



**Austin City Council  
MINUTES**

**REGULAR MEETING  
THURSDAY, DECEMBER 4, 2003**

**Invocation:** Pastor Joe Champion, Celebration 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 4, 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 10:10 a.m.

**CONSENT AGENDA**

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

1. Approval of minutes from the meeting of October 30, and November 20, 2003.  
**The minutes from the meetings of October 30, and November 20, 2003 were approved.**
2. Approve issuance of a rebate in the amount of \$74,757 to Wal-Mart Stores Texas, LP. for the installation of high efficiency lighting and air conditioning equipment at their existing store located at 12900 N. IH-35, Austin, Texas. (Funding is available in the Fiscal Year 2003-2004 Operating Budget of the Conservation Rebates and Incentive Fund of Austin Energy.) (Recommended by the Resource Management Commission. Recommended by the Electric Utility Commission.)  
**The motion authorizing the issuance of a rebate in the amount of \$74,757 was approved.**
3. Authorize negotiation and execution of a cost reimbursement agreement with Catellus Austin, LLC, a Delaware limited liability company, providing terms and conditions for construction of 15-inch gravity wastewater main and appurtenances to provide wastewater service to a portion of the Robert Mueller Municipal Airport Redevelopment with City cost reimbursement for actual "hard" construction costs in an amount not to exceed \$360,000, and "soft" costs for engineering, design and project management in an amount not to exceed 15% of the actual "hard" construction cost or \$54,000, whichever is less, for a total cost reimbursement amount not to exceed \$414,000; adopt an Ordinance waiving the requirements of Section 25-9-39, of the City Code relating to the posting of fiscal security; waiving the requirements of Section 25-9-61, of the City Code relating to facilities eligible for cost reimbursement; waiving the requirements of Section 25-9-63, of the City Code relating to amount of cost reimbursement; waiving the requirements of Section 25-9-

67, of the City Code relating to cost reimbursement payments. (Funding in the amount of \$414,000 is included in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.)

**The motion authorizing the negotiation and execution of a cost reimbursement agreement and approval of Ordinance No. 031204-3 were approved.**

**Item 4 was pulled for discussion.**

5. Authorize the City Manager or her designee to negotiate and execute Amendment Number One to the Combined Emergency Communications and Transportation Management Center Phase III-Professional Services Interlocal Agreement between City of Austin, Travis County, the Texas Department of Transportation, and the Capital Metro Transportation Authority.  
**The motion authorizing the City Manager or her designee to negotiate and execute Amendment Number One was approved.**
6. Approve the negotiation and execution of an Interlocal Agreement with Travis County, Austin Independent School District (AISD), Capital Metropolitan Transportation Authority (CMTA), The University of Texas at Austin (UT Austin) and The Texas Legislative Council and House of Representatives for the operation and maintenance of the 800 Mhz Trunked Regional Voice Radio System for an initial term of one year for a total of \$1,500,140 and year to year thereafter, up to a maximum of 40 years. (Funding in the amount of \$835,278, is included in the Fiscal Year 2003-2004 Wireless Operating Fund of the Communications and Technology Management Operating Budget. Remaining funding in the amount of \$404,888 is available through Travis County; \$111,910 is available through AISD; \$83,108 is available through CMTA; \$54,605 is available through UT Austin; and \$10,351 is available through the Texas Legislative Council and House of Representatives. Funding for future years is contingent upon available funding in future budgets.)  
**The motion authorizing the negotiation and execution of an Interlocal Agreement was approved.**
7. Approve execution of 12-month contracts for HIV-related housing services under the U.S. Department of Housing and Urban Development (HUD) Housing Opportunities for Persons with AIDS (HOPWA) grant with AIDS SERVICES OF AUSTIN, in an amount not to exceed \$683,105, and PROJECT TRANSITIONS, INC., in an amount not to exceed \$275,255, for a total amount not to exceed \$958,360. (Funding is available in the Fiscal Year 2003-2004 Approved Operating Budget of the Health and Human Services Department Special Revenue Fund, HOPWA-HUD grant.) (Austin Area Comprehensive HIV Planning Council reviewed HOPWA funding to be used for purchase of these services.)  
**The motion authorizing the execution of contracts for HIV related housing services was approved.**
8. Approve an ordinance authorizing acceptance of \$50,000 in grant funds from the U.S. Department of Health and Human Services, Public Health Service, Demonstration Project for the Medical Reserve Corps (MRC) grant program; and amending Ordinance No. 030909-01, the approved Fiscal Year 2003-2004 Operating Budget, Health and Human Services Special Revenue Fund, by appropriating \$50,000 in grant funds and authorizing one (1) full-time equivalent (FTE) position. (Funding is available from the U.S. Department of Health and Human Services, Public Health Service, Demonstration Project for the Medical Reserve Corps (MRC) grant program. The grant period is September 30, 2003 through September 29, 2004. No city match is required.)  
**Ordinance No. 031204-8 was approved.**

9. Approve a recodification ordinance repealing and replacing Title 2 of the City Code relating to administration; amending Section 25-12-153 of the Code; repealing Chapters 5-10, 5-11, 5-12, and 5-13 of the Code; readopting offenses; and providing penalties.  
**Ordinance No. 031204-9 was approved.**
10. Approve a recodification ordinance adopting a new Title 5 of the City Code relating to Taxation; renumbering Chapters 5-1, 5-2, 5-7, and 5-8; repealing chapters 5-3, 5-4, 5-5, 5-6, 5-9, and 5-10; readopting offenses; and providing penalties.  
**Ordinance No. 031204-10 was approved.**
11. Approve a recodification ordinance repealing Title 12 of the Code relating to Public Health.(Related Item 14)  
**Ordinance No. 031204-11 was approved.**
12. Approve a recodification ordinance repealing and replacing Title 15 of the Code relating to streets and use of public property; repealing Chapters 8-15, 8-16, and 16-10 of the Code, readopting offenses; and providing penalties.  
**Ordinance No. 031204-12 was approved.**
13. Approve a recodification ordinance adopting a new Title 16 of the Code relating to traffic regulations; renumbering Chapter 16-7; readopting offenses; and providing penalties.  
**Ordinance No. 031204-13 was approved.**
14. Approve a recodification ordinance repealing and replacing Title 18 of the Code relating to utility services; repealing Chapters 12-3 and 12-4 of the Code; readopting offenses; and providing penalties.(Related Item 11)  
**Ordinance No. 031204-14 was approved.**
15. Authorize acceptance of \$280,000 in grant funds from the U.S. Department of Health and Human Services for continuing and enhancing a Metro Medical Response System (MMRS); amend Ordinance No. 030909-01, the Fiscal Year 2003-2004 Operating Budget, Special Revenue Fund by appropriating \$280,000 in grant funds to the Management Services Department Special Revenue Fund for the Office of Emergency Management. (Funding is available from the U.S. Department of Health and Human Services. The grant period is September 30, 2003 - August 31, 2003. No City match is required.)  
**The motion authorizing the acceptance of \$280,000 in grant funds and approval of Ordinance No. 031204-15 was approved.**
16. Approve execution of a contract with RIATA ENTERPRISES, Austin, TX, for construction of accessibility improvements for Fiesta Gardens and Fiesta Gardens West, in an amount not to exceed \$108,670. (Funding is available in the Fiscal Year 2003-2004 Approved Capital Budget of the Parks and Recreation Department.) Lowest bid of three received. 19.99 % MBE and 2.53 % WBE subcontractor participation.  
**The motion authorizing the execution of a contract was approved.**

17. Approve a resolution authorizing the application to the State of Texas, Governor's Office, Criminal Justice Division, Victims of Crime Act program in the amount of \$310,750 in renewal grant funding for the Austin Police Department for ten full-time equivalent (FTE) Victim Counselors for a "Comprehensive Victim Services Program". (Funding is available from the State of Texas, Governor's Office, Criminal Justice Division for the grant period July 1, 2004 – June 30, 2005. An in-kind match of \$177,256 is required, and will be met with additional salary funding for the grant-FTE positions. The match can be found in the approved Fiscal Year 2003-2004 Operating Budget of the Austin Police Department, Victim Services Program, and additional funds will be proposed in the Fiscal Year 2004-2005 Operating Budget of the Austin Police Department, Victim Services Program.)

**Resolution No. 031204-17 was approved.**

18. Approve an ordinance vacating a 0.672 acre portion of the 600 block of River Street and a 0.350 acre portion of the 600 block of Red River Street to the City of Austin to be used for the Mexican American Cultural Center. (Recommended by the Zoning & Platting Commission; Recommended by Urban Transportation Commission.)

**Ordinance No. 031204-18 was approved.**

19. Authorize negotiation and execution of an amendment to the professional services agreement with AGUIRRE CORPORATION, Dallas, TX; ARCHITECTURAL PLUS (WBE/FR), Austin, TX; ELLIOTT & HAMILL ARCHITECTS, INC., Austin, TX; GRAEBER, SIMMONS & COWAN, INC., Austin, TX; LAWRENCE GROUP ARCHITECTS, INC., Austin, TX; LIMBACKER & GODFREY ARCHITECTS (WBE/FR), Austin, TX; SMITH + MORTON & MACKEY ARCHITECTURE, Austin, TX; TEAM HAAS (WBE/FR), Austin, TX; and WHITE, DOLCE & BARR ARCHITECTS, Austin, TX for architectural services for the General Architectural Services Rotation List, in the amount of \$900,000 for a total contract amount not to exceed \$5,400,000. (Funding in the amount of \$900,000 is available in the Capital budgets and/or operating budgets of the various departments for which services are needed.) 15.53% MBE and 20.3% WBE subconsultant participation to date for all firms.

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

**Items 20 and 21 were pulled for discussion.**

22. Authorize execution of a contract with ROADWAY SPECIALTIES, INC., Austin, TX for the purchase and installation of chain link security and wildlife barrier fences for the Austin Water Utility's Ullrich Water Treatment Plant in an amount not to exceed \$149,450. (Funding is available in the Fiscal Year 2002-2003 Amended Capital Budget for the Austin Water Utility.) Lowest bid of five 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.**

23. Authorize execution of an interlocal agreement with TARRANT COUNTY, TEXAS to establish a cooperative purchasing agreement that will authorize Tarrant County to purchase reversible raincoats based on the City's supply contract with Miller Uniforms and Emblems Inc.

**The motion authorizing the execution of an interlocal agreement was approved.**

24. Approve negotiation and execution of a 12-month service agreement with TOWERS PERRIN, Austin, TX for actuarial and benefit consulting services for the Human Resources Department in an amount not to exceed \$369,000, with three 12-month extension options in an amount not to exceed \$369,000 per extension option, for a total agreement amount not to exceed \$1,476,000. (Funding in the amount of \$276,750 is available in the Fiscal Year 2003-2004 Approved Operating Budget for the Employees Benefits Fund of the Human Resources 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.**

**Item 25 was pulled for discussion.**

26. Approve an ordinance adopting the First Amendment to the Strategic Partnership Agreement between the City of Austin and Anderson Mill Municipal Utility District (approximately 1105 acres northwest of the intersection of Anderson Mill Road and US 183). (Recommended by Water and Wastewater Commission.)

**Ordinance No. 031204-26 was approved.**

27. Approve an ordinance for the full purpose annexation of the Brandt Road Industrial Park (Approximately 31 acres in Travis County south of Brandt Road approximately one quarter of a mile east of the intersection of IH 35 and Brandt Road); waive zoning application fees for property within the annexed area for a period of one year from the effective date of annexation; 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. (Funding necessary to provide general governmental services to this tract is available in the budgets of the department that will be providing the services.)

**Ordinance No. 031204-27 was approved.**

28. Approve an ordinance for the full purpose annexation of the Chappell Hill area (Approximately 27 acres in Travis County southeast of the intersection of Chappell Lane and Mayo Street); grant SF 4A interim zoning designation for the Chappell Hill subdivision (C8J-03-0068.1A); waive zoning application fees for property within the annexed area for a period of one year from the effective date of annexation; 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. (Funding necessary to provide general governmental services to this tract is available in the budgets of the departments that will be providing the services.)

**Ordinance No. 031204-28 was approved.**

29. Approve an ordinance for the full purpose annexation of the Clayton's Crossing area (Approximately 5 acres in Travis County south of the intersection of Fittonia Drive and Yaupon Drive); grant SF2 interim zoning designation for lots 7-21 of the Clayton's Crossing subdivision (C8J-00-2239.1A); waive zoning application fees for property within the annexed area for a period of one year from the effective date of annexation; 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. (Funding necessary to provide general governmental services to this tract is available in the budgets of the departments that will be providing the services.)

**Ordinance No. 031204-29 was approved.**

30. Approve a resolution amending the City's Municipal Annexation Plan to include the Pearce Lane Ross Road annexation area and to remove the Anderson Mill Road annexation area that was included December 31, 2001. (Including an area in the Municipal Annexation Plan does not create an obligation to annex an area and does not have a fiscal impact.)  
**Resolution No. 031204-30 was approved.**
31. Approve the negotiation and execution of a grant Agreement with the Environmental Protection Agency for Urban Heat Island Comprehensive Outreach Program Assistance in an amount not to exceed \$4,500. (The amount of \$4,500 in federal grant funds is available from the Environmental Protection Agency.) (Grant funding of \$4,500 was appropriated in the Fiscal Year 2003-2004 Approved Operating Budget of the Transportation, Planning & Sustainability Department. No City match is required.)  
**The motion authorizing the negotiation and execution of an Interlocal Agreement was approved.**

**Item 32 was pulled for discussion.**

33. Approve an ordinance clarifying regulations applicable to development in the Northtown Municipal Utility District located generally east of the intersection of IH-35 and Howard Lane in the Desired Development Zone.  
**Ordinance No. 031204-33 was approved.**

34. Board and Commission Appointments  
**The following appointments were made:**

<b>Board/ Appointee</b>	<b>Consensus/ Council Nominee</b>	<b>Appointment/ Reappointment</b>
<u>Child Care Council</u> Jodi Leach	Council Member Dunkerley's	Appointment
<u>Electrical Board</u> Robert Schmidt	Council Member Alvarez'	Reappointment
<u>Mechanical, Plumbing &amp; Solar Board</u> Stephen Cox	Consensus	Appointment
<u>Medical Assistance Program and Rural Medical Assistance Program Joint Advisory Board</u> Trish O'Day	Consensus	Reappointment
<u>Music Commission</u> David Glassco Lisa Schickel	Mayor Wynn's Council Member McCracken's	Reappointment Appointment

35. Approve waiver of \$1500 in street closure permit fees under Chapter 15-11 of the Code for the American Lung Association of Texas' Asthma Walk to be held on March 27, 2004. (Council Member Betty Dunkerley and Council Member Brewster McCracken)  
**The motion authorizing the waiver of street closure permit fees was approved.**

36. Approve waiver of \$1859 in street closure permit fees under Chapter 15-11 of the Code for the Southwest Key Program, Inc., Go for the Gold 10K Race to be held on March 6, 2004. (Council Member Betty Dunkerley and Mayor Pro Tem Jackie Goodman, and Council Member Raul Alvarez)

**The motion authorizing the waiver of street closure permit fees was approved.**

37. Approve an ordinance waiving signature requirements under Chapter 15-11 of the Code for the Motorola Mini-Moto 5K and Marathon to be held respectively on February 14, 2004 and February 15, 2004. (Mayor Will Wynn and Council Member Betty Dunkerley)

**Ordinance No. 031204-37 was approved.**

38. Approve waiver of the application fee, sound amplification fee, safety inspection fee, and the permit fee under Chapter 15-11 of the Code, and authorize payment of barricade costs in an amount not to exceed \$600, for the Candlelight Holiday at the Governor's Mansion to be held on December 26 and 27, 2003 from 6:00 p.m. until 9:00 p.m. (Council Member Betty Dunkerley, Mayor Will Wynn and Council Member Brewster McCracken)

**The motion authorizing the waiver of the application fee, sound amplification fee, safety inspection fee and the permit fee was approved.**

**Item 39 was set for a 7:00 p.m. time certain.**

40. Approve waiver of banner hanging fees under Chapter 25-10-171 of the Code in an amount not to exceed \$325.00 for the South First Street Christmas Event to be held on December 4, 5, 6 and 7, 2003. (Council Member Betty Dunkerley and Mayor Pro Tem Jackie Goodman)

**The motion authorizing the waiver of banner hanging fees was approved.**

41. Set a public hearing regarding an amendment to the Central East Austin Neighborhood Plan, an element of the Austin Tomorrow Comprehensive Plan, for property located at 2017 & 2101 E. 8<sup>th</sup> Street. (Suggested date and time: January 8, 2004 at 6:00 p.m., Lower Colorado River Authority, Hancock Building.) (The Planning Commission hearing date is not scheduled at this time.)

**The public hearing was set for January 8, 2004 at 6:00 p.m., Lower Colorado River Authority, Hancock Building.**

42. Set a public hearing to receive public comments regarding changes to the City of Austin Neighborhood Housing and Community Development Office Citizen Participation Plan that outlines opportunities for citizen input on documents and actions relating to four entitlement grants: Community Development Block grant, Housing Opportunities for People with AIDS, Emergency Shelter Grant, and HOME Investment Partnerships (Suggested date and time: December 11, 2003 at 6:00 p.m., Lower Colorado River Authority, Hancock Building)

**The public hearing was set for December 11, 2003 at 6:00 p.m., Lower Colorado River Authority, Hancock Building.**

43. Set a public hearing regarding an amendment to the Central East Austin Neighborhood Plan, an element of the Austin Tomorrow Comprehensive Plan, to create a sub-district called Blackshear/Prospect, to remove Secondary apartment and Urban Home special use options. The attached map illustrates the area (6, 7, & 8) to be known as the Blackshear/Prospect Hill sub-district. (Suggested date and time: January 8, 2004 at 6:00 p.m., Lower Colorado River Authority, Hancock Building.) (Planning Commission hearing is not scheduled at this time.)

**The public hearing was set for January 8, 2004 at 6:00 p.m., Lower Colorado River Authority, Hancock Building.**

Items 44 through 49 were Executive Session items.

Item 50 and Z-1 to Z-8 were Zoning items set for 4:00 p.m.

Items 51 through 58 were public hearings set for 6:00 P.M.

### **DISCUSSION ITEMS**

20. Authorize negotiation and execution of an amendment to the professional services agreement with TBG PARTNERS, INC., Austin, TX, for modifications to Riverside Drive for the Town Lake Park development plan, and contract preparation for Town Lake Park Phase II, in the amount of \$290,000, for a total contract amount not to exceed \$1,424,312. (Funding in the amount of \$290,000 is available in the Fiscal Year 2002-2003 Capital Budget of the Parks & Recreation Department.) 11.3% MBE and 9.8% WBE subconsultant participation to date. (Reviewed by Parks & Recreation Board.)  
**The motion authorizing the negotiation and execution of an amendment to the professional services agreement was approved on Mayor Pro Tem Goodman's motion, Council Member Alvarez' second on a 7-0 vote.**
21. Authorize negotiation and execution of an amendment to the professional services agreement with EARTHTECH, INC., Austin, TX, for Program Management Services for the Austin Clean Water Program (ACWP) for calendar year 2004, in the amount of \$4,397,489 for a total contract amount not to exceed \$12,576,755. (Funding in the amount of \$4,397,489 is included in the Fiscal Year 2003-2004 Capital Budget of the Austin Water Utility.) 20.99 % MBE and 15.60 % WBE subcontractor participation to date.  
**The motion authorizing the negotiation and execution of an amendment to the professional services agreement was approved on Council Member Slusher's motion, Council Member Thomas' second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.**
32. 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).  
**This item was postponed to December 11, 2003 on Council Member Slusher's motion, Mayor Wynn's second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.**

**Mayor Wynn recessed the Council Meeting to go into Executive Session at 11:38 a.m.**

### **EXECUTIVE SESSION**

**The City Council went into Executive Session, pursuant to Chapter 551 of the Texas Government Code, to receive advice from Legal Counsel, to discuss matters of land acquisition, litigation, and personnel matters as specifically listed on this agenda and to receive advice from Legal Counsel regarding any other item on this agenda.**

#### **Private Consultation with Attorney - Section 551.071**

44. Discuss legal issues relating to the labor negotiations for a Meet and Confer contract with the Austin Police Association.



Items 45 through 49 were discussed later in Executive Session.

Executive Session ended and Mayor Wynn called the Council Meeting back to order at 12:33 p.m.

**CITIZEN COMMUNICATIONS: GENERAL**

Robert Singleton - Leasing Mueller

Mary Lehmann - Leasing Mueller

Jennifer Gale - Pre-holiday excitement over the wording for the petition on voter choice. **She was not present when her name was called.**

Gavino Fernandez, Jr. - Reinstate Police Activity League (P.A.L.). Establish Police Youth Clubs at all Area High Schools. Remove Police negative attitude toward East Austin Community. **He was not present when his name was called.**

Paul Hernandez - Give Subpoena Power to Police Monitor Office. **He was not present when his name was called.**

Richard Troxell - Homelessness in Austin

Mayor Wynn recessed the Council Meeting to go into and Session at 12:46 p.m.

**EXECUTIVE SESSION CONTINUED**

45. Discuss legal issues related to *F.L. Vivion, et al. v. City of Austin*, Cause Number GN 103302, in the 261<sup>st</sup> Judicial District Court of Travis County, Texas. (Concerns the City's transportation user fee and drainage fee)
46. Discuss legal issues related to Chapter 5-7 of the City Code, the Minority-Owned and Women-Owned Business Enterprise Procurement Program. (Related Item 25)
49. Discuss legal issues related to *Lowe's Home Centers, Inc. v. City of Austin*; Cause No. GN300629, in the 98<sup>th</sup> Judicial District Court of Travis County, Texas (concerning development of the Lowe's tract, approximately 31 acres located at the Northwest corner of Brodie Lane and Allegro Lugar, in the Barton Springs Zone). (Related Item 39)

Executive Session ended and Mayor Wynn called the Council Meeting back to order at 4:20 p.m.

**DISCUSSION ITEMS CONTINUED**

25. Approve an ordinance amending Chapter 5-7 of the City Code, the City's Minority-Owned and Women-Owned Business Enterprise (MBE/WBE) Procurement Program. (Approved by the MBE/WBE Advisory Committee and presented to the MBE/WBE Council Subcommittee.) (Related Item 46)  
**Ordinance No. 031204-25 was approved on Council Member Thomas' motion, Council Member Alvarez' second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.**

**ZONING ITEMS**

50. 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.

**This item was postponed to December 11, 2003 per the neighborhood association's request on Council Member Slusher's motion, Council Member Alvarez' second on a 6-0 vote. Mayor Pro Tem Goodman was off the dais.**

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

**Item Z-1 was pulled for discussion.**

- Z-2 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.

**This item was postponed to December 11, 2003 at staff's request.**

- Z-3 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.

**This item was postponed to December 11, 2003 at staff's request.**

- Z-1 Conduct a public hearing and consider an ordinance to amend the East César Chávez Neighborhood Plan, an element of the Austin Tomorrow Comprehensive Plan, to change the use designation on the future land use map from single-family to commercial for the property located at 1001 E 3rd St. (Not recommended by Planning Commission.)

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

**The motion to deny the ordinance was approved on Council Member Alvarez' motion, Council Member Thomas' second on a 7-0 vote.**

- Z-8 C14-03-0112 - Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 1001 East 3<sup>rd</sup> Street (Town Lake Watershed) from family residence-neighborhood plan (SF-3-NP) combining district zoning to community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning. Planning Commission Recommendation: To deny community commercial-mixed use-conditional overlay-neighborhood plan (GR-MU-CO-NP) combining district zoning. Applicant: Adam Reavis. Agent: Adam Reavis. City Staff: Annick Beaudet, 974-2975 (Related Item 43)

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

**The motion to deny the ordinance was approved on Council Member Alvarez' motion, Council Member Slusher's second on a 7-0 vote.**

**Mayor Wynn recessed the Council Meeting to go into Executive Session at 5:10 p.m.**

**EXECUTIVE SESSION CONTINUED**

47. Discuss legal issues concerning development of the tract located at 11570 Research Boulevard (Rudy's Country Store and Bar-B-Q).

**LIVE MUSIC**

Michael Fracasso

**PROCLAMATIONS**

Certificate of Appreciation - McGraw Hill Construction/Dodge - to be presented by Mayor Will Wynn and to be accepted by Mike Menho

Certificate of Congratulations - Volunteer of the Month for December - to be presented by Council Member Brewster McCracken and to be accepted by the honoree

Honorary Citizen Certificates - Sichuan Delegation - to be presented by Mayor Will Wynn and Mayor Pro Tem Jackie Goodman and to be accepted by the honorees

**Executive Session ended and Mayor Pro Tem Goodman called the Council Meeting back to order at 6:16 p.m.**

**DISCUSSION ITEMS CONTINUED**

4. Amend Ordinance No. 030909-01, the Fiscal Year 2003-2004 Operating Budget for Economic Growth and Redevelopment Services Office Special Revenue Fund to adopt a budget for the Austin Downtown Public Improvement District (PID), with a beginning balance of \$342,153, Revenue of \$1,448,569 and Requirements of \$1,348,569. (Funding is available through \$1,207,396 in 2004 assessments (at a 96% collection rate); \$54,203 from higher collections in 2003, \$36,970 from interest accrued in the PID account and late payments; a \$150,000 annual contribution from the City of Austin (\$75,000 from the 2003-2004 Operating Budget of the Austin Convention Center, and \$37,500 from the 2003-2004 Operating Budget of the Water Utility and \$37,500 from the 2003-2004 Operating Budget of the Wastewater Utility). Revenue adjustments may be made as a result of the assessment roll Public Hearing and Council's action on the assessment roll on December 4, 2003.) (Related Item 52)
- Ordinance No. 031204-4 was approved on Council Member McCracken's motion, Mayor Pro Tem Goodman's second on a 5-0 vote. Mayor Wynn and Council Member Thomas were off the dais.**

**PUBLIC HEARINGS AND POSSIBLE ACTION**

53. Conduct a public hearing and approve an ordinance amending Sections 25-2-840 and 25-5-4 of the City Code relating to Telecommunications Tower Antennae. (Recommended by the Council Committee for Infrastructure, the Planning Commission Codes and Ordinance Committee and the Planning Commission.)
- The public hearing was closed and Ordinance No. 031204-53 was approved on Council Member McCracken's motion, Mayor Pro Tem Goodman's second on a 5-0 vote. Mayor Wynn and Council Member Thomas were off the dais.**
52. Conduct a public hearing and approve an ordinance on the Austin Downtown Public Improvement District (PID) 2004 assessments, adopting the assessment roll and levying assessments. (Funding in the approved 2004 assessment rate of \$0.10/\$100 valuation is estimated to produce \$1,207,396 at a 96% collection rate.) (Related Item 4)
- The public hearing was closed on Council Member McCracken's motion, Council Member Slusher's second on a 5-0 vote. Mayor Wynn and Council Member Thomas were off the dais.**
- Ordinance No. 031204-52 was approved on Council Member McCracken's motion, Mayor Pro Tem Goodman's second on a 5-0 vote. Mayor Wynn and Council Member Thomas were off the dais.**
54. Conduct a public hearing and approve a resolution to approve a Use Agreement with the Austin Independent School District for the temporary, reciprocal use of dedicated parkland known as Kealing Park and Kealing Middle School located on Rosewood Avenue in accordance with Sec. 26.001 et seq. of the Texas Parks and Wildlife Code. (All costs associated with the portables, as well as any parkland restoration will be paid by the Austin Independent School District.) (Recommended by Parks & Recreation Board.)
- The public hearing was closed on Council Member McCracken's motion, Mayor Pro Tem Goodman's second on a 5-0 vote. Mayor Wynn and Council Member Thomas were off the dais.**

**Resolution No. 031204-54 was approved on Council Member McCracken's motion, Mayor Pro Tem Goodman's second on a 5-0 vote. Mayor Wynn and Council Member Thomas were off the dais.**

55. Conduct a public hearing and approve a resolution to approve the use of 0.57 acre for a wastewater line, 6.52 acres for a temporary working space, 0.97 acre for temporary staging and material storage site, and 0.70 acre for a temporary ingress and egress use through dedicated parkland known as Bartholomew Park, located along Upper Tannehill Creek, in accordance with Sec. 26.001 et seq. of the Texas Parks and Wildlife Code. (All costs associated with the line, as well as any parkland restoration will be paid by the Austin Water Utility through a previously approved Capital Improvement Project as part of the Austin Clean Water Program.) (Recommended by Parks & Recreation Board.)

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

**Resolution No. 031204-55 was approved on Council Member McCracken's motion, Mayor Pro Tem Goodman's second on a 5-0 vote. Mayor Wynn and Council Member Thomas were off the dais.**

51. Conduct a Public Hearing to receive public comment regarding the proposed Austin Energy Strategic Plan and consider approval of that plan.

**The public hearing was closed on Mayor Pro Tem Goodman's motion, Council Member Alvarez' second on a 6-0 vote. Council Member Slusher was off the dais.**

**The motion to approve and adopt the proposed Austin Energy Strategic Plan, including the Resource Management Commission's comments that were in the Council's backup (new solar energy goals of 100 megawatts by the year 2020 and the completion of an economic analysis and cost study) was approved with the following friendly amendment on Mayor Pro Tem Goodman's motion, Council Member Slusher's second on a 7-0 vote. Council Member Slusher's friendly amendment was to include a cap on the amount of the conservation rebate that any one applicant could get when the rules and regulations are drafted. This was accepted by the maker of the motion and Council Member Alvarez who made the second.**

56. Conduct a public hearing to receive comments on reduction strategies to attain the 8-hour ozone air quality standard; and approve the draft Early Action Compact and Clean Air Action Plan to be submitted to the Texas Commission on Environmental Quality and Environmental Protection Agency.

**The public hearing was closed and Resolution No. 031204-56 was approved on Council Member Alvarez' motion, Council Member Dunkerley's second on a 5-0 vote. Mayor Pro Tem Goodman and Council Member McCracken were off the dais.**

**DISCUSSION ITEMS CONTINUED**

The motion to waive Council rules and limit the discussion time for those in favor and opposed on item 39 to 30 minutes per side was approved on Council Member Slusher's motion, Council Member McCracken's second on a 7-0 vote.

39. Approve second reading of the settlement of, and set a public hearing 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) (Suggested date and time: December 11, 2003, 6:00 p.m.). (Mayor Pro Tem Jackie Goodman and Council Member Brewster McCracken)

The second reading of the ordinance was approved and the public hearing was set for December 11, 2003 at 6:00 p.m. on Mayor Pro Tem Goodman's motion, Council Member McCracken's second on a 4-3 vote. Those voting aye were: Mayor Wynn, Mayor Pro Tem Goodman, Council Members Dunkerley and McCracken. Those voting nay were: Council Members Alvarez, Slusher and Thomas.

The motion to waive the rules and allow Council to meet after 10 p.m. was approved on Mayor Pro Tem Goodman's motion, Mayor Wynn's second on a 7-0 vote

**PUBLIC HEARINGS AND POSSIBLE ACTION CONTINUED**

57. Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the City Code relating to limitations on retail commercial uses in the Barton Springs Zone. (Recommended by the Planning Commission and the Environmental Board.)

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

Ordinance No. 031204-57 was approved with the following changes presented by staff on Council Member Slusher's motion, Council Member Alvarez' second on a 7-0 vote. The changes were that the ordinance be drafted as a zoning overlay district called the Barton Springs Zone Overlay District. That a purpose statement explaining the Barton Springs Zone Overlay be added. Section B would state this section does not apply to retail use on property that is 1) subject to a settlement agreement adopted by Council before the effective date of this ordinance that prescribes development regulations; 2) zoned as a planned unit development before the effective date of this ordinance; or 3) subject to a site plan approved as a condition of zoning before the effective date of this ordinance. A new subsection G would be added regarding nonconforming uses. Subsections C2 and 3 of Section 25-2-947 of the City Code regarding expansion of nonconforming uses would not apply to a use that exceeds the limitation in subsections D and E as of the effective date of the ordinance.

Mayor Wynn recessed the Council Meeting to go into Executive Session at 10:44 p.m.

**EXECUTIVE SESSION CONTINUED**

48. Discuss legal issues regarding regulations limiting the size of a retail use in the Barton Springs Zone. (Related Item 57)

49.

Executive Session ended and Mayor Wynn called the Council Meeting back to order at 11:52 p.m.

**DISCUSSION ITEMS CONTINUED**

58. Approve an ordinance amending Ordinance No. 031023-41 to extend the interim development regulations prohibiting the issuance of a site plan or building permit for certain retail uses in the Barton Springs Zone. (Council Member Daryl Slusher, Mayor Pro Tem Jackie Goodman, and Council Member Raul Alvarez)

**Ordinance No. 031204-58 to extend the moratorium to 12:01 a.m., December 17, 2003 was approved on an emergency basis on Council Member Slusher's motion; Council Member Alvarez' second on a 7-0 vote.**

**The motion to adjourn the meeting at 12:32 a.m. was approved on Council Member Slusher's motion, Mayor Pro Tem Goodman's second on a 7-0 vote.**

**The minutes for the Regular Meeting of December 4, 2003 were approved on this the 11th day of December, 2003 on Council Member Alvarez' motion, Mayor Wynn's second on a 7-0 vote.**