

**STATE OF TEXAS
COUNTY OF BEXAR
CITY OF SAN ANTONIO**

A WORK SESSION AND REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF SAN ANTONIO WAS HELD IN THE COUNCIL CHAMBERS, MUNICIPAL PLAZA BUILDING, WEDNESDAY, MARCH 18, 2009 AND THURSDAY, MARCH 19, 2009, RESPECTIVELY.

The San Antonio City Council convened in a Work Session at 3:00 pm Wednesday, **March 18, 2009**, Municipal Plaza Building with the following Councilmembers present: Cisneros, McNeil, Ramos, Cortez, Galvan, Herrera, Rodriguez, Cibrian, Rowe, Clamp, and Mayor Hardberger.

1. STAFF BRIEFING AND POSSIBLE ACTION ON THE CITY MANAGER'S RECOMMENDED FY 2010 BUDGET CALENDAR; AND FY 2009 BUDGET UPDATE.

Mr. Zanoni presented the recommended FY 2010 Budget Calendar and noted key dates. He highlighted major events from March through September 17, 2009, the Regular City Council Meeting where the Budget was scheduled for approval. He stated that staff would present the Six Plus Six Report, Mid-Year Adjustments, and Five Year Financial Forecast at the B Session on April 29, 2009. He added that the City Service Ballot for Council Policy Direction would be presented at the June 10, 2009 B Session and that a Special Session for Major Policy Review and Budget Goal Setting would be held on June 24, 2009. Lastly, he outlined the scheduled Council Worksessions.

Mr. Zanoni spoke of employee involvement and noted that the Employee Focus Group would meet in April and May. He reported that over 400 employees from eleven departments had been engaged over the previous three years. He addressed community education and outreach initiatives including the Budget Input Boxes, News Media, Employee Newsletters, and Contact with Neighborhood Leaders. He noted that last year, 750 residents had attended Community Hearings on the Proposed Budget and two Public Hearings on the Ad Valorem Tax Rate.

Councilmember Herrera noted that she had meet with Tax Assessor-Collector Sylvia Romo and learned that more people had paid their taxes in full than in previous years. She asked if this would have any effect on the Budget. Mr. Zanoni replied that it would mean that they would receive revenues sooner and earn more interest. It was noted that there was a 98% collection rate. Ms. Sculley added that the Appraisal Board was hearing and granting more appeals. Councilmember Clamp noted the importance of consistency in presentations between agencies so that it would be easier to analyze and compare information. Councilmember Cibrian complimented staff on the Ballot Process and on the preparation of the Budget.

Ms. Sculley presented a diagram of the FY 2009 Adopted General Fund. She noted that the General Fund totaled \$929,961,935 and that CPS and Sales Tax Revenues represented 52.9% of all Fund Revenues. She presented a series of graphs depicting the decline in sales tax revenues over the past three months compared to the projected amounts and the previous year's actual amounts. She also presented a graph comparing the FY 2009 Budget to the FY 2009 Actual Revenues received from CPS Energy. She stated that due to the trend in revenues, she was instituting a hiring freeze for non-public safety positions. Other exceptions included Grant-Funded Positions, City Auditor Positions, Municipal

Courts Positions, Enterprise Fund Positions, and positions that had been posted to the Job Board by March 17, 2009.

Councilmember Herrera noted that organizations tend to rely on the fact that CPS Revenues were always projected conservatively. She stated that they had decreased and with conservation efforts, would likely fall further in the future. She cautioned the Council on utilizing the Reserves and asked if it would be possible to increase them to 10%. Mr. Zanoni stated that it was too early to determine if the Reserve Fund could be increased, but staff recommendation was not to utilize Reserves.

Councilmember McNeil asked how the current projections compared to the original projections. Ms. Sculley stated that staff estimated that property taxes would be \$3 million less than projected and CPS revenues would be \$15 million less. Mr. Zanoni added that sales tax revenues could be \$9 million under projection. Ms. Sculley stated that the Budget was balanced through September 30, 2009. Councilmember McNeil asked if there was a policy in place to utilize Reserve Funds. Ms. Sculley stated that there had been discussion but no action.

Councilmember Clamp recommended taking a more cautious approach by saving the additional \$22 million until the end of the year. He stated that this could require the Council and staff to reprioritize expenditures. He noted the importance of City-owned entities like SAWS and CPS Energy following the City's lead and reducing unnecessary spending. Councilmember Cibrian concurred that the Council should review the Budget without the \$22 million and that other City entities should follow the City's lead and reducing unnecessary spending. Councilmember Rodriguez requested the Budget projections for the month of March and Mr. Zanoni estimated that sales tax would come in at \$1 million under budget. Councilmember Rodriguez asked if items were scrutinized differently due to the decrease in available funding and Ms. Sculley responded affirmatively.

2. STAFF BRIEFING AND POSSIBLE ACTION REGARDING THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 INCLUDING UPDATES ON AGENCY APPLICATIONS AND GUIDELINES, FUNDING ALLOCATION AMOUNTS FOR SAN ANTONIO, AND OTHER MATTERS RELATED TO THE CITY'S ADOPTED FUNDING STRATEGY PLAN.

Mr. Zanoni stated that a Funding Strategy Plan had been adopted by the Council on March 5, 2008 and that staff would provide weekly updates on funding and grant opportunities, application guidelines, and timelines. He stated that for the Federal Highway Administration (TxDOT/Metropolitan Planning Organization), \$42.9 million was available to the San Antonio-Bexar County MPO. For the COPS Hiring Recovering Program Grant, he noted that applications would be accepted from March 16th through April 14, 2009. He added that there was no cap on the number of positions requested and staff recommendation was 100 Police Officers.

Mr. Zanoni stated that the application and process guidelines for the Byrne Justice Assistance Grant (JAG) had been announced on March 6, 2009. He noted that the first and second priorities were Mobile Computer Replacement and In-Car Video Equipment, respectively. He spoke of the HUD (Community Development Block Grant) Funds and noted that funding for the Nation was \$1 billion and San Antonio would be receiving a confirmed \$3.9 million. He presented a list of projects per district that would receive said funding.

In regard to the US Army Corps of Engineers, Mr. Zanoni noted that San Antonio River Authority (SARA) had met with Corps Officials and they were expected to release funding notification by March 20, 2009. He stated that there would be three rounds of grants for the Broadband Technology Opportunities Program and that the Library and ITSD would lead the City's Application Process.

Mr. Zanoni reported that a Texas House Select Committee on Federal Stabilization Meeting would take place in the City Council Chambers on March 21, 2009 at 10:00 am. He stated that the Metropolitan Planning Organization (MPO) would meet on March 23, 2009 to approve the final project list to be submitted to the Texas Transportation Commission.

Councilmember McNeil asked if the Army Corp of Engineer Funding included Flood Control. Mr. Zanoni stated that funding was allocated for three stretches of River Improvements.

Lastly, Mr. Zanoni provided next steps and a list of emerging Grant opportunities including: 1) National Clean Diesel Funding Assistance Program (EPA); 2) Clean Diesel Emerging Technologies Program (EPA); and 3) Combating Criminal Narcotics Activity Stemming from the Southern Border of the US (DOJ).

There being no further discussion, Mayor Hardberger adjourned the meeting at 4:40 pm.

The San Antonio City Council convened in a Regular Meeting on Thursday, **March 19, 2009** at 9:00 am in the City Council Chambers.

Item 1. The Invocation was delivered by Father Jim Rutkowski, Pastor, Mission Concepcion Church, guest of Councilmember Jennifer Ramos, District 3.

Item 2. Mayor Hardberger led the Pledge of Allegiance to the Flag of the United States.

City Clerk, Leticia M. Vacek, took the Roll Call and noted a quorum of the Council with the following present: Cisneros, McNeil, Ramos, Cortez, Galvan, Herrera, Rodriguez, Cibrian, Rowe, Clamp, and Mayor Hardberger.

Item 3. MINUTES

Councilmember Herrera made a motion to approve the Minutes for the March 5, 2009 Regular City Council Meeting. Councilmember Ramos seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, McNeil, Ramos, Cortez, Herrera, Rodriguez, Cibrian, Rowe, and Mayor Hardberger. **NAY:** None. **ABSENT:** Galvan and Clamp.

ITEMS FOR INDIVIDUAL CONSIDERATION

The City Clerk read the following Resolution for Items 4A and 4B:

2009-03-19-0007R

Item 4. A RESOLUTION CONFIRMING THE NOMINATION BY THE CITY PUBLIC SERVICE (CPS) ENERGY BOARD OF TRUSTEES:

- A. APPOINTING DR. HOMER GUEVARA, JR. (SOUTHWEST QUADRANT) AS TRUSTEE OF THE CPS ENERGY BOARD FOR THE REMAINDER OF AN UNEXPIRED TERM OF OFFICE TO EXPIRE JANUARY 31, 2014.
- B. APPOINTING DR. HOMER GUEVARA, JR. (SOUTHWEST QUADRANT) AND REAPPOINTING AURORA O. GEIS (NORTHWEST QUADRANT), STEPHEN S. HENNIGAN (NORTHEAST QUADRANT), DERRICK HOWARD (SOUTHEAST QUADRANT), PHIL HARDBERGER (CITY OF SAN ANTONIO MAYOR), MILTON B. LEE (CPS ENERGY GENERAL MANAGER AND CEO), AND PAULA GOLD-WILLIAMS (CPS ENERGY CHIEF FINANCIAL OFFICER) TO THE SA ENERGY ACQUISITION PUBLIC FACILITY CORPORATION BOARD OF DIRECTORS FOR THE REMAINDER OF UNEXPIRED TERMS OF OFFICE TO EXPIRE JANUARY 31, 2011.

Councilmember Cortez recognized Dr. Homer Guevara, Jr. and asked him to provide information about himself and his qualifications for serving on the CPS Energy Board of Trustees. Dr. Guevara thanked his wife and the CPS Energy Board for their support and recognized Mr. Alvaro Sanchez for his many years of service. He stated that he had a passion for representing the Southwest Quadrant and understood the hardships facing the community. He noted that he would like to assist the Board in establishing goals and criteria, as well as a targeted strategy for a sound energy plan.

Councilmember Cortez asked of the diversification of energy sources and renewable energy. Councilmember Cortez expressed support for Dr. Guevara's appointment and recognized Alvaro Sanchez for his ten years of service to the Board. Councilmember McNeil expressed support for the appointment but concern with recent leadership activity at CPS Energy. Ms. Aurora Geis, Chair of the CPS Energy Board of Trustees, stated that she understood the concerns and would work to address them. Councilmember McNeil requested that the Council recess into Executive Session and Mayor Hardberger replied that he did not feel that an Executive Session was necessary. He added that the only item for discussion was the Board Appointment. Councilmember McNeil asked that the Council be kept informed of any major leadership decisions at CPS Energy in the future.

Councilmember Herrera thanked Dr. Guevara for his willingness to serve and asked if he was able to meet the time commitment. Dr. Guevara stated that he could and noted that his wife and employer fully supported him. Councilmember Cibrian expressed support for Dr. Guevara's appointment and stressed the importance of conservation and renewable energy. She recognized Mr. Sanchez and Milton Lee for their service to CPS Energy. Councilmember Ramos thanked Dr. Guevara for his willingness to serve. Councilmember Rodriguez stated that he was supportive of Dr. Guevara's appointment to the CPS Board but expressed concern with the process of CPS Energy Board Appointments. He requested that the City Council have more input earlier on in the Board Appointment Process. Mr. Michael Bernard stated that the process was set out in a bond covenant and explained that the Council could either accept or reject the nomination.

Councilmember Clamp stated that he was in support of Dr. Guevara's appointment but also expressed concern with the lack of communication with CPS Energy. He concurred that the City Council should have input early on in the appointment process. Councilmember Rowe also expressed support for Dr. Guevara's nomination but concurred regarding prior input on the appointment process. Councilmember McNeil asked that an Executive Session be scheduled to discuss succession planning at CPS Energy. Councilmember Clamp thanked Mr. Sanchez for his many years of service. Councilmember Herrera

also recognized Mr. Sanchez for his service to the CPS Energy Board of Trustees. Councilmember Cisneros thanked Mr. Sanchez and expressed support for Dr. Guevara's appointment.

Rhett Smith asked that the community have input in the CPS Board appointment process and that there is diversity in the representation.

Antonio Diaz also requested that the community have input in the CPS Energy Board appointment process.

Jack M. Finger expressed concern with the CPS Energy rate increases and the Funston Place street closure relative to Item 7.

Alvaro Sanchez spoke of the appointment process for CPS Board Members and noted that Dr. Guevara had been selected from a very qualified pool of candidates. He stated that Dr. Guevara possessed excellent qualifications and would be a great asset to the CPS Energy Board of Trustees.

Mayor Hardberger stated that it had been a pleasure to serve alongside Mr. Sanchez and thanked him for his years of service. He also expressed support for Dr. Guevara's appointment to the CPS Energy Board of Trustees.

Councilmember Cortez moved to approve the Resolution for Items 4A and 4B. Councilmember Cibrian seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, McNeil, Ramos, Cortez, Herrera, Rodriguez, Cibrian, Rowe, Clamp, and Mayor Hardberger. **NAY:** None. **ABSENT:** Galvan.

The City Clerk read the following related to Item 5:

Item 5. CONSIDERATION OF THE FOLLOWING RELATED TO THE SAN ANTONIO RIVER IMPROVEMENTS PROJECT (SARIP):

A. BRIEFING BY THE SAN ANTONIO RIVER AUTHORITY.

ITEM PULLED BY STAFF

B. PUBLIC HEARING AND CONSIDERATION OF AN ORDINANCE ACKNOWLEDGING THE EWING HALSELL FOUNDATION FOR ITS \$1 MILLION CONTRIBUTION TO THE SARIP, BY PROVIDING SIGNAGE AT THE PEDESTRIAN BRIDGE LOCATED AT ROY SMITH STREET AND THE SAN ANTONIO RIVER.

ITEM PULLED BY STAFF

C. PUBLIC HEARING AND CONSIDERATION OF AN ORDINANCE ACKNOWLEDGING RIO PERLA PROPERTIES LP FOR ITS \$3 MILLION CONTRIBUTION TO THE SARIP, BY PROVIDING SIGNAGE AT THE GROTTA LOCATED AT NEWELL AND THE SAN ANTONIO RIVER.

Suzanne Scott presented a status report of the San Antonio River Improvements Project. She reported that as of February 28, 2009, Zachry Construction had completed 86% of the Museum Reach Urban Segment and was on schedule for final completion in May, 2009. She presented photos of various areas

of the River Project and spoke of the Park Segment Concept. She stated that a trail connection would be constructed from the San Antonio River Tunnel Inlet under Highway 281 to Avenue B beginning in April with completion in May. She added that the remaining trails and improvements would be completed in 2011.

Ms. Scott spoke of the Mission Reach Project and noted that the schedule could be accelerated if Stimulus Funding was received. She reported that FY 2009 Federal Appropriations totaled \$10 million for the Mission Reach Project and a funding decision by the Corps of Engineers was pending.

Ms. Sculley thanked Ms. Scott for her leadership and noted that they met on a monthly basis along with Bexar County to discuss the schedule and budget of the Museum Reach. She recognized Lori Houston from the City Manager's Office for her work on the River Project. Ms. Houston stated that it had been a great partnership and an excellent project. She invited all to the Grand Opening on May 30, 2009.

Councilmember Ramos also thanked Ms. Scott for her work on the River Project and asked of the water portal that was originally at Padre Park. Ms. Scott stated that they were coordinating with Bexar County on the location of the portal but it would be placed in Mission County Park as requested. Councilmember Cibrian recognized Mayor Hardberger for his efforts on the San Antonio River Project. She requested information on the artist, Cortez. Ms. Scott stated that she would provide that. Councilmember Rowe expressed support and thanked all for their work on the project.

No action was required on Item 5A.

At this time, Mayor Hardberger addressed Item 7.

The City Clerk read the following Ordinance:

2009-03-19-0196

Item 7. PUBLIC HEARING AND CONSIDERATION OF AN ORDINANCE AUTHORIZING THE CLOSURE OF AN IMPROVED PORTION OF FUNSTON PLACE LOCATED BETWEEN N. NEW BRAUNFELS AVENUE AND OLD AUSTIN ROAD, LOCATED IN COUNCIL DISTRICT 9, AS REQUESTED BY THE SAN ANTONIO BOTANICAL SOCIETY, FOR A FEE OF \$192.00.

George Rodriguez presented that the San Antonio Botanical Society had requested the closure of an improved portion of Funston Place located between North New Braunfels Avenue and Old Austin Road. He noted that the closure would protect the Lucile Halsell Conservatory from further vandalism by creating a buffer zone. Additionally, the proposed closure would compliment further Master Planning and significantly diminish traffic. Fort Sam Houston and the Mahncke Park Neighborhood Association were in support of the closure and the project had been approved by relative City Departments and Utility Agencies.

Claire Alexander, Chair of the San Antonio Botanical Society, spoke in support of said item. She stated that she was pleased with the public-private partnership that had existed for over 30 years. She explained that said project had taken 18 years to complete. Lastly, she noted that they would like to grow the footprint of the Botanical Garden and thanked everyone that worked on the project.

Councilmember Rowe thanked Ms. Alexander for her leadership. He explained that the road was in a low-traffic area and the closure would have a minimal impact.

Councilmember Rowe moved to adopt the proposed Ordinance. Councilmember Cisneros seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, McNeil, Ramos, Cortez, Herrera, Rodriguez, Cibrian, Rowe, Clamp, and Mayor Hardbergcr. **NAY:** None. **ABSENT:** Galvan.

POINT OF PERSONAL PRIVILEGE

Councilmember Cibrian welcomed Former Councilmember and Bexar County Commissioner Kevin Wolff and thanked him for attending.

County Commissioner Wolff spoke in support of Item 21 and stated that he was typically against spending money but was in favor of said item due to its return on investment for the City of San Antonio. He stated that the Base Realignment and Closure (BRAC) was vitally important to San Antonio due to its huge economic impact. He spoke of the 12,000 jobs that BRAC would create and the importance of educating the community.

Councilmember McNeil thanked Commissioner Wolff for being in attendance and recognized him for serving on the Military Transformation Task Force.

The City Clerk read the following related to Item 6:

Item 6. BRIEFING AND POSSIBLE ACTION ON LEGISLATION FILED IN THE STATE AND FEDERAL LEGISLATIVE SESSIONS AND POTENTIAL AMENDMENTS TO THE CITY'S LEGISLATIVE PROGRAMS.

Carlos Contreras provided a status report on the State Legislative Initiatives. He reported that March 13, 2009 was the last day to file state-wide bills and more than 7,100 had been filed. He stated that Senator Van de Putte had filed several bills regarding the Military Installation Protection Act and spoke of the Transportation Bills filed by Senators Carona and Wentworth. He discussed the Graffiti Bills filed by Representatives Martinez Fischer, Walle and Kent. He noted that Representative Farias had filed House Bill 1065 regarding the Fire Department "Engineer" Designation and Assistant Fire Chief Noel Horan provided testimony in support.

Mr. Contreras reported that Senate Bill 2446 had been filed by Senator Uresti and House Bill 3686 had been filed by Representative McClendon regarding Meet and Confer for Civilian Employees. He said regarding Texas A&M University, Representative Farias filed House Bill 993 and Representative Aycock filed House Bill 1967.

In reference to Federal Legislative Initiatives, Mr. Contreras reported that City Staff would work through the City's Federal Consultants to review federal agency funding guidelines to ensure that San Antonio was fully engaged.

Councilmember Herrera asked of a bill that would increase the age to enter a Fire Department from the current 36 to 45 years of age. Mr. Contreras replied that the bill had not been filed but staff was working with the Lobby Team and the Union. Councilmember Rodriguez asked of Representative Villarreal's Transportation Bill. Mr. Contreras reported that it had been filed but had not been heard at

the Committee Level. Mr. Contreras also reported that Representative McClendon had filed House Bill 4335 regarding the consolidation of VIA and the Regional Mobility Authority (RMA) but had not been set for a Committee Hearing.

Councilmember Ramos asked of the Texas A&M Bill and the fees included in Representative Villarreal's Transportation Bill. Mr. Contreras replied that the Texas A&M Bill was being held by the House and Senate Committees to work out issues but had received support. He also reported that Representative Villarreal was meeting with interested parties and working on information specific to fees. Councilmember McNeil asked if the House and Senate bills on Meet and Confer were identical. Mr. Contreras confirmed that they were. Councilmember Cibrian stressed the importance of the Military Installation Protection Act for the protection of Camp Bullis. Councilmember Clamp requested an update on the Bexar Met Issuc. Mr. Contreras replied that he would follow up on the update.

No action was required on Item 6.

POINT OF PERSONAL PRIVILEGE

Mayor Hardberger recognized City Manager Sculley on a Point of Personal Privilege.

City Manager Sheryl Sculley recognized Rebecca Takahashi, Catherine Mason, Catherine Cummins, Caitlin Morris, and Jordan Munds. All are Graduate Students from her class at the LBJ School of Public Affairs in Austin that were in attendance.

Councilmember Ramos recognized her mother, sister, nephew, and residents of Highland Park, who were present in honor of her birthday today.

EXECUTIVE SESSION

At this time, Mayor Hardberger recessed the Regular Meeting at 12:00 noon to break for lunch and convene in Executive Session at 1:30 pm for the purpose of:

- A. Discuss the CPS Strategic Energy Plan and related legal issues pursuant to Texas Government Code Sections 551.071 (consultation with attorney) and 551.086 (public power utility competitive matters).
- B. Deliberations regarding economic development negotiations, pursuant to Texas Government Code Section 551.087 (economic development). **PULLED BY STAFF**

Mayor Hardberger reconvened the Regular Meeting at 3:05 pm at which time it was noted that the City Council had been briefed on the above-styled matter but took no action.

Councilmember Galvan entered the meeting at this time.

CONSENT AGENDA: Items 8 - 35

Consent Agenda Items 12, 17, 19, 20, 21, 22, 26 and 34 were pulled for Individual Consideration. Councilmember Herrera moved to approve the remaining Consent Agenda Items. Councilmember Cisneros seconded the motion.

Jack M. Finger spoke against Item 19 regarding the Audit Plan stating that the Plan did not include the completion of the Parks Playground Audit from the previous year. He also spoke in opposition to Item 20 noting that Trish DeBerry-Mejia, a candidate for Mayor, was part of the group being recommended. Additionally, He expressed opposition to Item 21 because the Mayor and Councilmembers had received campaign contributions from the company being recommended.

Ms. Vacek read written testimony from Faris Hodge, Jr. in opposition to Item 35. He wrote that he would like three public hearings to be held to discuss the Quiet Zone. He expressed concern that children in the Kenwood Area walk across the railroad tracks every day. He wrote that conductors should blow their horn to make people aware of an oncoming train and not text message or use cell phones when operating a train.

The motion to approve the remaining Consent Agenda Items prevailed by the following vote: **AYES:** Cisneros, McNeil, Ramos, Cortez, Galvan, Herrera, Rodriguez, Cibrian, Rowe, Clamp, and Mayor Hardberger. **NAY:** None. **ABSENT:** None.

2009-03-19-0197

Item 8. AN ORDINANCE ACCEPTING THE FOLLOWING BIDS TO PROVIDE THE CITY WITH THE FOLLOWING COMMODITIES AND SERVICES ON AN ANNUAL CONTRACT BASIS FOR FY 2009 FOR A COMBINED ESTIMATED COST OF \$3,217,990.00, INCLUDING: (A) VALERO MARKETING & SUPPLY COMPANY FOR VEHICLE REFUELING; (B) GT DISTRIBUTORS, INC. FOR NARCOTIC TEST KITS; (C) CASCO, INC. (ITEMS: 1, 2A AND 2B) AND FIRE FIGHTERS TOOL COMPANY (ITEM: 3) FOR FIREFIGHTING FOAM; (D) STONE MOUNTAIN, LTD. FOR MULTIPLE SPEAKER MICROPHONES FOR EMERGENCY PERSONNEL; (E) CARAHSOFT TECHNOLOGY CORPORATION FOR BMC REMEDY SERVICE MANAGEMENT SUITE SOFTWARE LICENSES WITH MAINTENANCE & SUPPORT; AND (F) VION CORPORATION FOR HITACHI EXPANSION AND UPGRADES.

2009-03-19-0198

Item 9. AN ORDINANCE ACCEPTING THE BIDS FROM MARTIN MARIETTA MATERIALS AND VULCAN MATERIALS CO. TO PROVIDE THE PUBLIC WORKS DEPARTMENT WITH READY-MIX CONCRETE FOR A COMBINED ANNUAL ESTIMATED COST OF \$1,200,000.00.

2009-03-19-0199

Item 10. AN ORDINANCE AUTHORIZING A CONTRACT WITH SAP PUBLIC SERVICES, INC., UTILIZING GENERAL SERVICES ADMINISTRATION (GSA) CONTRACT GS-35F-5891H, TO PROVIDE THE INFORMATION TECHNOLOGY SERVICES DEPARTMENT WITH SAP PUBLIC SECTOR ACCOUNTING AND PROCUREMENT SOFTWARE LICENSES FOR A COST OF \$1,200,000.00.

2009-03-19-0200

Item 11. AN ORDINANCE RATIFYING A CONTRACT WITH BELDON ROOFING COMPANY TO PROVIDE EMERGENCY ROOF REPAIRS TO TERMINAL 1 AT SAN ANTONIO INTERNATIONAL AIRPORT FOR A TOTAL COST OF \$126,956.00.

2009-03-19-0202

Item 13. AN ORDINANCE AUTHORIZING A CONSTRUCTION CONTRACT WITH EZ BEL CONSTRUCTION, LLC IN AN AMOUNT UP TO \$1,169,800.08, TO PERFORM CONSTRUCTION WORK FOR THE FY 2009 – FY 2010 INDEFINITE DELIVERY CONTRACT FOR THE TRAFFIC SIGNAL SYSTEMS PROJECT.

2009-03-19-0203

Item 14. AN ORDINANCE CONSENTING TO THE ASSIGNMENT OF THE CONCESSION AGREEMENT FOR RAISING CANE'S CHICKEN FINGERS AT SAN ANTONIO INTERNATIONAL AIRPORT FROM SSP AMERICA TEXAS, INC. TO BRANDED WORKS, INC.

2009-03-19-0204

Item 15. AN ORDINANCE APPROVING THE ASSIGNMENT OF A FARMERS MARKET LEASE AGREEMENT FROM J. DAVID KIRBY D/B/A "FRESH CONCEPTS" TO AURORA LOMAS-SANDOVAL D/B/A "FRESH CONCEPTS", FOR THE USE OF APPROXIMATELY 114 SQUARE FEET IN FARMERS MARKET AREA NUMBER S-15.

2009-03-19-0205

Item 16. AN ORDINANCE AMENDING THE CITY CODE, CHAPTER 2, ARTICLE IX ENTITLED "BOARDS AND COMMISSIONS", BY BROADENING THE APPLICATION OF THE RULES TO MORE CITY-CREATED BOARDS AND COMMISSIONS.

Item 18. CONSIDERATION OF BOARD, COMMISSION AND COMMITTEE APPOINTMENTS, TO BE EFFECTIVE IMMEDIATELY UPON APPOINTMENT:

- A. REAPPOINTING CARROLL SCHUBERT (CATEGORY: BUSINESS COMMUNITY REPRESENTATIVE) TO THE BOARD OF DIRECTORS FOR THE AUSTIN-SAN ANTONIO INTERMUNICIPAL COMMUTER RAIL DISTRICT FOR THE REMAINDER OF AN UNEXPIRED TERM OF OFFICE TO EXPIRE FEBRUARY 1, 2011.

2009-03-19-0206

- B. AN ORDINANCE AMENDING ORDINANCE NO. 2008-12-11-1163, TO ENLARGE THE AIRPORT ADVISORY COMMISSION MEMBERSHIP BY TWO MEMBERS, AND APPOINTING PRISCILLA R. RICHER, KYLE A. GISH, AND SANDEE L. TAYLOR (CATEGORY: AVIATION INDUSTRY); EDWARD A. BENSON, RICHARD KELLEY, MARK TAFOLLA, DONALD R. DAVIE, VERNER EGLIT AND DONNA K SCHNEIDER (CATEGORY: COMMUNITY); MARCO A. BARROS AND MARSHA HENDLER (CATEGORY: TRAVEL AND TOURISM INDUSTRY); JEFF C. MCCONIE, JESSE A. SANCHEZ, LOREN G. WOOD, AND NEIL A. STONE (CATEGORY: BUSINESS COMMUNITY); JIM C. ROWELL (CATEGORY: TAXI CAB INDUSTRY); TODD M. POST (CATEGORY: AIRPORT BUSINESS - LESSEE); GLORIA C. ARRIAGA (CATEGORY: ALAMO AREA COUNCIL OF GOVERNMENTS [AACOG]); AND TOM F. BOWMAN (CATEGORY: FEDERAL AVIATION ADMINISTRATION [FAA]) TO THE AIRPORT ADVISORY COMMISSION FOR ONE AND TWO YEAR TERMS OF OFFICE, WHICH SHALL BE DETERMINED AT THE FIRST MEETING OF THE COMMISSION.

2009-03-19-0211

Item 23. AN ORDINANCE AUTHORIZING THE SETTLEMENT OF A LAWSUIT STYLED *DORA RIOS V. CITY OF SAN ANTONIO*, IN THE 225TH JUDICIAL DISTRICT COURT, BEXAR COUNTY, FOR THE AMOUNT OF \$175,000.00.

2009-03-19-0212

Item 24. AN ORDINANCE AUTHORIZING A REALLOCATION OF FUNDS FROM CORAZON MINISTRIES IN THE AMOUNT OF \$178,909.00 TO CHRISTIAN ASSISTANCE MINISTRY (CAM) AND TO THE SALVATION ARMY, IN AN AMOUNT UP TO \$63,173.00 AND \$115,736.00, RESPECTIVELY, TO PROVIDE HOMELESS SERVICES UNTIL THE OPENING OF THE HAVEN FOR HOPE HOMELESS CAMPUS.

2009-03-19-0213

Item 25. AN ORDINANCE APPROVING REVISIONS TO THE CONVENTION AND VISITORS COMMISSION BYLAWS.

2009-03-19-0215

Item 27. AN ORDINANCE APPROVING THE USE OF COMMUNITY INFRASTRUCTURE AND ECONOMIC DEVELOPMENT (CIED) FUNDS FOR FIVE PROJECTS; AND AUTHORIZING THE EXECUTION OF FIVE 380 GRANT AGREEMENTS TOTALING \$4,498,117.00 ASSOCIATED WITH THE CIED PROJECTS.

2009-03-19-0216

Item 28. AN ORDINANCE AUTHORIZING CERTAIN ACTIONS RELATING TO OUTSTANDING OBLIGATIONS DESIGNATED AS CITY OF SAN ANTONIO, TEXAS WATER SYSTEM SUBORDINATE LIEN REVENUE AND REFUNDING BONDS, SERIES 2003-A AND 2003-B.

2009-03-19-0008R

Item 29. A RESOLUTION ESTABLISHING THE CITY'S INTENTION TO REIMBURSE ITSELF FOR THE PRIOR EXPENDITURE OF FUNDS FROM THE PROCEEDS OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY THE CITY DESIGNATED AS "CITY OF SAN ANTONIO, TEXAS TAX NOTES, SERIES 2009".

2009-03-19-0217

Item 30. AN ORDINANCE APPROVING PROFESSIONAL SERVICES AGREEMENTS WITH ELEVEN LOCAL DENTISTS AND ONE DENTAL HYGIENIST FOR A TWO-YEAR PERIOD BEGINNING APRIL 1, 2009 FOR THE PROVISION OF DENTAL SERVICES FOR THE SAN ANTONIO METROPOLITAN HEALTH DISTRICT.

Item 31. CONSIDERATION OF THE FOLLOWING ORDINANCES RELATING TO THE PURCHASE OF LIABILITY INSURANCE FROM ACE USA INSURANCE COMPANY:

2009-03-19-0218

- A. AN ORDINANCE AUTHORIZING THE PURCHASE OF AIRPORT OWNERS AND OPERATORS LIABILITY INSURANCE FOR A THIRTEEN-MONTH PERIOD BEGINNING MARCH 31, 2009 THROUGH MAY 1, 2010, AT A TOTAL PREMIUM COST OF \$60,217.50.

2009-03-19-0219

- B. AN ORDINANCE AUTHORIZING THE PURCHASE OF AIRCRAFT HULL AND LIABILITY INSURANCE FOR A THIRTEEN-MONTH PERIOD BEGINNING MARCH 31, 2009 THROUGH MAY 1, 2010, AT A TOTAL PREMIUM COST OF \$243,506.56.

2009-03-19-0220

Item 32. AN ORDINANCE AUTHORIZING A CONTRACT WITH THE STATE OF TEXAS DEPARTMENT OF INFORMATION RESOURCES (DIR) FOR SERVICES FROM GARTNER, INC., TO PROVIDE THE INFORMATION TECHNOLOGY SERVICES DEPARTMENT WITH CRM PLANNING AND PROCUREMENT ASSISTANCE FOR A TOTAL COST OF \$312,240.00.

2009-03-19-0221

Item 33. AN ORDINANCE APPROVING AN INTERLOCAL AGREEMENT WITH THE TEXAS TRANSPORTATION INSTITUTE THAT PROVIDES FUEL CONSUMPTION AND EMISSIONS TESTING OF CITY-OWNED COMPRESSED NATURAL GAS (CNG) AND DIESEL-FUELED SOLID WASTE REFUSE COLLECTION VEHICLES AT THE CITY'S NORTHEAST SERVICE CENTER FACILITY.

2009-03-19-0223

Item 35. AN ORDINANCE AUTHORIZING AN INTERLOCAL AGREEMENT WITH THE CITY OF OLMO PARK TO CONDUCT A TRAFFIC STUDY FOR THE PURPOSE OF ESTABLISHING A QUIET ZONE WITHIN THE CITY LIMITS OF SAN ANTONIO.

[CONSENT ITEMS CONCLUDED]

ITEMS PULLED FOR INDIVIDUAL CONSIDERATION

At this time, Mayor Hardberger addressed Item 21.

The City Clerk read the following Ordinance:

DENIED

Item 21. AN ORDINANCE AUTHORIZING A PROFESSIONAL SERVICE AGREEMENT WITH THOMPSON MARKETING IN THE AMOUNT OF \$270,000.00 FOR PUBLIC RELATIONS AND MARKETING SERVICES ASSOCIATED WITH THE RECOMMENDATIONS MADE BY THE 2005 BASE REALIGNMENT AND CLOSURE (BRAC) COMMISSION.

Mr. Pat DiGiovanni stated that said item would authorize a contract with Thompson Marketing to provide the City with a public relations and marketing campaign for BRAC. He reported that the contract with Thompson Marketing would cost \$270,000 and would be funded from the \$2 million secured in the FY 2009 Budget for BRAC. He explained that the primary goals were as follows: 1) Raise awareness of BRAC to the public; 2) Increase the appeal of San Antonio to BRAC relocatees; and 3) Highlight all accomplishments associated with BRAC locally and nationally. He stated that BRAC would provide a \$2.1 billion investment and create 11,200 jobs. He outlined the evaluation process noting that nine proposals had been received. Lastly, he reported the following contract deliverables: 1) Slogan and logo; 2) Bilingual marketing and public relations plan; 3) Literature and direct marketing materials; 4) Print advertising, flyers and posters; 5) English/Spanish television and radio scripts; 6) San Antonio BRAC web pages; 7) Billboard graphics; 8) Short video public service announcement; and 9) Surveys.

Mayor Hardberger called upon those registered to speak.

Mr. Matt Mohr introduced members of the Thompson Marketing Team and expressed support for the staff recommendation. He stated that the campaign would recognize the City's rich military heritage by informing and preparing San Antonio for BRAC.

Ms. Hilda Bustos explained that her role in the project would be to create a message that would help welcome the relocatcees to San Antonio. She spoke of her previous experiences and asked the Council to support said item.

Mr. Frank Burney expressed support for Thompson Marketing and outlined their scoring and overall evaluation. He reported that they had scored higher than all competitors in every category. He stressed the importance of the campaign for both the citizens of San Antonio and the relocatcees to San Antonio.

Mr. Jose Sena spoke in opposition to said item. He stated that the Blue Clover Company was better qualified to perform the work. He recognized employees from the San Antonio Office that were present and spoke of his involvement in the community.

Councilmember Cortez expressed concern with the amount to be spent and the possible duplication of efforts. He explained that he was not opposed to Thompson Marketing or any other firm that submitted a Request for Proposal (RFP). He asked of the purpose and focus of the marketing campaign. Mr. DiGiovanni replied that the focus was to educate residents of San Antonio about BRAC and to provide outreach to relocatcees. Councilmember Cortez expressed concern with spending the amount during the current economic conditions.

Councilmember Cortez moved to deny the proposed Ordinance. Councilmember Rodriguez seconded the motion.

Councilmember McNeil expressed her support for said item and stated that it was an important initiative for San Antonio. She spoke of the huge economic impact to the community and the need for public education of the BRAC Initiative. In response to Councilmember Rowe, Mr. DiGiovanni reported that the Military would be invited to work with the Committee responsible for oversight of the marketing campaign. Councilmember Rowe asked if the contract amount included media and Mr. DiGiovanni stated that it did not.

Councilmember Herrera noted that funds for BRAC had been allocated in the FY 2009 Budget. She asked Mr. Mohr to speak on his understanding of the project. Mr. Mohr stated that the project was about 12,000 jobs coming to San Antonio and ensuring that the public was aware and prepared. In response to Councilmember Herrera, General Robert Murdock stated that the city had worked with the Military Transformation Task Force and Worksource Solutions Alamo on matchmaking fairs for small businesses and the military to come together. He reported that the first one would be held in April and over 150 small businesses had registered to attend.

Councilmember Clamp spoke of the huge economic impact that BRAC will have on the City of San Antonio. He expressed concern that \$270,000 could not be spent on BRAC and noted other projects that had cost the same or more and did not have the same economic impact. He stated that the marketing campaign would be a great return on investment and expressed support for the item.

Councilmember Ramos expressed concern with the current economic conditions and budget cuts and stated she could not support said item. Councilmember Rodriguez stated that his concern was the purpose and cost of the marketing campaign and asked of the cost for media. Mr. Mohr reported that it would depend on the type of media and that Thompson Marketing would negotiate some free media. Councilmember Rodriguez stated that he was supportive of the BRAC Initiative but concerned with the amount of money to be spent. Councilmember Galvan also expressed support for BRAC but concern with the amount of money for a marketing campaign.

Mayor Hardberger stated that the request for a marketing campaign had not come from BRAC or the Military. He noted that he was in support of BRAC and spoke of how the money authorized for BRAC should be spent. He asked of other possible projects related to BRAC that could have a bigger impact such as streets, low-water crossings, and housing.

Councilmember McNeil again expressed support for the project. She stated that she was concerned that many of the Councilmembers were in opposition and noted other projects that the City had participated in at a much higher cost with less return on investment. She shared a collection of Martin Luther King's writings at this time. Councilmember Cortez called the question.

The motion to deny prevailed by the following vote: **AYES:** Cisneros, Ramos, Cortez, Galvan, Rodriguez, Cibrian, Rowe, and Mayor Hardberger. **NAY:** McNeil, Herrera, and Clamp. **ABSENT:** None.

The City Clerk read the following Ordinance:

2009-03-19-0201

Item 12. AN ORDINANCE APPROVING A \$108,131.00 AMENDMENT TO A PROFESSIONAL SERVICES AGREEMENT WITH POST, BUCKLEY, SCHUH & JERNIGAN, INC. FOR ADDITIONAL ENGINEERING AND PROGRAM MANAGEMENT SERVICES FOR AUTHORIZED HOUSING AND URBAN DEVELOPMENT (HUD) 108 LOAN PROGRAM-FUNDED CAPITAL IMPROVEMENT PROJECTS, INCLUDING THE INDIAN CREEK CHANNEL IMPROVEMENTS PROJECT LOCATED IN COUNCIL DISTRICT 4.

Councilmember Cortez asked for additional information on said project. Mr. Mike Frisbie stated that the scope of the project was being expanded to lengthen the Indian Creek Project and address drainage and flooding issues in the area. He noted that they were working with the Army Corp of Engineers to modify their permit and hoped to have the design complete in early 2010.

Councilmember Cortez moved to adopt the proposed Ordinance. Councilmember Galvan seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, Ramos, Cortez, Galvan, Herrera, Rodriguez, Cibrian, Rowe, and Clamp. **NAY:** None. **ABSENT:** McNeil and Mayor Hardberger.

CONTINUED TO APRIL 2, 2009

Item 17. AN ORDINANCE AMENDING THE CITY CODE, CHAPTER 6, ARTICLE V ENTITLED "MECHANICAL CODE" BY MAKING THE SALE, TRANSFER, OR OFFER TO TRANSFER OF SPECIFIC HEATING, VENTILATING AND AIR-CONDITIONING (HVAC) AND REFRIGERATION EQUIPMENT TO UNLICENSED AND UNREGISTERED CONTRACTORS OR

DEALERS A VIOLATION; REQUIRING SALES-RELATED RECORDS TO BE KEPT; PROVIDING FOR AGENCY REGISTRATION; PROVIDING FOR PENALTIES AND ESTABLISHING AN EFFECTIVE DATE.

Mr. Rod Sanchez stated that said item had been initiated due a concern from the mechanical industry regarding individuals that began work but never completed it. He explained that the ordinance would ensure that a seller of mechanical equipment would only be allowed to sell such items to a licensed individual. Councilmember Clamp expressed concern that a homcowner would not be able to purchase, for example, a window air conditioner, and install it themselves. He requested that language be included in the ordinance to allow homeowners to make their own purchase and perform the installation in their home. Councilmember Herrera expressed support and asked if homeowners would be required to pull permits.

Councilmember Cortez moved to continue said item for two weeks. Councilmember Ramos seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, Ramos, Cortez, Galvan, Herrera, Rodriguez, Cibrian, Rowe, and Clamp. **NAY:** None. **ABSENT:** McNeil and Mayor Hardberger.

2009-03-19-0207

Item 19. AN ORDINANCE APPROVING THE FISCAL YEAR 2009 AUDIT PLAN.

Mr. Park Pearson explained that he had met with Councilmembers, City Manager, Department Directors, and External Auditors to receive input for the Audit Plan. He recognized the members of the Audit Committee and thanked them for their input and support. Councilmember Clamp asked if there were any projects for audit that were not included in the Plan. Mr. Pearson responded no. Councilmember Ramos thanked Mr. Pearson for his work and expressed support.

Councilmember Herrera moved to adopt the proposed Ordinance. Councilmember Clamp seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, Ramos, Cortez, Galvan, Herrera, Rodriguez, Cibrian, Rowe, Clamp, and Mayor Hardberger. **NAY:** None. **ABSENT:** McNeil.

CONTINUED TO APRIL 2, 2009

Item 20. AN ORDINANCE AUTHORIZING A PROFESSIONAL SERVICES AGREEMENT WITH AECOM USA GROUP, INC. IN THE AMOUNT OF \$3,115,699.00 FOR PREPARATION OF THE AIRPORT MASTER PLAN FOR SAN ANTONIO INTERNATIONAL AIRPORT.

Councilmember Rowe recused himself on Item 20 by excusing himself from the Council Chambers and noting that he submitted the recusal form for said item to the City Clerk.

Mr. Mike Sawaya stated that said item would approve a professional services contract for the Airport Master Plan that was required by the Federal Aviation Administration (FAA). He explained that the Master Plan would provide strategies to assess airport needs regarding Land, Facilities, and Services. He reported that the process would engage stakeholders and take approximately 18 months to complete. He noted that a Request for Qualifications (RFQ) had been solicited and four firms had responded. He outlined the scoring matrix and recommendation as submitted by the selection committee. He explained

that AECOM had been performing Aviation Planning for over 30 years and completed over 200 Master Plans including Philadelphia, Dallas Love Field, and Houston Intercontinental. He noted that regarding subconsultants, AECOM had replaced Guerra DeBerry with KGB Texas and had submitted it in writing that morning.

Councilmember Ramos expressed concern that Guerra DeBerry was still included in the Power Point presentation and could be considered a conflict of interest since Trish DeBerry-Mejia was running for Mayor. Mr. Sawaya replied that he had asked the City Attorney's Office of the possible conflict and they had confirmed that there was no conflict of interest if the item was approved prior to Ms. DeBerry-Mejia being elected to office. Councilmember Ramos asked if it was standard practice to allow companies to alter their proposal up to the date being considered for award. Mr. Sawaya stated that it was allowed. He expressed concern with continuing said item because it could jeopardize FAA Funding.

Councilmember McNeil expressed support for moving forward with said item and concern with the possible loss of Federal Funding. Councilmember Galvan expressed concern with moving forward and asked of any impact to the scoring in the category of small, minority-owned business. Mr. Sawaya reported that the Airport had a Disadvantaged Business Enterprise (DBE) Program and neither KGB nor Guerra DeBerry were registered DBE's so there was no impact.

Former Councilmember Jeff Webster of AECOM stated that he had asked of the possible conflict several weeks back and it had been confirmed that there was no conflict. He noted that the reason for replacing Guerra DeBerry with KGB Texas was due to the concerns being addressed by Councilmembers and the community.

Councilmember Cibrian asked of the timeline for the two RFQ's that had been issued. Mr. Sawaya explained that an RFQ had been solicited in July, 2008 and again in December, 2008. Councilmember Cibrian expressed concern that a team could be revised in such a short period of time without accountability and transparency.

Ms. Sculley stated that the contract was being entered into with the Prime Contractor and not the subcontractors.

Councilmember McNeil asked of the percentage of the contract being awarded for minority participation. Mr. Sawaya reported that it was 4%. Councilmember McNeil expressed concern that \$2 million in Federal Funding could be jeopardized for only 4% of the total contract. Councilmember Clamp expressed concern with delaying the vote and asked if anything had been done wrong. Mr. Bernard stated that nothing had been legally wrong but there were issues with political perception. Councilmember Rodriguez expressed concern with the sudden changes and stated that he would support a two-week continuance. He requested that staff continue to review the proposal to ensure that there were no other issues.

Ms. Vacek read written testimonies from Katherine Wolff, Loretta Waight, Elissa LaHaye, and Raul Fuentes. They wrote that they were in opposition to said item because Ms. DeBerry-Mejia was running for Mayor and awarding the contract would create a conflict of interest.

Councilmember Ramos moved to continue said item for two weeks. Councilmember Rodriguez seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, Ramos, Cortez, Galvan, Rodriguez, Cibrian, and Mayor Hardberger. **ABSTAIN:** Rowe. **NAY:** McNeil, Herrera, and Clamp. **ABSENT:** None.

At this time, Mayor Hardberger addressed the Ceremonial Items.

CEREMONIAL ITEMS

Mayor Hardberger presented a proclamation for the 13th Annual Cesar E. Chavez March for Justice that will be held Saturday, March 28, 2009. Thousands of citizens will come together to celebrate the legacy and life of Cesar Chavez who founded the National Farm Workers Association. He persevered to ensure that farm workers received benefits and not have to live or work in undesirable conditions.

Mayor Hardberger presented a Citation to the Dragons 99, the World Champions at the Kick-It 3v3 Soccer Tournament held January 16-19, 2009 at the Disney Wide World of Sports Complex in Orlando, Florida. The Dragons 99 competed in the U10 Category (9-10 year olds) and beat opponents from Colorado, Florida, Indiana and Tennessee.

Mayor Hardberger presented a proclamation in celebration of Fair Housing Month on April 11, 2009 which marks the 41st Anniversary of the Fair Housing Act. The month-long observance highlights fair housing opportunities for all citizens regardless of race, color, religion, national origin, sex, family status or disability.

At this time, Mayor Hardberger and Mayor Pro Tem Ramos excused themselves from the meeting. Councilmember Cortez presided over the remainder of the meeting and addressed Item 22.

Item 22. CONSIDERATION OF THE FOLLOWING ORDINANCES IN CONNECTION WITH THE SAN ANTONIO RIVER IMPROVEMENTS PROJECT (SARIP):

2009-03-19-0208

- A. AN ORDINANCE AUTHORIZING TRAFFIC LIMITING ON MISSION PARKWAY BETWEEN MISSION ROAD AND VFW BLVD IN COUNCIL DISTRICT 3 FOR PHASE II OF THE MISSION REACH SEGMENT OF THE SARIP.

2009-03-19-0209

- B. AN ORDINANCE AUTHORIZING CONVEYANCE TO THE SAN ANTONIO RIVER AUTHORITY OF TWO CITY-OWNED PARCELS OF LAND LOCATED IN ACEQUIA PARK IN COUNCIL DISTRICT 3 FOR PHASE III OF THE MISSION REACH SEGMENT OF THE SARIP.

2009-03-19-0210

- C. AN ORDINANCE AUTHORIZING A MEMORANDUM OF UNDERSTANDING (MOU) WITH THE SAN ANTONIO RIVER FOUNDATION REGARDING COLLABORATION FOR STEWARDSHIP OF PUBLIC ART ON THE SAN ANTONIO RIVER IN THE MUSEUM REACH SEGMENT OF THE SARIP AND AUTHORIZING THE ACCEPTANCE OF AN ENDOWMENT GIFT IN THE AMOUNT OF \$100,000.00 TO BE USED FOR ASSOCIATED

ONGOING MAINTENANCE AND CONSERVATION EXPENDITURES OF PUBLIC ART
WITHIN THE MUSEUM REACH SEGMENT OF THE SARIP.

Councilmember Cisneros moved to adopt the proposed Ordinance. Councilmember Galvan seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, Cortez, Galvan, Herrera, Rodriguez, Cibrian, and Clamp. **NAY:** None. **ABSENT:** McNeil, Ramos, Rowe and Mayor Hardberger.

2009-03-19-0214

Item 26. AN ORDINANCE APPROVING THE RENEWAL OF AN INTERLOCAL AGREEMENT WITH ALAMO COMMUNITY COLLEGE DISTRICT PURSUANT TO THE *CITY OF SAN ANTONIO VS. ALAMO COMMUNITY COLLEGE DISTRICT SETTLEMENT AGREEMENT*.

Councilmember Cortez requested additional information on said item. Mr. Ed Davis stated that in March, 2001, the City Council had authorized a 15-year Settlement Agreement with the Alamo Community College (ACC) that escrows the City's 14% of CPS Energy revenue at ACC and utilized for City Employee and Economic Development Workforce Training. He explained that it was the ninth renewal and covered a 17-month period aligned with the ACC Fiscal Year ending August 31, 2010. He noted that the budget was estimated at \$1,479,000 and outlined the three academies as follows: 1) Alamo Aerospace Academy; 2) Information Technology Security Academy; and 3) Manufacturing Technology Academy. He added that a Health Professions Academy would be implemented in the fall of 2009.

Councilmember Cisneros thanked all involved in the various academies and expressed support. Councilmember Cibrian expressed her support and recommended that a Green Jobs Academy be implemented in the future. Councilmember Clamp asked about the agreement after the 15-year term. Mr. Bernard responded that the initial agreement called for a good faith effort from the City to renegotiate the agreement. Councilmember Herrera expressed her support and stated that she was pleased with the new Health Professions Academy. Councilmember Cortez also expressed his support and noted the importance of training the workforce.

Councilmember Cisneros moved to adopt the proposed Ordinance. Councilmember Clamp seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, Cortez, Galvan, Herrera, Rodriguez, Cibrian, and Clamp. **NAY:** None. **ABSENT:** McNeil, Ramos, Rowe and Mayor Hardberger.

2009-03-19-0222

Item 34. AN ORDINANCE APPROVING A SISTER CITY AGREEMENT WITH THE CORPORATION OF CHENNAI, TAMIL NADU, REPUBLIC OF INDIA.

Councilmember Herrera requested information on developments that have taken place since the visit to Chennai, India. Ms. Beth Costello reported that Chennai's Guidelines Group had visited San Antonio and set up an Incubator with the Free Trade Alliance to study the city. She stated that they had also been linked with Southwest Research Institute regarding a joint venture with Vancouver, Canada in reference to a small submarine that had been commissioned by the City of Chennai. Additionally, San Antonio was a resource for Chennai in regard to river improvements and staff had exposed their representatives

to the Riverwalk and River Improvements Engineers. Councilmember Herrera stated that she was proud and grateful to be a part of the relationship and experience with Chennai. Councilmember Cibrian expressed her support and noted the important economic relationship with Chennai. Councilmember Rodriguez expressed support and requested a status on other existing and possible future relationships. Councilmember Cortez also expressed his support for said item.

Councilmember Herrera moved to adopt the proposed Ordinance. Councilmember Cisneros seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, Cortez, Galvan, Herrera, Rodriguez, Cibrian, and Clamp. **NAY:** None. **ABSENT:** McNeil, Ramos, Rowe and Mayor Hardberger.

Item 36. CITY MANAGER'S REPORT

Ms. Sheryl Sculley stated that in the essence of time; she would defer reports on Items A and B to the next scheduled Council Meeting.

- A. Historic Preservation Office Update
- B. Luminaria - Arts Night in San Antonio

CONSENT ZONING

Councilmember Cisneros made a motion to approve the following re-zoning cases, noting that Zoning Commission recommendation was to approve and that no Citizens had registered to speak: 38, Z-2, Z-3, Z-4, and Z-5. Councilmember Herrera seconded the motion.

Mr. Jack M. Finger spoke on Items 37 and P-1, noting that the idea of redeveloping downtown was good, but he was concerned with the cost. He stated that the Planning Commission had recommended denial for Item P-2 because a Plan Amendment would not provide an appropriate transition to the rural living classification. He reported that over 20% of the residents in the area of Z-1 were opposed to it and that the recommendations for Z-3 were against the rezoning.

The motion to approve the Consent Zoning Items prevailed by the following vote: **AYES:** Cisneros, Cortez, Galvan, Herrera, Rodriguez, Cibrian, and Clamp. **NAY:** None. **ABSENT:** McNeil, Ramos, Rowe and Mayor Hardberger.

2009-03-19-0010R

Item 38. A RESOLUTION DIRECTING THE PLANNING AND DEVELOPMENT SERVICES DEPARTMENT TO INITIATE A CHANGE IN THE ZONING DISTRICT BOUNDARIES OF THE PROPERTIES WITHIN THE AREA OF APPROXIMATELY 252 ACRES GENERALLY LOCATED ALONG NOGALITOS STREET BETWEEN INTERSTATE HIGHWAY 35 AND ZARZAMORA STREET; SOMERSET ROAD AND NEW LAREDO HIGHWAY (U.S. HIGHWAY 81) BETWEEN ZARZAMORA STREET AND SOUTHCROSS BOULEVARD; AND ZARZAMORA STREET BETWEEN U.S. HIGHWAY 90 AND SOUTHCROSS BOULEVARD, LOCATED IN COUNCIL DISTRICTS 4 AND 5, TO ZONING DISTRICTS MORE APPROPRIATE FOR EXISTING DEVELOPMENT, AS REQUESTED BY COUNCILWOMAN GALVAN, DISTRICT 5.

2009-03-19-0226

Item Z-2. **ZONING CASE Z2009037 (District 2):** An Ordinance amending the Zoning District Boundary from "I-1" General Industrial District to "L" Light Industrial District on Lot 5, Block 1, NCB 13630 located at 5711 Industry Park Drive. Staff and Zoning Commission recommend approval.

AMENDING CHAPTER 35 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS: Lot 5, Block 1, NCB 13630 TO WIT: From "I-1" General Industrial District to "L" Light Industrial District.

2009-03-19-0227

Item Z-3. **ZONING CASE # Z2009046 CD (District 2):** An Ordinance amending the Zoning District Boundary from "RM-4" Residential Mixed District to "RM-4 CD" Residential Mixed District with a Conditional Use for a Noncommercial Parking Lot on the west 27 feet of Lot A-11, Block 34A, NCB 631 located at 123 Hardeman Street. Staff recommends denial. Zoning Commission recommends approval.

AMENDING CHAPTER 35 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS: The west 27 feet of Lot A-11, Block 34A NCB 631 TO WIT: From "RM-4" Residential Mixed District to "RM-4 CD" Residential Mixed District with a Conditional Use for a Noncommercial Parking Lot provided all conditions imposed by the City Council are adhered to.

2009-03-19-0228

Item Z-4. **ZONING CASE # Z2009044 S (District 3):** An Ordinance amending the Zoning District Boundary from "C-2 NA" Commercial District, Nonalcoholic Sales to "C-2 S" Commercial District with a Specific Use Authorization for a Party House, Reception Hall, Meeting Facility on 0.201 acre out of NCB 11982 located at 3750-3800 Commercial Avenue. Staff and Zoning Commission recommend approval.

AMENDING CHAPTER 35 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS: 0.201 of an acre out of NCB 11982 TO WIT: From "C-2 NA" Commercial District, Nonalcoholic Sales to "C-2 S" Commercial District with a Specific Use Authorization for a Party House, Reception Hall, Meeting Facility provided all conditions imposed by the City Council are adhered to.

2009-03-19-0229

Item Z-5. **ZONING CASE # Z2009040 (District 5):** An Ordinance amending the Zoning District Boundary from "I-1" General Industrial District to "C-3NA" General Commercial District, Nonalcoholic Sales on Lot 9, NCB 7572 located at 907 Frio City Road. Staff and Zoning Commission recommend approval.

AMENDING CHAPTER 35 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS: Lot 9, NCB 7572 TO WIT: From "I-1" General Industrial District to "C-3NA" General Commercial District, Nonalcoholic Sales.

[ZONING CONSENT ITEMS CONCLUDED]

ZONING ITEMS FOR INDIVIDUAL CONSIDERATION

2009-03-19-0009R

Item 37. A RESOLUTION DIRECTING THE PLANNING AND DEVELOPMENT SERVICES DEPARTMENT TO REVIEW THE UNIFIED DEVELOPMENT CODE TO DETERMINE THE APPROPRIATE ZONING DISTRICTS OR TO CREATE A NEW ZONING DISTRICT TO INCORPORATE THE ELEMENTS OF THE DRAFT RIVER NORTH DEVELOPMENT CODE; AND TO INITIATE A COMPREHENSIVE REZONING OF THE RIVER NORTH AREA IDENTIFIED AS APPROXIMATELY 377 ACRES GENERALLY BOUND BY IH 35 TO THE NORTH, IH 37 TO THE EAST, HOUSTON, BROADWAY, PECAN AND TRAVIS TO THE SOUTH; AND MAIN AND NAVARRO TO THE WEST, LOCATED IN COUNCIL DISTRICT 1.

Mr. Rod Sanchez provided an overview of the project since its inception in 1999 when the Downtown Neighborhood Plan was adopted. He introduced the Master Plan and noted that it had been broken down into three chapters. He spoke of the Vision Concept which consists of Four Neighborhoods and the River Corridor. He summarized the changes to the Master Plan and the Seven Catalytic Projects. He noted that a Development Code had also been drafted in order to implement the design goals of the Master Plan.

Mr. Sanchez stated that the Planning Team had agreed to utilize the Code as a foundation for the rezoning process. He added that the Planning Team would be reviewing the following: 1) Administration and Review Authority; 2) Zone Boundaries; 3) Civic Buildings & Standards; 4) Parking Requirements; 5) Building Types; and 6) Sign Standards. Lastly, he stated that staff recommendation was to update the Downtown Neighborhood Plan and initiate a review of appropriate zoning districts and comprehensive rezoning for the River North Area.

Mr. Ben Brewer, Downtown Alliance President, spoke in support of said item. He stated that he was also the President of the Development Corporation that started the Master Plan Process and led the effort to hire planners Moule & Polyzoides. He noted the merits of the planners and the Master Plan and recognized all who have worked on the project.

Mr. Harper Huddleston commended the City Council and City Manager for the public process which had allowed everyone to see a common goal. He expressed enthusiasm for the River North Project and added that it would make the River not only a place for tourists, but also for the citizens of San Antonio.

Councilmember Cisneros thanked all involved for their efforts and referenced a letter from the Conservation Society in support of the Resolution. Councilmember Cibrian expressed her support and recognized Mr. DiGiovanni for his efforts. Councilmember Clamp noted that if the planning had been difficult, the zoning would be even more challenging. He asked if Planning and Development Services had planned for the costs of such labor intensive work. Mr. Sanchez replied that staff was working with the TIRZ to offset the costs. Councilmember Cortez noted his appreciation for the efforts on said item.

Councilmember Cisneros moved to approve the Resolution. Councilmember Herrera seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, Cortez, Galvan, Herrera, Rodriguez, Cibrian, and Clamp. **NAY:** None. **ABSENT:** McNeil, Ramos, Rowe and Mayor Hardberger.

2009-03-19-0224

Item P-1. **DOWNTOWN NEIGHBORHOOD PLAN UPDATE U09005 (District 1):** An Ordinance amending the Downtown Neighborhood Plan to update the land use plan map and text to include the boundaries and description for the River North District and add the River North District Master Plan, approximately a 377 acre area bounded by IH 35 on the North and West, IH 37 on the East, Main and Navarro on the Southwest; and Pecan, Broadway, Travis and Houston on the South, as a chapter to supplement the Neighborhood Plans Section. Staff and Planning Commission recommend approval.

Councilmember Cisneros moved to adopt the proposed Plan Amendment. Councilmember Herrera seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, Cortez, Galvan, Herrera, Rodriguez, Cibrian, and Clamp. **NAY:** None. **ABSENT:** McNeil, Ramos, Rowe and Mayor Hardberger.

2009-03-19-0225

Item P-2. **PLAN AMENDMENT CASE NUMBER 09001:** An Ordinance amending the land use plan contained in the City South Community Plan, a component of the Master Plan of the City, by changing the use of a 25.37 acre tract of land located southwest of the intersection of Fischer Road and IH-35 from Rural Living to Agriculture and Light Industry. Staff and City South Management Authority Board recommend Approval. Planning Commission recommends Denial.

Mr. Jeff Bailey stated that his family owned the property across the street and explained that his family had sold 600 acres to Union Pacific in 2006 for the development of an intermodal facility. He noted the importance of the intermodal facility and quality development for the area. He expressed concern with increased traffic.

Councilmember Rodriguez asked of the Planning Commission's concerns. Ms. Nixon-Mendez noted that the Planning Commission was concerned with the transition that would occur between agriculture, light industrial, and rural land. She reiterated that staff recommendation was for approval, but noted that there would be an impact to the area.

Councilmember Rodriguez moved to adopt the proposed Plan Amendment with the request that Planning and Development Services Staff, as part of the City South Plan update process, address the Planning Commission's concerns by conducting an analysis of the area East of IH 35 from Fischer Road South to Medio Creek, and bring forward a recommendation regarding land use to CSMA, Planning Commission and City Council regarding that stretch of the corridor, due to its close proximity to the Union Pacific intermodal terminal. Councilmember Cisneros seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, Cortez, Galvan, Herrera, Rodriguez, Cibrian, and Clamp. **NAY:** None. **ABSENT:** McNeil, Ramos, Rowe and Mayor Hardberger.

DENIED

Item Z-1. **ZONING CASE # Z2009045 CD (District 1):** An Ordinance amending the Zoning District Boundary from "R-5" Residential Single-Family District to "R-5 CD" Residential Single-Family District with a Conditional Use for an assisted living facility on Lot 10, Block 2, NCB 11016 located at 222 Meadowood Lane. Staff and Zoning Commission recommend denial.

Mr. Chris Looney presented the proposed Zoning Case.

Mr. Charles R. Nourie, Shearer Hills/Ridgeview Neighborhood Association, spoke in opposition to said item and stated that the neighborhood did not want an additional assisted living facility in the area.

Councilmember Cisneros moved to deny said Zoning Item. Councilmember Cibrian seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, Cortez, Galvan, Herrera, Rodriguez, Cibrian, and Clamp. **NAY:** None. **ABSENT:** McNeil, Ramos, Rowe and Mayor Hardberger.

2009-03-19-0230

Item Z-6. **ZONING CASE # Z2008274 CD S (District 6):** An Ordinance amending the Zoning District Boundary from "R-4" Residential Single-Family District, "R-5" Residential Single-Family District, "R-6" Residential Single-Family District, "MF-33" Multi-Family District, "C-1 S" Light Commercial District with a Specific Use Authorization for an Athletic Field, "C-2" Commercial District, "C-3" General Commercial District, "C-3 NA" General Commercial District, Nonalcoholic Sales, "C-3 R" General Commercial District, Restrictive Alcohol Sales, "I-1" General Industrial District to "R-4" Residential Single-Family District, "R-5" Residential Single-Family District, "R-5 CD" Residential Single-Family District with a Conditional Use for Multi-Family Dwellings, "R-5 CD" Residential Single-Family District with a Conditional Use for a Four Family Dwelling, "R-5 CD" Residential Single-Family District with a Conditional Use for a Two-Family Dwelling "R-6" Residential Single-Family District, "R-6 CD" Residential Single-Family District with a Conditional Use for a Three-Family Dwelling, "MF-33" Multi-Family District, "MF-33 CD" Multi-Family District with a Conditional Use for a Noncommercial Parking Lot, "O-1" Office District, "NC" Neighborhood Commercial, "C-2" Commercial District, "C-2 NA" Commercial District, Nonalcoholic Sales, "C-2 S" Commercial District with a Specific Use Authorization for a Bar/Tavern, "C-2 NA S" Commercial District, Nonalcoholic Sales with a Specific Use Authorization for a Car Wash, "C-2 NA CD" Commercial District, Nonalcoholic Sales with a Conditional Use for Outside Storage, "C2 NA CD" Commercial District, Nonalcoholic Sales District with a Conditional Use for an Auto and Light Truck Repair Facility, "C-2 NA CD" Commercial District, Nonalcoholic Sales District with a Conditional Use for a Tree Cut and Trim Service, "C-2 NA CD" Commercial District, Nonalcoholic Sales with a Conditional Use for Sand or Gravel-Storage and Sales, "C-2 NA CD" Commercial District, Nonalcoholic Sales with a Conditional Use for Hardware Sales-Wholesale, "C-2 NA CD" Commercial District, Nonalcoholic Sales with a Conditional Use for a Wrecker Service, "C-2 NA CD" Commercial District, Nonalcoholic Sales with a Conditional Use for a Contractor Facility, "C-2 NA CD" Commercial District, Nonalcoholic Sales with a Conditional Use for Auto Glass Sales, "C-2 NA CD" Commercial District, Nonalcoholic Sales with a Conditional Use for an Auto Paint and Body Facility, "C-2 NA CD" Commercial District, Nonalcoholic Sales with a Conditional Use for Food Products-Wholesale and Storage, "C-3 R" General Commercial District, Restrictive Alcohol Sales, "C-3 NA" General Commercial District, Nonalcoholic Sales, "C-3 NA S" General Commercial District, Nonalcoholic Sales with a Specific Use Authorization for a Welding Shop, "C-3 NA S" General Commercial District, Nonalcoholic Sales with a Specific Use Authorization for Auto Alarm and Radio Sales and Installation on multiple properties generally located along Castroville Road and S. General McMullen Drive, more specifically described as beginning at SW 36th Street and Marbach Avenue, then east to Valencia Street, then north to Akron Street, then east to Brenner Avenue, then north to Wallace Street, then east to S. General McMullen Drive, then south to Morelia Street, then east to Camilo Street, then south to Ceralvo Street, then west to Amerada Street, then south to Patton Blvd., then west to SW 35th Street, then north to Northington Road, then west to SW 36th Street, then north to Marbach Avenue. Staff and Zoning Commission recommend approval.

Mr. Chris Looney presented the proposed Zoning Case.

Councilmember Herrera noted the opportunity to address compatibility issues in the area and stimulate future development and revitalization. She thanked those who had contributed to said effort.

Councilmember Herrera moved to adopt the proposed Zoning Item with the amendment for the property located at 1706 Barney Avenue from C-3 R General Commercial District, Restrictive Alcohol Sales to C-1 CD Light Commercial District with a Conditional Use for Auto and Light Truck Repair. Councilmember Cisneros seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, Cortez, Galvan, Herrera, Rodriguez, Cibrian, and Clamp. **NAY:** None. **ABSENT:** McNeil, Ramos, Rowe and Mayor Hardberger.

2009-03-19-0231

Item Z-7. **ZONING CASE # Z2009036 ERZD (District 8):** An Ordinance amending the Zoning District Boundary from "C-2 ERZD" Commercial Edwards Recharge Zone District and "R-6 ERZD" Residential Single-Family Edwards Recharge Zone District to "MF-25 ERZD" Multi-Family Edwards Recharge Zone District on 24.315 acres out of NCB 14865 located on the west side of Babcock Road, between University Row and UTSA Blvd. Staff and Zoning Commission recommend approval.

Mr. Chris Looney presented the proposed Zoning Case.

Mr. Steve Drenner, Drenner & Golden, spoke on behalf of American Campus Community. He stated that the goal was to have a proposal that could be supported by the neighborhood that was sensitive to the environment. He compared his proposal to what would be allowed by the current zoning, noting sensitivity to tree canopy, impervious cover, open space, buffer areas, and traffic. He thanked Councilmember Cibrian, Ms. Elyzabeth Earnley, and Ms. Carol Fisher for their contributions to the project. He noted that the American Campus Community would be reporting to Aquifer Guardians in Urban Areas (AGUA) and Greater Edwards Aquifer Alliance (GEAA) on an annual basis.

Ms. Elyzabeth Earnley, AGUA, spoke in support of said item and noted that she had participated in the site design. She added that the project would be one of the first to implement low impact development in San Antonio. She thanked the applicant for adopting measures that were not required by current standards.

Ms. Carol Fisher, (GEAA), spoke in support of said item. She stated that the applicant had been very cooperative and responsive to their concerns. She added that GEAA would like an opportunity to educate City Staff on the concept of low impact development because there were ordinances in place that prohibit it.

Mr. Dave Holmes noted that he lived close to the property to be rezoned. He stated that his neighbors had been apprehensive about meeting with the City because they did not believe it would have any effect on the zoning case. He thanked Councilmember Cibrian and her staff for being so responsive.

Ms. Vacek read written testimony from Ms. Leigh Marruquin, President of the College Park Neighborhood Association. Ms. Marruquin wrote in support of said item and noted that the neighborhood was affected by both UTSA and growth on the Northside. She added that a Letter of

Understanding had been agreed upon and the neighbors felt confident that their interests would be protected.

Councilmember Cibrian recognized Mr. Michael Shackelford from her staff for his efforts on said item. She also thanked the neighborhood association for their cooperation and Mayor Hardberger, Mr. Larry Zinn, and Mr. Jed Maebius for their attention to said item. She noted that AGUA and GEAA had been involved in the project from the beginning and noted the advantages of including them at the front end of a project. She stressed the importance of the project to UTSA Students because they did not have many housing opportunities.

Councilmember Galvan stated that most of her questions related to the zoning item had been answered. She congratulated Councilmember Cibrian on her ability to mediate tough zoning cases and thanked her for her efforts in preserving the Edwards Aquifer.

Councilmember Cibrian moved to adopt the proposed Zoning Item with impervious cover of 45% and deed restrictions as follows:

1. General. Subject to the terms of Paragraph E.8 below, all development on the Property must comply with the restrictions as set forth in the Declaration.

2. Landscape Buffer. A landscape buffer of approximately thirty feet in depth shall be located along the westernmost Property boundary adjacent to the Western Single Family Lots (the "30' Landscape Buffer") as depicted on Exhibit "C" attached hereto and made a part hereof for all purposes. A landscape buffer of approximately fifteen feet in depth shall be located along the southern Property boundary (the "15' Landscape Buffer") as depicted on Exhibit "C." No improvements shall be constructed within the 30' Landscape Buffer or the 15' Landscape Buffer except for *(a)* a fence to be constructed in a location allowed by the Code and the Zoning Case, it being presently intended that such fence would be generally along the eastern boundary of the 30' Landscape Buffer and along the northern boundary of the 15' Landscape Buffer, *(b)* improvements that may be otherwise required by the City of San Antonio, *(c)* any drainage improvements, which shall be either located underground or, if at grade, as far from the boundary shared by the Property and the Single Family Lots as is feasible and *(d)* such other improvements specifically authorized by the Declaration. Notwithstanding anything herein to the contrary, the placement of the 30' Landscape Buffer and the 15' Landscape Buffer (collectively, the "Landscape Buffers") and Fences (as defined below) described herein shall not be construed as a dedication or grant of rights in the Landscape Buffers or any other portion of the Property to the residents of the Single Family Lots, the Association, or the public. Developer shall be responsible for maintenance of the Landscape Buffers.

3. Fences. *(a)* Subject to applicable laws, ordinances, or regulations, Owner shall construct and maintain solid fencing at a height of eight feet in the locations specified in Paragraph 2 above, being referred to herein as the "8' Solid Fence" and depicted on Exhibit "C." The 8' Solid Fence shall meet the specifications shown on Exhibit "D" attached hereto and made a part hereof for all purposes. *(b)* Subject to applicable laws, ordinances, or regulations, Owner shall construct and maintain solid fencing at a height of six feet in a location allowed by the Code and the Zoning Case (the "6' Solid Fence"; together with the "8' Solid Fence" being collectively referred to herein as the "Fences"), it being presently intended that the 6' Solid Fence be located generally parallel to the northern boundary of the Property in the location generally depicted on Exhibit "C" attached hereto and made a part hereof for all purposes.

4. Community Facilities. The community center, swimming pool, basketball courts, tennis courts and volleyball courts, if any, shall be located at least six hundred feet from the west most boundary of the Property.

5. Exterior Lighting. All pole-mounted lighting fixtures and wall packs shall be Full Cutoff, as indicated by the fixture manufacturer, to reduce light trespassing off the Property. Pole-mounted light fixtures located within three hundred feet of the Single Family Lots shall not be higher than twenty-five feet above finished grade.

6. Building Setbacks. No principal building on the Property shall be constructed within *(a)* one hundred feet of the adjacent Western Single Family Lots, or *(b)* ninety feet of the adjacent Southern Single Family Lots.

7. Building Height. No building shall have a height more than forty-five feet as measured in the Code.

8. Number of Bedrooms. There shall be no greater than seven hundred ninety-two bedrooms constructed on the Property. No residential unit on the Property shall contain more than four bedrooms.

9. Construction Activities. Excavating required during construction and any exterior construction activities will be scheduled from 7:00 am to 7:00 pm on weekdays and from 8:30 am to 6:00 pm on weekends and holidays; provided that concrete-pouring activities may begin at 6:00 am. Commercially reasonable efforts will be made to provide dust controls during construction to minimize off-site effects.

10. Shuttle Drop-Off and Pick-Up Location. Subject to approval by The University of Texas at San Antonio (the "University"), any shuttle drop-off and pick-up locations on the Property and established with the University shall not be located in the traffic lanes of Babcock Road.

11. Sidewalk to UTSA Blvd. Subject to the approval of the City of San Antonio and the owner of the property designated as "Church Property" on Exhibit "C" attached hereto and made a part hereof for all purposes, Owner shall construct, or post a bond with the City or San Antonio in an amount sufficient to cover the costs for construction of, a sidewalk that extends from the southern boundary of the Property to the northern edge of the right-of-way of UTSA Blvd. (also known as UTSA Drive). Such sidewalk will be in the general location as shown on Exhibit "C" attached hereto, it being intended that such sidewalk shall be located in the right-of-way of Babcock Road.

12. Trash Pick-up/Screening of Dumpsters. No trash pick-up on the Property shall be permitted after 10:00 pm or before 6:00 am. Trash dumpsters primarily intended to be used for refuse consisting of perishable food items or beverages shall not be located closer than two hundred feet to the Single Family Lots and shall be screened in accordance with the standards set forth in the Code.

13. Single Family Minimum Lot Size. If the Property is hereafter developed with Single Family Dwellings, such development shall be consistent with the minimum lot size allowed in the R-6 zoning classification set forth in the Code.

14. Monetary Donation. On or before the expiration of one hundred eighty days from the Effective Date of the Declaration, as defined below, Developer shall make a cash donation (the "Donation") to the Association equal to \$5,000. Such donation shall be used for any lawful purpose desired by the Association.

It was noted that American Campus Communities had also agreed to the following:

1. Design and construct the Project in such a way as to comply with the attached SAWS recommendation (the "SAWS Recommendation"), including, without limitation, the following: *a.* Utilize no more than 45% impervious cover; *b.* Increase the buffer acreage adjacent to the unnamed tributary of Huesta Creek (the "Tributary") by 18%;
2. Utilize an Integrated Pest Management Plan in connection with the operation of the Project;
3. Design and construct the Project to comply with the City's Tree Preservation Ordinance and, in doing so, retain approximately 47% of the existing trees on the site (including the flood plain);
4. Design and construct the Project utilizing the following LID measures: *a.* Cause water to flow across the large traffic islands within the Project in order to achieve some degree of water quality filtration for those islands; *b.* Plant trees, as approved by the City Arborist, in the large traffic islands

within the Project; *c.* Utilize pervious concrete in non-vehicular areas within the Project to further reduce impervious cover; *d.* Reduce the depth of parking stalls within the Project to further reduce impervious cover; *e.* Design the most southeasterly water quality pond on the west side of the Tributary in such a manner as to allow the bypass water directed toward such pond to realize overland flow filtration benefits before such bypass water reaches the Tributary; and *f.* Stockpile topsoil from the site during initial construction activities, to the extent feasible, on the Project to allow the re-use of such topsoil on the site;

5. As part of its application for a Water Pollution Abatement Plan for the Project (the "WPAP Application") to the Texas Commission on Environmental Quality (the "TCEQ"), include a maintenance plan for water quality facilities within the Project;

6. Within 30 days after issuance by the City of San Antonio of the first certificate of occupancy for the Project (the "First COO), send to both AGUA and GEAA a letter from the civil engineer for the Project certifying that *(a)* the Project was designed and constructed in accordance with the terms of this letter, and *(b)* the water quality facilities in the Project were constructed in accordance with the TCEQ Application;

7. On or before the annual anniversary date of the First COO, send to both AGUA and GEAA a letter from the party responsible for maintaining the water quality facilities in the Project certifying that such water quality facilities were maintained in accordance with the maintenance plan within the TCEQ application.

Additionally, ACC agrees to continue to evaluate the use of cisterns on selected downspouts from the roofs of buildings on the site. In connection with the terms of item #4 above, ACC agrees to meet with representatives of both AGUA and GEAA within 60 days from the date hereof to discuss its plans for implementing the terms of item #4 above. For purposes of clarifying the terms of item #3 above, it is recognized that the provisions of #4b and #4c will only be implemented within selected pedestrian areas and with respect to selected parking stalls. Councilmember Clamp seconded the motion.

The motion prevailed by the following vote: **AYES:** Cisneros, Cortez, Galvan, Herrera, Rodriguez, Cibrian, and Clamp. **NAY:** None. **ABSENT:** McNeil, Ramos, Rowe and Mayor Hardberger.

CITIZENS TO BE HEARD

Mr. Mark Perez spoke of the Emergency Right to Know Act of 1986 and the community right to know provision. He stated that it would help to inform the community about hazardous chemicals. He noted that there was a Kimberly Clark Facility in an I-1 zoning that was against City Code. He added that he had an investigator researching how Tetco got rid of their hazardous waste.

Mr. Nick Calzoncit encouraged the Council to name a building or park in honor of Ms. Fay Sinkin. He reminded the Council of the 57% dropout rate in Harlandale. He noted that in Dallas, the City Council was attempting to take control of the School Districts and suggested that San Antonio do the same. Lastly, he spoke of Cesar Chavez and the upcoming March.

Mr. Faris Hodge, Jr. spoke of Open Records Requests that he had not received responses regarding: ADA accessibility; FY 2000 Audit Plan; the CPS Energy Board; FY 2000 Reserve Fund; Alamodome Parking Revenue for 2008; Fire and Police Healthcare Audit; and travel expenses for Councilmembers. He stated that the lights in the Downtown Area turned on too early and off too late. Lastly, he requested that the Councilmember's names appear on the front of the City Council Meeting Agenda.

ADJOURNMENT

There being no further business to discuss, Councilmember Cortez adjourned the meeting at 9:18 pm.

A P P R O V E D

for **PHIL HARDBERGER**
MAYOR

Attest:


LETICIA M. VACEK
City Clerk