



**Austin City Council
MINUTES**

**REGULAR MEETING
THURSDAY, FEBRUARY 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, February 6, 2003 in the Board Room at Lower Colorado River Authority Hancock Building, 3700 Lake Austin Boulevard.

12:00 P.M. – Invocation: Rev. Ivan Tou, CSP, Associate Pastor, St. Austin's Catholic Church

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

Mayor Garcia recessed the meeting at 12:10 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.

Private Consultation with Attorney - Section 551.071

1. Discuss legal issues relating to the City's application for certificates of convenience and necessity for water and wastewater service before the Texas Commission on Environmental Quality.
38. Discuss legal issues relating to water rights permitting matters along the Colorado River involving the City of Austin, the Lower Colorado River Authority, and other parties before the Texas Commission on Environmental Quality.

Personnel Matters – Section 551.074

2. Evaluate the performance and consider compensation of the Municipal Court Clerk
This item was postponed to February 13, 2003.

Real Property – Section 551.072

Item #3 was discussed later in Executive Session.

4. Discuss acquisition of an interest in real property for Greenway & Destination Parks as authorized under Proposition 2 of the November 1998 Bond Election.

Executive Session ended at 1:49 p.m.

Mayor Garcia called the regular meeting back to order at 1:51 p.m.

1:30 P.M. CITIZEN COMMUNICATIONS: GENERAL

5. Gus Pena - Please continue the strong effort for Affordable Housing, Low income, Affordable Housing, and we need transitional housing for Homeless Families. 2) Start the Budget dialogue to include the community early. 3) Mayor and Council members please scrutinize CAP Metro to insure it is inclusive in it's Proposal Review Committee to be more inclusive and a true reflection of the impacted community.
6. Jennifer L. Gale - I vote Yes! Peace resolution sponsored by Jackie Goodman, Daryl Slusher and Raul Alvarez ordering President George W. Bush and the U.S. Congress to stop murdering U.S. military personnel and the beautiful people of the Republic of Iraq.
7. Jon Empey - None
8. Karen McGraw - Proposed duplex developments in Central Austin
9. Karen Hadden - Support for the resolution against war in Iraq which is fiscally responsible for Austin
10. Lane Harrell - Super large duplexes on SF-3 lots
11. Andrew Homer - Stop giant duplexes that are ruining our neighborhoods
12. Don A. Williamson - Speak on behalf of Austin Duck Adventure
13. Bruce Nadig - Limits to duplex developments in central Austin.
14. Colleen Daly - A moratorium on duplex development for neighborhoods in the process of rezoning.

CONSENT AGENDA

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

New Items

15. Approval of minutes from worksession of January 29, 2003 and regular meeting of January 30, 2003.
The minutes from the work session of January 29, 2003 and the regular meeting of January 30, 2003 were approved.

Austin Energy

16. Approve a rebate in the amount of \$53,900 to Bristol at Parmer Park, LTD. for the installation of energy-saving high-efficiency heat pumps at The Villas of Bristol Heights Apartments Complex. Energy improvements qualifying for this rebate will save an estimated 181 kilowatts (kW) at a program cost of \$297 per kilowatt saved. Each high-efficient heat pump will save the residents between \$70 and \$180 per cooling season in energy costs. The comparable cost of gas turbine generation is \$1,329 per kW, including fuel, operation, and maintenance. (Funding in the amount

of \$53,900 is available in the 2002-2003 Conservation Rebates and Incentive Fund.) (Recommended by Resource Management Commission and Electric Utility Commission)
The motion authorizing a rebate was approved.

Health

17. Approve an ordinance repealing Chapter 8-8 of the City Code relating to the local regulation of massage parlors.
Ordinance 030206-17 was approved.
18. Approve renewal and amendment of the Interlocal Cooperation Agreement between the City of Austin, Travis County, and the Austin Travis County Mental Health Mental Retardation Center for Substance Abuse Treatment Services for the period of January 1, 2003 through December 31, 2003, in an amount not to exceed \$1,690,102 (\$568,303 Health and Human Services, \$495,000 Downtown Austin Community Court and \$626,799 Travis County). [Funding in the amount of \$797,477 (January through September 2003) was included in the Fiscal Year 2003 Approved Operating Budget of the Health and Human Services Department (\$426,227) and the Downtown Austin Community Court (\$371,250). Funding for the remaining three months of the agreement in the amount of \$265,826 (October through December 2003) is contingent upon availability of funding in future Operating Budgets.]
The motion authorizing the renewal and amendment of the Interlocal Cooperation Agreement was approved.
19. Authorize execution of 12-month contracts under the Ryan White Title III HIV Early Intervention grant with two HIV- related contractors: *AIDS Services of Austin* in an amount not to exceed \$143,409; and *Community Action, Inc.* in an amount not to exceed \$77,637, for total amount not to exceed \$221,046. [Funding in the amount of \$221,046 is included in the Fiscal Year 2003 Approved Operating Budget of the Health and Human Services Department (HHSD) Special Revenue Fund, Ryan White Title III HIV Emergency Relief Services grant. Grant period and contract performance period is January 1, 2003 through December 31, 2003. No match is required.]
The motion authorizing the execution of contracts was approved.

Neighborhood Planning and Zoning

20. C14-01-0183 - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by zoning property locally known as 2031 State Highway 71 East (Carson Creek Watershed) from I-RR, Interim-Rural Residence district, zoning to CS-CO, General Commercial Services-Conditional Overlay Combining district, zoning for Tract 1 and GR-CO, Community Commercial Services-Conditional Overlay Combining district, zoning for Tract 2. First reading on December 5, 2002; Vote: 7-0. Conditions met as follows: Conditional Overlay incorporates conditions were imposed by City Council at first ordinance reading. Applicant and Property Owner: Austin Bergstrom Airport Ltd. (Gerald Kucera). Agent: Crocker Consultants (Sarah Crocker). City Staff: Glenn Rhoades, 974-2775.
Ordinance No. 030206-20 was approved.

Item 21 was pulled for discussion.

Police

22. Approve a resolution for authorizing negotiation and execution of an amendment to the Interlocal Agreement for Regional Mobility and Transportation Projects Between Capital Metropolitan Transportation Authority and the City of Austin to revise requirements for the Austin Police Department Traffic Incident Management Project. (\$500,000 in Funding for the Traffic Incident Management Project is available from the Capital Metropolitan Transportation Authority for the period October 1, 2002 through September 30, 2003.)
Resolution No. 030206-22 was approved.

Public Works

23. Approve execution of a construction contract with KIVA, INC., Buda, Texas, for replacement of a waterline at 32nd Street between Red River and IH-35, and along IH-35 frontage road between 32nd Street and 30th Street, in an amount not to exceed \$278,477. (Funding was included in the Fiscal Year 2002-2003 Amended Capital Budget of the Water & Wastewater Utility.) Lowest of five bids received. 5.39% MBE, 0% WBE subcontracting participation. (Water & Wastewater Commission Review)
The motion authorizing the execution of a construction contract was approved.

Purchasing

24. Approve negotiation and execution of a 12-month contract with SANDRA H. WHITE, Austin Texas, to be a part time Hearings Officer to adjudicate claims lodged against actions, policies and decisions of City utilities in an amount not to exceed \$50,000, with options to renew the contract for two additional years for \$50,000 per year for a total contract amount not to exceed \$150,000. (Funding in the amount of \$37,500 is available in the 2002-2003 Amended Operating Budget of the Electric Utility Department. Funding for the remaining balance of the original contract and extension options is contingent upon available funding in future budgets.) Best proposal of three proposals received. This contract will be awarded in compliance with the 1996 MBE/WBE Ordinance, as amended. No subcontracting opportunities were identified; therefore MBE/WBE goals were not established for this solicitation.
The motion authorizing the negotiation and execution of a contract was approved.
25. Approve execution of one 8-month service agreement for weatherization services with CLIMATE MECHANICAL, INC., Austin, Texas, in an amount not to exceed \$265,000 with one 12-month extension option in an amount not to exceed \$305,000 for a total agreement amount not to exceed \$570,000; and one 8-month service agreement for weatherization services with AIRTECH ENERGY SYSTEMS INC., Austin, Texas, in an amount not to exceed \$265,000 with one 12-month extension option in an amount not to exceed \$305,000 for a total agreement amount not to exceed \$570,000. (Funding in the amount of \$530,000 is available in the 2002-2003 Amended Operating Budget of the Electric Utility Department. Funding for the extension options is contingent upon available funding in future budgets.) Low bidders of four bids received. These contracts will be awarded in compliance with the MBE/WBE Ordinance, as amended. No subcontracting opportunities were identified; therefore MBE/WBE goals were not established for this solicitation. All work will be performed by the contractor's own workforce.
The motion authorizing the execution of service agreements for weatherization services was approved.
26. Approve execution of a contract with C.A.M.CO., Ebensburg, PA, for the refurbishment of 28 low voltage switchgear circuit breakers in the amount of \$165,300. (Funding is available in the 2002-2003 Amended Capital Budget for the Electric Utility Department.) Low bid meeting

specification/seven bids received. This contract will be awarded in compliance with the 1996 MBE/WBE Ordinance, as amended. No subcontracting opportunities were identified; therefore MBE/WBE goals were not established for this solicitation.

The motion authorizing the execution of a contract was approved.

27. Ratify a contract with BENITEZ CONSTRUCTION, INC. (MBE/MH, 100%), Pflugerville, Texas, for emergency repair of the 36-inch Concrete Steel Cylinder Water Main in Richard Moya Park adjacent to Onion Creek in an amount not to exceed \$148,337.96. (Funding is available in the 2002-2003 Approved Operating Budget of the Water and Wastewater Department.) Lowest of two bids submitted. This contract was awarded in compliance with the 1996 MBE/WBE Ordinance, as amended. No MBE/WBE goals were established because of the emergency requirement; however, the successful bidder is a certified (MBE/MH).

The motion authorizing the ratification of a contract was approved.

Set Public Hearing(s)

28. Set a public hearing to consider an amendment to the Southeast Combined Neighborhood Plan, part of the Austin Tomorrow Comprehensive Plan, to change the Future Land Use Map from undesignated use for 2505 and 2507 Hoeke Lane and from commercial use to mixed-use for SF-2 zoned properties along Norwood Lane. (The Southeast Combined Neighborhood Plan is advisory and does not legally obligate the Council to implement any particular recommendation.) (Planning Commission voted to recommend the Southeast Combined Plan to the City Council for adoption - August 28, 2002. Planning Commission is scheduled to consider this amendment. - February 12, 2003) (Suggested Date and Time: March 20, 2003 at 4:00 p.m.)

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

ITEMS FROM COUNCIL

29. Appointments to Boards and Commissions.

The following appointments were made:

<u>Board/ Appointee</u>	<u>Consensus/ Council Nominee</u>	<u>Appointment/ Reappointment</u>
<u>Community Development Commission</u>		
Karen Ann Paup	Mayor Pro Tem Goodman's	Reappointment

30. Approve an ordinance regarding the performance evaluation and compensation package for the Municipal Court Clerk. (Mayor Gus Garcia)

This item was postponed to February 13, 2003.

Item 31 was a 3:15 Time Certain.

32. Approve a resolution directing the City Manager to investigate the status of a 1978 Minute Order between Texas Department of Transportation and the City of Austin regarding noise barriers along the MOPAC right-of-way; and to conduct a preliminary product and budget analysis, including an outline of options and costs for each option, for the construction of noise barriers from Town Lake to Hwy 183. (Council Member Will Wynn and Council Member Betty Dunkerley)

Resolution No. 030206-32 was approved.

2:00 P.M. Bond Sales

33. Approve a resolution to declare official intent to reimburse acquisition and construction costs in an aggregate maximum principal amount equal to approximately \$26,000,000 to be paid out of the following electric utility CIP funds: 3230.
Resolution No. 030206-33 was approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.
34. Approve an ordinance authorizing the issuance of approximately \$182,100,000 City of Austin, Texas, Electric System Revenue Refunding Bonds, Series 2003 and approximately \$88,500,000 City of Austin, Texas, Electric System Revenue Refunding Bonds, Series 2003A, including approval and authorization of all related documents pertaining thereto. (The amount of \$2,428,311 is estimated in the first year debt service requirement and an \$800 annual fee for the paying agent/registrar was included in the 2002-2003 Approved Budget of the Utility Revenue Bond Redemption Fund.) (Reviewed by Audit and Finance Committee)
Ordinance No. 030206-34 was approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.
35. Approve an ordinance authorizing the issuance of approximately \$121,500,000 City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2003, including approval and authorization of all related documents pertaining thereto. (The amount of \$1,607,924 estimated in the first year debt service requirement and \$400 annual fee for the paying agent/registrar was included in the 2002-2003 Approved Budget of the Utility Revenue Bond Redemption Fund.) (Reviewed by Audit and Finance Committee)
Ordinance No. 030206-35 was approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.
36. Approve an ordinance authorizing a three-year extension of the Letter of Credit and Reimbursement Agreement between the City of Austin and JP Morgan Chase Bank related to the \$28,000,000 City of Austin, Texas, Airport System Variable Rate Revenue Notes, Series A, and the approval of all related documents.
Ordinance No. 030206-36 was approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.

DISCUSSION ITEM

21. C14-02-0167 – Approve second/third readings 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. 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)
The second reading of the ordinance was approved on Council Member Slusher's motion, Council Member Wynn's second on a 7-0 vote.

3:00 BOARD OF DIRECTORS' MEETING OF AUSTIN HOUSING FINANCE CORPORATION

Mayor Garcia recessed the meeting at 3:00 p.m. to go into a meeting of the Board of Directors' of the Austin Housing Finance Corporation.

Mayor Garcia called the Council Meeting back to order at 3:20 p.m.

31. Approve a resolution calling for the United States not to take unilateral military action in Iraq and calling for the United Nations inspectors to be given more time. (Council Member Daryl Slusher, Mayor Pro Tem Jackie Goodman and Council Member Raul Alvarez)
The motion to suspend the rules to allow each side to have a total of 15 minutes to speak was approved on Council Member Slusher's motion Mayor Garcia's second on a 7-0 vote.

Resolution No. 030206-31 was approved on Council Member Slusher's motion, Mayor Pro Tem Goodman's second on a 5-0-2 vote with Council Members Dunkerley and Wynn abstaining.

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 and consent items were approved on Council Member Alvarez' motion, Council Member Dunkerley's second on a 7-0 vote.

- Z-1. C14-80-065 – Region XIII Education Service Center – Conduct a public hearing and approve a restrictive covenant termination request for the property locally known as 5701 Springdale Road (Little Walnut Creek Watershed). Zoning and Platting Commission Recommendation: To grant restrictive covenant termination request. Applicant: Region XIII Education Service Center (Pat Pringle). Agent: Conley Engineering (Carl Conley). City Staff: Annick Beaudet, 974-2975.
The motion authorizing a restrictive covenant termination request was approved.
- Z-2. C14-02-0180 – Hope Presbyterian Church – Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 11512 Olson Drive (Lake Creek Watershed) from RR, Rural Residence district, zoning to GO-CO, General Office-Conditional Overlay Combining district, zoning. Zoning and Platting Commission Recommendation: To grant GO-CO, General Office-Conditional Overlay Combining district, zoning. Applicant: Hope Presbyterian Church (Alfred W. Morgan, Senior Pastor). Agent: Raymond Chan Associates, Inc. (Blayne E. Stansberry, P.E.). City Staff: Sherri Gager, 974-3057.
Ordinance No. 030206-Z2 for GO-CO district zoning was approved.
- Z-3. C14-02-0184 – H.E.B. – Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 6001 West Parmer Lane (Walnut Creek Watershed) from GR-CO, Community Commercial-Conditional Overlay Combining district, zoning to CS-1-CO, Commercial-Liquor Sales-Conditional Overlay Combining district, zoning. Zoning and Platting Commission Recommendation: To grant CS-1-CO, Commercial-Liquor Sales-Conditional Overlay Combining district, zoning. Applicant: HEB Grocery Company, LP (Todd Piland). Agent: Richard H. Crank. City Staff: Sherri Gager, 974-3057.
Ordinance No. 030206-Z3 for CS-1-CO was approved.

- Z-4. C14-02-0186 – Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 9405 Dessau Road (Little Walnut Creek Watershed) from SF-3, Family Residence district, zoning to LI-CO, Limited Industrial Services-Conditional Overlay Combining district, zoning. Zoning and Platting Commission Recommendation: To grant LI-CO, Limited Industrial Services-Conditional Overlay Combining district, zoning. Applicant: Jack White. City Staff: Sherri Gager, 974-3057.
Ordinance No. 030206-Z4 for LI-CO district zoning was approved.
- Z-5. C14-02-0197 – Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 3010 West Slaughter Lane (Slaughter Creek Watershed) from LR-CO, Neighborhood Commercial - Conditional Overlay Combining district, zoning to LR-CO, Neighborhood Commercial-Conditional Overlay Combining district, zoning in order to change a condition of zoning. Zoning and Platting Commission Recommendation: To grant LR-CO, Neighborhood Commercial-Conditional Overlay Combining district, zoning. Property Owner: Treble Enterprises (Jerry Smith). Applicant: City of Austin. Agent: Neighborhood Planning and Zoning Department. City Staff: Wendy Walsh, 974-7719. (Related to Z-6)
Ordinance No. 030206-Z5 for CR-CO with 2700 trips per day was approved.
- Z-6. C14-02-0151 - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 3008 West Slaughter Lane (Slaughter Creek Watershed) from LR-CO, Neighborhood Commercial-Conditional Overlay Combining district, zoning to GR-CO, Community Commercial-Conditional Overlay Combining district, zoning. First Reading on December 5, 2002: Vote 7-0. Conditions met as follows: Conditional Overlay incorporates conditions imposed by Council at first ordinance reading. Property Owner: Treble Enterprises, Inc. (Jerry A. Smith, Jr.). Agent: Danny Waters. City Staff: Wendy Walsh, 974-7719. (Related to Z-5)
Ordinance No. 030206-Z6 for GR-CO district zoning was approved.

Mayor Garcia recessed the meeting at 4:38 p.m. to go into Executive Session.

EXECUTIVE SESSION

3. Discuss acquisition of an interest in real property for Open Space as authorized under Proposition 2 of the November 7, 2000 Bond Election.

Executive Session ended at 5:20 p.m.

5:30 P.M. LIVE MUSIC: Roy Heinrich

PROCLAMATIONS

Mayor Garcia called the regular meeting back to order at 6:12 p.m.

6:00 P.M. PUBLIC HEARINGS AND POSSIBLE ACTION

37. Conduct a public hearing for the full purpose annexation of the following annexation areas:

Dessau Road right-of-way (ROW) (Approximately .818 acres in Travis County of Dessau Road right-of-way (ROW) at approximately three tenths of a mile north of the intersection of Dessau Road and Rundberg Lane for approximately 225 feet).

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

Sheldon Tract (Approximately 210 acres in Travis County east of the intersection of Thaxton Road and Salt Springs Drive).

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

The motion to adjourn the meeting at 6:15 p.m. was approved on Council Member Slusher's motion, Council Member Thomas' second on a 7-0 vote.

The minutes for the Regular Meeting of February 6, 2003 were approved on February 13, 2003 on Council Member Thomas' motion, Council Member Dunkerley's second on a 7-0 vote.

The minutes for the Regular Meeting of February 6, 2003 were amended and approved on March 20, 2003 on Mayor Pro Tem Goodman's motion, Council Member Wynn's second on a 7-0 vote.

The following amendments were made:

34. Approve an ordinance authorizing the issuance of approximately **\$182,100,000** City of Austin, Texas, Electric System Revenue Refunding Bonds, Series 2003 and approximately **\$88,500,000** City of Austin, Texas, Electric System Revenue Refunding Bonds, Series 2003A, including approval and authorization of all related documents pertaining thereto. (The amount of \$2,428,311 is estimated in the first year debt service requirement and an \$800 annual fee for the paying agent/registrar was included in the 2002-2003 Approved Budget of the Utility Revenue Bond Redemption Fund.) (Reviewed by Audit and Finance Committee)

Ordinance No. 030206-34 was approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.

35. Approve an ordinance authorizing the issuance of approximately **\$121,500,000** City of Austin, Texas, Water and Wastewater System Revenue Refunding Bonds, Series 2003, including approval and authorization of all related documents pertaining thereto. (The amount of \$1,607,924 estimated in the first year debt service requirement and \$400 annual fee for the paying agent/registrar was included in the 2002-2003 Approved Budget of the Utility Revenue Bond Redemption Fund.) (Reviewed by Audit and Finance Committee)

Ordinance No. 030206-35 was approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.