



**Austin City Council
MINUTES**

**REGULAR MEETING
THURSDAY, DECEMBER 11, 2003**

Invocation: Elder Lawrence Perry, Pilgrim Rest Missionary Baptist Church

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, December 11, 2003 in the Board Room at Lower Colorado River Authority Hancock Building, 3700 Lake Austin Boulevard.

Mayor Wynn called the Council Meeting to order at 10:11 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, Mayor Wynn's second on a 7-0 vote.

1. Approval of minutes from the meeting of December 4, 2003.
The minutes from the meeting of December 4, 2003 were approved.
2. Approve negotiation and execution of change order #1 to a contract with AUSTIN COMMERCIAL, Austin, TX (formerly known as Kinetics/Austin Commercial), for the construction of a combined cycle unit at the Sand Hill Energy Center, in an amount not to exceed \$3,500,000, for a total contract amount not to exceed \$54,665,457. (Funding in the amount of \$3,500,000 is available in the Fiscal Year 2003-2004 Approved Capital Budget of the Electric Utility Department.) 5.50% MBE, and 2.76% WBE, total subcontractor participation to date.
The motion authorizing the negotiation and execution of change order #1 to a contract was approved.
3. Amend Exhibit A to Ordinance No. 030908-04, the Fiscal Year 2003-2004 Approved Fee Schedule, to delete the Apartment Read and Change Program (ARCP) initiation fee effective January 1, 2004; and amend Section 18-4 of the City Code, the Utility Service Regulations.
Ordinance No. 031211-3 was approved.
4. Ratify a construction contract with Benitez Construction, Inc. (MBE/MH), Manor, TX, for construction of the Little Walnut Creek 60" Emergency Repair project in the amount of \$249,825.90. (Funding is available in the FY 2003-2004 Capital Budget of the Austin Water

Utility.) There were no MBE/WBE goals set because this was an emergency action. The successful bidder is a certified MBE. (Recommended by Water and Wastewater Commission)

The motion to ratify a construction contract was approved.

5. Ratify construction contract with Benitez Construction, Inc. (MBE/MH), Manor, TX, for construction of the South First Street Emergency 15-inch Repair project in the amount of \$97,171.34. (Funding is available in Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.) There were no MBE/WBE goals set because this was an emergency action. The successful bidder is a certified MBE. (Recommended by Water and Wastewater Commission)
The motion to ratify a construction contract was approved.
6. Approve the negotiation and execution of a Lease Agreement with CAP W HOLDINGS, L.P., Austin, TX, for a tract of 4.6 acres, including Building Nos. 8050 and 8070, at Austin-Bergstrom International Airport to provide specialized aviation services. (Revenue generating contract. Remaining Fiscal Year 2003-2004 revenue is projected to be \$168,460. This revenue is not reflected in the Department of Aviation's (DOA's) Approved Fiscal Year 2003-2004 budget. Revenue over the life of the initial ten-year term of the lease is estimated at \$2.246 million to the DOA.) (Approved by the Austin Airport Advisory Commission.)
The motion authorizing the negotiation and execution of a Lease Agreement was approved.
7. Approve an ordinance authorizing the issuance of approximately \$60,000,000 City of Austin, Texas, Airport System Prior Lien Revenue Refunding Bonds, Series 2003, including approval and authorization of all related documents pertaining thereto. The refunding will be executed provided that at the time of the execution of the bond purchase agreement, the bonds that are refunded produce a present value savings of at least 4.25%. In addition, the bond purchase agreement must be executed no later than March 31, 2004. (No fiscal impact during fiscal year 2003-2004. \$2,560,938 estimated debt service requirement and \$600 estimated annual paying agent/registrar fee was included in the fiscal year 2003-2004 Approved Budget of the Airport Revenue Bond Redemption Fund.) (Initial action with October expiration was approved by Audit and Finance Committee.)
Ordinance No. 031211-07 was approved.
8. Approve a resolution authorizing execution of 12-month contracts between the City of Austin and 54 social service agency contractors (listing of contractors is attached). The term of each contract is for the period January 1, 2004 through December 31, 2004, at a combined total cost to the City not to exceed \$7,601,157. (Funding in the amount of \$5,389,924 is included in the Fiscal Year 2003-2004 Approved Operating Budget of the Health and Human Services Department. Funding in the amount of \$170,147 is included in the Fiscal Year 2003-2004 Approved Operating Budget of the Community Care Services Department. Funding in the amount of \$156,230 is included in various Approved Capital Improvement Project (CIP) Budgets of the Parks and Recreation Department. Funding in the amount of \$31,500 is included in the Fiscal Year 2003-2004 Approved Operating Budget of the Austin Water Utility.)
Resolution No. 031211-8 was approved.
9. Authorize execution of an agreement to implement the Center for Disease Control's (CDC) STEPS for a Healthier Austin (SHA); with the TEXAS DEPARTMENT OF HEALTH (TDH) to develop and monitor a baseline data management system for repeated risk factor assessments and provide technical support, in an amount not to exceed \$85,000, with four 12-month extension options for a total amount not to exceed \$425,000; with the UNIVERSITY OF KANSAS CENTER FOR RESEARCH (UKCR) to develop and pilot an online system for documentation and evaluation and to provide technical support for SHA, in an amount not to exceed \$91,350,

with four 12-month extension options of \$64,050 per extension for a total amount not to exceed \$347,550; with the AMERICAN CANCER SOCIETY for training at WIC sites and Community Health Centers, to provide tobacco education and tobacco cessation training's for the Austin Independent School District (AISD), in an amount not to exceed \$63,000, with one 12-month extension option of \$63,000, and three 12-month extension options of \$110,000, for a total amount not to exceed \$456,000; with the AUSTIN INDEPENDENT SCHOOL DISTRICT (AISD) for student assessment surveys, the establishment of a Staff Wellness Program, development for physical exercise and nutrition programs, expansion of the School RN Case Management program, and to develop and sustain student health service initiatives, in an amount not to exceed \$165,600, with a one year extension option of \$165,600 (year 2), followed by a one year extension option of \$1,061,000 (year 3), followed by a one year extension option of \$1,346,000 (year 4), followed by a one year extension option of \$1,391,000 (year 5), for a total agreement not to exceed \$4,129,200. (Funding in the amount of \$404,950 is available in the Fiscal Year 2003-2004 Approved Operating Budget of the Health and Human Services Special Revenue Fund from the U.S. Department of Health and Human Services' Centers for Disease Control and Prevention (CDC) Steps to a Healthier U.S. (STEPS) grant program. The grant period is from September 22, 2003 through September 21, 2004. Renewal options are contingent upon available funding in future budgets.)

The motion authorizing an agreement to implement the Center for Disease Control's (CDC) STEPS was approved.

10. Approve an ordinance amending Sections 25-12-111 and 25-12-114 of the Code to renumber certain subsections.
Ordinance No. 031211-10 was approved.
11. Approve an ordinance adopting a recodification of the City Code; repealing the City Code of 1992; readopting offenses; and providing penalties.
Ordinance No. 031211-11 was approved.
12. Authorize execution of an interlocal agreement with the Texas Department of Public Safety (TDPS) to continue participation in the Denial of Renewal of License For Failure To Appear program authorized under Chapter 706, Transportation Code. (Recommended by the Judicial Committee.)
The motion authorizing the execution of an interlocal agreement was approved.
13. Authorize negotiation and execution of an agreement with Quail Creek Professional, LTD, Austin, TX, for a five (5) year lease renewal of approximately 3,926 square feet of office space located at 9411 Parkfield, Suites 310 and 320, Austin, Texas 78758, for use by the Health and Human Services Department for the Women, Infants, and Children (WIC) program, in an amount not to exceed \$304,265. (Funding in the amount of \$28,463.50 is included in the Fiscal Year 2003-2004 Approved Budget for Health and Human Services' Special Revenue Fund for the WIC grant programs. Funding for the remaining fifty-four (54) months of the original contract period is contingent upon available funding in future WIC grant programs.)
The motion authorizing the negotiation and execution of an agreement was approved.
14. Approve a resolution authorizing the fee simple acquisition of Lot 46, Linda Vista subdivision, locally known as 10501 Linda Vista, from Fernando Macias, Gloria Macias, Gerald Macias, Lisa Munoz and Veronica Rangcl for the Airport Noise Mitigation Program, in the amount of \$37,000 for the land and improvements, \$12,166.47 for the relocation benefits, plus closing costs and moving related expenses in the amount of \$15,000 for an amount not to exceed \$64,166.47. (Funding in the amount of \$64,166.47 is available in Fiscal Year 2003-2004 Capital Budget of

the Department of Aviation using airport funds and available Federal Aviation Administration (FAA) Grants.)

Resolution No. 031211-14 was approved.

15. Approve a resolution to authorize the filing of eminent domain proceedings for the acquisition of the fee simple interest in Lot 1, Block A, Windcrest Parkside Subdivision, a subdivision in Travis County, Texas according to the map or plat recorded in Volume 96, Page 100, of the Plat Records of Travis County, Texas, save and except that certain 0.53 acre tract awarded to the City of Austin in Eminent Domain proceedings filed under Cause No. 2323, in Probate Court No. 1 of Travis County, Texas and as recorded in Document No. 2001096446, Real Property Records of Travis County, Texas, the number of square feet to be acquired is 1,229, and the property is located at 1088 Park Plaza Drive, Austin, Texas, from Austin Windcrest Park Plaza Limited Partnership, in the amount of \$2,323 for a pedestrian bridge as part of the North Acres Bike Trail Pedestrian Bridge Project. (Funding is included in the Fiscal Year 2001-2002 Amended Capital Budget of the Transportation, Planning and Sustainability Department.)

Resolution No. 031211-15 was approved.

16. Adopt an ordinance amending Sections 15-12-43 and 15-12-44 of the Code and adding a new Section 15-12-46 that will allow the Director of Public Works to waive the insurance requirement and annual fees required by the existing Code for subterranean tunnel easements.

Ordinance No. 031211-16 was approved.

Items 17 through 19 were pulled for discussion.

20. Authorize execution of change order #4 to the construction contract with THE BARR COMPANY (MBE/FH 45.20%), Austin, TX for the Far Southeast Austin EMS Station, in the amount of \$23,888.91, for a total contract amount not to exceed \$1,458,591.80. (Funding is available in the Fiscal Year 2001-2002 Capital Budget of the EMS Department.) 46.66% MBE and 7.52% WBE subcontractor participation to date.

The motion authorizing the execution of change order #4 to the construction contract was approved.

21. Authorize execution of a construction contract with HEYL CONSTRUCTION, LTD., Leander, TX, for Breeze Way and Auburndale Wastewater Overflow Abatement Project and Betty Cook Spillway Repair and Pond Maintenance Project, as part of the Austin Clean Water Program, in the amount of \$1,148,677.50 plus an \$114,867.75 contingency, for a total contract amount not to exceed \$1,263,545.25. (Funding in the amount of \$1,052,535.55 is included in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility and \$211,009.70 is available in the Fiscal Year 2002-2003 Amended Capital Budget of Watershed Protection Department.) Lowest bid of five received. 28.49% MBE and 9.18% WBE subcontractor participation.

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

22. Authorize negotiation and execution of an amendment to the professional services agreement with CAMP DRESSER & McKEE, (CDM), Austin, Texas for Phase III -Construction Phase Services for Contracts 1 and 3 of the Ullrich Water Treatment Plant Expansion from 100 Million Gallons per Day (MGD) to 160 MGD project, in the amount of \$8,798,792, for a total contract amount not to exceed \$20,779,177. (Funding in the amount of \$8,798,792 is available in Fiscal Year 2002-2003 Amended Capital Budget of the Austin Water Utility.) 19.33% MBE and 33.11% WBE subconsultant participation to date. (Recommended by Water & Wastewater Commission.)

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

23. Authorize negotiation and execution of a design-build agreement with HENSEL PHELPS CONSTRUCTION CO., Austin, TX, as selected offeror, and, in the event negotiations are unsuccessful, TURNER CONSTRUCTION CO., Houston, TX, as next highest ranked offering firm; for design-build services for the design and construction of the Austin-Bergstrom International Airport (ABIA) Terminal Baggage Screening Improvements, in an amount not to exceed \$14,500,000. (Funding is available in the Fiscal Year 2003-2004 Department of Aviation Operational Fund.) Best qualification statement of eleven received. 20% DBE subconsultant participation. (To be reviewed by the Airport Advisory Commission on December 16, 2003.)

The motion authorizing the negotiation and execution of a design-build agreement was approved.

24. Approve execution of a contract with GE ENERGY MANAGEMENT SYSTEMS, INC., Hatfield, PA for the purchase of eight emission analyzers in an amount not to exceed \$51,708. (Funding in the amount of \$51,708 is available in the Fiscal Year 2003-2004 Approved Capital Budget of the Electric Utility Department.) Low bid of 3 bids received. This contract will be awarded in compliance 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.

25. Ratify execution of a contract with GENERAL ELECTRIC COMPANY, Louisville, Kentucky for refrigerators for Austin Energy's Refrigerator Replacement and Recycle Program in an amount not to exceed \$94,696. (Funding in the amount of \$50,210 is available in the Fiscal Year 2003-2004 Approved Operating Budget of the Electric Utility Department and \$44,486 is available in the Fiscal Year 2003-2004 Operating Budget of the Electric Utility Special Revenue Fund.) Low bid meeting specifications of four bids received. This contract will be awarded in compliance with the 1996 MBE/WBE Ordinance, as amended. No subcontracting opportunities were identified; therefore, no goals were established for this solicitation.

The motion ratifying the execution of a contract was approved.

Items 26 through 28 were pulled for discussion.

29. Authorize negotiation and execution of a contract with LCS CONSTRUCTORS, INCORPORATED, Houston, TX for furnishing and installation of laboratory equipment at the Sand Hill Energy Center Chemistry Laboratory in an amount not to exceed \$79,009. (Funding in the amount of \$79,009 is available in the Fiscal Year 2003-2004 Approved Capital Budget of the Electric Utility Department.) Sole Proposal This contract will be awarded in compliance 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 negotiation and execution of a contract was approved.

30. Authorize negotiation and execution of a 24-month service and supply agreement with GC3 SPECIALTY CHEMICALS, Houston, TX, for water treatment chemicals and services in an amount not to exceed \$1,339,775, with two 12-month extension options in an amount not to exceed \$900,000 per extension option, for a total agreement amount not to exceed \$3,139,775. (Funding in the amount of \$439,775 is available in Fiscal Year 2003-2004 Approved Operating Budget of the Electric Utility Department. Funding for the remaining 16 months of the original contract period and extension options is contingent upon available funding in future budgets.) Best evaluated proposal This contract will be awarded in accordance with the 1996 MBE/WBE

Ordinance, as amended. This service will be performed by the prime contractor. No subcontracting opportunities were identified; therefore, no goals were established for this solicitation.

The motion authorizing the negotiation and execution of a service and supply agreement was approved.

31. Authorize execution of a 12-month supply agreement with CUES, INC., Orlando, FL, for Cues repair parts for the Austin Water Utility in an amount not to exceed \$60,000, with three 12-month extension options in an amount not to exceed \$60,000 per extension option, for a total agreement amount not to exceed \$240,000. (Funding in the amount of \$45,000 is available in the Fiscal Year 2003-2004 Approved Operating Budget for the Austin Water Utility. Funding for the remaining three months of the original contract period and extension options are contingent upon available funding in future budgets.) Sole Source This contract will be awarded in compliance 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 supply agreement was approved.

32. Rescind a contract with HAWK EYE PATROL, Austin, TX and ratify 6-months of a 12-month service agreement with INITIAL SECURITY, Austin, TX for security guard services for the Community Care Services Department, Health and Human Services Department and Municipal Court in an amount not to exceed \$242,108, and approve the remaining 6-months of the agreement in an amount not to exceed \$242,108, with two 12-month extension options in an amount not to exceed \$484,215 per extension option for a total agreement amount not to exceed \$1,452,645. (Funding in the amount of \$185,808 is included in the Fiscal Year 2003-2004 Operating Budget of the Community Care Services Department. Funding in the amount of \$121,226 is included in the Fiscal Year 2003-2004 Operating Budget of the Health and Human Services Department. Funding in the amount of \$177,181 is included in the Fiscal Year 2003-2004 Operating Budget of the Municipal Court. Funding for the remaining nine months of the first extension option and the final extension option is contingent upon available funding in future budgets.) Second lowest bid of nine bids received. This contract will be awarded in compliance with the 1996 MBE/WBE Ordinance, as amended. No subcontracting opportunities were identified; therefore, no goals were established for this solicitation.

The motion rescinding a contract and ratifying a service agreement was approved.

33. Authorize execution of a 48-month lease agreement with AVNET COMPUTER MARKETING ENTERPRISE SOLUTIONS, Austin, TX through the State of Texas Department of Information Resources (DIR) for Cisco Equipment Leasing in an amount not to exceed \$702,000. (Funding in the amount of \$175,499.78 is available in the Fiscal Year 2003-2004 Operating Budget of Austin Bergstrom International Airport (ABIA) Funding for the remaining 36 months is contingent upon available funding in future budgets.) Cooperative Purchasing (12/9/03 - Airport Advisory Commission)

This item was postponed indefinitely.

34. Approve execution of contracts through the Houston-Galveston Area Council of Governments (H-GAC) with their contract vendors PHILPOTT MOTORS, INC., Port Neches, Texas for the purchase of 63 light duty vehicles in an amount not to exceed \$1,676,983.72 and LAWRENCE MARSHALL CHEVROLET, Hempstead, Texas for the purchase of nine light duty vehicles in an amount not to exceed \$131,118.03. (Funding in the amount of \$356,733.09 is available in the Fiscal Year 2003-2004 Approved Vehicle Acquisition Fund. Funding in the amount of \$43,706.01 is available in the Fiscal Year 2003-2004 Approved Police Seized Fund. Funding in the amount of \$134,406.78 is available in the Fiscal Year 2003-2004 Approved Operating Budget

of the Austin Police Department. Funding in the amount of \$140,531.03 is available in the Fiscal Year 2003-2004 Approved Operating Budget of the Aviation Department. Funding in the amount of \$291,227.59 is available in the Fiscal Year 2003-2004 Approved Operating Budget of Public Works. Funding in the amount of \$19,252.99 is available in the Fiscal Year 2003-2004 Approved Operating Budget of the Transportation, Planning & Sustainability Department. Funding in the amount of \$519,096.25 is available in the Fiscal Year 2003-2004 Approved Capital Budget of Austin Energy. Funding in the amount of \$81,844.28 is available in the Fiscal Year 2003-2004 Approved Capital Budget of the Solid Waste Services Department. Funding in the amount of \$221,303.73 is available in the Fiscal Year 2003-2004 Approved Capital Budget of the Watershed Protection & Development Review Department.)

This item was postponed to January 8, 2004.

35. Authorize execution of a 12-month service agreement with COMPUTER ASSOCIATES INTERNATIONAL, INC., Islandia, NY for the consolidation of software maintenance components in an amount not to exceed \$198,378.47, with three 12-month extension options in an amount not to exceed \$198,378.47 per extension option, for a total agreement amount not to exceed \$793,513.88. (Funding for the extension options is contingent upon available funding in future budgets.) Sole Source

The motion authorizing the execution of a service agreement was approved.

Item 36 was pulled for discussion.

37. Authorize application submittal for grant funding from the Capital Area Planning Council (CAPCO) under the 2004 Regional Solid Waste Grant Program in the amount of \$54,120 for a contract for the development of a public education campaign addressing litter abatement through public education and community collection efforts. (Funding is available in the 2004 Regional Solid Waste Grant Program (CAPCO and Texas Commission on Environmental Quality)) (Recommended by The Solid Waste Advisory Commission)

The motion authorizing the application submittal for grant funding was approved.

38. Approve an Ordinance to amend Chapter 17-2 of the City Code by adding a new section for Touring and Sightseeing service. (Recommended by Urban Transportation Commission)
- Ordinance No. 031211-38 was approved.**

39. Approve a resolution consenting to the annexation of approximately 46.86 acres into River Place MUD (the area adjacent to the Colorado River along the 504.9 mean sea level contour line extending southwestward along Big View Dr from the existing MUD boundary to the end of Big View Dr.). (Recommended by Planning Commission and Water and Wastewater Commission.)

Resolution No. 031211-39 was approved.

40. Approve an ordinance to amend Ordinance 031106-35 and establish I-SF-4A and I-SF-2 interim zoning designations for portions of the Onion Creek Municipal Annexation Plan Area; waive zoning application fees for property within the annexed area for a period of one year from the effective date of annexation; provide for interim zoning; and postpone 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.

Ordinance No. 031211-40 was approved.

Items 41 and 42 were pulled for discussion.

43. Approve a resolution certifying compliance of the Agreement on Subdivision Platting in the Extraterritorial Jurisdiction Between City of Austin and Bastrop County On Subdivision Regulation with the requirements of Texas Local Government Code Chapter 242.
Resolution No. 031211-43 was approved.
44. Approve a resolution authorizing negotiation and execution of an Agreement Between City of Austin and Hays County On Subdivision Regulation, and certifying compliance of the Agreement with the requirements of Texas Local Government Code Chapter 242.
Resolution No. 031211-44 was approved.

Item 45 was pulled for discussion.

46. Approve a resolution certifying compliance of the Interlocal Agreement between the City of Austin and Williamson County for subdivision regulation in the extraterritorial jurisdiction with the requirements of Texas Local Government Code Chapter 242.
Resolution No. 031211-46 was approved.

Items 47 and 48 were pulled for discussion.

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

Board/ Appointee	Consensus/ Council Nominee	Appointment/ Reappointment
<u>Asian American Resource Center Advisory Board</u>		
Myung Bang-Lemond	Consensus	Appointment
Elena Cablao	Consensus	Appointment
Victoria Hsu	Consensus	Appointment
Rohit Jain	Consensus	Appointment
Sy Wong Ng	Consensus	Appointment
Francis Pan	Consensus	Appointment
Evan Key Taniguchi	Consensus	Appointment
Luan Tran	Consensus	Appointment
<u>Commission for Women</u>		
Jodi Park	Mayor Wynn's	Reappointment
Shannon Phillips	Council Member McCracken's	Reappointment
<u>Electrical Board</u>		
Gilbert Ferrales	Mayor Wynn's	Reappointment
<u>Federally Qualified Health Center Board</u>		
Alfredia Miller	Consensus	Reappointment
<u>Resource Management Commission</u>		
Karen Strnad	Council Member Alvarez'	Appointment
<u>Robert Mueller Municipal Airport Plan Implementation Advisory Commission</u>		
John Paul Rodriguez	Consensus	Appointment

Solid Waste Advisory Commission

Hugh Mayfield

Tracy Sosa

Council Member Thomas'

Mayor Wynn's

Appointment

Reappointment

50. Approve an ordinance appointing Allan Leung to the Asian American Resources Center Advisory Board and waiving the residency requirement under Section 2-4-1 (Residence Requirement) for that appointment. (Council Member Raul Alvarez and Mayor Pro Tem Jackie Goodman, and Council Member Danny Thomas)
Ordinance No. 031211-50 was approved.
51. Consider an ordinance appointing the Presiding Judge, Associate Judges, Downtown Austin Community Court Judge and Substitute Judges to the City of Austin Municipal Court for the 2004 - 2005 judicial term, and that sets compensation and benefits. (Mayor Will Wynn, Mayor Pro Tem Jackie Goodman and Council Member Brewster McCracken)
This item was postponed to January 8, 2004.
52. Approve a resolution to extend the term of the Day Labor Advisory Committee for one year (through December 31, 2004) and to provide that one member of the committee be a member of the Austin Commission on Immigrant Affairs. (Council Member Raul Alvarez)
Resolution No. 031211-52 was approved.

Item 53 was pulled for discussion.

54. Set a public hearing to amend the Montopolis Neighborhood Plan for 805 E. Montopolis Drive, to change the Future Land Use Map from residential to mixed-use. (Suggested date and time: January 15, 2004, at 6:00 p.m., Lower Colorado River Authority, Hancock Building) (December 9, 2003 - Planning Commission hearing)
The public hearing was set for January 15, 2004, at 6:00 p.m., Lower Colorado River Authority, Hancock Building.
55. Set a public hearing to receive public comment on the proposed amendment to Exhibit A of Ordinance 030908-4 affecting the GreenChoice® Energy Rider. (Suggested date and time: January 8, 2004 at 6:00 PM, Lower Colorado River Authority, Hancock Building.)
The public hearing was set for January 8, 2004 at 6:00 p.m., Lower Colorado River Authority, Hancock Building.

Items 56 through 63 were Executive Session items.

Item 64 was an Action on Executive Session item.

65. Consider an application for a limited adjustment under Chapter 25-8, Subchapter A, Article 12, Land Development Code (SOS Initiative Ordinance) for a development project for a 19-acre tract near William Cannon and Brodie. This tract is the subject of litigation, *Ernest L. Lundelius, Jr. and Ana Maria Lundelius, Independent Executor of the Estate of Bernard Halton Lundelius, Deceased v. the City of Austin*. (Related Items 60, 66, 67)
This item was postponed indefinitely.
66. Conduct a public hearing and approve an ordinance providing the minimum adjustment under Chapter 25-8, Subchapter A, Article 12, Land Development Code (SOS Initiative Ordinance) which is required to achieve compliance with the conflicting law and provide maximum protection of water quality; with respect to a development project for a 19 acre tract near William

Cannon Drive and Brodie Lane. This tract is the subject of litigation, *Ernest L. Lundelius, Jr. and Ana Maria Lundelius, Independent Executor of the Estate of Bernard Halton Lundelius, Deceased v. the City of Austin*. (Related Items 60, 65, 67)

This item was postponed indefinitely.

Items 67 through 69 were Action on Executive Session items.

Item 70 was Briefing item.

Items 71 through 73 and Z-1 to Z-9 were Zoning items set for 4:00 p.m.

Items 74 through 76 were public hearings set for 6:00 P.M.

77. Approve an ordinance vacating 2756 S.F. of an unimproved alley, between the 200 Block of, Salina Street and Chicon Street and East 2nd and 3rd Streets to Guadalupe Neighborhood Development Corporation, to incorporate the alley into residential properties in consideration of Guadalupe Neighborhood Development Corporation conveying 2872 S.F. on the north side of East 2nd Street to the City. (Recommended by Planning Commission and Urban Transportation Commission.)

Ordinance No. 031211-77 was approved.

DISCUSSION ITEMS

17. Authorize execution of a construction contract with SHAW ENVIRONMENTAL, INC., Findlay, OH, for hazardous site excavation at the North Service Center project located at 10414 McKalla Place in response to the explosion that occurred at the construction project site November 3, 2003, in an amount not to exceed \$200,000.00. (Funding is available in the Fiscal Year 1999-2000 Amended Capital Budget of the Austin Water Utility.) No subcontractor requirements on emergency actions.

The motion authorizing the execution of a construction contract was approved on Council Member Dunkerley's motion, Mayor Wynn's second on a 7-0 vote.

18. Authorize negotiation and execution of Change Order #3 to the construction contract with SPAWGLASS, INC., Austin, TX, for construction of the North Service Center, related to contractor's costs resulting from the stop work order issued after the unexpected explosion on November 3, 2003, subject to substantiation of contractor's claim in accordance with the construction contract documents, in an amount not to exceed \$200,000, for a total contract amount not to exceed \$14,693,922.53. (Funding in the amount of \$200,000 is available in the Fiscal Year 1999-2000 Amended Capital Budget of the Austin Water Utility.) 18.17% MBE and 23.45% WBE subcontractor participation to date.

The motion authorizing the negotiation and execution of Change Order #3 to the construction contract was approved on Council Member Dunkerley's motion, Mayor Wynn's second on a 7-0 vote.

19. Authorize negotiation and execution of change order #7 to the construction contract with JOURNEYMAN CONSTRUCTION, L.P. (MBE/MA 16.82%), Austin, TX, for the Austin Resource Center for the Homeless, in an estimated amount not to exceed \$16,647.14, for a total contract amount not to exceed \$5,033,618.85. (Funding in the amount of \$16,647.14 is available in the Fiscal Year 2002-2003 Capital Budget of the Austin Travis County Health & Human Services Department.) 13.88% MBE and 7.33% WBE subcontractor participation to date.

The motion authorizing the negotiation and execution of change order #7 to the construction contract was approved on Council Member Slusher's motion, Council Member Alvarez' second on a 7-0 vote.

48. Approve a resolution authorizing the City Manager to establish the Brownfields Cleanup Revolving Loan Fund (BCRLF) Program in accordance with United States Environmental Protection Agency (U.S. EPA) standards and regulations in order to provide low interest loans to the public and private sectors to fund remediation activities. (Funding in the amount of \$500,000 is available through the U.S. EPA.) (Related Item 36)
Resolution No. 031211-48 was approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.
36. Approve a resolution authorizing the City Manager to approve a loan from the City of Austin, Brownsfields Cleanup Revolving Loan Fund (BCRLF) Program for the remediation of Mabel Davis Park in the amount of \$489,556.17 (Funding is available from the U.S. Environmental Protection Agency (EPA)) (Related Item 48)
Resolution No. 031211-36 was approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.
26. Authorize execution of a 12-month service agreement with BROWNING-FERRIS INDUSTRIES BFI, Del Valle, TX for residential refuse collection services in an amount not to exceed \$92,784, with two 12-month extension options in an amount not to exceed \$92,784 per extension option, for a total agreement amount not to exceed \$278,352. (Funding in the amount of \$85,052 is available in the Fiscal Year 2003-2004 Approved Operating Budget of the Solid Waste Services Department. Funding for the remaining one month of the original contract period and extension options is contingent upon available funding in future budgets.) Low bidder of two bids received. This contract will be awarded in compliance with the 1996 MBE/WBE Ordinance, as amended. No subcontracting opportunities were identified; therefore, no goals were established for this solicitation. (Not recommended by Solid Waste Advisory Commission)
The motion authorizing the execution of a service agreement was approved on Council Member Thomas' motion, Council Member Slusher's second on a 6-1 vote. Mayor Pro Tem Goodman voted nay.
27. Authorize execution of a 12-month service agreement with BFI WASTE SYSTEMS OF TEXAS, LP, Austin, TX for providing roll-off containers and disposal services for grit and screenings from wastewater treatment plants for the Austin Water Utility in an amount not to exceed \$107,943, with two 12-month extension options in an amount not to exceed \$107,943 per extension option, for a total agreement amount not to exceed \$323,829. (Funding in the amount of \$89,952.50 is available in the Fiscal Year 2003-2004 Approved Operating Budget of the Austin Water Utility. Funding for the remaining two months of the original contract period and extension options is contingent upon available funding in future budgets.) Low bid of three bids received. This contract will be awarded in compliance 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 service agreement was approved on Council Member Thomas' motion, Council Member Dunkerley's second on a 7-0 vote.
28. Authorize negotiation and execution of a 12-month service agreement with REMEDY INTELLIGENT STAFFING, Austin, TX for Temporary Customer Contact Center Personnel services in an amount not to exceed \$1,323,504, with three 12-month extension options in an amount not to exceed \$1,323,504 per extension option, for a total agreement amount not to

exceed \$5,294,016. (Funding in the amount of \$992,628 is available in the Fiscal Year 2003-2004 Amended Operating Budget of the Electric Utility Department. Funding for the remaining three months of the original contract period and extension options is contingent upon available funding in future budgets.) Best proposal of six proposals received. This contract will be awarded in compliance 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 negotiation and execution of a service agreement was approved on Council Member Slusher's motion, Council Member McCracken's second on a 7-0 vote.

53. Approve a resolution directing the City Manager to present recommendations within 60 days regarding administrative approvals for wastewater infrastructure in the critical water quality zone of the Weston Study Area. (Council Member Betty Dunkerley and Council Member Danny Thomas)
Resolution No. 031211-53 was approved on Council Member Dunkerley's motion, Council Member Slusher's second on a 7-0 vote.
41. Approve an ordinance on third reading amending Chapters 25-2, 25-3, and 25-6 of the City Code relating to restaurant uses. (Recommended by Planning Commission with amendments.)
Ordinance No. 031211-41 was approved with the following amendment on Mayor Pro Tem Goodman's motion, Council Member Thomas' second on a 7-0 vote. Part 6, 25-2-809 (C) would be added, "In a neighborhood commercial (I.R) district, a restaurant (limited) use is prohibited if (1) it exceeds 3,000 square feet of gross floor area and the site abuts property: (a) zoned as an urban family residence (SF-5) or more restrictive district; or (b) on which a use permitted is in an SF-5 or more restrictive zoning district is located."

CITIZEN COMMUNICATIONS: GENERAL

Jimmy Castro - Envision Central Texas

Judy Leary - Panhandling/Signing -- Should be "registered." Also, non-profit corporations are not exempt in your ordinances and should be. **She was not present when her name was called.**

Paul Hernandez - Support Robert Donley Memorial Park

Frances Martinez - Support of Robert Donley Memorial Park. **She was not present when her name was called.**

Gavin Fernandez - I support the Robert Donley Memorial Park. What a year!

Jennifer Gale - A holiday gift that will give forever -- voter's choice.

Eleanor Davis Thompson - Vision Village: Requesting Unfinished Audit be completed and Made Public

Mayor Wynn recessed the Council Meeting to go into Executive Session at 12:27.

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

56. Discuss legal issues relating to the labor negotiations for a Meet and Confer contract with the Austin Police Association.
No discussion was held on this item.
57. Discuss legal issues in Case No. A03 CA 56SS, *Nolan Lujan, et al. v. City of Austin*, in the U.S. District Court of the Western District of Texas-Austin Division. (Concerns Emergency Medical Services employees seeking to recover overtime compensation)
58. Discuss legal issues related to Cause No. A03CA570SS, *Texas Oil & Gas Association v. City of Austin, Texas*, in the United States District Court for the Western District of Texas. (Concerns a challenge to the insurance provisions of the City's ordinance regulating hazardous liquid pipelines)
59. Discuss legal issues related to Cause No. GV2-01995, *City of Austin v. Hanson Pipe & Products, Inc., Travelers Casualty and Surety Company of America, Triple H Contracting, Inc./BRH-Graver, Inc. JV, and CH2M Hill, Inc.*, in the 261st Judicial District Court, Travis County, Texas. (Related Item 64)

Items 60 and 61 were discussed later in Executive Session.

62. Discuss legal issues related to contract for deconstruction of the City Coliseum. (Related Item 69)
No discussion was held on this item.

Item 63 was discussed later in Executive Session.

Executive Session ended and Mayor Wynn called the Council Meeting back to order at 2:06 p.m.

Action on Executive Session

64. Approve possible settlement of Cause No. GV2-01995, *City of Austin v. Hanson Pipe & Products, Inc., Travelers Casualty and Surety Company of America, Triple H Contracting, Inc./BRH-Graver, Inc. JV, and CH2M Hill, Inc.*, in the 261st Judicial District Court, Travis County, Texas. (Concerns Ullrich Pipeline leaks). (Related Item 59)
A motion authorizing the City Manager to negotiate and settle Cause No. GV2-01995 was approved on Council Member Thomas' motion, Council Member Dunkerley's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.

Briefing

70. Presentation by the Downtown Austin Alliance of the 2003 Design Impact Award for the Lester E. Palmer Events Center.
The presentation was made by Wade Cooper, Downtown Austin Alliance.

Mayor Wynn recessed the Council Meeting to go into Executive Session at 2:24 p.m.

EXECUTIVE SESSION CONTINUED

60. Discuss the possible settlement of *Ernest L. Underlies, Jr. and Ana Maria Underlies, Independent Executor of the Estate of Bernard Haltom Underlies, Deceased v. the City of Austin*, Cause No. GN104166, District Court of Travis County, Texas, concerning the development of a 19 acre tract near William Cannon Drive and Broody Lane, and discuss legal issues related to a limited adjustment under Chapter 25-8, Subchapter A, Article 12, Land Development Code (SOS Initiative Ordinance) for development of that tract. (Related Items 65, 66, 67)
61. Discuss legal issues concerning development of the tract located at 11570 Research Boulevard (Rudy's Country Store and Bar-B-Q). (Related Item 68)

Executive Session ended and Mayor Wynn called the Council Meeting back to order at 2:46 p.m.

Action on Executive Session Continued

68. Approve an ordinance adopting a settlement agreement regarding development of the tract located at 11570 Research Boulevard (Rudy's Bar-B-Q) and granting a variance to Section 25-8-424 of the City Code to implement the settlement. (Related Item 61)
Ordinance No. 031211-68 was approved on Mayor Pro Tem Goodman's motion, Mayor Wynn's second on a 6-0 vote. Council Member McCracken was off the dais.

Mayor Wynn recessed the Council Meeting to go into Executive Session at 2:54 p.m.

EXECUTIVE SESSION CONTINUED**Personnel Matters - Section-551.074**

63. Discuss personnel evaluation and performance of the Municipal Court Clerk.

Executive Session ended and Mayor Wynn called the Council Member back to order at 4:18 p.m.

DISCUSSION ITEMS CONTINUED

47. Authorize negotiation and execution of an amendment to the Agreement on Subdivision Platting in the Extraterritorial Jurisdiction Between the City of Austin and Travis County to clarify certain requirements regarding City approval of utility infrastructure, and other amendments for consistency with the proposed City Code Title 30. (Related Items 42, 45)
Resolution No. 031211-47 was approved on Council Member Slusher's motion, Mayor Wynn's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.
45. Approve a resolution certifying compliance of the Agreement Between City of Austin and Travis County On Subdivision Regulation with the requirements of Texas Local Government Code Chapter 242. (Related Items 42, 47)
Resolution No. 031211-45 was approved on Council Member Slusher's motion, Mayor Wynn's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.
42. Approve an ordinance on third reading 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). (Related Items 45, 47)

Ordinance No. 031211-42 was approved on Council Member Slusher's motion, Mayor Wynn's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.

ZONING CONSENT ITEMS

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

A motion to reconsider the consent items to allow citizens to speak was approved on Council Member Slusher's motion, Mayor Wynn's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.

The consent items were approved on Council Member Thomas' motion, Mayor Wynn's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.

71. C14-03-0152 - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by zoning property locally known as State Highway 71 East at Spirit of Texas Drive (Carson Creek Watershed) from interim-rural residence (I-RR) district zoning to community commercial-conditional overlay (GR-CO) combining district zoning. First reading on November 20, 2003. Vote: 6-0, J. Goodman - off dais. Conditions met as follows: Conditional Overlay and restrictive covenant incorporates the conditions imposed or accepted by Council on first ordinance reading. Applicant: Gerald Kucera. Agent: Crocker Consultants (Sarah Crocker). City Staff: Glenn Rhoades, 974-2775.

This item was postponed to January 15, 2004 at staff's request.

72. C14-03-0136 - Approve second/third readings of an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1800 Fort View Road (West Bouldin Creek Watershed) from family residence district (SF-3) zoning to neighborhood commercial-conditional overlay (LR-CO) combining district zoning. First reading on November 20, 2003. Vote: 6-0, Goodman off dais. Conditions met as follows: Conditional Overlay incorporates the conditions imposed by Council on first ordinance reading. Applicant: Westlake Congregation of Jehovah's Witnesses (Tad Curtis). Agent: Crocker Consultants (Sarah Crocker). City Staff: Annick Beaudet, 974-2975.

Ordinance No. 031211-72 was approved.

73. C14-03-0119 - Wal-Mart - Approve third reading of 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 services (LI) district zoning. First reading on November 6, 2003. Vote: 7-0. Second reading on November 20, 2003. Vote: 6-0, Goodman off the dais. Conditions met as follows: No conditions were imposed. Applicant: Joe Jung. Agent: Armbrust & Brown, L.L.P. (Richard Suttle, Jr.) City Staff: Annick Beaudet, 974-2975.

Ordinance No. 031211-73 was approved.

ZONING CONSENT ITEMS

The following zoning 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 McCracken's motion, Mayor Wynn's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.

- Z-1 C14H-03-0021 - Eckhardt-Potts House. Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 209 E. 34th Street from family residence (SF-3) district to family residence-historic (SF-3-H) combining district. Historic Landmark Commission Recommendation: To grant family residence-historic (SF-3-H) combining district. Planning Commission Recommendation: Pending. Applicant: David and Heidi Cook (owners). City Staff: Steve Sadowsky, Historic Preservation Office, Transportation, Planning and Sustainability Department, 974-6454.
Ordinance No. 031211-Z-1 for family residence-historic (SF-3-H) combining district was approved.

Item Z-2 was pulled for discussion.

- Z-3 C14-03-0153 - Conduct a public hearing and approve 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 interim-rural residence (I-RR) district zoning to community commercial-conditional overlay (GR-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant community commercial-conditional overlay (GR-CO) combining district zoning. Applicant: Gerald Kucera. Agent: Crocker Consultants (Sarah Crocker). City Staff: Glenn Rhoades, 974-2775.
The first reading of the ordinance for community commercial-conditional overlay (GR-CO) combining district zoning was approved.

- Z-4 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 grant single family residence small lot-neighborhood plan (SF-4A-NP) combining district zoning. Applicant: Mayhen, L.L.C. Agent: Vincent Gerard & Associates, Inc. (Vincent Huebinger). City Staff: Annick Beaudet, 974-2975.
This item was postponed to January 8, 2004.

- Z-5 C14-03-0151 - Allen Samuels Dodge - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 12301 Interstate Highway 35 North (Walnut Creek Watershed) from general office (GO) district zoning and limited office (LO) district zoning to community commercial-conditional overlay (GR-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant to community commercial-conditional overlay (GR-CO) combining district zoning. Applicant: Solo Star Realty, Inc. (William O. Welch). Agent: Lopez-Phelps & Associates (Amelia Lopez-Phelps). City Staff: Sherri Gager, 974-3057.
This item was postponed to January 8, 2004 at the applicant's request.

- Z-6 C14-03-0143 - Slaughter Assisted Living - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by zoning property locally known as 3200 West Slaughter Lane (Slaughter Creek Watershed-Barton Springs Zone) from interim-rural residence (I-RR) district zoning to multi-family residence medium density-conditional overlay (MF-3-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant multi-family residence medium density-conditional overlay (MF-3-CO) combining district zoning. Applicant: HAMAT Investments International, Inc. (Jimmy Nassour). Agent: Doucet & Associates, Inc. (Steve Frost, P.E.). City Staff: Wendy Walsh, 974-7719.
Ordinance No. 031211-Z-6 for multi-family residence medium density-conditional overlay (MF-3-CO) combining district zoning was approved.
- Z-7 C14-03-0053 - Double Creek Village - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by zoning property locally known as 11000 Block of South IH-35 Service Road Southbound (Onion Creek Watershed) from interim-rural residence (I-RR) district zoning to general commercial services-conditional overlay (CS-CO) combining district zoning. Zoning and Platting Commission Recommendation: To grant general commercial services-conditional overlay (CS-CO) combining district zoning for Tract 1 and community commercial-conditional overlay (GR-CO) combining district zoning for Tract 2. Property Owners: Riddell Family Limited Partnership (Wayne Riddell) and Patton G. Lochridge. Applicant: Walters Southwest (Bill Walters). Agent: Drenner Stuart Wolff Metcalfe von Kreisler, L.L.P. (Michele Haussmann). City Staff: Wendy Walsh, 974-7719.
Ordinance No. 031211-Z-7 for commercial services-conditional overlay (CS-CO) combining district zoning for Tract 1 and community commercial-conditional overlay (GR-CO) combining district zoning for Tract 2 was approved.
- Z-8 C14-03-0135.SH - Lexington Parke - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning and zoning property locally known as North of Pearce Lane and west of Ross Road (Onion Creek Watershed and South Dry Creek Watershed) from development reserve (DR) district zoning and interim-single family residence small lot (I-SF-4A) district zoning to single family residence small lot (SF-4A) district zoning with conditions. Zoning and Platting Commission Recommendation: To grant single family residence small lot (SF-4A) district zoning with conditions. Applicant: Ivy Berdoll Family Farms, Inc. (Dan Berdoll). Agent: Kodiak Development (Brian G. Saathoff). City Staff: Wendy Walsh, 974-7719.
Ordinance No. 031211-Z-8 for single family residence small lot (SF-4A) district zoning with conditions was approved.

Item Z-9 was pulled for discussion

ZONING ITEM DISCUSSION

- Z-2 C14-03-0148 - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 5220 Jim Hogg Avenue (Shoal Creek Watershed) from multi-family residence medium density (MF-3) district zoning to community commercial (GR) district zoning. Planning Commission Recommendation: To grant community commercial-conditional overlay (GR-CO) combining district zoning. Applicant: Anthony George. Agent: Jim Bennett. City Staff: Glenn Rhoades, 974-2775.
The public hearing was closed on Council Member Slusher's motion, Mayor Pro Tem Goodman's second on a 7-0 vote.

The first reading for community commercial-conditional overlay (GR-CO) combining district zoning was approved with the following amendment on Council Member Thomas' motion, Mayor Wynn's second on a 7-0 vote. The amendment was the application would construct a privacy fence on Jim Hogg Avenue.

Item Z-9 was reconsidered.

Mayor Wynn recessed the Council Meeting at 5:21 p.m.

LIVE MUSIC

Spinaker

PROCLAMATIONS

Distinguished Service Award - Michele Middlebrook Gonzalez - to be presented by Mayor Will Wynn and to be accepted by the honoree

Distinguished Service Award - Sue Brubaker - to be presented by Mayor Will Wynn and to be accepted by the honoree

Distinguished Service Award - Barbara Nickle - to be presented by Mayor Will Wynn and to be accepted by the honoree

Distinguished Service Award - Eddie Clark - to be presented by Mayor Will Wynn and to be accepted by the honoree

Distinguished Service Award - Andi Reaves - to be presented by Mayor Will Wynn and to be accepted by the honoree

Proclamation - 30th Anniversary of the Austin Neighborhoods Council - to be presented by Mayor Pro Tem Jackie Goodman and to be accepted by Susan Pascoe and Bryan King

Mayor Wynn called the Council Meeting back to order at 6:44 p.m.

Action on Executive Session Continued

69. Approve negotiation and execution of settlement agreement with A&R Demolition, Inc. setting forth terms and conditions for resolution of claims for payment of costs associated with additional scope of work. (Related Item 62)
This item was pulled from the agenda.

PUBLIC HEARINGS AND POSSIBLE ACTION

75. Conduct a public hearing to receive public comments regarding changes to the City of Austin Citizen Participation Plan that outlines opportunities for citizen input on documents and actions relating to the City's annual Community Development Program required by Chapter 373, Texas Local Government Code, and four federal entitlement grants: Community Development Block Grant, Housing Opportunities for People with AIDS, Emergency Shelter Grant, and HOME Investment Partnerships. (Presented to CDC November 4, 2003; CDC conducted a public hearing December 9, 2003.)

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

76. Conduct a public hearing and approve a resolution modifying the Brackenridge Urban Renewal Plan. (Community Development Commission (CDC) reviewed November 17, 2003; Planning Commission reviewed December 9, 2003.)

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

Resolution No. 031211-76 was approved on Mayor Pro Tem Goodman's motion, Council Member Thomas' second on a 7-0 vote.

ZONING DISCUSSION ITEM CONTINUED

- Z-9 C14-03-0150 - Gilleland Zoning Change - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 606 West Grady Drive (Little Walnut Creek Watershed) from single family residence standard lot (SF-2) district zoning to general commercial services (CS) district zoning. Zoning and Platting Commission Recommendation: To deny general commercial services (CS) district zoning. Applicant: Carl J. Gilleland. City Staff: Sherri Gager, 974-3057.

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

The motion to deny zoning request was approved on Council Member Slusher's motion, Council Member McCracken's second on a 7-0 vote.

The motion to approve reconsideration of this item was approved on Council Member Slusher's motion, Council Member Thomas' second on a 7-0 vote.

This item was postponed to January 29, 2004 on Council Member Slusher's motion, Mayor Wynn's second on a 7-0 vote.

Mayor Wynn recessed the Council Meeting to go into Executive Session at 6:55 p.m.

EXECUTIVE SESSION CONTINUED

The Mayor announced that Council would discuss item number 74 on the regular agenda during Executive Session.

Executive Session ended and Mayor Wynn called the Council Meeting back to order at 7:41 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.

Public Hearings Continued

74. Conduct a Public Hearing and approve third reading of the settlement in 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) (Mayor Pro Tem Jackie Goodman and Council Member Brewster McCracken)

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

The Mayor recessed the Council Meeting at 11:49 p.m.

The meeting was called back to order at 12:42 a.m.

Ordinance 031211-74 was approved as amended below on Mayor Pro Tem Goodman's motion, Council Member McCracken's second on a 4-3 vote. The three amendments were: to increase the amount from Lowes to one million dollars, require all arsenic wood to be under cover and to require the Sunset Valley dark sky lighting standards to be followed. 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.

Action on Executive Session Continued

67. Approve a settlement in Ernest L. Lundelius, Jr. and Ana Maria Lundelius, Independent Executor of the Estate of Bernard Halton Lundelius, Deceased v. the City of Austin, Cause No. GN104166, District Court of Travis County, Texas. (Concerns development of a 19-acre tract near William Cannon Drive and Brodie Lane) (Related Items 60, 65, 66)

The motion to accept the settlement as follows was approved on Council Member Dunkerley's motion, Council Member McCracken's second on a 7-0 vote. The settlement includes paying the Lundelius' \$420,000 in return for dismissing the lawsuit with prejudice, each party to pay their own court cost and attorney fees, and transmittal of 19 acres to the City. The City will pay for any environmental cleanup required up to the cap.

The motion to adjourn the meeting at 12:59 a.m. was approved on Council Member McCracken's motion, Mayor Wynn's second on a 7-0 vote.

The minutes for the Regular Meeting of December 11, 2003 were approved on this the 8th day of January, 2004 on Council Member McCracken's motion, Council Member Alvarez' second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.