

AGENDA - COUNCIL MEETING - TUESDAY - APRIL 5, 2011 - 1:30 P. M.
COUNCIL CHAMBER - SECOND FLOOR - CITY HALL
901 BAGBY - HOUSTON, TEXAS

with notes of action taken

MOTIONS – 2011-0249 to 2011-0283
ORDINANCES - 2011-0243 to 2011-0254
RESOLUTION – None

2011-0248-1

PRAYER AND PLEDGE OF ALLEGIANCE - Council Member Gonzalez

1:30 P. M. - ROLL CALL

ADOPT MINUTES OF PREVIOUS MEETING

2:00 P. M. - PUBLIC SPEAKERS - Pursuant to City Council Rule 8, City Council will hear from members of the public; the names and subject matters of persons who had requested to speak at the time of posting of this Agenda are attached; the names and subject matters of persons who subsequently request to speak may be obtained in the City Secretary's Office

Motion 2011-0249 – Procedural motion
Motion 2011-0250 – Procedural motion
Motion 2011-0251 – Procedural motion
Motion 2011-0252 – Procedural motion
Motion 2011-0253 – Procedural motion
Motion 2011-0254 – Procedural motion
Motion 2011-0255 – Procedural motion
Motion 2011-0256 – Procedural motion

5:00 P. M. - RECESS

RECONVENE

WEDNESDAY - APRIL 6, 2011 - 9:00 A. M.

DESCRIPTIONS OR CAPTIONS OF AGENDA ITEMS WILL BE READ BY THE
CITY SECRETARY PRIOR TO COMMENCEMENT

Motion 2011-0260 – Accept report

9:00 A.M. - **REPORT FROM CITY CONTROLLER AND THE CITY ADMINISTRATION REGARDING THE CURRENT FINANCIAL STATUS OF THE CITY** including but not limited to, a revenue, expenditure and encumbrance report for the General Fund, all special revenue funds and all enterprise funds, and a report on the status of bond funds

MAYOR'S REPORT

CONSENT AGENDA NUMBERS 1 through 18

MISCELLANEOUS - NUMBERS 1 and 2

Motion 2011-0257 – Suspend rules to consider Items 1 and 2 out of order

1. **Motion 2011-0258**
REQUEST from Mayor for confirmation of the appointment of **ASSOCIATE JUDGE MIMI MALICK BERKOWITZ** to serve as **MUNICIPAL COURT JUDGE** for a two year term
2. **Motion 2011-0259**
REQUEST from Mayor for confirmation of the appointment of **MUNICIPAL COURT JUDGE ANTONIA MARTINEZ INGVERSEN** to serve as **ASSOCIATE JUDGE OF MUNICIPAL COURTS** for a two year term

ACCEPT WORK - NUMBERS 3 through 8

3. **Motion 2011-0261**
RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$4,252,891.41 and acceptance of work on contract with **SER CONSTRUCTION PARTNERS, LTD.**, for Storm Drainage Improvements in the Rustling Oaks Subdivision - 0.99% under the original contract amount - **DISTRICT G - PENNINGTON**
4. **Motion 2011-0262**
RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$1,226,927.30 and acceptance of work on contract with **UNDERGROUND TECHNOLOGIES, INC** for Sanitary Sewer Rehabilitation by Cured-In-Place Pipe Method (4258-35) - 2.26% over the original contract amount - **DISTRICTS A - STARDIG; B - JOHNSON; C - CLUTTERBUCK; D - ADAMS; F - HOANG and G - PENNINGTON**
5. **Motion 2011-0263**
RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$3,365,924.76 and acceptance of work on contract with **UNDERGROUND TECHNOLOGIES, INC** for Sanitary Sewer Rehabilitation by Sliplining and Pipe Bursting Methods (4257-94) - 1.15% over the original contract amount - **DISTRICTS A - STARDIG; C - CLUTTERBUCK; D - ADAMS; E - SULLIVAN; F - HOANG, H - GONZALEZ and I - RODRIGUEZ**
6. **Motion 2011-0264**
RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$3,772,412.70 and acceptance of work on contract with **UNDERGROUND TECHNOLOGIES, INC** for Sanitary Sewer Rehabilitation by Sliplining and Pipe Bursting Methods (4257-57) - 3.40% under the original contract amount - **DISTRICTS A - STARDIG; D - ADAMS; E - SULLIVAN; F - HOANG, G - PENNINGTON and I - RODRIGUEZ**
7. **Motion 2011-0265**
RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$4,101,756.85 and acceptance of work on contract with **UNDERGROUND TECHNOLOGIES, INC** for Sanitary Sewer Rehabilitation by Sliplining and Pipe Bursting Methods (4257-58) - 3.45% over the original contract amount - **DISTRICTS A - STARDIG; B - JOHNSON; C - CLUTTERBUCK; D - ADAMS; E - SULLIVAN; F - HOANG, H - GONZALEZ and I - RODRIGUEZ**

ACCEPT WORK - continued

8. Motion 2011-0266

RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$1,634,096.04 and acceptance of work on contract with **RWL CONSTRUCTION, INC** for Water Line Replacement in Briargrove Park - 1.64% over the original contract amount - **DISTRICT G - PENNINGTON**

PURCHASING AND TABULATION OF BIDS - NUMBERS 9 and 9A

9. Ordinance 2011-0243

ORDINANCE appropriating \$499,984.65 out of Equipment Acquisition Consolidated Fund for purchase of 11,223 96-Gallon Refuse Carts for Solid Waste Management Department

a. Motion 2011-0267

TOTER, INCORPORATED for Automated Refuse Containers through the Interlocal Agreement for Cooperative Purchasing with the City of Tucson Arizona for Solid Waste Management Department

ORDINANCES - NUMBERS 10 through 18

10. Ordinance 2011-0250

ORDINANCE appropriating \$393,883.00 out of Fund 2409 (TIRZ Affordable Housing Fund) to Water & Sewer Operating Fund 8300 for payment of administrative expenses associated with the TIRZ Affordable Housing Program

11. Ordinance 2011-0244

ORDINANCE approving and authorizing Conservation Easement Agreement between the City of Houston, as grantor, and the **TEXAS HISTORICAL COMMISSION**, as grantee, for the benefit of the National Park Service, for the preservation of the Julia Ideson Building - **DISTRICT I - RODRIGUEZ**

a. Ordinance 2011-0245

ORDINANCE approving and authorizing Conservation Easement Agreement between the City of Houston, as grantor, and **TEXAS HISTORICAL COMMISSION**, as grantee, for the benefit of the Julia Ideson Library Preservation Partners, for the preservation of the Julia Ideson Building **DISTRICT I - RODRIGUEZ**

12. Ordinance 2011-0251

ORDINANCE appropriating \$3,300,000.00 out of Dangerous Building Consolidated Fund for the abatement of dangerous buildings

13. Ordinance 2011-0246

ORDINANCE approving and authorizing first amendment to Task Order Contract (Approved by Ordinance No. 06-0283) between the City of Houston and **AAR INCORPORATED** for Lead Remediation/Lead Decontamination, HEPA Filter Replacement and proper disposal for the Police Academy Firing Range and to extend the contract term - **DISTRICT B - JOHNSON**

14. Ordinance 2011-0247

ORDINANCE appropriating \$18,821.00 out of Parks Consolidated Construction Fund; awarding construction contract to **INLAND ENVIRONMENTS, LTD.**, for Asbestos Abatement and Demolition at Tidwell Park and Glover Park; setting a deadline for the bidder's execution of the contract and delivery of all bonds, insurance and other required contract documents to the City; holding the bidder in default if it fails to meet the deadlines; providing funding for project management, construction oversight and air monitoring and contingencies relating to construction of facilities financed by the Parks Consolidated Construction Fund - **DISTRICTS B - JOHNSON and I - RODRIGUEZ**

ORDINANCES - continued

15. Ordinance 2011-0252

ORDINANCE awarding contract to **AABBOTT-MICHELLI TECHNOLOGIES, INC** for Calibration and Repair of Truck Platform Scales for the Public Works & Engineering Department; providing a maximum contract amount - 3 Years plus two one year options - \$231,512.00 - General, Enterprise and Stormwater Funds

16. Ordinance 2011-0248

ORDINANCE appropriating \$4,595,000.00 out of Drainage Improvements Commercial Paper Series F Fund, awarding contract to **REYTEC CONSTRUCTION RESOURCES, INC** for Astoria Boulevard Paving and Drainage Improvements; setting a deadline for the bidder's execution of the contract and delivery of all bonds, insurance, and other required contract documents to the City; holding the bidder in default if it fails to meet the deadlines; providing funding for engineering, testing, CIP Cost Recovery, and contingencies relating to construction of facilities financed by the Drainage Improvements Commercial Paper Series F Fund - **DISTRICT E - SULLIVAN**

17. Ordinance 2011-0249

ORDINANCE granting to **DUMPSTER DAVE, INC, A Texas Sole Proprietorship**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions; and making certain findings related thereto - **FIRST READING**

18. Ordinance 2011-0213 – Passed third and final reading

ORDINANCE NO. 2011-213, passed second reading March 30, 2011

ORDINANCE granting to **POT-O-GOLD RENTALS, INC, A Foreign For-Profit Corporation**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions; and making certain findings related thereto - **THIRD AND FINAL READING**

END OF CONSENT AGENDA

CONSIDERATION OF MATTERS REMOVED FROM THE CONSENT AGENDA

Motion 2011-0274 – Suspend rules to remain in session beyond the scheduled noon recess

Motion 2011-0281 – Recess until after the Press Conference – “FAILED”

Motion 2011-0283 – Suspend rules to remain in session for Matters to be presented by Council Members

MATTERS HELD - NUMBERS 19 through 20B

19. Ordinance 2011-0253

ORDINANCE finding and determining that public convenience and necessity no longer require the continued use as a public right-of-way of Glenheath Street, from Glen Loch Drive west to its terminus, and two utility easements with attendant aerial easements, all located in Glenbrook Valley Section 7, or the replat of Block 38, Glenbrook Valley Section 7; vacating and abandoning said right-of-way and easements to Houston Independent School District, owner, in consideration of owner's conveyance to the City of a water meter easement, payment of \$31,647.00 to the City and other consideration - **DISTRICT I - RODRIGUEZ**

TAGGED BY COUNCIL MEMBERS RODRIGUEZ and NORIEGA

This was Item 15 on Agenda of March 30, 2011

MATTERS HELD - continued

Motion 2011-0268 - Suspend rules to consider Item 20 out of order

Motion 2011-0270 – Suspend rules to consider Item 20-9 out of order

Motion 2011-0278 – Call the question on Item 20-8

20. For motions – see Matrix below

Consideration of proposed amendments to Item 20A below, submitted in writing on March 30, 2011 by Council Members Costello, Pennington, Bradford and Hoang as set forth in the attached Exhibits Nos. 20-1 through 20-10 (Amendments will be considered in the order of a matrix prepared by the Administration)

a. Ordinance 2011-0254 – Adopt as amended

ORDINANCE adopting Article XIV to Chapter 47 of the Code of Ordinances, Houston, Texas, to create a Municipal Drainage Utility System; containing findings and other provisions relating to the foregoing subject; providing an effective date; providing for severability

TAGGED BY COUNCIL MEMBER COSTELLO

This was Item 32 on Agenda of March 30, 2011

b. Motion 2011-0282 – Adopt

MOTION by Council Member Gonzalez/Seconded by Council Member Noriega to adopt recommendation from Director Department of Public Works & Engineering to approve a schedule of rates to establish and levy drainage charges for the implementation of a Municipal Drainage Utility System as follows: Annual rate per square foot of impervious surface

Proposed Rate (per sq ft of impervious surface per year)

Residential curb & gutter, non residential 3.20¢

Residential open ditch 2.60¢

TAGGED BY COUNCIL MEMBERS COSTELLO and SULLIVAN

This was Item 32A on Agenda of March 30, 2011

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS - Council Member Clutterbuck first

ALL ORDINANCES ARE TO BE CONSIDERED ON AN EMERGENCY BASIS AND TO BE PASSED ON ONE READING UNLESS OTHERWISE NOTED, ARTICLE VII, SECTION 7, CITY CHARTER

NOTE - WHENEVER ANY AGENDA ITEM, WHETHER OR NOT ON THE CONSENT AGENDA, IS NOT READY FOR COUNCIL ACTION AT THE TIME IT IS REACHED ON THE AGENDA, THAT ITEM SHALL BE PLACED AT THE END OF THE AGENDA FOR ACTION BY COUNCIL WHEN ALL OTHER AGENDA ITEMS HAVE BEEN CONSIDERED

CITY COUNCIL RESERVES THE RIGHT TO TAKE UP AGENDA ITEMS OUT OF THE ORDER IN WHICH THEY ARE POSTED IN THIS AGENDA. ALSO, AN ITEM THAT HAS BEEN TAGGED UNDER CITY COUNCIL RULE 4 (HOUSTON CITY CODE §2-2) OR DELAYED TO ANOTHER DAY MAY BE NEVERTHELESS CONSIDERED LATER AT THE SAME CITY COUNCIL MEETING

04/05/2011 – Council Member Lovell out of the City

04/06/2011 – All Present

Rebuild Ordinance Amendments (3/30/11)		
Amend #	Council Member	Amendment
20-1 Withdrawn	Costello	Amend Sec. 47-822 "Drainage charge established; exemptions" (f) "The following are exempt from imposition of a drainage charge" to delete: (5) Any impervious surface owned by a school district as of _____; (6) Any impervious surface owned by a religious organization as of _____; (7) County exempt property
20-2 Motion 2011-0272 - Adopt	Pennington	Amend section 47-861 "Oversight committee": There shall be created an oversight committee of nine members..... to add: "Within twelve months following the appointment of the committee, the committee shall recommend to city council principles and guidelines by which future drainage projects shall be selected, and shall present to city council a proposed ten-year plan identifying drainage and street improvement projects recommended for construction with funding collected by the city pursuant to this article. Following presentment of said plan to city council, and after any amendments thereof by city council have been considered, the council shall approve the plan for implementation. The plan may thereafter be reviewed periodically by the city council and may be amended as appropriate. Following approval of the plan by city council, the plan shall be placed on the City's website or other public location for public viewing. The oversight committee shall be in place by July 1, 2011.
20-3 Motion 2011-0273 - Adopt substitute	Pennington	(e) Add the following sentence at the end of the second paragraph of Sec. 47-824(e): "City Council is to review and approve the independent process utilized by the director for this appeal process." (e) Add the following sentence at the end of the second paragraph of Sec. 47-824(e): "City Council is to review and approve the independent process utilized by the director for this appeal process."
20-4 Motion 2011-0269 - "FAILED"	Bradford	Sec. 47-822 "Drainage charge established; exemptions" Section (f)(5) shall be changed to read as follows: "property owned by, including improvements thereon, any independent school district, to include any public charter school, that is recognized by the State of Texas" Section (f)(6) shall be changed to read as follows: (6) property owned by religious organizations, including improvements thereon, that is used primarily as a place of worship, and/or other activities, as defined in the Texas Tax Code Section 11.20, subsection (c) (g) shall be added as follows: (g) Other exemptions, if any, from the imposition of a drainage charge shall be as indicated in the Schedule of Rates attached hereto.
20-5 Motion 2011-0275 - "FAILED"	Bradford	Sec 47-802 "Definitions"; Impervious Surface shall be changed to remove the terms oyster shell, gravel, and decks from the definition of impervious surface and to exclude them from consideration as impervious surface features and/or materials.

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<p>20-6 Motion 2011-0276 – “FAILED”</p>	<p>Bradford</p>	<p>Sec 47-824 "Verification, correction and appeal" (e) Appeals: "The director shall designate hearing examiners..." shall be changed to read "The City Council shall designate...."</p>
<p>20-7 Motion 2011-0277 - Adopt</p>	<p>Bradford</p>	<p>Sec. 47-805 "Administration of municipal drainage services" (last sentence) Calculation of impervious surface may be adjusted by the director based on utilization of specific storm water management techniques on the benefitted property" shall be changed to read: "Calculation of impervious surface shall be adjusted by the director based on the utilization of approved storm water management techniques on the benefitted property. Any approved management techniques are to be identified and described in detail by the director and the information made readily available to the public.</p>
<p>20-8 Motion 2011-0279 – “FAILED”</p>	<p>Bradford</p>	<p>Sec. 47-822 "Drainage charge established; exemptions" (f) (7) "County-exempt property" shall be changed to read "Any property owned by a county of the State of Texas.</p>
<p>20-9 Motion 2011-0271 – “FAILED”</p>	<p>Bradford</p>	<p>Support SB 714 and HB 1022 82nd ® Legislative Session Houston Lobby Team "I move that the City of Houston lobby team in Austin, TX, be instructed to work to assist with the passage of SB 714 authored by Senator Dan Patrick and its companion bill, HB 1022, authored by Representative Harold Dutton. These pieces of filed legislation would exempt from a drainage fee: Property owned by a county, property owned by a school district, property owned by a church synagogue or other organization or association organized primarily for religious purposes, and property owned by a nonprofit organization that is exempt from federal income taxation.</p>
<p>20-10 Motion 2011-0280 - Adopt</p>	<p>Hoang</p>	<p>Sec 47-861 Oversight committee Sec 47-867 shall read as follows : There shall be created and oversight committee of nine members, four members to be appointed by the mayor, including the committee chair, and five members to be appointed by city council, whose members shall advise the city on drainage project priorities and process.</p>