tem Goodman's motion, Council Member Dunkerley's second on a 6-0 vote. Council Member Slusher was off the dais.

15. Approval of minutes from worksession of February 12, 2003, regular meeting of February 13, 2003 and the budget worksession of February 20, 2003.
The minutes from the worksession of February 12, 2003, regular meeting of February 13, 2003 and the budget worksession of February 20, 2003 were approved.
16. Approve a resolution directing the City Manager to Negotiate and Execute a settlement with the Lower Colorado River Authority (LCRA) settling LCRA's protest of the City's application for Certificates of Convenience and Necessity for Water and Wastewater service before the Texas Commission on Environmental Quality. (Related to Executive Session Item 4)
This item was removed from the agenda.
17. Approve a resolution waiving one additional East Austin Redevelopment Area HUD 108 Loan Program Guideline for the Eleven East Project Loan and Restating and Amending the Lease between the City of Austin (Neighborhood Housing and Community Development) and the Austin Revitalization Authority. (Related to Executive Session Item 2)
Resolution No. 030227-17 was approved.
18. Approve an ordinance calling a general municipal election to be held in the City of Austin on May 3, 2003 to elect a Mayor and three Council Member positions and authorizing the City Clerk to negotiate and execute joint election agreements with other political entities. (Funding in the amount of \$1,060,121 was included in the 2002-2003 Approved Operating Budget of the Office of the City Clerk.)
Ordinance No. 030227-18 was approved.

Items 19 and 20 were pulled for discussion.

21. Approve an ordinance changing the street name for TRINITY MEADOWS CROSSING to SENDERO HILLS PARKWAY (from the intersection of F M 969 Rd and Trinity Meadows Crossing to the intersection of Trinity Meadows Crossing and Loyola Lane). [No fiscal impact on City of Austin budget. The processing fee (\$415.00) has been paid by the requester. Street sign replacement fees (\$3,000 to \$5,000) will be paid by the requester upon passage of the ordinance.]
Ordinance No. 030227-21 was approved.
22. Approve an ordinance changing the street name for FABER COVE to FABER VALLEY COVE (from the intersection of Faber Cove and Scheider Drive to the end of Faber Cove in the Pioneer Crossing Phase A Section 3 Subdivision). [No fiscal impact on City of Austin budget. The processing fee (\$415) has been paid by the requester. There is no street sign replacement fee cost for this proposed street name change. The subdivision is still under development and no street signs have been posted to this date.]
Ordinance No. 030227-22 was approved.
23. Approve an ordinance changing the street name for BRAXTON COVE to BRAXTON VALLEY COVE (from the intersection of Braxton Cove and Brixey Lane to the end of Braxton Cove in the Pioneer Crossing Phase A Section 3 Subdivision). [No fiscal impact on City of Austin budget. The processing fee (\$415) has been paid by the requester. There is no street sign replacement fee cost for this proposed street name change. The subdivision is still under development and no street signs have been posted to this date.]
Ordinance No. 030227-23 was approved.
24. Approve execution of an amendment to the Amended Compromise Settlement Agreement and Mutual Release of Claims between BFI Waste Systems of North America, Inc. (BFI), and the City of Austin regarding BFI's recycling plant operations at 10420 Metric Boulevard.
The motion authorizing execution of an amendment was approved.

Items 25 and 26 were pulled for discussion.

27. Approve a resolution directing the Planning Commission to consider neighborhood plans for the Brentwood and Highland neighborhood planning areas.
Resolution No. 030227-27 was approved.
28. Approve an ordinance establishing interim development regulations, including a moratorium, relating to the construction of high residency duplexes and the redevelopment of land on which high residency duplexes are to be constructed.
Ordinance No. 030227-28 was approved on Emergency Passage with the effective date of February 27, 2003.
29. C14-01-0001 – The Vintage on Town Lake – Approve third reading of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1400 East Riverside Drive (Town Lake Watershed) from SF-3, Family Residence district, zoning to MF-6-CO, Multifamily Residence Highest Density district, zoning for Tracts 1A and 2A; and MF-4-CO, Multifamily Residence-Moderate High Density district, zoning for Tract 4A. Second reading on July 11, 2002; Vote: 7-0. First reading on June 14, 2001; Vote: 7-0. Conditions met as follows: Conditional Overlay incorporates conditions were imposed by City Council at second ordinance reading. Applicant: Street Development Ltd. (Robert N. Garrett III). Agent: Crocker Consultants

(Sara Crocker). City Staff: Don Perryman, Watershed Protection and Development Review Department, 974-2786.

Ordinance No. 030227-29 was approved.

30. C14-01-0002 – The Vintage on Town Lake – Approve third reading of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1400 Edgecliff Street (Town Lake Watershed) from SF-3, Family Residence district, zoning to MF-6-CO, Multifamily Residence Highest Density district, zoning for Tracts 1B, 2B, and 3; and MF-4-CO, Multifamily Residence-Moderate High Density district, zoning for Tract 4B. Second reading on July 11, 2002; Vote: 7-0. First reading on June 14, 2001; Vote: 7-0. Conditions met as follows: Conditional Overlay incorporates conditions were imposed by City Council at second ordinance reading. Applicant: Street Development Ltd. (Robert N. Garrett III). Agent: Crocker Consultants (Sara Crocker). City Staff: Don Perryman, Watershed Protection and Development Review Department, 974-2786.

Ordinance No. 030227-30 was approved with the following amendment by Mayor Pro Tem Goodman. In the first one hundred foot setback, nothing can be built. In the next sixty feet, no building higher than sixty feet can be built.

Items 31 and 32 were pulled for discussion.

33. Authorize negotiation and execution of an amendment to the existing professional services agreement with CARTER DESIGN ASSOCIATES (MBE/FB, 12.43%), Austin, Texas, to provide additional architectural design services for the Carver Museum & Cultural Center and Carver Branch Library Expansion Projects, in an amount not to exceed \$30,639 for a total contract amount not to exceed \$1,114,214. (Funding in the amount of \$26,239 is available in the 2002-2003 Capital Budget of the Parks & Recreation Department; and \$4,400 is available in the 2002-2003 Amended Capital Budget of the Information Systems Department.) Overall MBE/WBE participation, including this amendment is: 34.41% MBE, 19.2% WBE.

The motion authorizing the negotiation and execution of an amendment to the existing professional services agreement was approved.

34. Approve negotiation and execution of an amendment to the Professional Services Agreement with MALCOLM PIRNIE, INC., Austin, Texas, for additional professional engineering and program management consulting of water and wastewater services to annexed areas for the server reconfiguration of the capital project management system increasing the contract in the amount of \$210,000 for a total agreement amount not to exceed \$11,332,096.73. (Funding in the amount of \$210,000 is available in the 2002-2003 Amended Capital Budget of the Water & Wastewater Utility.) (Recommended by Water and Wastewater Commission). On a cumulative basis including this amendment, the minority participation is 17.27% MBE and 24.53% WBE.

The motion authorizing the negotiation and execution of an amendment to the Professional Services Agreement was approved.

35. Approve execution of a construction contract with ROBERT JENTSCH CONSTRUCTION, INC., Austin, Texas, for installation of an array of photovoltaic panels on the upper level of the Palmer Events Center Parking Garage, in an amount not to exceed \$139,953. (Funding is available in the 2002-2003 Amended Capital Budget of the Electric Utility Department. Lowest of two bids received. 43.3% MBE, 13.98% WBE subcontracting participation.

The motion authorizing the execution of a construction contract was approved.

36. Approve execution of a construction contract with D. CARLSON & CO. INC., Austin, Texas, for activation of a water chiller in the Hobby District Cooling Plant, in an amount not to exceed \$386,271.47. (Funding is included in the 2002-2003 Amended Capital Budget of the Electric Utility.) Lowest responsive bid of eight bids received. 20.62% MBE, 2.56% subcontracting participation. (Recommended by Electric Utility Commission)
This item was postponed indefinitely.
37. Approve execution of a construction contract with AUSTIN FILTER SYSTEMS, INC., Austin, Texas, for the Shoal Creek at 5th Street Bridge Erosion Stabilization Project, in an amount not to exceed \$260,938. (Funding in the amount of \$7,200 is available in the 1995-1996 Amended Capital Budget of the Water & Wastewater Utility and \$253,738 is included in the 2002-2003 Capital Budget of the Public Works Department.) Lowest responsive bids of five bids received. 19.72% MBE, 4.56% WBE subcontracting participation.
The motion authorizing the execution of a construction contract was approved.

Item 38 was pulled for discussion.

39. Approve execution of a construction contract with J.N.M CONSTRUCTION INC. (MBE/MH, 88.30%), Manor, Texas, for alley pavement improvements in the Congress Avenue Alleys east of Congress between 6th and 9th Streets, in an amount not to exceed \$166,726.35. (Funding in the amount of \$154,623.35 was included in the Operating Budget of the Public Works Department; \$2,628 is available in the 1995-1996 Amended Capital Budget and \$9,475 was included in the 2002-2003 Amended Capital Budget of the Water & Wastewater Utility.) Lowest of seven bids received. .9% MBE, 7.8% WBE subcontracting participation.
The motion authorizing the execution of a construction contract was approved.
40. Authorize negotiation and execution of a contract for construction services with TEPCO, L.P., Deer Park, Texas, for the installation of underground chilled water piping for the initial period of one year in an amount not to exceed \$3,000,000, with two optional one year extensions, not to exceed \$1,000,000 per approved annual extension, for an overall contract amount not to exceed \$5,000,000. (Funding in the amount of \$3,000,000 was included in the 2002-2003 Amended Capital Budget of Electric Utility. Funding for the extension options is contingent upon available funding in future budgets.) One proposal was received. The prime firm attests to its commitment, by affidavit, to meet goals established by the Department of Small and Minority Business Resources in compliance with the 1996 amended MBE/WBE Procurement Program, for each subsequent project assignment. (Recommended by Electric Utility Commission)
This item was postponed to March 6, 2003.
41. Approve an ordinance for the vacation of forty-two square feet of right-of-way at 1710 Drake Avenue. (The amount of \$681 will be receipted to the General Fund.) (Recommended by Zoning and Platting Commission)
Ordinance No. 030227-41 was approved.
42. Approve execution of a contract with FLOWSERVE CORP., Taneytown, MD, for the purchase of two vertical turbine pumping units for the Ullrich Water Treatment Plant for the Water & Wastewater Utility Department in an amount not to exceed \$1,180,800. (Funding is available in the 2002-2003 Approved Capital Budget of the Water & Wastewater Utility Department.) Low bidder meeting specification of three bids received. This contract will be awarded in accordance with the 1996 MBE/WBE Ordinance, as amended. No subcontracting opportunities were identified; therefore, no goals were established.

The motion authorizing the execution of a contract was approved.

43. Approve execution of an Interlocal Agreement with the Del Valle Independent School District (DVISD), Del Valle, Texas, to provide energy efficiency consulting assistance to DVISD, including identifying and recommending conservation measures, calculating their energy savings and assisting with any applicable utility rebates for planned school district capital improvement projects. (Recommended by Electric Utility Commission and Resource Management Commission)

The motion authorizing the execution of an Interlocal Agreement was approved.

44. Approve execution of a contract with GT DISTRIBUTORS, Austin, Texas, for the purchase of 143 Federal Signal "Smart Siren" master control units for the Austin Police Department in an amount not to exceed \$78,335.40. (Funding is available in the 2002-2003 Approved Operating Budget of the Austin Police Department.) Low bid/four bids received. This contract will be awarded in accordance with the 1996 MBE/WBE Ordinance, as amended. No subcontracting opportunities were identified; therefore, no goals were established for this solicitation.

The motion authorizing the execution of a contract was approved.

45. Approve execution of three 12-month service agreements with PROFESSIONAL CABLING SERVICES, INC. (WBE, 100%) (Primary), Austin, Texas, Co Com Cabling Systems, Div of Complete Communication Services, Inc. (WBE, 100%)(1st Alternate), Pflugerville, Texas, and Carroll Systems, LP, (2nd Alternate) Austin, Texas, to provide equipment and services for cabling services and products, each agreement in an amount not to exceed \$217,000, with three 12-month extension options in an amount not to exceed \$365,450 for the first extension option, in an amount not to exceed \$203,400 for the second extension option, and in an amount not to exceed \$205,400 for the third extension option, for a total contract amount of the three agreements not to exceed \$991,250. (Funding in the amount of \$217,000 is available in the 2002-2003 Amended Operating Budget for various departments. Funding for the extension options is contingent upon available funding in future budgets.) Low bids of nine bids received. This contract will be awarded in accordance with the 1996 MBE/WBE Ordinance, as amended. No subcontracting opportunities were identified, therefore, no goals were established.

The motion authorizing the execution of three service agreements was approved.

46. Approve execution of a construction contract award with TRAVIS PAVING AND EXCAVATING COMPANY (MBE/MH, 67.74%), for the construction of traffic calming measures on various city streets within the Windsor Park neighborhood area, as part of the Neighborhood Traffic Calming Program, in the amount not to exceed \$340,620. (Funding is included in the 2002-2003 Amended Capital Budget of the Transportation, Planning and Sustainability Department.) 0% MBE, 17.89% WBE subcontracting participation.

The motion authorizing the execution of a construction contract award was approved.

47. Approve an ordinance to amend the Austin City Code, Section 16-4-15 – Speed Limits, by adding the following streets to the list of streets having a maximum speed limit of 20 miles per hour during certain times for students attending various schools: Rosewood Avenue (Oak Springs School); West Slaughter Lane, Aftonshire Way and Curlew Drive (Kocurek School); and Escarpment and La Cross (Kiker School). (Funding in the amount of \$5,000 for the installation of signs and markings is available in the 2002-2003 Child Safety Fund for the Transportation, Planning & Sustainability Department.)

Ordinance No. 030227-47 was approved.

48. An ordinance amending sections 16-4-14 Speed Limits of the City Code by adding certain streets in the Spicewood Springs neighborhood to the list of streets having a maximum speed limit of 25 miles per hour. (Funding in the amount of \$12,800 for the installation of signs is available in the Fiscal Year 2002-2003 operating budget of the Transportation, Planning and Sustainability Department.)

Ordinance No. 030227-48 was approved.

Item 49 was pulled for discussion.

50. Approve an ordinance amending Ordinance No. 020909-02, the 2002-2003 Capital Budget by increasing appropriations to the Water and Wastewater Utility by \$4,068,000 and creating a new wastewater project known as "Pioneer Crossing Amended PUD (North)" for \$4,068,000. (Funding will be provided from the proceeds of debt issuance when the annual obligation comes due in future budget years.) (Recommended by Water and Wastewater Commission) (Related Items 51 and 52)

Ordinance No. 030227-50 was approved.

51. Approve a resolution to declare official intent to reimburse construction costs in the amount of \$4,068,000 to be paid for developer reimbursements for the "Pioneer Crossing Amended PUD (North)" Wastewater project. (Funding for the Water and Wastewater Utility to be funded by the issuance of commercial paper.) (Recommended by Water and Wastewater Commission) (Related Items 50 and 52)

Resolution No. 030227-51 was approved.

52. Approve negotiation and execution of a cost reimbursement agreement with ART Collection, Inc., providing terms and conditions for construction of a 24 and 30-inch gravity wastewater main and appurtenances to provide wastewater service to the proposed "Pioneer Crossing Amended PUD (North)" located between Parmer Lane and Gregg Lane and west of Cameron Road, with City cost reimbursement in an amount not to exceed \$4,068,000, for actual "hard" construction costs; adopt an Ordinance waiving the requirements of Section 25-9-61 and 25-9-63, of the City Code relating to maximum cost reimbursement of a facility. (Funding is included in the 2002-2003 Amended Capital Budget of the Water and Wastewater Utility) (Recommended by Water and Wastewater Commission) (Related Items 50 and 51)

The motion authorizing the negotiation and execution of a cost reimbursement agreement and Ordinance No. 030227-52 was approved.

53. Approve an Ordinance amending Ordinance No. 020909-02, the 2002-2003 Capital Budget by increasing appropriations to the Water and Wastewater Utility by \$1,170,000 and creating a new water project known as "Pioneer Crossing Amended PUD (North)" for \$1,170,000. (Funding will be provided from the proceeds of debt issuance when the annual obligation comes due in future budget years.) (Recommended by Water and Wastewater Commission) (Related Items 54 and 55)

Ordinance No. 030227-53 was approved.

54. Approve a resolution to declare official intent to reimburse construction costs in the amount of \$1,170,000 to be paid for developer reimbursements for the "Pioneer Crossing Amended PUD (North)" Water project. (The amount of \$1,170,000 for the Water and Wastewater Utility to be funded by the issuance of commercial paper.) (Recommended by Water and Wastewater Commission) (Related Items 53 and 55)

Resolution No. 030227-54 was approved.

55. Approve negotiation and execution of a cost reimbursement agreement with ART Collection, Inc., providing terms and conditions for construction of a 24-inch water main and appurtenances to provide water service to the proposed "Pioneer Crossing Amended PUD (North)", located between Parmer Lane and Gregg Lane and west of Cameron Road, with City cost reimbursement in an amount not to exceed \$1,170,000, for actual "hard" construction costs; adopt an Ordinance waiving the requirements of Section 25-9-61 and 25-9-63, of the City Code relating to maximum cost reimbursement of a facility. (Funding is included in the 2002-2003 Amended Capital Budget of the Water and Wastewater Utility.) (Recommended by Water and Wastewater Commission) (Related Items 53 and 54)

The motion authorizing the negotiation and execution of a cost reimbursement agreement and Ordinance No. 030227-55 was approved.

56. Approve Service Extension Request No. 2099 for water utility service not to exceed a peak hour flow of 275 gallon per minute (gpm) for a tract of approximately 36.3 acres owned by Gragg Land and Cattle Co., Ltd., located within the Drinking Water Protection Zone and Desired Development Zone in the extraterritorial jurisdiction of Austin in southern Travis County at F.M. 1626 and the Hays County line. (Recommended by Water and Wastewater Commission) (Related Item 57)

The motion authorizing Service Extension Request No. 2099 was approved.

57. Approve Service Extension Request No. 2100 for wastewater utility service not to exceed a peak wet weather flow of 104 gallons per minute (gpm) for a tract of approximately 36.3 acres owned by Gragg Land and Cattle Co., Ltd., located within the Drinking Water Protection Zone and Desired Development Zone in the extraterritorial jurisdiction of Austin in southern Travis County at F.M. 1626 and the Hays County line. (Recommended by Water and Wastewater Commission) (Related Item 56)

The motion authorizing Service Extension Request No. 2100 was approved.

58. Approve Service Extension Request No. 2222 for wastewater service not to exceed a peak wet weather flow of 1 gallon per minute (gpm) for a tract of approximately .4 acres owned by Ronald and Debbie Horne, located within the Drinking Water Protection Zone in the extraterritorial jurisdiction of Austin at 1303 Silver Hill Drive. (Recommended by Water and Wastewater Commission)

The motion authorizing Service Extension Request No. 2222 was approved.

59. Approve negotiation and execution of an amendment to the Professional Services Agreement with CH2M Hill, Austin, Texas, for additional engineering services for the Hornsby Bend Biosolids Management Plant Improvements in the amount not to exceed \$87,000, for a total amount not to exceed \$2,597,597.80. (Funding in the amount of \$87,000 is included in the 2002-2003 Amended Capital Budget of the Water and Wastewater Utility.) Overall subconsultant participation, including this amendment: 7.96% MBE; 26.2% WBE. (Recommended by Water and Wastewater Commission)

The motion authorizing the negotiation and execution of an amendment to the Professional Services Agreement was approved.

60. Approve execution of Change Order #7 and Final Change Order #8 to the construction contract with DEEVERS CONSTRUCTION, LP, Austin, Texas, for construction of wastewater improvements to the Barton Creek Rightsizing Project in the amounts of \$101,520.45 and (\$24,167.96) for a total contract amount not to exceed \$3,794,531.23. (Funding in the amount of

\$101,520.45 is included in the 2002-2003 Amended Capital Budget of the Water and Wastewater Utility.) Overall MBE/WBE participation, including these Change Orders, is: 6.2%, 1.11% WBE. (Recommended by Water and Wastewater Commission, Parks and Recreation Board and Environmental Board)

The motion authorizing the execution of Change Order #7 and Final Change Order #8 to the construction contract was approved.

61. Authorize the City Manager or her designee to negotiate and execute an amendment to the existing wholesale water and wastewater utility contracts between the City of Austin, Texas and the City of Sunset Valley, Texas to adjust the wholesale service area boundary by removing recent Extraterritorial Jurisdiction releases by the City of Sunset Valley. (This action will not require any expenditure of funds. City of Austin water and wastewater service to the ETJ areas released by the City of Sunset Valley will be provided in accordance with City of Austin policies. (Recommended by Water and Wastewater Commission)

The motion authorizing the City Manager or her designee to negotiate and execute an amendment was approved.

62. Authorize additional funding authorization of \$307,635 and the negotiation and execution of an amendment to the existing professional services agreement with RAYMOND CHAN & ASSOCIATES, INC. (MBE, 54.14%), Austin, Texas, for additional Phase 3 (construction management) engineering services for the Crystalbrook Flood Control Project - Levee Improvements for a maximum contract amount not to exceed \$1,780,083. (Funding in the amount of \$307,635 is included in the 1998-1999 Amended Capital Budget of the Watershed Protection Department.) Overall subconsultant participation including this Amendment: 3.71% MBE, 26.87% WBE.

The motion authorizing additional funding authorization of \$307,635 and the negotiation and execution of an amendment to the existing professional services agreement was approved.

63. Set a public hearing to consider an amendment to the North Austin Civic Association Neighborhood Plan, part of the Austin Tomorrow Comprehensive Plan, to change the Future Land Use Map from single-family use to mixed use/office use for 1517 Kramer Lane. (There is no fiscal impact associated with setting this public hearing. The North Austin Civic Association Neighborhood Plan is advisory and does not legally obligate the Council to implement any particular recommendation.) (Suggested Date and Time: Thursday, March 20, 2003 at 4:00 p.m.) (Recommended by Planning Commission)

The public hearing was set for Thursday, March 20, 2003 at 4:00 p.m.

64. Appointments to Boards and Commissions.
The following appointments were made:

<u>Board/ Appointee</u>	<u>Consensus/ Council Nominee</u>	<u>Appointment/ Reappointment</u>
<u>Commission for Women</u> Perla Cavazos	Council Member Slusher	Appointment
<u>Human Rights Commission</u> Kalpana Sutaria	Council Member Dunkerley	Appointment

65. Approve an ordinance regarding the performance evaluation and compensation package for the Municipal Court Clerk. (Mayor Gus Garcia)
Ordinance No. 030227-65 was approved.
66. Approve an ordinance waiving and reimbursing certain fees for the Celebration Texas Parade to be held on March 1, 2003. (Council Member Will Wynn, Council Member Betty Dunkerley and Mayor Pro Tem Jackie Goodman)
Ordinance No. 030227-66 was approved.

DISCUSSION ITEMS

38. Approve execution of a construction contract with CASH CONSTRUCTION COMPANY, LTD., Pflugerville, Texas, for street reconstruction and utility improvements on Enfield Road from Exposition to west of the bridge over Lamar, in the amount of \$4,212,192.61, plus \$421,219.26 contingency and a potential early completion bonus up to \$30,000, for a total amount not to exceed \$4,663,411.87. (Funding in the amount of \$2,579,988.62 is included in the 2002-2003 Capital Budget of the Public Works Department; \$607,671.66 is included in the 2002-2003 Amended Capital Budget of the Water & Wastewater Utility; \$558,995.75 is available in the 2002-2003 Amended Capital Budget of the Water & Wastewater Utility; \$529,552.77 is available in the 2001-2002 Amended Capital Budget of the Watershed Protection Department; \$387,203.07 is available in the 2002-2003 Amended Capital Budget of the Transportation, Planning & Sustainability Department.) Lowest of four bids received. 17.88% MBE, 11.08% WBE subcontracting participation.
The motion authorizing the execution of a construction contract was approved on Council Member Wynn's motion, Council Member Slusher's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.

Item 32 was reconsidered later in the meeting.

31. C14-02-0134 – Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 9701-9723 Anderson Mill Road (Bull Creek and Lake Creek Watersheds) from LR-CO, Neighborhood Commercial-Conditional Overlay Combining district, zoning to SF-6, Townhouse and Condominium district, zoning. First Reading on October 24, 2002; Vote: 5-0, Garcia off the dais, Dunkerley-absent. Conditions met as follows: No conditions were imposed by City Council at first ordinance reading. Applicant: Children's Academy (Dortha Louise Barr). Agent: Jim Bennett. City Staff: Sherri Gager, 974-3057.
Ordinance No. 030227-31 was approved on Council Member Wynn's motion, Council Member Dunkerley's second on a 7-0 vote.

Mayor Garcia recessed the Council Meeting at 3:18 p.m. to go into Executive Session.

EXECUTIVE SESSION

1. Discuss legal issues related to *Hyde Park Baptist Church v. The City of Austin, Defendant, and 39th Street and Avenue D*).
3. Discuss legal issues related to *Gordon Dunaway and Eli J. Garza v. The City of Austin*, Cause Number 97-12434, in the 261st Judicial District Court of Travis County, Texas (concerns

development of land near the intersection of William Cannon Drive and MoPac), and legal issues related to the ETJ release from Sunset Valley of land on Brodie Lane.

The Mayor announced Items 19 and 20 would also be discussed in Executive Session.

70. Discuss legal issues related to the lease of Brackenridge Hospital and Children's Hospital of Austin.

Executive Session ended at 4:59 p.m.

Mayor Garcia called the regular Council meeting back to order at 5:00 p.m.

ZONING HEARINGS AND APPROVAL OF ORDINANCES/RESTRICTIVE COVENANTS

The following items were acted on by one motion. No separate discussion or action occurred on any of the items. The public hearings were closed on Council Member Wynn's motion, Council Member Slusher's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais. Consent items were approved on Council Member Thomas' motion, Council Member Wynn's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.

- Z-1. C814-99-0001.02 – Avery Ranch PUD – Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as Avery Ranch Boulevard at Parmer Lane (Brushy Creek Watershed) from PUD, Planned Unit Development district, zoning to PUD, Planned Unit Development district, zoning in order to change conditions of zoning. Zoning and Platting Commission Recommendation: To grant PUD zoning by consent (6-0). Applicant: Developers of Avery Ranch (Robert D. Wunsch). Agent: Robert D. Wunsch Development (Teresa Canchola). City Staff: Sherri Gager, 974-3057.
The first reading of the ordinance for PUD district zoning was approved.
- Z-2. C14-02-0191.SH – Casas Grandes – Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 8206 Longview Road (South Boggy Creek Watershed) from SF-3, Family Residence district, zoning to SF-4A, Single Family Residence Small Lot district, zoning. Zoning and Platting Commission Recommendation: To grant SF-4A, Single Family Residence Small Lot district, zoning. Applicant and Property Owner: Mario G. Chapa. Agent: LOC Consultants (Sergio Lozano). City Staff: Wendy Walsh, 974-7719.
Ordinance No. 030227-Z-2 for SF-4A, Single Family Residence Small Lot district zoning was approved.
- Z-3. C14-02-0196 - Woodrow Lee Subdivision - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 10117 Lake Creek Parkway (Lake Creek Watershed) from SF-2, Single-Family Residence-Standard Lot district, zoning to GR, Community Commercial district, zoning. Zoning and Platting Commission Recommendation: To grant GR-CO, Community Commercial-Conditional Overlay Combining district zoning. Applicant: Fairfield Financial Group, Inc. (Joe Lafico). Agent: Land Answers (Jim Wittliff). City Staff: Sherri Gager, 974-3057.
Ordinance No. 030227-Z-3 for GR-CO, Community Commercial-Conditional Overlay Combining district zoning was approved.
- Z-4. C14-03-0001 – Cornerstone Baptist Church – Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as

13300 Dessau Road (Harris Branch Watershed) from DR, Development Reserve district, zoning to LO, Limited Office district, zoning. Zoning and Platting Commission Recommendation: To grant LO-CO, Limited Office-Conditional Overlay Combining district zoning. Applicant: Cornerstone Baptist Church (Lawrence Williams). Agent: Cornerstone Baptist Church (Lawrence Williams). City Staff: Sherri Gager, 974-3057.

Ordinance No. 030227-Z-4 for LO-CO, Limited Office-Conditional Overlay Combining district zoning was approved.

- Z-5. C14-02-0154 – Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as Windy Ridge Road at North F.M. 620 North from SF-2, Single Family Residence Standard Lot district, zoning and DR, Development Reserve district, zoning to CS-CO, Commercial Services General-Conditional Overlay Combining district, zoning. Zoning and Platting Commission Recommendation: To grant W/LO-CO, Warehouse/Limited Office-Conditional Overlay Combining district, zoning with conditions. Applicant: Gerald McDougal. Agent: Mclean and Howard (Bill Mclean). City Staff: Glenn Rhoades, 974-2775. Note: A valid petition has been filed in opposition to this rezoning request.

This item was postponed to March 6, 2003 at applicant's request.

ZONING DISCUSSION ITEM

- Z-6. C14-02-0182 – Skinner Nurseries – Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 12500 Cameron Road (Harris Branch Creek Watershed) from DR, Development Reserve district, zoning to IP, Industrial Park district, zoning. Zoning and Platting Commission Recommendation: To grant NO, Neighborhood Office district, zoning and DR, Development Reserve district, zoning. Applicant: Shelby Gunter. Agent: LOC Consultants (Mauricio Quintero). City Staff: Sherri Gager, 974-3057.

The public hearing was closed on Council Member Dunkerley's motion, Council Member Wynn's second on a vote of 5-0. Mayor Pro Tem Goodman and Council Member Slusher were off the dais.

The first reading of the ordinance adopting staff's recommendation for LO district zoning was approved on Council Member Alvarez's motion, Council Member Wynn's second on a 7-0 vote.

DISCUSSION ITEMS CONTINUED

19. Approve first reading of an ordinance amending Ordinance Number 870917-A as amended, a franchise granted to TXU Gas Distribution Company, (a successor in interest to Lone Star Gas Company) clarifying the calculation of fees.
The first reading of the ordinance was approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.
20. Approve first reading of an ordinance amending Ordinance Number 920716-11 transferring a franchise held by TXU Electric Company to Oncor Electric Delivery Company and changing the franchise fee formula.
The first reading of the ordinance was approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.

Mayor Garcia recessed the Council Meeting at 5:24 p.m.

Mayor Garcia reconvened the Council Meeting at 6:19 p.m.

PUBLIC HEARINGS

67. Conduct a public hearing for the full purpose annexation of the following annexation areas:
Dittmar Tract (Approximately 1 acre in Travis County approximately 1488 feet south and 333 feet east of the intersection of Thaxton Road and Salt Springs Drive).
The public hearing was closed on Council Member Dunkerley's motion, Council Member Wynn's second on a 7-0 vote.

Sunset Valley Apartments (approximately 45 acres in Travis County east of Brodie Lane approximately 490 feet north of the intersection of Brodie Ln and William Cannon).
The public hearing was closed on Mayor Pro Tem Goodman's motion, Council Member Thomas' second on a 7-0 vote.

68. Conduct a public hearing for the full purpose annexation of the Avery Ranch Area (Approximately 15 acres in Williamson County south of Avery Ranch Blvd approximately 1,134 feet east of the intersection of Parmer Lane and Avery Ranch Blvd).
The public hearing was closed on Council Member Wynn's motion, Council Member Thomas' second on a 7-0 vote.

69. Conduct a public hearing and approve an ordinance setting standards of childcare for Parks and Recreation Department facilities and programs, with minor revisions. (Recommended by Parks and Recreation Board)
The public hearing was closed on Council Member Thomas' motion, Council Member Wynn's, second on a 7-0 vote.

Ordinance No. 030227-69 was approved on Council Member Thomas' motion, Council Member Dunkerley's motion on a 7-0 vote.

32. C14-02-0167 – Approve third reading of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 4601 Southwest Parkway (Barton Creek Watershed-Barton Springs Zone) from LR, Neighborhood Commercial district, zoning to CS-1-CO, Commercial-Liquor Sales-Conditional Overlay Combining district, zoning. First Reading on January 9, 2003; Vote: 7-0. Second Reading on February 6, 2003; Vote: 7-0. Conditions met as follows: Conditional Overlay and restrictive covenant incorporates the conditions imposed or accepted by Council at first ordinance reading. Applicant and Property Owner: Cal Tex Holdings (Carroll Laborde). Agent: Jim Bennett. City Staff: Annick Beaudet, 974-2975. (continued from 1/30/03 and 2-6-03)
The zoning request was denied on Council Member Slusher's motion, Council Member Alvarez's second on a 5-2 vote. Those voting aye were: Mayor Garcia, Council Member Alvarez, Council Member Slusher, Council Member Thomas and Council Member Wynn. Those voting nay were: Mayor Pro Tem Goodman and Council Member Dunkerley.

A motion to reconsider Item 32 was approved on Council Member Wynn's motion, Mayor Garcia's second on a 4-3 vote. Council Member Alvarez, Council Member Slusher and Council Member Thomas voted Nay.

Ordinance No. 030227-32 was approved for staff's recommendation of CS1, Commercial-liquor sale district zoning with a directive to re-draft the restrictive covenant and conditions agreed to by the applicant to include: 1) Integrated Pest Management measures; 2) Grow Green; and 3) concrete parking lot, instead of asphalt; and 4) a prohibition of adult-oriented businesses, on Council Member Wynn's motion, Council Member Dunkerley's second on a 4-3 vote. Those voting aye were: Mayor Garcia, Mayor Pro Tem Goodman, Council Members Dunkerley and Wynn. Those voting nay were: Council Member Alvarez, Council Member Slusher and Council Member Thomas.

DISCUSSION ITEMS CONTINUED

25. Approve an ordinance establishing procedures for amending the neighborhood plan elements of the Austin Tomorrow Comprehensive Plan. (Planning Commission adopted a resolution establishing a neighborhood plan amendment process and criteria for employing the process.) (3rd reading) (Related Item 26).

The following amendments were made to the ordinance (with final action postponed to next week so Council can complete the review process):

Add to Part 2, Requirements for a Neighborhood Plan Contact Team the following, "Neighborhood Plan Contact Team means group designated by the neighborhood planning participants before submittal of the plan for Council adoption and included as such in the adoption of the plan. The Neighborhood Plan Contact Team shall include stakeholder representation, including each neighborhood association within the plan area and shall prepare bylaws regarding membership representation, notification of meetings, decision making and voting procedures." This amendment was approved on Mayor Pro Tem Goodman's motion, Council Member Dunkerley's second on a 6-0 vote. Mayor Garcia was off the dais.

Amend page 1, line 19, Director's Review to read, "Require neighborhood stakeholder input as part of the Director's review process". This amendment was approved on Mayor Pro Tem Goodman's motion, Council Member Alvarez' second on a 7-0 vote.

There was a motion to amend page 1, line 27 to have one formal amendment time period each year that was made by Mayor Pro Tem Goodman, and seconded by Council Member Slusher.

A substitute motion to accept staff's recommendation to keep the wording as written in the ordinance failed on Council Member Dunkerley's motion, Council Member Wynn's second on a 5-2 vote. Those voting aye were: Council Member Dunkerley and Council Member Wynn. Those voting nay were: Mayor Garcia, Mayor Pro Tem Goodman, and Council Members Alvarez, Slusher and Thomas.

Council Member Slusher added the following friendly amendment to the original motion, "The amendment time would be twice a year (February and July), but the plan could be amended only once a year. The City would be divided into two sectors where one sector of the City would be able to bring them in one month, and the other sector would bring them in the other month to distribute the workload." This which was accepted by the maker of the motion, and passed on a 7-0 vote.

The motion to add the following to Part 2, Additional criteria for exemption from one-year waiting period, and twice per year application period to read, "Allow Neighborhood Plan Contact Teams or Neighborhood Planning Teams to initiate an amendment at any time" was approved on Council Member Dunkerley's motion, Mayor Pro Tem's second on a 6-1 vote. Council Member Slusher voted Nay.

The motion to add provisions to limit resubmittal of a denied application by including a provision that states an application for an amendment cannot be re-submitted for one year after its denial was approved on Mayor Pro Tem Goodman's motion, Council Member Dunkerley's second on a 7-0 vote.

The motion to amend page 1, line 29, limiting exemptions to individual properties and not area-wide/sub-district wide recommendations, was approved on Mayor Pro Tem Goodman's motion, Council Member Dunkerley's second on a 7-0 vote. The amendment was as follows "Change Part 4(A)(2) to Part 4 (B), and reword to say 'The director may accept an application to amend an area-wide or sub-district wide recommendation not earlier than two years after the most recent Council action regarding an area-wide or sub-district wide amendment' "

The motion to add to Part 4 and to Part 7(A), additional criteria for exemption from one-year waiting period, twice per year application period, and criteria for an amendment was approved on Mayor Pro Tem Goodman's motion, Council Member Dunkerley's second on a 7-0 vote. The addition was "An error regarding the designated use of the subject property exists on the future land use map of the neighborhood plan or in the text of the plan"

The motion to amend page 2, line 15 Exemption to one-year waiting period and twice per year application period to keep wording as written in ordinance was approved on Council Member Slusher's motion, Mayor Garcia's second on a 4-2 vote. Those voting aye were Mayor Garcia, Council Members Slusher, Wynn, and Dunkerley. Those voting nay were Mayor Pro Tem Goodman and Council Member Alvarez. Council Member Thomas was off the dais. There was a friendly amendment by Mayor Garcia to include "Only SMART projects with 40% reasonably priced housing units qualify for exemption". This was accepted by the maker of the motion.

The motion to amend page 2, line 16 and page 3, line 25 changing "offers a benefit to the community and is consistent with citywide goals" to specific goals. This item refers to exemptions from the one-year waiting period, twice per year application period, and criteria for an amendment was to remove the phrase "offers benefit to the community and is consistent with citywide goals" and add: "The amendment results in development that provides superior environmental protection than would not otherwise be achieved under the existing zoning and applicable development regulations" was approved on Mayor Pro Tem Goodman's motion, Council Member Dunkerley's second on a 5-2 vote. Those voting aye were Mayor Garcia, Mayor Pro Tem Goodman, Council Members Dunkerley, Thomas and Wynn. Those voting nay were Council Members Alvarez and Slusher.

The motion to amend page 2, line 16, definition of "significant employment opportunities" by adding language to allow employment centers, with 100 or more employees, as criteria for an amendment. Also include language to allow employment centers, with 100 or more employees as an exemption, only with signatures from 3 City Council members,

authorizing the filing of an application, unless the application is supported by the Neighborhood Planning Team/Neighborhood Plan Contact Team was approved on Council Member Dunkerley's motion, Mayor Pro Tem Goodman's second on a 5-2 vote. Those voting aye were Mayor Garcia, Mayor Pro Tem Goodman, Council Members Dunkerley, Thomas and Wynn. Those voting nay were Council Members Alvarez and Slusher.

The motion to amend page 3, line 1, fees for a plan amendment application to change the wording to, "the applicant is responsible for the cost of the notice, unless the applicant is a Neighborhood Planning Team or Neighborhood Plan Contact Team, in which case the City is responsible for the cost of the notice," was approved on Mayor Pro Tem Goodman's motion, Council Member Dunkerley's second on a 7-0 vote.

The motion to amend page 2, line 22 defining initiators for area and sub-district wide plan amendments to remove property owners, people residing or owning a business in the neighborhood plan area as initiators for area and sub-district wide amendments was approved on Mayor Pro Tem Goodman's motion, Council Member Dunkerley's second on a 6-0 vote. Council Member Slusher was off the dais.

There was motion to add an appeal process to allow a means to appeal to the Planning Commission the director's decision to not allow an exemption to the one-year and twice per year waiting periods was made by Council Member Dunkerley and seconded by Council Member Thomas. Mayor Pro Tem Goodman proposed a friendly amendment to add approval of the Neighborhood Planning Team to the appeal process. Council Member Dunkerley withdrew her motion.

The motion to amend the appeal process to include the following language "limit appeals to hardship cases" was approved on Council Member Dunkerley's motion, Council Member Thomas' second on a 7-0 vote.

The motion to postpone additional amendments to the ordinance until March 6, 2003 was approved on Council Member Slusher's motion, Mayor Garcia's second on a 6-0. Council Member Dunkerley was off the dais.

A motion was approved to allow Council to meet after 10:00 p.m. on Council Member Wynn's motion, Council Member Alvarez's second on a 5-0 vote. Mayor Pro Tem Goodman and Council Member Slusher were off the dais.

49. Approve a resolution authorizing implementation of the recommendations in the Near Term CBD Transportation Recommendations related to the Lance Armstrong Bikeway and 3-month trial of Left Turn movements on Congress Avenue, at a cost of \$7,500. (Funding for the installation of protected left-turn traffic signals is available in the Amended 2002-2003 Capital Budget for the Transportation, Planning and Sustainability Department. There is no unanticipated fiscal impact to designate 4th street as the Lance Armstrong Bikeway route.)
Resolution No. 030227-49 was approved with the following changes:

Part 2 of the resolution for a 3-month trial for left turn movements on Congress Avenue was approved on Mayor Pro Tem Goodman's motion, Council Member Thomas' second on a 6-0 vote. Council Member Dunkerley was off the dais.

Part 1 of the resolution designating 4th Street through downtown as the alignment for the Lance Armstrong Bikeway, as amended below by Mayor Pro Tem Goodman, was approved on Council Member Slusher's motion, Council Member Alvarez's second on a 7-0 vote. The friendly amendment by Mayor Pro Tem Goodman was to include business owners and the Design Commission as the City moves forward in discussion and implementation.

26. Approve an ordinance to amend Ordinance No. 020910-04, the Fiscal year 2002-2003 Neighborhood Planning and Zoning Department Fee Schedule, to establish a new neighborhood plan amendment application fee of \$450 for notification of a neighborhood plan amendment regarding an individual property. (The Neighborhood Planning and Zoning Department anticipates that this fee will generate \$5,400 in revenue per year and anticipates collecting \$2,700 in revenue in the remainder of Fiscal Year 2003.) (Planning Commission adopted a resolution establishing a neighborhood plan amendment process and criteria for employing the process.) (Related Item 25)

This item was postponed to March 6, 2003.

The motion to adjourn the meeting at 10:28 p.m. was approved on Council Member Slusher's motion, Council Member Alvarez's second on a 7-0 vote.

The minutes for the regular meeting of February 27, 2003 were approved on March 20, 2003 on Mayor Pro Tem Goodman's motion, Council Member Wynn's second on a 7-0 vote.