



REGULAR CITY COUNCIL MEETING ACTION TAKEN

March 07, 2016
7:00 P.M.

UNOFFICIAL MINUTES

For official City of Windcrest minutes as set forth by Resolution 292, please refer to the video at http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1664

I. Ordinances

1. City Council will review, discuss and may take action on Ordinance No. 2016-740(O), an ordinance amending the budget of the City of Windcrest for the fiscal year 2015-2016. *Rafael Castillo, Jr. City Manager requested (Second Reading) (Att. 1) (Ref: 02.22.16 RCCM http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1662)*
APPROVED – 5 FOR / 0 AGAINST

2. City Council will review, discuss and may take action on Ordinance No. 2016-741(O), an ordinance approving a contract with BFI Waste Services of Texas, L.P., d/b/a Allied Waste Services of San Antonio/Republic Services of San Antonio for residential and commercial solid waste collection and disposal and authorizing the city manager to execute such contract. *Rafael Castillo, Jr., City Manager requested (First Reading) (Att.2) (Ref: 02.22.16 RCCM http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1662)*
APPROVED - 5 FOR/0 AGAINST

II. Resolutions

None

III. Discuss & Act

1. City Council will consider public comment and the recommendation from the Planning and Zoning Commission regarding the application of CDS Muery for approval of a final plat for Unit 28 at Crestwind and Fourwinds and may take action to

approve such plat. *Rafael Castillo, Jr., City Manager requested* (Att. 3) (Ref 12.17.15 P&Z
http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1632 // 12.21.15
RCCM http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1633)

APPROVED – 5 FOR / 0 AGAINST

2. City Council will review, discuss and may take action on establishing a policy regarding the recording of our meetings which become the official minutes. *CCM Dodson, CCM Wright and Rafael Castillo, Jr., City Manager requested* (Ref 02.22.16 RCCM http://windcresttx.granicus.com/MediaPlayer.php?view_id=8&clip_id=1662) (Att. 4)

A. Continue to follow existing Resolution No. 292 and existing Policy for Conducting Live Meetings.

B. Add additional written minutes to the audio/visual official minutes.

PRODUCE WRITTEN UNOFFICIAL MINUTES WITH COUNCIL ACTION TAKEN AND PLACE ON THE CITY WEBSITE.

3 FOR / 2 AGAINST

3. City Council will review, discuss and may take action on the issued order required by the charter in regards to CCM Pamela Dodson's two sworn charter complaints and resolution thereof. *CCM Dodson requested* (Att. 5)

NO ACTION NEEDED – COUNCIL ACCEPTED ISSUED ORDERS

4. City Council will review, discuss and may take action on eliminating political signs in city common areas. *Mayor Baxter and CCM Shelton requested*

TABLED

5. City Council will receive an update regarding the Fire Chief and Municipal Finance Officer Selection committees. *CCM Shelton and Rafael Castillo, Jr., City Manager requested*

CITY COUNCIL WILL REVIEW THE TOP 5 APPLICANT APPLICATIONS RECOMMENDED BY THE SELECTION COMMITTEES AND GET THEIR SELECTIONS TO THE CITY MANAGER.

6. City Council will review, discuss, and may take action regarding adoption of a policy promoting greater efficiency in the presentation and review of monthly Department Head reports. *Mayor Baxter and CCM Vandenberg requested*

TABLED

7. City Council will review, discuss, and may take action on appointing a member of the City Council and/or Mayor to meet with the City Manager and counsel for the City and representatives of the Windcrest Volunteer Fire Association, Inc. to negotiate the terms of a Fire Protection Agreement between the Association and the City. *Mayor Baxter and CCM Vandenberg requested*

CCM VANDENBERG APPOINTED
5 FOR / 0 AGAINST

8. City Council will review, discuss and may take action on updated information regarding shredding services once per month at City Hall. *CCM Shelton and Rafael Castillo, Jr., CM requested*

TABLED

IV. Presentation (8:00)

City Council will hear a presentation from the San Antonio Polo Association. *Mayor Baxter requested*

V. Discuss & Act

City Council will review, discuss and may take action to authorize City Manager Rafael Castillo to arrange a pilot program to explore the viability of the development and investment opportunities associated with a multi-use facility for the San Antonio Polo Association, including all steps necessary and appropriate to evaluate the beneficial and practical impact of a permanent polo program in the City of Windcrest. *Mayor Baxter requested*

**THE SAN ANTONIO POLO ASSOCIATION WILL
HOLD AN EXHIBITION - DATE TO BE
DETERMINED – RESIDENTS WILL BE INFORMED**
4 FOR / 1 ABSTENTION

VI. General Announcements & Future Agenda Items Requested

VII. Adjournment



**AGENDA
CITY OF WINDCREST, TEXAS**

REGULAR CITY COUNCIL MEETING

March 07, 2016

7:00 P.M.

NOTICE IS HEREBY GIVEN THAT A REGULAR WINDCREST CITY COUNCIL MEETING WILL BE HELD AT WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS ON THE 07th DAY OF MARCH 2016 STARTING AT 7:00 P.M. DURING THE MEETING THE FOLLOWING SUBJECTS WILL BE CONSIDERED AND THE COUNCIL MAY TAKE ACTION ON ANY OF THE LISTED SUBJECTS.

THE CITY COUNCIL RESERVES THE OPTION TO RECESS THE MEETING DURING THE EVENING OF MARCH 07, 2016 AND TO RECONVENE THE MEETING ON THE FOLLOWING DAY, MARCH 08, 2016 AT 9:00 A.M. AT THE WINDCREST CITY HALL, 8601 MIDCROWN, WINDCREST, TEXAS.

IT IS ANTICIPATED THAT MEMBERS OF OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES MAY ATTEND THE MEETING IN NUMBERS THAT MAY CONSTITUTE A QUORUM OF SUCH OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES, SO THAT NOTICE IS HEREBY GIVEN THAT THE MEETING IS ALSO A MEETING OF THE OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES WHOSE MEMBERS ARE IN ATTENDANCE. THE MEMBERS OF THE OTHER CITY BOARDS, COMMISSIONS AND COMMITTEES MAY PARTICIPATE IN DISCUSSIONS WHICH OCCUR AT THE MEETING, BUT NO ACTION WILL BE TAKEN BY THE OTHER BOARDS, COMMISSIONS AND COMMITTEES WHOSE MEMBERS ARE IN ATTENDANCE.

REQUEST ALL PAGERS AND CELL PHONES BE TURNED OFF, EXCEPT EMERGENCY ON-CALL PERSONNEL. CITIZENS ARE ASKED TO REFRAIN FROM TALKING DURING COUNCIL PROCEEDINGS.

Ordinance No. 2016-618B(O) establishes certain protocols for City Council meetings.

At all City Council, City Commission or City Board meetings, the agenda shall include a "citizens to be heard" item. It is suggested that Citizens wishing to speak during this item sign in on the sign up roster prior to the meeting. During "Citizens to be Heard", citizens may address the City Council on topics not on the agenda for no more than three (3) minutes. In addition to the foregoing, citizens shall also have the opportunity to address the City Council during consideration of posted agenda items for no more than six (6) minutes. Each citizen shall therefore have the opportunity to address the City Council for a total of nine (9) minutes. This does not include any responses from the body. The six (6) minutes time limit authorized herein

may not be transferred to another speaker in whole or in part. The presiding Officer or his/her designee will assign a Time Keeper to each meeting. The Time Keeper will maintain strict compliance of the six (6) minute rule, stopping speakers who exceed the allotted time. As authorized by Section 551.042 of the Texas Government Code, a city official may make a statement of specific factual information in response to an inquiry made by a member of the public or a recitation of existing city policy. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting. Any question posed by a Citizen, Council Member, Board Member or Commission Member for which an answer is not available at a meeting shall be answered by a member of the staff or Presiding Officer at the next regular meeting of the Body, if an answer is reasonably available and prudent. If the information is sensitive, staff will seek advice from the City Attorney.

Meeting Chair: please remind each participant in your meeting that they must speak into a microphone; the recording is the Official Minutes of your meeting and all who speak must be recorded. All guest speakers and citizens to be heard must speak from podium. Please interrupt speakers during meeting if you recognize that they are not speaking into microphone and have them do so.

I. Call to Order, Pledge of Allegiance, Invocation and Announcement

II. Citizens to be Heard

1. Citizens may address the City Council on topics not on the agenda for no more than three (3) minutes.
2. In addition to the foregoing, citizens shall also have the opportunity to address the City Council during consideration of posted agenda items for no more than six (6) minutes.
3. A City Official may make a statement of specific factual information in response to an inquiry made by a member of the public, or a recitation of existing policy in response to an inquiry made by a member of the public.

III. Ordinances **"In conjunction with the first reading of an ordinance, a motion should be made to either "reject the proposed ordinance" or "to forward the proposed ordinance to a subsequent City Council meeting for final adoption at its second reading".**

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5. City Council will receive an update regarding the Fire Chief and Municipal Finance Officer Selection committees. *CCM Shelton and Rafael Castillo, Jr., City Manager requested*
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VIII. General Announcements & Future Agenda Items Requested

IX. Adjournment

The City Council reserves the right to retire into executive session whenever it is considered necessary and legally justified under the Texas Government Code, Subchapter D, Sections 551.071 et. seq. including, but not limited to, consultation with attorney, real property, prospective gifts, personnel matters, exclusion of witness, security devices, and economic development matters.

I, the undersigned authority, do hereby certify that the above Notice of Meeting of the City Council of the City of Windcrest is a true and correct copy of said Notice and was posted on the bulletin board at City Hall of said City in a convenient place to the public and said Notice was posted more than seventy-two hours prior to the meeting on March 7, 2016.

By:  , City Secretary

In compliance with the Americans With Disabilities Act, the City of Windcrest Council Chambers are wheelchair accessible, and accessible parking spaces are available. The City of Windcrest will provide for reasonable accommodations for persons attending City Council meetings. To better serve you, requests should be received 48 hours prior to the meetings. Please contact Kelly Rodriguez, City Secretary, at 210-655-0022 ext. 2150 or Fax 210-655-8776.

I certify that the attached notice and agenda of items to be considered by the City Council was removed by me from the City Hall bulletin board on the ____ March, 2016.

____ Title: _____

City of Windcrest
General Fund Summary by Department
Fiscal Year 2015-2016

	14/15 Year End	15/16 Proposed
General Fund		
<u>Fund Balance (as per Audit)</u>	<u>2,187,479.00</u>	<u>2,426,707.00</u>
Revenues*	6,172,358.00	6,245,843.00
Admin	263,857.00	276,543.00
Police	1,803,228.00	1,890,207.00
Fire	477,076.00	307,581.00
Special Services	222,516.00	229,530.00
Parks	152,468.00	517,497.00
Fleet Mechanic	172,061.00	184,574.00
Court	328,504.00	303,502.00
Facility Division	144,750.00	149,556.00
Civic Center	128,024.00	131,492.00
Contract Services	438,038.00	517,033.00
Tech Support	271,005.00	272,329.00
Public Works	602,716.00	597,879.00
Animal Control	125,606.00	153,906.00
Code Enforcement	57,240.00	60,845.00
Finance	262,336.00	264,573.00
City Manager	143,489.00	178,674.00
Pool	97,528.00	109,696.00
Post Office	67,248.00	64,735.00
Human Resources*	61,500.00	69,200.00
CIP	113,940.00	-
Ending Fund Balance	2,426,707.00	2,393,198.00
Total Expenditures*	5,933,130.00	6,279,352.00
Total Fund Balance		2,393,198.00
Unreserved (Rainy Day)		2,187,479.00
Total Reserved		\$ 205,719
Reserved for beautification projects		\$ 50,000.00
Reserved for CIP		\$ 155,719.00

Summary Notes

- 2% reduction in Tax Rate
- 7% increase in the Sales Tax projection
- Over 360k going to Parks & Rec capital for Ponds Phase 2 and 3 and Windbrook Estates Park
- Over 1 million being invested into our streets
- \$205,719 .00 restricted to CIP fund balance
- Holding the Rainy Day Fund at \$2,187,479.00 which is over 4 months
- Health Insurance Rates were reduced by 60K
- Employees under \$14.00 per hour will be raised to \$14.00
- 5% raise for our employees
- Part Time Animal control Officer converted to a Full Time position

City of Windcrest
General Fund Summary by Department
Fiscal Year 2015-2016

Budget Amendment #1 Ord. 2016-XXX(O)

	14/15 Year End	15/16 Proposed
General Fund		
<u>Fund Balance (as per Audit)</u>	<u>2,187,479.00</u>	<u>2,426,707.00</u>
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Post Office	67,248.00	64,735.00
Human Resources*	61,500.00	69,200.00
CIP	113,940.00	-
Ending Fund Balance	2,426,707.00	2,334,420.68
Total Expenditures*	5,933,130.00	6,338,129.32
Total Fund Balance		2,334,420.68
Unreserved (Rainy Day)		2,187,479.00
Total Reserved		\$ 146,942
Reserved for beautification projects		\$ 50,000.00
Reserved for CIP		\$ 96,941.68

Summary Notes

- 2% reduction in Tax Rate
- 7% increase in the Sales Tax projection
- Over 360k going to Parks & Rec capital for Ponds Phase 2 and 3 and Windbrook Estates Park
- Over 1 million being invested into our streets
- \$205,719 .00 restricted to CIP fund balance
- Holding the Rainy Day Fund at \$2,187,479.00 which is over 4 months
- Health Insurance Rates were reduced by 60K
- Employees under \$14.00 per hour will be raised to \$14.00
- 5% raise for our employees
- Part Time Animal control Officer converted to a Full Time position

EXHIBIT B

Stipulated Loss Value Schedule
to Lease Schedule No. 001
to Master Lease Agreement No. 1001384

Payment No.	Date	Amount
1	4/8/2016	\$415,464.88
2	5/8/2016	409,329.39
3	6/8/2016	403,169.17
4	7/8/2016	396,984.10
5	8/8/2016	390,774.09
6	9/8/2016	384,539.03
7	10/8/2016	378,278.82
8	11/8/2016	371,993.35
9	12/8/2016	365,682.51
10	1/8/2017	359,346.21
11	2/8/2017	352,984.33
12	3/8/2017	346,596.77
13	4/8/2017	340,183.42
14	5/8/2017	333,744.17
15	6/8/2017	327,278.92
16	7/8/2017	320,787.55
17	8/8/2017	314,269.96
18	9/8/2017	307,726.04
19	10/8/2017	301,155.68
20	11/8/2017	294,558.78
21	12/8/2017	287,933.21
22	1/8/2018	281,284.86
23	2/8/2018	274,607.63
24	3/8/2018	267,903.40
25	4/8/2018	261,172.06
26	5/8/2018	254,413.50
27	6/8/2018	247,627.61
28	7/8/2018	240,814.27
29	8/8/2018	233,973.37
30	9/8/2018	227,104.79
31	10/8/2018	220,208.41
32	11/8/2018	213,284.12
33	12/8/2018	206,331.81
34	1/8/2019	199,351.35
35	2/8/2019	192,342.63
36	3/8/2019	185,305.54
37	4/8/2019	178,239.95
38	5/8/2019	171,145.75
39	6/8/2019	164,022.81
40	7/8/2019	156,871.02
41	8/8/2019	149,690.25
42	9/8/2019	142,480.39
43	10/8/2019	135,241.31
44	11/8/2019	127,972.89
45	12/8/2019	120,675.01
46	1/8/2020	113,347.55
47	2/8/2020	105,990.39
48	3/8/2020	98,603.39
49	4/8/2020	91,186.44
50	5/8/2020	83,739.41
51	6/8/2020	76,262.18
52	7/8/2020	68,754.62
53	8/8/2020	61,216.60
54	9/8/2020	53,647.99
55	10/8/2020	46,048.67
56	11/8/2020	38,418.52
57	12/8/2020	30,757.40
58	1/8/2021	23,065.18
59	2/8/2021	15,341.73
60	3/8/2021	7,586.94

AGREED AND ACKNOWLEDGED:
City of Windercrest

By: Sarah Mangham

Date: 12/30/15

LEASE SCHEDULE NO. 001

TO MASTER LEASE AGREEMENT NO. 1001384 DATED OCTOBER 29, 2015, TOGETHER WITH THE LEASE SCHEDULE, ALL RIDER(S), ADDENDA, AMENDMENT(S), OR SUPPLEMENT(S) HERETO AND THERETO, IF ANY (THE "LEASE") BETWEEN COMMERCE BANK ("LESSOR") WITH AN OFFICE AT 8000 FORSYTH BOULEVARD, SUITE 510, SAINT LOUIS, MO 63105 AND THE CITY OF WINDCREST ("LESSEE").

1. **EQUIPMENT:** Lighting Retrofit
2. **[INTENTIONALLY DELETED.]**
3. **EQUIPMENT LOCATION:** 8601 Midcrown Dr., Windcrest, TX 78239
4. **INSTALLATION DATE:** With respect to each item of Equipment, the earlier of: (a) the date on which Lessor disburses funds to purchase the Equipment or (b) the Base Term Commencement Date.
5. **BASE TERM COMMENCEMENT DATE:** January 8, 2016
6. **BASE TERM:** Base Term starts on and includes 1/8/2016 and ends on and includes 3/8/2021.
7. **RENTAL:** Payments, plus any applicable tax, are due as follows:

4/8/2016	7,586.94	12/8/2017	7,586.94	8/8/2019	7,586.94
5/8/2016	7,586.94	1/8/2018	7,586.94	9/8/2019	7,586.94
6/8/2016	7,586.94	2/8/2018	7,586.94	10/8/2019	7,586.94
7/8/2016	7,586.94	3/8/2018	7,586.94	11/8/2019	7,586.94
8/8/2016	7,586.94	4/8/2018	7,586.94	12/8/2019	7,586.94
9/8/2016	7,586.94	5/8/2018	7,586.94	1/8/2020	7,586.94
10/8/2016	7,586.94	6/8/2018	7,586.94	2/8/2020	7,586.94
11/8/2016	7,586.94	7/8/2018	7,586.94	3/8/2020	7,586.94
12/8/2016	7,586.94	8/8/2018	7,586.94	4/8/2020	7,586.94
1/8/2017	7,586.94	9/8/2018	7,586.94	5/8/2020	7,586.94
2/8/2017	7,586.94	10/8/2018	7,586.94	6/8/2020	7,586.94
3/8/2017	7,586.94	11/8/2018	7,586.94	7/8/2020	7,586.94
4/8/2017	7,586.94	12/8/2018	7,586.94	8/8/2020	7,586.94
5/8/2017	7,586.94	1/8/2019	7,586.94	9/8/2020	7,586.94
6/8/2017	7,586.94	2/8/2019	7,586.94	10/8/2020	7,586.94
7/8/2017	7,586.94	3/8/2019	7,586.94	11/8/2020	7,586.94
8/8/2017	7,586.94	4/8/2019	7,586.94	12/8/2020	7,586.94
9/8/2017	7,586.94	5/8/2019	7,586.94	1/8/2021	7,586.94
10/8/2017	7,586.94	6/8/2019	7,586.94	2/8/2021	7,586.94
11/8/2017	7,586.94	7/8/2019	7,586.94	3/8/2021	7,586.94

8. **PERSONAL PROPERTY TAX:** In the event Personal Property Tax is applicable, Lessee shall promptly notify Lessor and Lessee and Lessor agree that: (a) Lessor shall include the Equipment in its personal property tax returns filed in the appropriate taxing jurisdictions in accordance Equipment location(s) set forth herein, and (b) personal property taxes assessed on the Equipment during the Lease shall be paid by Lessee to Lessor and, upon Lessor's receipt thereof, remitted by Lessor to such taxing jurisdiction.



WINDCREST TEXAS

RESOLUTION NO. 2015-571(R)

**A RESOLUTION APPROVING THE PURCHASE AND
INSTALLATION OF PARK LIGHT FIXTURES AND
AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND
EXECUTE AN AGREEMENT FOR SUCH SERVICES**

WHEREAS, it would enhance the health, safety and welfare of the citizens of the City of Windcrest for the city to purchase and install park light fixtures.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Windcrest, Texas, that:

1. An agreement with Graybar Electric Company, Inc. to purchase and install park light fixtures for a cost of \$398,697.80 is hereby approved.
2. The City Manager is authorized to negotiate and execute an agreement with Graybar Electric Company, Inc. for such purchase and installation and is furthermore authorized to execute all financing documents necessary and appropriate for the financing of such park lights, including a lease with Commerce Bank.

DULY PASSED AND APPROVED, on the 21st day of December, 2015, at a meeting of the City Council of the City of Windcrest, Texas, which meeting was held in compliance with the Open Meetings Act, Tex. Gov't. Code, §551.001, et. seq. at which meeting a quorum was present and voting.

Alan Baxter, Mayor

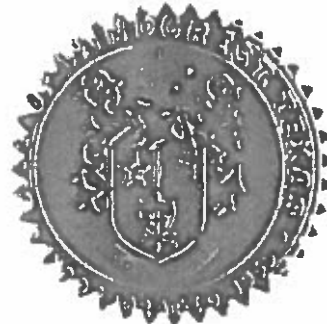
ATTEST:

Kelly Rodriguez, City Secretary

DAVID RODRIGUEZ JR
ASSISTANT CITY SECRETARY

APPROVED AS TO FORM:

Michael S. Brennan, City Attorney





ORDINANCE 2016-740(O)

**AN ORDINANCE AMENDING THE BUDGET OF THE CITY
OF WINDCREST FOR THE FISCAL YEAR 2015-2016**

WHEREAS, a parks lighting project was approved by Resolution No. 2015-571(R), a resolution approving the purchase and installation of park light fixtures and authorizing the city manager to negotiate and execute agreement for such services <http://www.windcrest-tx.gov/ArchiveCenter/ViewFile/Item/1345>; and

WHEREAS, it would be in the public interest to fund certain Little League projects for the FY 2015-2016.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS:

The Budget of the City of Windcrest for the Fiscal Year 2015-2016 is hereby amended to transfer:

- \$50,000.00 from the total Reserved Unrestricted Fund Balance to the Parks and Recreation CIP projects line item to cover FY 2015-2016 cost of the lighting project.
- \$8,777.32 from the total Reserved Unrestricted Fund Balance to the Little League projects line item to cover FY 2015-2016 cost of certain projects.

PASSED AND APPROVED, this, the ____ day of _____, 2016.

ALAN E. BAXTER, MAYOR

ATTEST:

KELLY RODRIGUEZ, CITY SECRETARY

APPROVED AS TO FORM:

MICHAEL S. BRENAN, CITY ATTORNEY

CONTRACT FOR SOLID WASTE COLLECTION AND DISPOSAL SERVICE

This Contract for Solid Waste Collection and Disposal Service for the City of Windcrest, Texas (hereinafter referred to as the "Contract") is made on the 22nd day of February, 2016 between the City of Windcrest, Texas (hereinafter referred to as "City") 8601 Midcrown, Windcrest Texas 78239 and BFI Waste Services of Texas, L.P., D.B.A. Allied Waste Services of San Antonio // Republic Services of San Antonio (hereinafter referred to as "Contractor"), San Antonio, 4542 SE Loop 410, Texas 78222

PURPOSE

City desires to continue to make available to the residents and businesses of the City the collection of the solid waste produced in the City and this Agreement sets forth the provisions, terms and conditions by which the Contractor will provide such services, as well as the terms and conditions of City.

1.00 DEFINITION

- 1.01 BIN or DUMPSTER – Metal receptacle designed to be lifted and emptied mechanically for use only at commercial and industrial units.
- 1.02 BAGS – Plastic sacks designed to store refuse with sufficient wall strength to maintain physical integrity when lifted by the top. Total weight of a bag and its contents shall not exceed thirty-five pounds (35 lbs).
- 1.03 BUNDLE – Tree, shrub and brush trimmings or newspaper and magazines securely tied together forming an easily handled package not exceeding three feet in length or thirty-five pounds (35 lbs.) in weight.
- 1.04 BRUSH – Woody materials, tree stumps, dead trees, branches not over 6 inches in diameter, or large shrubs.
- 1.05 BULKY WASTE – Furniture and mattresses and other waste materials other than Hazardous Material or Stable Matter with weights or volumes greater than those allowed for Carts but not including construction debris or dead animals.
- 1.06 CITY- City of Windcrest, Texas.
- 1.07 COMMERCIAL REFUSE – All Bulky Waste, Construction Debris, Garbage, Rubbish and Stable Matter generated by a Producer or contractor at a Commercial Unit.
- 1.08 COMMERCIAL UNIT – All premises locations or entities, public or private requiring refuse collection within the corporate limits or ETJ of the City and not a Residential Unit.

- 1.09 CONSTRUCTION DEBRIS – Waste building materials resulting from commercial, industrial, or residential construction, remodeling, repair or demolition operations.
- 1.10 CONTAINER FOR REFUSE COLLECTION - A receptacle with a capacity of greater than twenty (20) gallons but less than thirty-five (35) gallons constructed of plastic, metal or fiberglass, having handles of adequate strength for lifting and having a tight fitting lid. The mouth of a container entrance shall have a diameter greater than or equal to that of the base. The weight of a container and its contents shall not exceed sixty pounds (60 lbs.).
- 1.11 CONTRACTOR – BFI Waste Services of Texas, L.P., D.B.A. Allied Waste Services of San Antonio // Republic Services of San Antonio, which is performing refuse collection and disposal under contract with the City.
- 1.12 DISPOSAL SITE – A refuse depository, in close proximity to the City including but not limited to sanitary landfills, transfer stations, incinerators, and waste processing/separation centers licensed, permitted or approved to receive for processing or final disposal of refuse by all governmental bodies and agencies having jurisdiction and requiring such licenses, permits or approvals.
- 1.13 GARBAGE – Solid waste consisting of putrescible animal and vegetable waste materials resulting from the handling, preparation, cooking and consumption of food, including waste materials from markets, storage facilities, handling and sale of produce and other farm products.
- 1.14 HAZARDOUS WASTE – Waste, in any amount, which is defined, characterized or designated as hazardous by the United States Environmental Protection Agency or appropriate State Agency by or pursuant to Federal or State law, or waste, in any amount, which is regulated under Federal or State law.
- 1.15 HOUSEHOLD WASTE – All Garbage that is placed in Containers produced by a generator at a Residential Unit. Household Waste includes all waste defined as household waste by law and does not lose its characterization as such based on incidental inclusion of any prohibited wastes, including Hazardous Waste.
- 1.16 LANDFILL – A lawfully permitted sanitary landfill of the Contractor's selection.
- 1.17 MULTI-FAMILY – The term multi-family shall refer to all residential dwelling units of more than one (1) unit considered to be condominiums, apartment houses or grouped housing.
- 1.18 PRODUCER – An occupant of a Commercial and Industrial Unit or a Residential Unit who generates Refuse.
- 1.19 RECYCLABLE MATERIALS - Those commodities which are collected by Contractor pursuant to the Contract Documents which may include aluminum, newsprint, glass, metals, plastics, or any other commodity mutually agreed and set forth in this Franchise and/or its addendums.

- 1.20 RECYCLING – The collection of and the delivery of recyclable materials pursuant to the Contract Documents.
- 1.21 REFUSE – Residential Refuse, Commercial and Industrial Refuse, Brush, Bulky Waste, Construction Debris and Stable Matter generated by a Producer or contractor.
- 1.22 RESIDENTIAL REFUSE – All Garbage, Household Waste, Rubbish and/or Yard Waste generated by a Producer or contractor at a Residential Unit who generates Refuse.
- 1.23 RESIDENTIAL UNIT – A dwelling within the corporate limits of the City occupied by a person or group of persons comprising not more than four families. A Residential Unit shall be deemed occupied when either water or domestic light and power services are being supplied thereto. A condominium dwelling, whether of single or multi-level construction, consisting of four or less contiguous or separate single-family dwelling units, shall be treated as a Residential Unit, except that each single-family dwelling within any Residential Unit shall be billed separately as a Residential Unit.
- 1.24 RUBBISH – See BULKY WASTE.
- 1.25 SOLID WASTE – Useless, unwanted or discarded materials with insufficient liquid content to be free-flowing, that result from domestic, industrial, commercial, agricultural, governmental and community operations which require proper storage, collection, transportation and disposal to prevent environmental pollution inimical to public health, safety and welfare. Solid Waste does not include sewage, earth or material used to fill land in accordance with construction codes, mining residues, slag, dissolved or suspended solids in industrial waste water effluents which are not acceptable for disposal in sanitary sewage treatment system or any material included in the definition of Excluded Waste.
- 1.26 SMALL BUSINESS REFUSE – All Garbage, Household Waste and/or Rubbish generated by a Producer or contractors at a individual business.
- 1.27 STABLE MATTER – All manure and other waste matter normally accumulated in or about a stable, or any animal, livestock or poultry enclosure, and resulting from the keeping of animals, poultry or livestock.
- 1.28 WHITE GOODS – Stoves, refrigerators, dishwashers, freezers, washing machines, dryers, water heaters, air conditioners, and other household appliances which are primarily constructed of metals such as steel and aluminum and can be substantially recycled. All Freon must be removed by a licensed facility and is labeled as such.

- 1.29 YARD WASTE – Bagged leaves and grass, cut brush and tree limbs less than 6 inches in diameter, yard and garden debris that results from landscape maintenance or minor land clearing.

TCEQ DEFINITIONS – Unless otherwise defined in this Contract, or unless the context indicates a contrary meaning, various words and phrases of this Contract shall have the meaning given to them in Title 30, Chapters 330 and 332 of the Texas Administrative Code, as amended.

2.00 SCOPE OF WORK

The work under this Contract shall consist of commercial, industrial, and residential solid waste collection, disposal and recycling including all the supervision, material, equipment, labor and all other items necessary to complete said work in accordance with the Contract.

- (A) It is the intent under this part of the Franchise for the Contractor to collect certain commodities to be recycled by commodity buyer who has experience in the business of processing and selling of commodities. The Contractor will not be required to collect those commodities which are mixed with garbage, trash and rubbish normally collected by sanitation crews.
- (B) In the event that the market price for any one or all of the commodities designed to be collected drops to the point that such materials can no longer be sold or processed, the City will remove that item from the list of those items to be recycled and will notify residents of the same. If such a condition causes less than four items to be saleable, the City and Contractor shall review the recycling portion of this Franchise for possible termination. No penalty shall be paid by the City or by the Contractor for such termination. Contractor will not have any obligations to dispose of recyclable materials other than by delivery to a commodity buyer.

3.00 COLLECTION OPERATIONS

3.01 SERVICE PROVIDED

- (a) Contractor shall provide collection, and disposal service for Residential, Commercial refuse (2 times per week) and Recycling (1x/week). Contractor shall also provide a Household Hazardous Waste Collection annually. Residential Collection during weeks with Holidays must be made a minimum of one time for that week. See section 4.03 Holidays.
- (b) Recycling Container – The Contractor shall supply and distribute to each Residential Unit one (1) container for the recycled materials to be collected. Such containers shall be constructed from a high density polyethylene resin, with a minimum capacity of 18 gallons.
- (c) Recyclable Materials – The Contractor shall advise the City of all commodities to be collected and recycled under this Franchise. The recyclable materials may include but are not limited to aluminum, newsprint, glass, metals, plastics or any

other materials for which a recycling market is developed. The Contractor shall provide the City with current information and materials on recyclable commodities being collected and advise the City of any changes in recyclable commodities to be collected. Contractor and City shall share in any proceeds from the sales of these commodities in a 50/50 split.

- (d) Brush and Bulky Waste items will be picked up (2) times per year, limited to 15 cubic yards per Residential Unit, with Brush, Bulky Waste and White Goods separated at curbside.
- (e) Contractor shall provide collection services for the collection of Refuse to Commercial, and multi-family residential complexes of four (4) or more dwellings.
- (f) During the term of this Contract the Contractor shall make available or provide for the special collection from Residential Units for Construction Debris and Stable Matter at the rates pursuant to Section 12.01(b).
- (g) **City Spring and Fall Clean Ups** – As a service to residents the City will schedule a city-wide spring and fall clean-up service for each residence for the purpose of disposing of bulky waste, bundled brush, shrub and tree trimmings and other rubbish. Small amounts of Construction Debris resulting from personal residential repairs are acceptable along with such other waste to be collected at such address. Batteries, tires and any type of Hazardous Waste may not be disposed of. Each clean up event shall be for a period of 3 weeks with no less than two days of pick up scheduled for each route. Pickup during the clean-up events shall not begin prior to 7:00 AM on any day. During each clean up event, up to four (4) 30 yard dumpsters shall be provided by the Contractor and placed at a location to be determined by the City. Charges for the curbside clean up events shall be at no additional charge to the City.
- (h) **Special Events** – The Contractor shall provide dumpsters at no charge for at least three City sponsored special events per year, such as the Windcrest Volunteer Fire Department Picnic and Windfest. The City will advise Contractor in advance of event dates and the number and size of dumpsters needed. Location for placement of dumpsters will be determined by the City.
- (i) **Household Hazardous Waste Collection** - The Contractor shall provide the City and its residents with one Household Hazardous Waste disposal Event per year at an allotted cost of \$15,000. The scheduling of the event shall be coordinated between the City and the Contractor and shall be limited to the residents of the City. The event shall include but is not limited to the disposal of tires, oil, antifreeze, batteries, insecticides, paint, household chemicals and solvents. This event will not allow ammunition, radioactive material, explosives or gunpowder. Republic Services will coordinate with the City of Windcrest to identify a list of household hazardous waste items that will be accepted during the annual event.

- (j) Contractor may from time to time provide for the special collection of special refuse at its sole discretion and upon such terms as Contractor shall specify. In the event that the residents may desire pick-up of excessive or unusual items, such residents should make independent arrangements with the Contractor and will be billed directly by the Contractor. Contractor shall have no obligation whatsoever to collect hazardous waste, infectious waste, or special waste.
- (k) Large amounts of debris from lot clearing and construction operations, rock, brush, tree limbs, waste, scrap, building materials, or other trash resulting from construction or major remodeling, or vacant or improved property just prior to its occupancy, or resulting from sizable amounts of trees, brush, and debris cleared from property in preparation for construction, will not be removed by the Contractor as a part of regular service but may be removed for the Producer at the rates established by the Contractor. All special services shall be arranged with and billed directly to the Producer of such debris.
- (l) Contractor will collect residential or commercial refuse from all property owners within the City and which are not delinquent in the payment of the authorized service fees. Contractor shall collect; remove, transfer; transport and dispose of residential refuse from Residential Units twice weekly between 7:00 AM and 6:00 PM, Monday through Friday. Container, bags and bundles shall be placed in the alley if one exists, if not, then at the curbside by 7:00 AM on the designated collection day. Contractor shall provide Commercial Service between 7:00 AM and 9:00 PM, Monday through Saturday for the collection of commercial refuse according to individual needs as determined by the Commercial Producers and scheduled by the Producer with the City. Contractor shall provide for the special collection from Residential and Commercial Units of bulky waste, dead animals and stable matter. Charges for such special collections shall be negotiated between Contractor and Producer prior to collection. If an agreement cannot be reached, the matter shall be submitted to the City for determination of a reasonable fee. Small animals collected by the City and euthanized by the Windcrest Animal Hospital shall be considered as garbage.
- (m) All refuse collected for disposal by the Contractor shall be hauled to the disposal site outside of corporate limits of the City. The charge for disposal shall be included in the rate set forth in this Franchise for each Residential Unit and Commercial Unit serviced by the Contractor.
- (n) Delivery - All commodities/recyclable materials collected for delivery and sale by the Contractor shall be hauled to a commodity buyer selected by the Contractor pursuant to the Contract Documents. The charge for delivery to the commodity buyer shall be included in the rate set forth in the Franchise for each Residential Unit serviced by the Contractor.
- (o) Notification – The City shall notify all residents about procedures, rates, regulations and days for scheduled collections.

- (p) Point of Contact – The Contractor's Point of Contact shall be designated as the Municipal Services Manager, and the City's representative shall be the City Manager.

3.02 ITEMS NOT COLLECTED

Items not collected under the terms of this Contract include batteries, tires, liquids of any kind, dead animals, hazardous waste, asbestos, junk vehicles, dirt, rocks, asphalt shingles, items containing Freon, corrugated metal, or any materials not included under the definitions of Garbage, Rubbish, Commercial and Industrial Refuse, Residential Refuse, Construction Debris, White Goods, Yard Waste or Brush/Bulky waste.

3.03 SERVICES PROVIDED AT NO CHARGE

Contractor shall collect solid waste with the following frequency at all present and future City-owned properties, limited to carts or small bins only, including the following:

Location	Bin or Container	Frequency
City Hall	1 x 4	Twice a Week
Windcrest Little League	1 x 8	Weekly

4.00 COLLECTION OPERATIONS

4.01

4.02 ROUTES OF COLLECTION

- (a) Residential Unit and Small Business collection routes shall be established by the Contractor and approved by the City. The Contractor may from time to time propose changes in routes or schedule, which approval shall not be unreasonably withheld. Upon City's approval of the collection routes or any subsequent proposed changes, Contractor shall promptly give written notice to the affected Residential Units and shall publish such changes at least once in the City's official newspaper not later than twenty (20) days prior to implementing such changes.

- (b) Commercial collection routes shall be established by the Contractor. All routing must comply with City and State traffic laws. Contractor is not to use alleyways for traffic passage unless bins are located in the alleyway.

4.03 HOLIDAYS

The following shall be holidays for the purpose of this contract:

Thanksgiving Day
Christmas Day
New Year's Day

Contractor may decide to observe any or all of the above mentioned holidays by suspension of collection services on the holiday, but such decision in no manner relieves Contractor of its obligation to provide collection services at Residential Units at least once per week. Contractor shall make every effort to provide service two times during a holiday week. If unable to provide a second service, at least 7 days' notice must be given to the City Manager so that this can be properly communicated to the residents. Contractor will furnish advance notice to City of which holidays will be observed and what the alternate schedule will be. Alternate schedules will be subject to approval by the City. Once approved, Contractor shall publish any alternate schedule in the City's official newspaper not later than one (1) week prior to the observed holiday and the alternate schedule.

4.04 INTERRUPTIONS

- (a) In the event Contractor is unable to provide any of the services required by this Contract for any reason for more than forty-eight (48) hours, Contractor shall use its best efforts to make alternate arrangements for the purpose of continuing collection services, including, if necessary, contracting with a third party, in order to protect the public health and safety of City's residents until Contractor is able to resume services.
- (b) If the interruption in service continues for a period exceeding seven (7) days, the City shall have the right to immediately terminate this Contract following notice to Contractor.

4.05 COMPLAINTS

- (a) All complaints from a Producer, the public or the City shall be made directly to the Contractor and directed to the Customer Service Manager.
- (b) The City Manager or his/her designee shall notify Contractor of each complaint reported directly to the City.

- (c) Upon receipt of a complaint, the Customer Service Manager shall, as soon as practical, take such reasonable steps necessary to investigate the allegations forming the basis of the complaint.
- (d) Not later than twenty-four (24) hours after receipt of the complaint, the Customer Service Manager shall provide a courteous response to the complainant indicating the results of the Customer Service Manager's investigation and the corrective measures, if any, taken in view of such investigation.
- (e) In the case of alleged missed scheduled collections, the Customer Service Manager shall investigate, and if such allegations are verified, shall arrange for the collection of Refuse not collected within 48 hours after the complaint is received.
- (f) In every case, a complaint investigation shall be completed and corrective action commenced and implemented within 72 hours or less after receipt of a complaint by the Customer Service Manager.
- (g) Failure or delay in performance of any service required under this Contract due to contingencies beyond the party's reasonable control, including strikes, riots, terrorist acts, fires, tornadoes, acts of God (force majeure) shall not constitute a breach of this Contract if such failure is corrected within a reasonable time once performance may be resumed. Upon notice of an event of force majeure, the party being delayed or unable to perform shall notify the other party of such event and upon the event ending, the parties shall establish a schedule to resume the performance of the services.
- (h) Not later than 10 days after receipt of notification of default from City, Contractor shall correct such default. If Contractor fails to correct the default within said time, City may terminate this Contract by delivery of a written notice of termination. Upon receipt of notice of termination, Contractor shall immediately discontinue all work. Termination of this Contract shall not impair or waive the City's ability to seek or invoke any other remedies which may be available to the City at law or in equity.

4.06 COLLECTION EQUIPMENT

- (a) Contractor, at its sole cost and expense, shall provide an adequate number of vehicles for regular collection services, as well as all other equipment, machines and labor which are reasonably necessary to adequately, efficiently and properly perform the services under this Contract. All trucks and other equipment and machines shall be used so as not to leak or scatter waste within the limits of the City or while in route to the Disposal Site. Rear loader trucks shall be used for normal residential collection services; no automated trucks shall be utilized unless for emergencies and with notification to City. Containers or Carts shall be placed in an upright position with lids closed after being emptied.

- (b) Each vehicle shall be clearly marked with the Contractor's name, telephone number and unit number legible from 150 feet. No advertising for companies other than Contractor shall be permitted on vehicles. All collection equipment shall be maintained in a first class, safe and efficient working condition throughout the term of this Contract. Such vehicles shall be maintained, cleaned and washed and painted as often as necessary to preserve and present a well-kept appearance, and Contractor shall have a regular preventative maintenance program. Contractor shall also provide reliable back up vehicles for regular collection service vehicles. City may inspect Contractor's vehicles at any time to insure compliance of equipment with this Contract. Violation of these requirements shall be deemed to be an event of default of this Contract.

4.07 OFFICE

The Contractor shall maintain an office or other facilities through which he can be contacted. It shall be equipped with sufficient telephones and a local telephone number or a toll free number, and shall have a responsible person in charge from 8:00 a.m. to 5:00 p.m. from Monday through Friday, except for holidays.

4.08 HAULING

All refuse hauled by the Contractor shall be so contained or enclosed that leaking, spilling or blowing are prevented. If Contractor, through its actions during collection, causes any debris to leak, spill or blow from its trucks, or the Container or Bag, Contractor shall cause such leak, spill or blowing debris to immediately be cleaned or picked up.

4.08 DISPOSAL

All Refuse collected for disposal by the Contractor shall be hauled to a State approved Disposal Site. The charge for disposal shall be included in the rates provided by Contractor for disposal of Residential Refuse and Commercial and Industrial Refuse.

4.09

5.00 COMPLIANCE WITH LAW

The Contractor shall conduct operations under this Contract in compliance with all applicable laws; provided, however, that the General Specifications shall govern the obligations of the Contractor where there exists conflicting ordinances of the City on the subject.

6.00 EFFECTIVE DATE

This Contract shall be effective upon the execution of the Contract and performance of such Contract shall begin on the date as jointly agreed upon by

the parties involved. For the purposes of this agreement the effective date shall be _____.

7.00 NONDISCRIMINATION

The Contractor shall not discriminate against any person because of race, sex, age, creed, color, religion or national origin.

8.00 INDEMNITY

THE CONTRACTOR SHALL INDEMNIFY, DEFEND, AND SAVE HARMLESS THE CITY, ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES FROM AND AGAINST ANY AND ALL SUITS, ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES, AND ATTORNEYS' FEES ARISING OUT OF A WILLFUL OR NEGLIGENT ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, SERVANTS, AND EMPLOYEES; PROVIDED, HOWEVER, THAT THE CONTRACTOR SHALL NOT BE LIABLE FOR ANY SUITS, ACTIONS, LEGAL PROCEEDINGS, CLAIMS, DEMANDS, DAMAGES, COSTS, EXPENSES AND ATTORNEY'S FEES ARISING OUT OF THE AWARD OF THIS CONTRACT OR A WILLFUL OR NEGLIGENT ACT OR OMISSION OF THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES.

CONTRACTOR SHALL INDEMNIFY, DEFEND AND SAVE HARMLESS THE CITY, ITS OFFICERS, AGENTS, SERVANTS AND EMPLOYEES FROM AND AGAINST ANY AND ALL ANY CIVIL OR CRIMINAL CHARGES BROUGHT AGAINST THE CITY, ITS OFFICERS, SERVANTS, AND EMPLOYEES AS THE RESULT OF ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL LAW, RULE OR REGULATION OR VIOLATION OF THE PROVISIONS OF ANY PERMIT OR LICENSE HELD BY CONTRACTOR WHICH IS RELATED TO THE COLLECTION, TRANSPORTATION AND/OR STORAGE OF SOLID WASTE PRIOR TO DISPOSAL. CONTRACTOR'S OBLIGATION IN THIS SECTION SHALL APPLY REGARDLESS OF WHETHER THE ACT OR OMISSION OF THE CONTRACTOR, ITS OFFICERS, AGENTS, SERVANTS OR EMPLOYEE WAS INTENTIONAL, KNOWING, RECKLESS OR NEGLIGENT.

9.00 LICENSES AND TAXES

The Contractor shall obtain all licenses and permits (other than the license and permit granted by this franchise), and promptly pay all taxes required by the City and by the State.

10.00 TERM

The Contract shall be for a (5) five-year period beginning upon the execution of Contract. The initial (5) five-year term of this Contract may be extended for successive additional (5) five-year terms, if the City approves such extension. Contractor shall notify the City in writing not less than sixty (60) days prior to the

expiration of the initial term or of any successive term, of the expiration of the Contract. Any such written notice shall be served by certified or registered mail, return receipt requested. Thereafter, the City shall, within sixty (60) days after receipt of such notice, indicate whether it intends to extend such Contract for an additional five (5) year term or terminate such Contract.

11.00 INSURANCE

(a) Contractor shall at all times during the Contract maintain in full force and effect Employer's Liability, Worker's compensation, Public Liability, and Property Damage insurance, including contractual liability coverage for the provision of Section VIII.

(b) Before commencement of work hereunder, the Contractor agrees to furnish to the City certificate of insurance or other evidence satisfactory to the City to the affect that such insurance has been procured and is in full force. The certificates shall contain the following obligations:

"This is to certify that the policies of insurance described herein have been issued to the insured for whom this certificate is executed and are in force at this time. In the event of cancellation or material change in a policy affecting the certificate holder, thirty (30) days prior written notice will be given the certificate holder"

(c) For the purpose of this Contract, the Contractor shall carry the following types of insurance in at least the limits specified below:

Coverage:

Limits of Liability:

Worker's Compensation

Statutory

Employer's Liability

\$500,000.00

Bodily Injury Liability
Except Automobile

\$1,000,000.00 each occurrence
\$2,000,000.00 aggregate

Property Damage Liability
Except Automobile

\$500,000.00 each occurrence
\$500,000.00 aggregate

Automobile Bodily Injury Liability

\$1,000,000.00 each occurrence
\$1,000,000.00 aggregate

Automobile Property Damage Liability

\$500,000.00 each occurrence

Excess Umbrella Liability

\$2,000,000.00 each occurrence

Such insurance will be carried with a reputable company rated A+10 or higher. The City shall be named as an additional insured in the above described policies.

Performance Bond –

- (a) The Contractor will be required to furnish the City with a performance bond as security for the performance of this Franchise. Said performance bond must be in the amount of **One Hundred Thousand Dollars** (\$100,000). The performance bond shall be in effect one day after granting of this Franchise and shall continue thereafter during all terms of the Franchise and any extensions thereafter entered into by and between the City and the Contractor.
- (b) The premium for the bond described above shall be paid by the Contractor. A certificate from the surety showing that the bond premium is paid in full shall accompany the bond.
- (c) The surety on the bond shall be a duly authorized corporate surety company authorized to do business in the State of Texas.
- (d) Attorneys-in-fact who sign performance bonds or Contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.
- (e) Default – If default shall be thereafter made by the Contractor in the performance of any of the material terms of the Franchise, the City, without in any manner limiting its legal and equitable remedies in the circumstances, may serve upon the Contractor and the surety upon the Contractors' performance bond a written notice requiring the Contractor to cause such default to be corrected forthwith. Unless within fifteen (15) calendar days after the service of such notice upon the Contractor, such default shall be corrected or arrangements for the correction shall be started and thereafter diligently pursued by the Contractor or its surety, the City may terminate this Franchise and the Contract and its surety shall be liable to the City for any and all reasonable costs or expenses incurred by the City in correcting and/or curing the Contractor's default and/or any and all reasonable costs or expenses in excess of the Franchise price occasioned by the City's reletting the Franchise to a different Contractor.
- (f) Interruption in Service – In the event that the collection and disposal of residential and commercial refuse should be interrupted by the Contractor for any reason for more than forty-eight (48) hours, the City shall have the right to make temporary independent arrangements at the expense of the Contractor for the purpose of continuing this necessary service to its citizens in order to provide and protect the public's health and safety. If the interruption in service by the Contractor continues for a period of seven (7) days or more, then the City shall have the right to terminate the rights and privileges granted in this Franchise.

12.00 BASIS AND METHOD OF PAYMENT

12.01 COLLECTION

- (a) For collection service required to be performed pursuant to Section 3.00, the charges shall not exceed the rates as fixed by the Contract, as may be modified by a rate adjustment.
- (b) For special collection provided by the Contractor pursuant to Section 3.01 (f), the charges are to be negotiated between the Contractor and the Producer prior to collection.
- (c) The recycling service provided shall include all costs of delivery to a commodity buyer.
- (d) City shall make payment to Contractor immediately following approval of payment by the City Manager on the 3rd Thursday of the Month after service has been provided.

12.02 Collection, Recycling and Household Hazardous Waste Rates –

- (a) All rates authorized by this Franchise shall be enacted by the City as required by law.

12.03 – Billing and Payment of Accounts

- (a) Commercial refuse accounts will be billed monthly in advance and residential refuse accounts will be billed semi-annually in advance on the 1st day of October and April of each year. New residents will be billed in advance for the remaining portion of the billing cycle. If the City receives a request for a refund from a former resident who has vacated a residential unit prior to the end of a billing cycle, the City will refund the unused portion of such former resident's account after deducting a \$10.00 administrative charge for special handling,. If the customer's account has less than \$10.00 remaining, that amount will be charged as the administrative fee.
- (b) The Contractor shall certify to the City on a monthly basis the total number of residences from which Contractor collected residential refuse and also provide a list of the commercial refuse accounts likewise serviced by Contractor. The City shall pay Contractor for its services to City's residential and commercial refuse accounts on the basis of the number of residences and the list of commercial refuse accounts as certified at the rates set forth in the Franchise. Payment by the City to the Contractor shall be within fifteen (15) days following the City's receipt of the Contractor's monthly certificate of accounts.
- (c) Current rates are included in Appendix B, Rates for Residential and Commercial Accounts. A contractor authorized to collect, remove and dispose of construction debris by section 16.00 shall pay to the City 3% of the Contractor's charges for collection, removal and disposal of construction debris from the City as a fee for the privilege of using the streets of the City.

12.04 Delinquent Accounts

- (a) Service to residential and/or commercial refuse accounts may be discontinued when any such residential or commercial refuse account is sixty (60) days in arrears. The Contractor shall discontinue refuse collection service at any residential or Commercial Unity as set forth in a written notice sent to it by the City. Upon further notification by the City, the Contractor shall resume refuse collection on the next regularly scheduled collection date.
- (b) Residential accounts are delinquent if not paid in full by the due date stated on the bill. An additional fee of ten (10%) percent shall be assessed to a delinquent residential account.
- (c) Commercial refuse accounts are delinquent if not paid in full by the due date stated on the bill. An additional fee of ten percent (10%) shall be assessed to a delinquent commercial refuse account.

12.05 MODIFICATION TO RATES

- (a) (a)The fees which may be charged by the Contractor for the second and subsequent years of the term hereof shall be adjusted to reflect changes in the cost of operations, as reflected by fluctuations in the Consumer Price Index for All Urban Consumers (Water and Sewer and Trash Collection Services index) as published by the U.S. Department of Labor as of the last month of the first year of the Contract and every twelve (12) months thereafter (the "Rate Modification Date"), the fees shall be increased the ensuing twelve-month period. No increase shall exceed 4.5% nor shall it be below 2% in any one year.
- (b) On or before February 1 of each year, the Contractor shall notify the City of its intent to adjust the fees to be charged and such notice shall include, at a minimum a comparative statement setting out for both the Water and Sewer and Trash Collection Services index: (i) the twelve (12) month average index values from the current and previous year as of December; (ii) the net percentage change; and (iii) the increase in the fees which Contractor intends to charge.
- (c) In addition, to the adjustment described in 12.05(a) and 12.05(b), the Contractor may from time-to-time petition the City for unit price adjustments on the basis of increased disposal costs, change in disposal site, additional duties and responsibilities imposed upon Contractor by changes or additions to laws, ordinances, rules or regulations currently in effect or additional duties and responsibilities imposed by new laws, ordinances, rules and regulations not in effect on the effective date of this Contract. Any request for adjustment shall be accompanied by documentation which identifies the specific reason for the adjustment, as well as other data showing the details of the cost impact of such regulation and such other information as City may reasonably request.

12.06 CITY TO ACT AS COLLECTOR

The City shall submit statements to and collect from all customers for services provided by the Contractor pursuant to Section 3.01, including those accounts that are delinquent.

12.07 DELINQUENT AND CLOSED ACCOUNTS

The Contractor shall discontinue refuse collection services to all customers as set forth in any written notice sent to it by the City. Upon further notification by the City, the Contractor shall resume refuse collection on the next regularly scheduled collection day. The City shall indemnify and hold the Contractor harmless from any claims, suits, damages, liabilities or expenses (including, but not limited to expenses of investigation and attorneys' fees) resulting from the Contractor's discontinuing service at any location at the direction of the City.

12.08 CONTRACTOR BILLINGS TO CITY

- (a) Contractor shall bill the City for services rendered to residential and commercial units as stated in section 12.01.
- (b) If City fails to pay Contractor within twenty (20) days of date due, services will be suspended by Contractor until past due amounts are paid in full. In the event services are suspended for any period of time, and in the event Contractor resumes services, City will not be allowed a credit for any period of suspension.
- (c) Subsequent to said billing, the Contractor shall be entitled to payment for services rendered to all residential units and commercial units and Industrial units irrespective of whether or not the City collects from the Producer for such services.
- (d) The charges paid to Contractor by City constitute the total compensation to Contractor due from City pursuant to this Contract. Except as otherwise provided in this Contract, Contractor shall be solely responsible for all costs and expenses in its performance of this Contract.

13.00 TRANSFERABILITY OF CONTRACT

No assignment of the Contract or any right accruing under this Contract shall be made in whole or in part by the Contractor without the express written consent of the City, which consent shall not be unreasonably withheld. Any attempted assignment without such prior written consent shall be void. Assignment includes without limitation assignment by operation of law, merger, or transfer of fifty percent joint venture or partnership interest of Contractor or of the controlling interest in Contractor. In the event of any assignment, the assignees shall assume in writing all obligations and liability of the Contractor. A complete copy of any such assignment and assumption shall be furnished to City.

14.00 OWNERSHIP

Title to refuse shall pass to the Contractor when placed in Contractor's collection vehicle, removed by the Contractor from a Bin or Container, or removed by Contractor from the customer's premises, whichever last occurs.

15.00 RECORDS AVAILABLE FOR INSPECTION

- (a) Upon written notice to the Contractor, the City shall be entitled , during normal working hours and at reasonable intervals during the term of this Franchise to audit records of Contractor concerning any provisions of this Franchise. The City Council may be required to investigate some portion of the charges or other provisions of this Contract and Contractor understands and agrees to assist in such investigation in whatever way necessary.
- (b) City and Contractor shall perform an audit of the number of containers and/or bins at least one time a year to ascertain the number of accounts.

16.00 Jurisdiction and Venue

Any disputes arising under this Contract shall be decided pursuant to the laws of the State of Texas and venue shall rest in Bexar County, Texas.

17.00 SEPARABILITY

If any section, sentence, clause or paragraph of this Ordinance is for any reason held to be illegal or invalid, such invalidity shall not affect the validity of the remaining portions of this ordinance. All Ordinances and agreements in conflict herewith are hereby repealed. This Ordinance supersedes and terminates any prior ordinances granting a franchise to provide residential and commercial refuse collection and disposal and recycling for the City of Windcrest, Texas, effective upon execution of this Franchise Agreement.

18.00 DISASTER CLEAN UP

In the event of a natural disaster for which the City is declared a disaster area by the State or Federal Government, it shall be the City's responsibility to dispose of all items, including brush and bulky waste, caused by such disaster; the parties shall, in good faith, negotiate terms to use Contractor's services and facilities if they can be used at a competitive cost as other methods available to the City. However, the City may, at its sole discretion, contract with other solid waste

collection service providers in order to collect and remove solid waste accumulated as a result of such natural disaster which best protects the health and safety of its residents.

19.00 ENTIRE AGREEMENT

This Contract together with any attachments hereto represents the entire agreement between the parties hereto and any other representatives or inducements which may have been made between the parties and which are not included herein are void.

IN WITNESS WHEREOF, WE, the contracting parties, by our duly authorized agents, hereto affix our signatures and seals at Windcrest, Texas, as of the First day of May, 2016.

CITY:

City of Windcrest, TEXAS

By: _____

Title: _____

ATTEST:

ATTEST:

CONTRACTOR:

BFI Waste Services of Texas, L.P.,
d/b/a Allied Waste Services of San Antonio //
Republic Services of San Antonio

By: _____

Name: _____

Title: _____

Intentionally left blank.
Pricing Page follows:

City of Windcrest Rate Schedule Effective May 1, 2016

Residential:

- Twice per week rate: **\$17.47 per month**

Commercial/Industrial:

- Hand Pick up: 1x/week: **\$20.88**, 2x/week: **\$35.40**

Commercial Monthly Rates as of May 2016

	1 x wk	2 x wk	3 x wk	4x wk	5x wk	6x wk
2 cubic yard*	58.57	107.25	155.90	204.53	253.20	301.85
3 cubic yard*	64.26	117.67	171.04	224.41	277.77	331.12
4 cubic yard*	70.01	128.10	186.17	244.28	302.33	360.43
6 cubic yard*	96.81	171.00	245.48	303.80	355.80	438.81
8 cubic yard*	114.66	194.79	272.52	337.60	431.42	518.31
10 cubic yard*	150.34	239.43	331.04	420.59	512.22	601.75
20 yd open top** 30 yd open top** 40 yd open top**	Haul Rate \$343.52 per haul Haul Rate \$515.27 per haul Haul Rate \$687.03 per haul					

*Commercial Container Delivery: \$25.00/Container

*Commercial Container Extra Pick up Charge: \$65.00/Container

*Commercial Container Swap or Relocate: \$25.00/Container

**\$125.00 Delivery Charge. 10 Ton Limit. \$.04 lb. surcharge over 10 tons

**False Alarm/Relocate Charge: \$125.00

Compactor Rates:

30 yard Compactor Haul: \$585.62

40 yard Compactor Haul: \$780.82

Compactor Monthly Rental Rates determined by style and set up.

Additional yardage fee for volume greater than 3 yards during Spring and Fall Clean Ups -
\$31.67 per cubic yard.



ORDINANCE NO. 2016-741(O)

AN ORDINANCE APPROVING A CONTRACT WITH BFI WASTE SERVICES OF TEXAS, L.P., D/B/A ALLIED WASTE SERVICES OF SAN ANTONIO/REPPUBLIC SERVICES OF SAN ANTONIO FOR RESIDENTIAL AND COMMERCIAL SOLID WASTE COLLECTION AND DISPOSAL AND AUTHORIZING THE CITY MANAGER TO EXECUTE SUCH CONTRACT

WHEREAS, Various ordinances, commencing with Ordinance 336, authorized agreements for residential and commercial refuse collection and disposal, recycling and hazardous waste disposal by Browning Ferris Industries; and

WHEREAS, said prior agreements have expired and the City Council desires to enter into a new contract for solid waste collection and disposal with BFI Waste Services of Texas, L.P.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WINDCREST, TEXAS that the new Contract for Solid Waste Collection and Disposal Service attached hereto is approved and the City Manager is authorized to execute said contract on behalf of the city.

PASSED and APPROVED this ____ day of _____, 2016.

Mayor

ATTEST:

City Secretary

APPROVED AS TO FORM:

Michael S. Brenan, City Attorney



YOUNG PROFESSIONAL RESOURCES - 8100 ROUGHRIDER DR. STE. 104 WINDCREST, TX. 78239
FIRM F-8635 TELE: 210-590-9215 CELL: 210-373-3204 FAX: 210-590-9346

Ms. Kelley Rodriquez
City Secretary
City of Windcrest
8601 Midcrown
Windcrest, Texas

February 24, 2016

Re: **FINAL RE-PLAT REVIEW - WINDCREST UNIT 28**

Dear Ms. Rodriquez,

Young Professional Resources has completed its review of the Final Re-plat for the referenced development as submitted by CDSMuery.

We find that the Final Re-plat conforms to all other requirements set forth in Windcrest City Codes. Young Professional Resources is recommending approval of this Final re-plat and recommending that it be submitted to the Windcrest City Council for its review and consideration.

If you have comments or questions please contact me at (210) 590-9215.

Sincerely,

A handwritten signature in black ink, appearing to read 'Leonard D. Young'.

Leonard D. Young, P.E.
President - Young Professional Resources

Cc: Rafael Castillo – City of Windcrest
Robert Clounga - WEDC

Kelly Rodriguez

From: noreply@salesforce.com on behalf of Customer Care Auto-Case
<customercare@granicus.com>
Sent: Tuesday, March 01, 2016 11:55 AM
To: Kelly Rodriguez
Subject: RE: Editing [ref:_00D30cWx._50013sD4dK:ref]

Hi Kelly,

On our Help Center there is an article:

https://help.granicus.com/MediaManager/MediaManager_User_Guide/05Archives/Trimming_the_Video_Clip

This article shows that when trimming a file, you can only choose the start time, indicating where you want the trimmed video to start playing, and a stop time, indicating where you want the trimmed video to stop playing.

Eric

----- Original Message -----

From: Kelly Rodriguez [krodriguez@windcrest-tx.gov]
Sent: 2/26/2016 3:09 PM
To: customercare@granicus.com
Subject: RE: Editing []

Thank you Eric. If you could get that information for me before next Thursday that would be great.

-----Original Message-----

From: noreply@salesforce.com [mailto:noreply@salesforce.com] On Behalf Of Customer Care Auto-Case
Sent: Friday, February 26, 2016 4:08 PM
To: Kelly Rodriguez
Subject: Editing []

Hi Kelly,

You are correct that you can only trim the beginning and end of videos within Granicus' Media Manager. I will try to find this in writing for you per your request, and email it to you as soon as possible.

Thank you,

Eric Martin | Customer Care Engineer
Granicus, Inc.
707 17th Street, Suite 4000
Denver, CO 80202

Need help? Submit a case to us here:
<http://www.granicus.com/createacase>
ref:_00D30cWx._50013sD4dK:ref

RESOLUTION 292

A RESOLUTION ELECTING TO PRESERVE RECORDS OF MEETINGS OF THE CITY COUNCIL, BOARDS AND COMMISSIONS OF THE CITY OF WINDCREST BY AUDIO RECORDINGS AS AUTHORIZED BY SECTION 551.021 OF THE TEXAS GOVERNMENT CODE.

WHEREAS, Section 551.021 of the Texas Government Code requires a record of meetings to be maintained by minutes or tape recordings; and

WHEREAS, the City Council has determined that its preferred means of preserving records of meetings by the City Council, Boards and Commissions of the City should be by audio and/or audio video recordings rather than paper minutes.

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Windcrest, Texas, that commencing on June 28, 2008, records of meetings of the City Council, Boards and Commissions of the City of Windcrest shall be by audio and/or audio video recordings and that paper minutes of such meetings will not be maintained as the official record of proceedings.

PASSED AND APPROVED this the 16th day of June, 2008.


JACK H. LEONHARDT,
MAYOR

ATTEST:


TRACY FREIMARCK,
CITY SECRETARY

APPROVED AS TO FORM:


MICHAEL S. BRENNAN,
CITY ATTORNEY

Policy for Conducting Live Meetings for Boards, Commissions and Council of the City of Windcrest

I. Definitions

- A. Clerk: The gender non-specific term used to identify the individual responsible for recording the minutes of the meeting.
- B. Chairman: The gender non-specific term used to identify the individual responsible for "Chairing" the meeting.
- C. Paperless: The practice of using only digital documentation for conducting business.
- D. Paper-Light: The practice of using as little paper as possible when conducting business and a reasonable alternative to a unrealistic "paperless" paradigm.

II. Purpose

The Purpose of this policy is to ensure that all Boards, Commissions and the City Council conduct meetings in the exact same way. This will ensure high quality recordings in place of written minutes. While also ensuring that the City has been responsible in reducing the costs of conducting meetings by reducing the amount of paper produced for said meetings by becoming as "paper light" as possible since true "paperless" is not really practical.

Furthermore this policy should familiarize all Clerks and board members with the proper operation of the audio/visual systems in the council chambers and the proper operation of the Granicus recording/live broadcast system.

III. Authority

On the 16th day of June, 2008 the City Council passed and approved RESOLUTION 292, A RESOLUTION ELECTING TO PRESERVE RECORDS OF MEETINGS OF THE CITY COUNCIL, BOARDS AND COMMISSIONS OF THE CITY OF WINDCREST BY AUDIO RECORDINGS AS AUTHORIZED BY SECTION 551.021 OF THE TEXAS GOVERNMENT CODE. This stated that the video recording of all Open Meetings are the official minutes of the meetings.

IV. "Paper Light" Meetings

Recently it has become increasingly important for government to become "transparent". To meet the expectation of its citizenry to be transparent and also maintaining the fiduciary responsibility of proper use of public funds the City of Windcrest has decided to conduct meetings as paperless as possible. This effort by the City of Windcrest is known as "Paper Light" meetings.

A. Audio Visual setup in Council Chambers

1. Official Minutes

The video recorded sessions of boards, commissions, and the City Council are the official minutes of the open meetings as stated in the Authority section of this document. It is vital that all members of these boards, commissions and the City Council strive not only to ensure their voices are properly recorded for the sake of the record, but to have all individuals presenting in front of the body do the same.

2. Presentation mode vs. Computer mode

The Council Chambers is set up for two modes of operation: Presentation Mode and Computer Mode.

- a. In Presentation Mode the control of what is displayed at each of the council positions is done by the presenter. This will also be displayed on the projector as well. Presentation Mode will ensure that all information from a presenter is at the same pace and all information is disseminated uniformly.
- b. Computer Mode will allow those at the council positions to "electronically leaf" through all electronic documents pertaining to the meeting at their own pace and act upon documents at their disposal independent of other board members.

3. Executive Session

Occasionally a Board, Commission or the City Council made need to conduct an Executive meeting as prescribed by Chapter 551 of the Texas Government Code. In these instances the Audio Visual system is set up for the "Granicus Power Switch" to be placed in the down or OFF position. This will ensure that the meeting is not recorded/broadcast and amplification of voices through the sound system will also be off since the audio portion of recordings is done through the amplifier in the council chambers. Please refer to the V.B.3. Executive Sessions section of this policy for more information on how to conduct the meeting.

4. Presenters and Lapel Microphones

Presenters who will need to be more mobile will need to be provided a lapel microphone. This action will ensure that their voices will be recorded as accurately as board members. As with all board members and presenters, those using a lapel microphone will need to ensure that their clear speech is being recorded by the system.

B. Operation of Clerk Station

1. Dual Screens

The Clerk Position has dual screens. One is the primary monitor for the station and the other is the active screen to all other positions in Presentation Mode. These screens are connected "virtually" and as the mouse pointer travels off one screens edge it will appear on the other. This setup allows the Clerk to run the Live Manager program as the meeting is being recorded on one monitor and show presentations on the other for the board members on the second monitor.

2. Controlling Presentation Mode/Computer mode

There is a four position video toggle switch at the Clerk's station that will allow the clerk to select between one of four input selections to the monitors around the dais. If #1 is selected, then Dual Screen Mode of the clerk's position is active. If #2 is selected, then the output of the DVD player in council chambers via the video scanner box is the active display. If #3 is selected then the City Manager's position is the active display (this could be used for any outside video input into the system). If #4 is selected, then there is no video being sent to the secondary monitors at the council positions. When #4 or any inactive input is selected then the council positions will automatically revert to Computer Mode. The control of these modes of operation is critical to ensure that the meeting is being conducted smoothly.

V. Granicus

There are two major portions of Granicus. Media Manager and Live Manager. Media Manager is a hosted web site application that allows for the construction of the meeting template to be used by Live Manager. It is also the way for a Clerk to access archives, edit pending meetings, and post completed recordings. Live Manager is the program that can be found only on the Clerk's computer in the Council Chambers and is used for time stamping live recordings.

A. Media Manager

The Media Manager site for Windcrest is:

<http://windcresttx.granicus.com>, (each Clerk has their own login to the site).

1. Setup Event for Recording /Broadcasting

Under the Events Tab is a list of all of the currently configured meeting types for Granicus. (If the Meeting Body name appears here then another one does not need to be created.) Once highlighted, a meeting can be edited by clicking on the Edit button in the upper-right corner of the screen.

a) Agenda Posting

The Agenda of the meeting should be first produced as a PDF and posted in the proper location of the City's website (copy the link to this document when posting). For the time stamping feature of Granicus to work the agenda will have to be loaded as a "plain text" format into the media manager for that meeting.

Once in the Editing portion of Media Manager, select the Agenda button at the top right. Click on the Load Agenda button (center right), in the Load Event Agenda. Browse to the "plain text" format of the file and then press the Load Agenda button. Media Manager will display "Agenda loaded successfully. Your agenda may take a moment to appear below."

Now that the agenda has been loaded, a published agenda will need to be attached to the posted PDF agenda from the City website so that the Live Viewer and the Player will be linked to that Agenda. Back under the Agenda Tab, select the "Linked Web Page" button under publishing and paste the earlier copied link into this spot. Finally Click on the "Save Settings" button. Media Manager will display "Agenda Settings saved."

b) Scheduling events

Scheduling of events is important for two reasons: first, to ensure that the meeting is recorded/viewed live as the meeting is in progress; and second, to ensure that the meeting will appear in the upcoming meeting section of the public side of the website so citizens can plan to watch the meetings in progress.

In the Editing portion of the Media Manager Site, under the "Scheduling" tab the Clerk will be able to set the meeting schedule and start time. Once set, press the "Save Schedule" button, and Media Manager will display "Schedule Saved."

2. Post meeting editing

Once the meeting is adjourned it will take approximately 1/3 (one third) the length of the meeting length before the meeting will be available on the Media Manager site. (For example, a three hour meeting will take approximately one hour after completion to be available for post meeting work.)

a) Timeline for Public view

It is important to remember that although a Clerk's schedule may be hectic, the expectation of the public is to have the meeting available for view in a timely manner. To that end, it is required that a Clerk will have completed the post meeting work making the meeting available for public view within three business days of the meeting's adjournment.

b) Trimming and Correcting Time Stamps

Once the meeting is available on the Media Manager site, then post meeting work can begin by clicking on the Archives tab and selecting the appropriate folder. Select the appropriate meeting by highlighting it and then clicking on the "Edit" button at the top right.

Post Meeting editing is very simple, the Basic Tab and the Trimming tab are the areas for 99% of meetings. Under the Trimming tab, play the viewer to determine the actual start of the meeting, pause the player and click on the "Get From Player" button next to start time. Repeat this step for the Meeting stop time. Type the name of the meeting you would like in the "Trim to new file name" blank and press the "Trim File" button. Once completed the Media Manager will display "Trim completed successfully", and all of the time stamps will adjust to the new absolute times provided by these new start and stop times.

NOTE: A CLERK CAN ONLY TRIM THE BEGINING AND THE END OF THE MEETING, THEREFORE FOR EXECUTIVE SESSIONS THE "EXECUTIVE SESSION EVENT" MUST BE USED TO HAVE CLEAN MEETING RECORDINGS (see V.B.3. Executive Sessions section of this policy).

Now under the "Basic" tab all of the Time stamp work can be performed. Using the player the Clerk can find the exact spot where each agenda item was covered, and using a combination of the player pause and the "Get from player" button to be able to adjust, add or remove time stamps.

3. Making the meeting Public

Once the editing of the meeting is done the Clerk only has to change the Status box under the Basic tab from "Pending" to "Public". Then click on the Save properties button located in the center bottom. Media Manager will display, "Record Saved."

4. Archiving from Site

Although Granicus is providing nearly limitless area for the City of Windcrest to store recorded meetings, they are permanent records, a minimum of two copies of each meeting must be archived from the Granicus site and stored. One will be stored in the Vault and the other in the City's safety deposit box.

The two options for archiving from the Media Manager Site are: Granicus CD Creator or Media Manager DVD Creator. Despite the names of the programs Granicus CD Creator creates media that must be viewed on a computer and the Media Manager DVD Creator creates media that can be played on a home DVD player. Both programs can be archived to either DVD or CD disks. Because of the stability of the Granicus CD Creator over Media Manager DVD Creator these instructions will be for the utilization of the Granicus CD Creator software. The Media Manager DVD Creator software can be used but is not covered in these instructions.

The Clerk would open the Granicus CD Creator and login (same as the Media Manager site login.), Select the Video from the Folder and drop down menu, Select the place where the video will be downloaded to (the Default is: "C:\Granicus Archives\Folder Name\Video Name") and finally, Burn to CD.

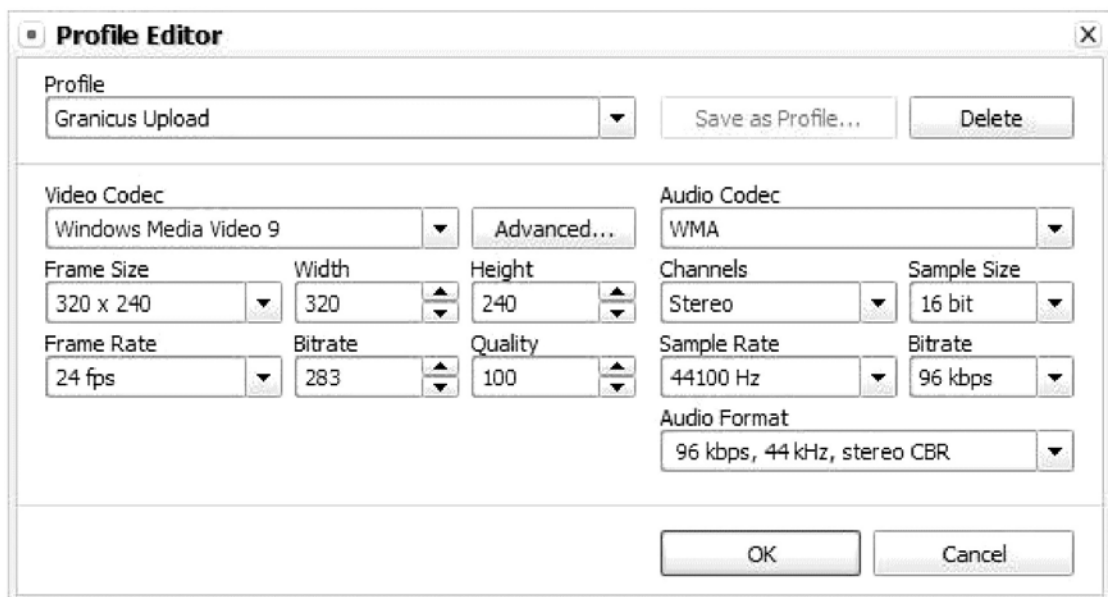
The software will easily step the clerk through the process of Archiving from the Site with its step by step approach once the Clerk launches the program.

5. Uploading to the Site

The Granicus Uploader currently only supports .wmv and .wma type files so if the content to be uploaded to the Media Manager Site is not in the format it must be converted first.

Converting video using AVS4U Software

To convert DVDs or other media to a format that can be uploaded to the Media Manager site use the AVS4U software. Launch the AVS Video Converter software select "TO WMV" at the top, Source and Destination (the Default is the users My Videos folder under My Documents). Finally select "Granicus Upload" Profile and click on the "Convert Now!" button. The conversion process will take approximately three times as long as the real time run length of meeting. For example a three hour meeting would take approximately nine hours to fully convert to WMV, but would do so in the background allowing the person to continue working on other items.



Once the recording is converted or if it was a .WMV originally. Then the Clerk would launch the Granicus Uploader application. Click on the "ADD" button and select the file name to be uploaded then click on the "Upload" button. The upload process will take approximately 1/3 (one third) the run length of the recording to upload it to the site if the Live Manager is not running concurrently. Once uploaded to the site it can be manipulated just like native Granicus recordings.

B. Live Manager Application

1. Recording /Broadcasting a Meeting

The Event Properties in Event Manager controls whether a meeting is recorded, broadcast live or both. This policy does not cover the changing of these parameters as they are to be left unchanged by Clerks and operators. However all board members should conduct business as if they were being recorded and broadcast live every time. During a meeting Live Manager will display the amount of Event Time left in the lower left corner of the screen, the Clerk should continuously check to ensure there is sufficient time to cover the remainder of the meeting and add to this by clicking on the add time to meeting button.

The following Checklist should be performed no later than an hour before and no earlier than four hours before the meeting to ensure the equipment is in proper working order.

Pre-Meeting Checklist

- **Ensure the Clerk station is powered ON and booted up.**
- **Ensure the Granicus Power Switch is in the up or ON position (refer to section IV.A.3. Executive Session of this policy)**
- **Open Internet Explorer and ensure that any webpage appears.**
- **Open the Live Manager application.**
- **Double Click on the "Golden Folder" in the upper-right corner.**
- **Double click on the meeting name in the list (if Executive Session is in the Agenda refer to V.B.3. Executive Sessions)**
- **Check to verify that the correct agenda items are populated under Agenda section (left side); if not then refer to V.B.2. Properly Closing Meetings.**
- **In the upper-right corner click on Meeting, then Preview Stream. (video of the council chambers should be displayed, if not refer to VI. Emergencies and Troubleshooting section of this policy)**

The above checklist should ensure the components that make up the meeting are in working order, however last minute failures could still occur. If at any time there are issues refer to the VI. Emergencies and Troubleshooting section of this policy. After the Checklist is completed, the Clerk will be able to run the meeting following the instructions in the V.B.4. Agenda and Time stamps section of this policy.

2. Properly Closing Meetings

It is essential to properly close meetings in Live Manager. If the Agenda items are not the correct ones for the meeting or if the order of opening meetings was not correct, then click on File (top left corner) and click on Close Meeting. Once the meeting has been properly closed, return to V.A.1.a. Agenda Posting section in this policy.

3. Executive Sessions

Executive Sessions will need to be handled in a particular way for them to be seamlessly incorporated into the Granicus system. Keep in mind that there are requirements of this procedure included in section IV.A.3. Executive Session section of this policy.

To load the agenda correctly for an executive session, the Executive session **MUST** be opened first. Then double click on the "Golden Folder" and load the meeting that will run before and after the executive session. Initially the open meeting would be started with the big green arrow and the Clerk would follow the V.B.4. Agenda and Time stamps section of this policy. When the board recesses the regular meeting to call to order the executive session, the Clerk will perform the following steps **(NOTE: The Chairman of the board should allow a minute or two for the Clerk to perform these actions, as they are essential to properly record/broadcast the meeting)**: 1)Time stamp the Executive session agenda item for the open meeting. 2) Select "EXECUTIVE SESSION" from the drop down at the top of the Live Manager screen. 3)Click on Meeting, then Preview Stream at the top of the Live Manager screen. 4) Turn the Granicus Power Switch to the down or OFF position. 5)Monitor the live stream in Live Manager and let the Chairman of the board know that the meeting can continue once the screen turns solid blue. 6) Close the live stream box in the Live Manager application.

When the Chairman of the Board is ready to return to the open meeting, the Clerk will perform the following steps **(NOTE: The Chairman of the board should allow a minute or two for the Clerk to perform these actions, as they are essential to properly record/broadcast the meeting)**: 1) Turn the Granicus Power Switch to the up or ON position. 2) Select the {NAME OF OPEN MEETING} from the drop down at the top of the Live Manager screen. 3) Click on Meeting, then Preview Stream at the top of the Live Manager screen. 4) Monitor the live stream in Live Manager and let the Chairman of the Board know that the meeting can continue once the screen turns from solid blue to video of the council chambers. 5) Close the live stream box in the Live Manager application. 6) Time stamp the next agenda item for the open meeting. All other actions for the Clerk follow the instructions in the next section of this policy.

4. **Agenda and Time stamps**

When the Meeting begins the Clerk has only to click on the big green arrow at the top of the Live Manager application screen. The first item in any agenda, is Call to Order, and by double clicking on the agenda item wording on the left or the Agenda side, it will appear on the right or Minutes side of the Live Manager display as it is time stamped. If this does not happen then the big green arrow at the top of the Live Manager display has not been activated by clicking on it, the Clerk should try it again. For the rest of the agenda items, as they come up in the course of the board's business, the Clerk should simply double click on the wording on the Agenda side to continue the Time stamp process. If an agenda item is in a different order than the written agenda, then simply time stamp the item as they come up in the course of business. It should also be noted, that if a Clerk misses a Time stamp this can always be corrected in the Post Meeting editing as described in the V.A.2. Post meeting editing section of this policy.

VI. **Emergencies and Troubleshooting**

1. **Granicus Issues**

Call Granicus Support:

If between 10:00AM and 07:00PM CST call Chris Voorhees (415)357-3618 ext 1166

Technical After Hours phone number is (415)357-3618 ext 2222

Emergency Technical Support number (415)655-2414

If Granicus support determines that the problem is with hardware on the City of Windcrest's side then follow the Troubleshooting steps below for Audio/Visual System or Camera as necessary.

2. Audio Visual System Issues

Is there no sound from microphones? Check the Granicus Power Switch, it should be in the up or ON position.

Is the projector or monitors on the dais not displaying the correct video source or no video at all? Check the Four Position Video Switch under the desk at the Clerk's position and reference the IV.B.2. Controlling Presentation Mode/Computer mode section of this policy.

Is there no sound coming from a lapel microphone? Check that the batteries are fresh and that the microphone is powered ON and not muted.

Is there no sound from the DVD Player? The Back right corner (facing the dais) is the location of the Audio/Visual components that control the volume and sound for the DVD Player. Ensure they are all powered ON.

Is there no video coming from the DVD Player? Check the setting on the video selector switch is set on #2(refer to section IV.B.2. Controlling Presentation Mode/Computer Mode section of this policy) and that the Video Scanner device (silver box at the Clerk's station) is powered ON.

3. Camera Issues

Is there no power to the mounted camera? Check the Granicus Power Switch, it should be in the up or ON position.

Is the camera not working at all, but the Granicus power switch is the ON position and the Microphones are working? There might be a failure with the video camera, in that case pull the other video camera out of the E.O.C. closet and set it up to record the meeting. Once recorded the meeting can still be uploaded to Granicus later, the important thing is to record the meeting (it is the official minutes of the meeting).

Kelly Rodriguez

From: Laura Mueller <Laura@tml.org>
Sent: Tuesday, February 23, 2016 2:19 PM
To: Kelly Rodriguez
Subject: RE: Council Agenda Policy
Attachments: Agenda Guide.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Ms. Rodriguez,

Thank you for your question. JJ asked me to respond. A city must keep a record of each meeting, either a tape or written minutes. If a city keeps written minutes, then those minutes prevail over the tape if any issue comes up. The minutes must contain:

- (1) state the subject of each deliberation; and
- (2) indicate each vote, order, decision, or other action taken. Tex. Gov't Code § 551.021

There are no other state requirements for minutes. I am attaching some example minutes forms.. Please let me know if you have additional questions or need anything else. <http://www.tml.org/Handbook-M&C/Chapter5.pdf>

This handbook also contains example minutes and other useful information: <https://municlerks.unt.edu/publications/handbook.html>

Samples:

<http://www.texasmunicipallawyers.com/files/forms/MinutesWorksheet.pdf>

<http://www.texasmunicipallawyers.com/files/forms/MinutesWorksheet2.pdf>

Sincerely,

Laura Mueller
Assistant General Counsel
Texas Municipal League
1821 Rutherford Lane, Suite 400
512-231-7400 phone
laura@tml.org
www.tml.org

Please be advised that the information in this e-mail is provided for informational purposes only. Neither this communication, nor any other communication with the Texas Municipal League (TML) creates an attorney-client

relationship between the TML legal department or its attorneys and you or your city or any third party. Once received by a city official, this communication may be subject to public release. Every city official and employee should consult with local legal counsel to ensure that any information or documents comply with current law and the particular facts of the situation.



Agenda Guide

By the Texas Municipal League Legal Department

Information pertaining to setting agendas and procedures for city council meetings is as follows:

1. "The Council at Work: Meetings" from the Texas Municipal League's Guidebook for Mayors and City Councilmembers.
2. Legal Q & A by Susan Horton with sample certified agenda.
3. TEX. ATT'Y GEN. OPS. DM-228 & JM-63: These opinions address who has the authority to set the agenda for the county commissioners. The conclusion is that neither the county judge nor the county clerk has the authority. The commissioner's court as a whole determines the agenda. Applying this reasoning to cities, the city council as a whole has the authority to determine the agenda. DM-473 opined that the City of Dallas, as a home rule city, is authorized to adopt reasonable rules of procedure for its meetings as long as they are not inconsistent with the Constitution, statutes, or city charter.

The Attorney General did not determine whether Dallas's rule that required a request by 5 councilmembers or a majority of a city council committee to place items on an agenda was reasonable.

4. Sample Council Meeting Procedures
5. The 2000 Open Meetings and Public Information Handbooks can be ordered from the Attorney General's Office by calling (512) 463-2100 or by writing P.O. Box 12548, Austin, Texas 78711-2548. There is no charge for these publications.

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Chapter Five

The Council at Work: Meetings

It is imperative that every meeting of the city council be conducted in an orderly and legal manner. If the council's procedures are improper, the legality of its actions may be successfully challenged in court. And if its meetings are slovenly and disorganized, the council cannot expect to command public respect.

LEGAL REQUIREMENTS

State law prescribes several specific requirements for council meetings: (1) that meetings be regularly scheduled at a fixed time and place; (2) that a quorum of the council be present for the transaction of business; (3) that any question before the council be decided by majority vote of the members present and voting, except where the law requires more than a simple majority; and (4) that the mayor always presides, if present.

TEXAS OPEN MEETING LAW

Every meeting of the city council must be conducted in accordance with Chapter 551 of the Government Code, the Texas Open Meeting Law. Among all the state laws affecting city officials, this is the one most likely to be unintentionally violated because of lack of knowledge.

The Open Meeting Law requires that written notice of the date, hour, and location of every council meeting, together with an agenda specifically describing all of the items to be considered, be posted 72 hours in advance of such meeting on a bulletin board in city hall accessible to the public day and night. There are two exceptions to the 72-hour posting requirement:

- (1) At least two hours advance notice is required for a special meeting called in the case of "emergency or urgent public necessity," the nature of which must be stated in the notice; and
- (2) Items of an emergency or urgent public necessity nature may be added to the agenda of a meeting for which 72 hours notice has already been posted if a supplemental notice listing such items is posted at least two hours prior to the meeting stating the emergency that requires action on the additional items.

The law also requires that all council meetings, with narrow exceptions, be open to the public. Some exceptions from this requirement are provided for the following:

- (1) Private consultations between the city council and its lawyers to discuss pending or contemplated litigation, settlement offers, and other legal matters where a discussion in open session would adversely affect protected attorney-client relationships. The city's attorney must be present at any closed meeting at which litigation is discussed.
- (2) Discussions regarding the purchase, exchange, lease, or value of real property, or negotiated contracts for prospective gifts or donations to the city, when a discussion of these items in public would have a detrimental effect on the city's negotiating position.
- (3) Cases involving the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a city officer or employee, or to hear complaints or charges against such officer or employee, unless such officer or employee requests a public hearing.
- (4) Discussions regarding the deployment or implementation of security personnel or devices.
- (5) Discussions regarding commercial information received from a business prospect and/or the nature of any incentives being considered by the city for economic development purposes.
- (6) Electric or gas service discussions when they are determined by a good faith vote of the governing body of a public power utility to be related to competition.

Closed meetings ("executive sessions") are permitted for the discussion of items that legitimately fall within the exceptions stated in the law. However, before an executive session can take place, the council must first convene in open session, the presiding officer must announce that a closed meeting will take place, and he or she then must cite the section of the Open Meeting Law that authorizes the closed session.

The law requires that a certified agenda or a tape recording must be made of all meetings that are closed to the public, except executive sessions held for the purpose of consulting with an attorney under the provisions of the law. The law does not define "certified agenda," but it does provide that the agenda shall state the subject matter of each deliberation and include a record of any further action taken. It also must include a record of the date and time of the beginning and end of the meeting. The presiding officer must certify that the agenda is a true and correct record of the proceedings. In lieu of the certified agenda, the governmental body may make a tape recording of the meeting, including an

announcement made by the presiding officer at the beginning and end of the meeting indicating the date and time.

The certified agenda or the tape recording must be maintained for a period of two years after the date of the meeting. However, if a lawsuit is filed during this two-year period, the certified agenda or tape must be preserved pending the outcome of the action. The certified agenda or tape is not a public record, and it is unlawful to make either available to the public without lawful authority, but either may be reviewed by a member of the governmental body who participated in the closed meeting. It is advisable that the certified agenda or the tape be placed in a sealed envelope identifying the contents and then placed in secured storage. They are available for inspection by a judge if litigation has been initiated involving an alleged violation of the open meeting law. The proceeding before the judge is closed to the public, and the judge may order that the tape or certified agenda be made available to the public if the meeting was not authorized to be closed.

Although a certification of the posted notice may have been the intent of the legislature, the fact that a certified agenda or tape is to be made available only upon court order may indicate that the contents of the certified agenda consist of a more descriptive agenda item than might be placed on the posted notice. For example, while the posted notice may state that an executive session is being held for the purpose of discussing "Land Acquisition for an Electric Substation," the certified agenda may read "Land Acquisition—Discuss acquisition of land for a new electric substation to serve The Oaks subdivision." Although the statute requires the certified agenda to include a record of any further action taken, *the open meeting law expressly provides that no final action, decision, or vote can be made except in a meeting that is open to the public.* The "further action" which must be noted on the certified agenda may be no action, or it may be the directive to place the item on an open meeting agenda for final action, or it may be a request that additional information be gathered for discussion on another date.

Stiff penalties are provided for violations of the law. A councilmember or any other person who participates in an illegal closed meeting can be punished by a fine of \$100 to \$500, confinement in the county jail for one to six months, or both. The same penalty can be applied to a councilmember who circumvents the requirements of the law by using the telephone to poll other councilmembers or who meets with them individually to deliberate over some matter of city business in order to arrive at a decision.

The actions taken by a city council in an illegal meeting are voidable, and a court may assess costs of litigation and reasonable attorney's fees incurred by a party who substantially prevails in an action brought under the open meeting law. It is an affirmative defense to prosecution that the mayor or councilmember relied in good faith on the written advice of the city's attorney.

PUBLIC INFORMATION ACT

Chapter 552 of the Government Code requires that most city records, including those in the possession of councilmembers, be open to public inspection.

"Public information" is defined as "information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body or for a governmental body and the governmental body owns the information or has a right of access to it." The media on which public information is recorded include paper; film; magnetic, optical, or solid state device that can store an electronic signal; tape; mylar; linen; silk; and vellum. The general forms in which the media containing public information exist include a book, paper, letter, document, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, drawing, and a voice, data, or video representation held in computer memory.

Certain information is specifically excluded from the requirements of the law. While the list of exempt materials is too long to recite here, it includes such information as working papers being used to draft ordinances or resolutions; certain personnel records; information that would, if released, give an advantage to bidders; documents protected because of attorney-client relationships; and documents relating to *pending litigation*.

Despite the narrow exemptions established in the law, its net effect is to require that most information must be made available, upon request, to the news media and other members of the public. A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions, must ask for a decision from the Texas Attorney General. The city must request the decision and state the exceptions that apply not later than the 10th business day after receiving the written request. Not later than the 15th calendar day after receiving the request, the city must submit to the Attorney General the reasons that the exceptions apply, a copy of the request for information, and a copy of the information requested or representative samples labeled to indicate which exceptions apply to which parts of the information.

FORMAL MEETINGS OF THE COUNCIL /THE AGENDA

A well-organized agenda is an indispensable part of every orderly council meeting. The agenda establishes a calendar of activities for the council to follow in the course of its meeting. It lists all the items of business that will be considered. By putting councilmembers on notice as to what will be discussed, it enables each of them to arrive at the meeting prepared and ready to conduct business.

The following illustrates a typical agenda format:

- (1) **Call to Order** - The presiding officer calls the meeting to order and determines whether a quorum is present.
- (2) **Invocation** - Optional.
- (3) **Roll Call** - Although most city councils are small enough to readily determine who is present by simply looking around the council table, a formal roll call lends an air of dignity to the proceedings.
- (4) **Approve Minutes of the Previous Meeting** - Unless a majority of the council desires that the minutes of the previous council meeting be read, the minutes can be approved as submitted or corrected.
- (5) **Consent Items** - "Consent" items are noncontroversial items that can be considered and voted upon as a block.
- (6) **Presentations by Citizens** - Scheduling this agenda item early in the meeting permits citizens to complete their business with the council in a timely manner and then leave, if they wish.
- (7) **Public Hearings.**
- (8) **Old Business** - Final passage of ordinances, and other business pending from previous council meetings.
- (9) **New Business** - New ordinances or resolutions (or amendments to existing ones) or policies that councilmembers or city staff wish to have the council consider. Under the Open Meeting Law, each item to be considered must be specifically described in the agenda. It is not sufficient just to put the words "New Business" or "Old Business" on the agenda, and then allow the consideration at the council meeting of any or all items that might be brought up.
- (10) **Reports of Advisory Boards & Commissions** - Each board or commission must be listed, together with a description of each report that will be presented at the council meeting.
- (11) **Items from Council** - This part of the agenda is provided for councilmembers to present matters other than ordinances, resolutions, and other matters requiring formal action. Examples would include a councilmember's request that the staff take action on a particular problem, as described in the agenda.
- (12) **Staff Reports** - This agenda item includes reports from the mayor and/or city administrator on the status of various projects, problems that are developing in particular neighborhoods, and so on. Under the Open Meeting Law, each of these reports must be listed and specifically described in the agenda.
- (13) **Announcements.**
- (14) **Adjournment** - If there is no further business, the mayor can adjourn the meeting. If all of the items listed in the agenda have not been considered and disposed of, a majority vote usually is required to adjourn.

The amount of detail included in the agenda is a matter for the council to decide. The legal rule applicable to the format of an agenda is found in the Open Meeting Law, which requires that every agenda item be specifically described in the meeting notice. In practice, this means that broad categories, such

as "Old Business" or "New Business," cannot be included in the agenda without listing each of the specific items that will be discussed.

The governmental body is specifically required to have minutes or a tape recording of each of its open meetings. The minutes shall state the subject matter of each deliberation and shall indicate each vote, other decision, or other action taken by the governmental body. The minutes or tape recording are public records and may be examined or copied by members of the public. This requirement must be met for all meetings of governmental bodies including meetings when formal actions or votes do not occur. City councils or boards that meet to discuss formulation or development of a policy or ordinance which will be voted on at a later date must keep a formal record of the proceedings even though no final vote or action is taken.

RULES OF ORDER AND PROCEDURE

Recognizing that every legislative body needs a systematic way of conducting its business, many city councils operate according to formal rules of order and procedure. Rules of order and procedure prevent confusion by establishing an organized process for conducting council meetings. Properly followed, they save time for all participants, while protecting the individual's right to participate fully.

The following provisions usually are included in rules of order and procedure:

- Designation of the time and location of regular meetings of the council, together with a description of procedures for calling special meetings;
- Methods for compelling councilmembers to attend meetings;
- A description of the duties of the presiding officer at council meetings;
- A description of the parliamentary rules under which the council will operate;
- Procedures for introducing and voting on ordinances, resolutions and other items;
- The order of business the council will follow at each meeting;
- A ranking of motions by order or precedence, which motions may or may not be debated, and so on.

Although most city councils use *Roberts Rules of Order* to conduct their meetings, some have adopted their own local rules. *Roberts Rules of Order* is available at most bookstores in the state. Since state law is silent with regard to this matter, any standard rules that are reasonable and consistently followed are acceptable.

MOTIONS

A motion is simply a vehicle for initiating action on a proposal. Some types of motions can be brought up and voted on at any time, while others are out of order at certain times. Certain motions outrank others. Some motions require a second; others do not. Knowing the difference between the various types of motions and when to use them is a first step in taking an active part in passing or defeating measures before the council.

A *main motion* is used to initiate the consideration of a new item of business. After being seconded, a main motion is subject to being debated, amended, tabled, or withdrawn before a final vote is taken.

Any councilmember making a main motion may, prior to receiving a second, withdraw or change it. If the motion has been seconded, approval of the person who seconded it is required in order for the maker of the motion to change or withdraw it, unless another councilmember objects, in which case the change or withdrawal must be voted upon.

A new main motion cannot be brought up for consideration while another main motion is being debated. Each main motion must be disposed of before another is made.

A *secondary motion* is used to propose an action on a main motion being debated by the council. Examples of secondary motions include the following:

- (1) Motion to table the main motion; that is, lay it aside and go on to the next item on the agenda.
- (2) Motion to request that discussion cease and that the main motion be voted upon; that is, moving the previous question.
- (3) Motion to limit discussion to a fixed amount of time.
- (4) Motion to postpone action on the proposal until some definite time in the future.
- (5) Motion to refer the proposal to a committee.
- (6) Motion to amend the main motion.
- (7) Motion to postpone action on the proposal to an indefinite future time.

These examples of secondary motions are listed in the order of their rank. Therefore, if the council is debating Councilmember X's motion that the item under consideration be referred to a committee, and Councilmember Y moves to table the main motion, debate would cease until Councilmember Y's higher-ranking motion is voted upon.

A *privileged motion* is used to bring procedural questions before the council, such as whether the council should recess or adjourn. Unlike other motions, privileged motions do not require a second in order to be considered.

A privileged motion can be offered at any time, without regard to any other motion pending before the council, and must be decided before the council returns to the other business under discussion.

Therefore, a motion to adjourn, if made while a main motion is before the council, must be decided before the main motion is considered any further.

Some privileged motions are more privileged than others. This is the usual order of their importance:

- (1) Motion to set the time and place of the next meeting.
- (2) Motion to fix the time of adjournment.
- (3) Motion to adjourn.
- (4) Motion to recess.
- (5) Motions on questions of privilege.
- (6) Motion to keep the meeting to the agreed order of business.

Thus, during consideration of a main motion, a privileged motion might be made to adjourn. But before the question is called on the motion to adjourn, another higher-ranking privileged motion might be made to set the time and place of the next meeting.

DEBATE

Motions are usually classified three ways: (1) undebatable motions; (2) privileged motions upon which limited debate is permitted; and (3) fully-debatable motions.

Undebatable motions involve procedural questions that can be resolved without discussion, such as tabling a main motion, moving the previous question, restricting further discussion of a main motion to a fixed number of minutes, postponing action, or referring an item under discussion to a committee. [See items (1) through (7) under "secondary motions."] After an undebatable motion is offered, the presiding officer must immediately take a vote, without discussion.

Privileged motions upon which limited debate is permitted include setting the time of the next meeting and others listed among items (1) through (6) under "privileged motions." Any discussion of a privileged motion must be addressed to the motion itself. A motion to fix the time for adjourning the council meeting, for example, might require limited debate as to the advisability of such a decision, but other points of discussion would be out of order.

Fully-debatable motions are subject to unlimited discussion prior to a decision.

One of the most important principles of debate is that councilmembers' statements be directly relevant to the item under consideration. Councilmembers recognized by the mayor are given the floor only for the purpose of discussing the item then pending, and they are out of order if they depart from that item.

"Debate" can easily evolve into statements of personal philosophy. Interesting though they may seem to the speaker, such departures do not belong in a council meeting. Meanderings can be controlled by limiting each councilmember to one speech per agenda item or by restricting the length of

their speeches. (*Roberts Rules of Order* sets an arbitrary limit of 10 minutes for each such speech.) A more difficult alternative is to impose limits on the number of minutes that will be allotted for a given agenda item.

ROLE OF THE MAYOR AS PRESIDING OFFICER

The mayor, as presiding officer, has the primary responsibility for ensuring that the council's rules of procedure are followed and for maintaining the dignity of council meetings. The mayor calls the meeting to order and confines the discussion to the agreed order of business. He or she recognizes councilmembers for motions and statements and allows audience participation at appropriate times. The mayor sees to it that speakers limit their remarks to the item being considered and, as necessary, calls down people who are out of order.

Proper performance of these functions requires that the mayor know parliamentary procedure and how to apply it. The mayor must recognize that parliamentary procedure is a tool, not a bludgeon, that is used to ensure that the will of the majority prevails while the right of the minority to be heard is protected.

In addition to fulfilling the duties of the presiding officer, the mayor should be familiar with legal requirements imposed by state law. This involves knowing which actions are required on ordinances, when extraordinary council votes are required, and when a time element—such as the deadline for giving notice of a city election—is important. The city attorney can help with these matters, but if the mayor knows the basics, time can be saved and legal or incomplete actions prevented.

Presiding effectively at a council meeting is an art that no book can fully teach. The tactful presiding officer knows how to courteously discourage councilmembers who talk too much or too often, and how to encourage shy councilmembers who are hesitant to speak at all.

Councilmembers' remarks should always be directed to the chair. Even when responding to questions asked by another councilmember, he or she should begin by saying, "Mayor, if you will permit me. . ." and wait for recognition from the chair before proceeding. This helps avoid the spectacle of two councilmembers haggling over an issue that is of little interest to their council colleagues.

In addition to maintaining order and decorum at council meetings, the mayor must see to it that all motions are properly dealt with as they arise. The mayor must recognize the councilmember offering the motion, restate the motion, present it to the council for consideration, call for the vote, announce the vote, give the results of the effect of the vote, and then announce the next order of business.

In some cases, the mayor might refuse to allow a councilmember to offer a motion, even though it is in order, either because of unfamiliarity with parliamentary procedure or because of personal opposition to the proposed action. The mayor's refusal to allow a motion to be considered is subject to appeal, as are all of the mayor's decisions regarding procedures.

A simple majority vote is all that is required to overrule the mayor's decision on procedural issues. If the decision of the chair is sustained, no further action is taken; but if the decision of the chair is overruled by the council, the council goes forward with the discussion of the motion or other matters before it.

On rare occasions the mayor, in the heat of the moment, may rule that an appeal is out of order, or even declare the meeting adjourned. Both rulings are improper. A meeting cannot be summarily adjourned by the mayor. If an appeal from the decision of the chair is made immediately following the ruling, it is not out of order. If the mayor refuses to honor the appeal, the person making the appeal should then state the question, suggest limited debate and then put the question to a vote.

STREAMLINING COUNCIL MEETINGS

Even the best planned council meetings can deteriorate into endurance contests. These are not necessarily the exceptional meetings, with long public hearings or battles over controversial ordinances. As often as not, these are regularly-scheduled meetings which drone on until the entire council is thoroughly exhausted.

REGULATING TALK

Too much talking is the most common cause of lengthy meetings. Talking can assume a variety of forms—bickering or tiresome exchanges of personal opinions among councilmembers, endless speeches by citizens appearing before the council, or unnecessarily long and detailed reports by staff.

Nearly all these problems can be overcome by tactful action on the part of the presiding officer. If citizens addressing the council ramble on and on, the mayor may have no choice but to tell them to confine their remarks to the subject at hand and conclude as quickly as possible. If the problem is created by a talkative councilmember, a simple statement to the effect that "it's getting late and we must move along" usually will suffice, though private visits by the mayor may be needed to handle chronic talkers.

SHORTENING THE AGENDA

Having too many items on the agenda is another frequent cause of lengthy council meetings. This is not an easy problem to solve, and several evaluation sessions may be needed to correct the situation.

Perhaps the agenda is loaded down with detailed items that are included for reasons of custom, rather than necessity, and many of these could be handled by staff without council action. If too much meeting time is needed to explain the various items on the agenda, perhaps a requirement that the more complex ones be explained in writing in advance of the meeting would help.

In some cases, it may be discovered that lengthy council meetings are the result of complexities that simply cannot be overcome. In these instances, the only answer may be more frequent meetings.

HANDLING "CONSENT" AGENDA ITEMS

Agendas tend to be cluttered with noncontroversial, recurring items that are of little interest to most councilmembers, but must be included because they require formal council approval. Examples include council approval of the minutes of previous meetings, routine purchases, and minor fund transfers between accounts. Most of these items generate no discussion, but each uses up time by requiring a separate motion to approve, a second, and a vote.

This problem can be overcome by establishing a "consent" agenda category that encompasses routine items that are approved by a single motion and a vote, without debate. ("Councilmember Smith moves the approval of items 3a, b, c, d, e, f and g.")

If a councilmember objects to a consent item, it is removed from the list and added to the regular agenda at the appropriate spot. If a councilmember questions a consent item, but not so strongly as to require that it be removed from the list, his or her "no" vote or abstention can be entered in the minutes when the consent vote is taken.

The number of consent items can range from a handful to 25 or 30 or more, depending on the council's workload and preferences. Whatever the size, the consent agenda can be a real time-saver. One city reported that using a consent agenda had slashed the length of the average council meeting by 50 percent.

ADMINISTRATIVE IMPROVEMENTS

Some council meetings are unnecessarily long because of deficiencies in the city's administrative procedures. For example, citizens who can't get their problems solved at city hall during normal business hours are likely to show up at council meetings to demand assistance. The fact that most of these complaints should have been handled through administrative action does not relieve the council of the duty to spend time listening to them.

Councilmembers who sense that too much formal meeting time is being devoted to hearing gripes from citizens about administrative nonaction usually come to the conclusion that the way to get frustrated citizens off the agenda and into proper channels is to establish a system for receiving and processing complaints. The system can be simple, such as assigning one or two employees to process complaints on a part-time basis, or it can be a more sophisticated office operated by a full-time staff. In any event, it is usually advisable to have at least one of the staff members responsible for this function attend council meetings and be available to head off complaints.

MECHANICAL AIDS

The time needed to explain an agenda item can be reduced by using photographs, flipcharts and other graphic arts to supplement or replace written reports. Graphics and visual presentations needn't be expensive. In most cases, using a simple map to show the location of a project, flow charts to illustrate a

particular procedure or process, or photographs to point out the physical characteristics of the matter being discussed can provide the extra perspective that written words or oral discussions sometimes fail to convey.

COUNCIL WORK SESSIONS

Informal work sessions of the council may be needed from time to time to study certain matters in detail. These are most often held in conjunction with budget review, since regular council meetings do not provide enough time to consider the budget in detail. Work sessions also are useful when major policy questions must be decided or when a complicated ordinance, such as a building code, comes before the council.

The Texas Open Meeting Law applies to all council meetings, whether formal or informal. Notices of workshop meetings therefore should be posted in the same manner as notices of regular council meetings. Also, minutes or a tape recording must be made of the meetings.

CITIZEN PARTICIPATION

Many citizens form their opinions of the city government on the basis of having attended just one council meeting. For some, it will be the only one they attend in their lifetime. This is the time to impress citizens favorably, and to show them that the council is capable of doing its job.

The "citizen participation" period is a time slot set aside on the agenda for citizens to address the council on any subject. It is not to be confused with a public hearing, which is a formal proceeding conducted for the purpose of discussing a specific topic, such as the city budget or a proposed rezoning.

Local practices vary considerably with respect to reserving a place on the agenda for citizen participation. Many city councils put this item toward the top of the agenda, so that citizens can make an appearance early in the meeting and then go about their business. Other councils reserve a place for citizen presentations at the very end of the agenda, while still others make no provision at all to hear from citizens during regular council meetings. Regardless of the time designated, if any, the presiding officer should inform visitors of the place on the agenda at which they will be recognized to speak. And if an exceptionally controversial item has drawn a large crowd, it is generally wise to state the approximate time the item is likely to come up for discussion.

Although verbal interchanges between citizens and councilmembers are appropriate, discussions should not be permitted to drag on, especially if they concern administrative problems that can be solved by the staff during regular city hall hours. Also, if speakers take too much time or engage in personal attacks on councilmembers, it may be necessary for the mayor to cut them short. Councilmembers are expected to be polite to citizens appearing before them, but there is no requirement that they subject themselves to intimidation by rude speakers.

To guard against citizen filibusters, some councils limit the length of time any one citizen may speak to three or four minutes, and permit this to be extended only by two-thirds vote of the council. This kind of limitation often is necessary to keep talkative speakers from infringing on the rights of others who may wish to appear.

The city council cannot take action unless it has been posted on the agenda in accordance with the open meetings law. If a citizen brings an item before the council that needs to be acted upon, the city council should request that it be placed on the agenda for the next meeting.

PUBLIC HEARINGS

The purpose of a public hearing is to present evidence on both sides of an issue. Some public hearings are required by state law, as in the case of the Uniform Budget Law (Sections 102.001 et. seq., Local Government Code), which requires a public hearing on the city budget prior to its adoption. Others are voluntarily conducted by the council to obtain a full range of citizen opinion on important matters, such as a proposed bond issue.

The proper conduct of a public hearing is no less important than for a regular council meeting. Each should begin promptly and be conducted in an orderly manner in conformance with established rules of procedure.

At the start of the hearing, the presiding officer should clearly state the subject to be discussed. If, for instance, it is a rezoning hearing, the proposed ordinance should be read and its purpose explained. If the subject is controversial, the

following order can be followed: proponents' presentation; opponents' presentation; proponents rebuttal; opponents' rebuttal; questions from council.

One cardinal rule to remember is that numbers don't always count. There are some topics which naturally draw large, highly-biased crowds. Vocal minorities often swamp public hearings to show that their side has widespread support. Such items as Little League ballparks, school crosswalks, water rates and taxes can attract crowds, but the size of the turnout does not necessarily indicate that their cause is just. The council is elected to serve all the citizens, and a councilmember must look at the overall picture, and not just at the view presented by one partisan group.

The council is responsible for weighing the evidence presented at the hearing and, after due consideration, reaching a decision. Obviously, this cannot always be done at the same meeting as the public hearing. In fairness to those who have taken the time to attend, the presiding officer should indicate when a decision will be reached. If it is obvious that council will be able to come to a conclusion with a minimum of discussion, the decision can be made immediately after the hearing and the result announced. Otherwise, the chair should describe the reason that no decision will be made at that time, then state the probable time at which a final determination will be reached.

When a decision is announced on an issue that involves a public hearing, the presiding officer should give the reasons why the decision was reached. Even a brief explanation will help prevent observers from feeling that the outcome of the hearing was decided in advance, and that they wasted their time by attending.

SUBCHAPTER B. RECORD OF OPEN MEETING

§ 551.021. Minutes or Tape Recording of Open Meeting Required

(a) A governmental body shall prepare and keep minutes or make a tape recording of each open meeting of the body.

(b) The minutes must:

(1) state the subject of each deliberation; and

(2) indicate each vote, order, decision, or other action taken.

§ 551.022. Minutes and Tape Recordings of Open Meeting: Public Record

The minutes and tape recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.

§ 551.023. Recording of Meeting by Person in Attendance

(a) A person in attendance may record all or any part of an open meeting of a governmental body by means of a tape recorder, video camera, or other means of aural or visual reproduction.

(b) A governmental body may adopt reasonable rules to maintain order at a meeting, including rules relating to:

(1) the location of recording equipment; and

(2) the manner in which the recording is conducted.

(c) A rule adopted under Subsection (b) may not prevent or unreasonably impair a person from exercising a right granted under Subsection (a).

Legal Q & A

by

Susan M. Horton, General Counsel
Texas Municipal League

A feature of Texas Town & City, the questions and answers provided in this article are stated in general terms. Your city attorney or legal counsel should always be contacted about how the law applies to your city's specific fact situation.

Q. What governmental bodies of the city are covered by the open meetings law?

A. While the Texas Open Meetings Act, TEX. GOV'T CODE ANN. § 551.001 et seq., specifically states that it applies to city councils, it also applies to every deliberative body having rule-making or quasi-judicial power that is classified as a department or agency of the city. This definition includes numerous boards and commissions that customarily exist in cities. For example, zoning board of adjustment would clearly be covered by the requirements of the statute since its function and authority is quasi-judicial. Additionally, the Attorney General has ruled that committees of a body covered by the statute are subject to the Act. *See*, TEX. ATT'Y. GEN. OP. JM-1072 (1989); H-3 (1973).

Q. How much advance notice must be given prior to a meeting?

A. Notice must be posted at least 72 hours in advance of the meeting. The open meetings law allows a meeting to be held after notice has been posted for two hours in the case of emergency or urgent public necessity. Cases of emergency or urgent public necessity are limited to imminent, threats to public health and safety or reasonably unforeseeable situations requiring immediate action by the governmental body. The posted notice must clearly identify what emergency or urgent public necessity exists that requires an emergency meeting. An emergency or urgent public necessity must also exist if a supplemental item is added to an agenda that has already been posted if there is less than 72 hours before the meeting. *Rogers v. State Board of Optometry*, 619 S.W.2d 603 (Tex. Civ. App. -Eastland 1981, no writ). The determination as to what constitutes an emergency is subject to judicial review. *Cameron County Good Government League v. Ramon*, 619 S.W.2d 224 (Tex. Civ. App. - Beaumont 1981, writ ref'd n.r.e.). This is a strict test and caution should be exercised when making a determination that

a meeting must be held with less than 72 hours notice.

Q. What type of record must be made of public meetings?

A. The governmental body is specifically required to have minutes or a tape recording of each of its open meetings. The minutes shall state the subject matter of each deliberation and shall indicate each vote, other decision, or other action taken by the governmental body. The minutes or tape recording are public records and may be examined or copied by members of the public. This requirement must be met for all meetings of governmental bodies including those meetings where no formal action or vote is taken. City councils or boards that meet to discuss formulation or development of a policy or ordinance which will be voted on at a later date must keep a formal record of the proceedings even though no final vote or action is taken.

Q. What type of record must be made of closed/executive session meetings?

A. The open meetings law requires that a certified agenda or a tape recording must be made of all meetings that are closed to the public except executive sessions held for the purpose of consulting with an attorney under the provisions of the open meetings law. The law does not define "certified agenda," however, it does provide that the agenda shall state the subject matter of each deliberation and include a record of any further action taken. It also must include a record of the date and time of the beginning and end of the meeting. The presiding officer must certify that the agenda is a true and correct record of the proceedings. In lieu of the certified agenda, the governmental body may make a tape recording of the closed meeting, which should include an announcement made by the presiding officer at the beginning and end of the meeting indicating the date and time. A sample of a certified agenda can be found at the end of this article.

Q. How long does the city have to keep a certified agenda?

A. The certified agenda or the tape recording must be maintained for a period of two years after the date of the meeting. However, if a lawsuit is filed during this two year period, the certified agenda or tape must be preserved pending the outcome of the action. The certified agenda or the tape are not public records and it is unlawful to make them available to the public without lawful authority. It is advisable that the certified agenda or the tapes be placed in a sealed envelope identifying the contents and then

placed in secured storage. They are available for inspection by a judge if litigation has been initiated involving an alleged violation of the open meetings law. The proceeding before the judge is closed to the public and the judge may order that the tape or certified agenda be made available to the-public if the meeting was not authorized to be closed.

Q. How detailed must a certified agenda be?

A. The requirement that a certified agenda or tape is to be made available only upon court order indicates the contents of the certified agenda consists of a more descriptive agenda item than might be placed on the posted notice. For example, the posted notice may slate that an executive session is being held for the purpose of discussing "Land Acquisition for an Electric Substation;" the certified agenda may read "Land Acquisition - Discuss acquisition of land for a new electric substation to serve the Oaks subdivision." The Attorney General has stated that the certified agenda need not be a verbatim transcript of the executive session but is more than a one or two word **list** of the subjects actually discussed. Generally, the question of whether a particular certified agenda complies with the act is a fact question for the courts. TEX. ATT'Y. GEN. OP. JM-840 (1988). Although the statute requires the certified agenda to include a record of any further action taken, the open meetings law expressly provides that no final action, decision or vote can be made except in a meeting which is open to the public. The "further action" which must be noted on the, certified agenda may be no action, or it may be the directive to place the item on any open meeting agenda for final action, or it may be a request that additional information be gathered for discussion on another date.

City of _____
CERTIFIED AGENDA – EXECUTIVE SESSION

City Council

Date of Meeting: _____

A. ANNOUNCEMENT OF PRESIDING OFFICER:

"The City Council will begin its Executive Session on the ____ day of _____, 20____, at ____ o'clock ____m."

The subject matter of each Executive Session deliberation is as follows:

1.
RECORD OF FURTHER ACTION TAKEN:

2.
RECORD OF FURTHER ACTION TAKEN:

3.
RECORD OF FURTHER ACTION TAKEN:

B. ANNOUNCEMENT BY PRESIDING OFFICER:

"The City Council has completed its Executive Session on the ____ day of _____, 19____ at ____ o'clock ____m."

C. CERTIFICATION

I hereby certify that this Agenda of an Executive Session of the City Council of the City of _____ is a true and correct record of the proceedings pursuant to § 551.103 of the Texas Government Code.

WITNESS my hand this the ____ day of _____, 20____.

Presiding Officer



The Attorney General of Texas

August 17, 1983

JIM MATTOX
Attorney General

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Affirmative Action Employer

Honorable James Warren Smith, Jr.
Frio County Attorney
P. O. Box V
Pearsall, Texas 78061

Opinion No. JM-63

Re: Whether county clerk or
county judge controls prepara-
tion of agenda for commissioners
court

Dear Mr. Smith:

You have asked whether the county judge or the county clerk controls the preparation of the agenda for the commissioners court. Our answer to your question is that neither of those two individual county officials controls the agenda, but rather, as a matter of law, the commissioners court, as a whole, controls its own agenda. We are fully aware that it is the common practice in many counties of this state for the county judge to act as the agenda clerk and through him items may be placed on the agenda for consideration by the commissioners court. In other counties, the commissioners court has either designated a deputy county clerk to perform these functions, or has separately hired an employee under the supervision of the commissioners court. The clerk serves only as the keeper of the minutes and records of the commissioners court and has no independent authority to exercise his judgment as to matters which may or may not be considered by the commissioners court.

The county commissioners court in Texas is established by article V, section 18, of the Texas Constitution:

Each county shall . . . be divided into four commissioners precincts The County Commissioners so chosen, with the County Judge as presiding officer, shall compose the County Commissioners Court, which shall exercise such powers and jurisdiction over all county business, as is conferred by this Constitution and the laws of the State, or as may be hereafter prescribed.

The statutory corollary of section 18 is article 2342, V.T.C.S.:

The several commissioners, together with the county judge, shall compose the "Commissioners

Court," and the county judge, when present, shall be the presiding officer of said court.

Article 2351, V.T.C.S., provides in part that

[e]ach commissioners court shall: . . . (14) Issue all such notices, citations, writs and process as may be necessary for the proper execution of the powers and duties imposed by such court and to enforce its jurisdiction.

We believe that the commissioners court agenda is a "notice" under this provision which is "necessary" by virtue of the Texas Open Meetings Act for the proper execution of the official duties of the court. We find no authority for the county judge alone to control the contents, preparation and posting of the agenda required by the Texas Open Meetings Act, article 6252-17, V.T.C.S. Section 3a provides for the required notice of meetings of the commissioners court:

Written notice of the date, hour, place, and subject of each meeting held by a governmental body shall be given before the meeting as prescribed by this section . . .

. . . .

(d) A county governmental body shall have a notice posted on a bulletin board located at a place convenient to the public in the county courthouse. (Emphasis added).

In the event of emergency called meetings, the presiding officer, that is, the county judge, may be required to notify the news media. Id. §3a(h).

We do not believe that the county judge's authority and duties to "preside" over meetings of the county commissioners court grants him authority to prepare and limit, in his sole discretion, the items to be considered by the commissioners court. To preside has been defined as follows:

to occupy the place of authority, as of president, chairman, moderator, etc.; to direct, control, or regulate proceedings as chief officer . . .

Webster's New International Dictionary, 2d Edition (1947).

The duties of the county clerk do not encompass the preparation or alteration of the commissioners court agenda. The county clerk is directed by statute to

attend upon each term of said commissioners court;
preserve and keep all books, papers, records and
effects belonging thereto, issue all notices,
writs and process necessary for the proper
execution of the powers and duties of the
commissioners court . . .

V.T.C.S. art. 2345; see also V.T.C.S. art. 1940 (ex officio clerk).

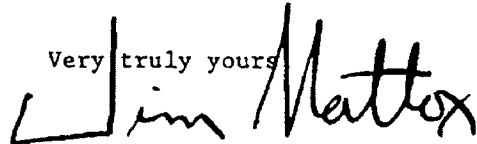
A commissioners court speaks through its minutes at any lawfully called meeting at which there is a quorum. Arts. 2343 (Quorum), 2348 (Regular terms), V.T.C.S.; Hill Farm, Inc. v. Hill County, 425 S.W.2d 414 (Tex. Civ. App. - Waco 1968) aff'd, 436 S.W.2d 320 (Tex. 1969) (commissioners court acts only through its minutes). See generally Rheuark v. Shaw, 628 F.2d 297 (5th Cir. 1980), cert. denied, sub nom. Rheuark v. Texas, 450 U.S. 931 (1980). Therefore, the commissioners court may control its own agenda much in the same way as the court may limit the comment of citizens at a public hearing. Attorney General Opinion H-188 (1973).

We believe that the court may designate an agenda clerk who is responsible for compiling the items to be placed on the agenda. The court may also prescribe the manner in which items are to be submitted for such inclusion. Each member of the court, of course, must be permitted to place on this agenda any item of his choosing.

S U M M A R Y

Neither the county judge nor the county clerk controls the preparation of the agenda for the commissioners court. The commissioners court as a whole has the authority to determine and amend its own agenda.

Very truly yours



J I M M A T T O X
Attorney General of Texas

TOM GREEN
First Assistant Attorney General

Honorable James Warren Smith, Jr. - Page 4 (JM-63)

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Prepared by David Brooks
Assistant Attorney General

APPROVED:
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David Brooks
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Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

June 15, 1993

Honorable Tracey Bright
Ector County Attorney
County Courthouse, Room 201
Odessa, Texas 79761

Opinion No. DM-228

Re: Whether a county commissioner may
raise an issue for discussion after the
commissioners court has taken final action
on it and related questions (RQ-204)

Dear Ms. Bright:

You inquire about the procedures for raising an issue for discussion at a meeting of the commissioners court. You state that the Commissioners Court of Ector County took a final vote on amendments to an ordinance concerning sexually oriented businesses at a meeting from which one commissioner was absent. *See generally* Local Gov't Code ch. 243 (municipal and county authority to regulate location of sexually oriented business). Opponents of the amendments wish to have the court reconsider them. Questions have arisen on whether this matter may be placed on the agenda, or whether the commissioners may discuss it without having it placed on the agenda.

You ask:

- (1) In a subsequent meeting, can a Commissioner raise an issue for discussion if the Commissioners Court has previously taken final action on the matter?
- (2) [May] the Commissioners refuse to place a matter on their agenda?

The fact that the commissioners court has taken final action on amendments to an ordinance does not prevent it from amending the ordinance in the future or engaging in discussion that may lead to an amendment. *See August A. Busch & Co. v. Caulfield*, 135 S.W. 244 (Tex. Civ. App. 1911, writ ref'd) (commissioners court has power to rescind an order made in its legislative capacity, insofar as vested rights are not impaired); *Collingsworth County v. Myers*, 35 S.W. 414 (Tex. Civ. App. 1896, no writ) (commissioners court may at any time revoke or modify resolution setting county judge's salary for ex officio services, when judge had not yet earned that salary); *see also Clark v. Tarrant County Child Welfare Unit*, 509 S.W.2d 378, 381 (Tex. Civ. App.—Fort Worth 1974, no writ) (legislature may as a general matter repeal any statute at will). The

commissioners court is subject to the Open Meetings Act, *see* V.T.C.S. art. 6252-17, § 1(c), and its meetings must comply with the requirements of the Open Meetings Act. Written notice of the "date, hour, place, and subject of each meeting" held by the commissioners court must be given before the meeting in accordance with section 3A of the act, subject to the following exception:

The requirement for notice . . . does not apply to matters about which specific factual information or a recitation of existing policy is furnished in response to an inquiry made at such meeting, whether such inquiry is made by a member of the general public or by a member of the governmental body. Any deliberation, discussion, or decision with respect to the subject about which inquiry was made shall be limited to a proposal to place such subject on the agenda for a subsequent meeting of such governmental body for which notice has been provided in compliance with this Act.

V.T.C.S. art. 6252-17, § 3A(a).¹ Section 3A of the Open Meetings Act allows a county commissioner to make an inquiry during the meeting about factual information or existing policy that does not appear on the meeting notice, but the court may not discuss the subject except within the narrow limits set out in section 3A.

In addressing your question about authority to place subjects on the agenda for a commissioners court meeting, we assume that all subjects on the agenda of the meeting are also set out in the public notice of a meeting provided in accordance with section 3A of the Open Meetings Act.² Attorney General Opinion JM-63 (1983) determined that the county judge was not authorized to control the content of the agenda, even though a statute designated him the presiding officer of the court. Local Gov't Code § 81.001(b) (formerly V.T.C.S. article 2342 (1925)). The opinion in *Hansbro v. Neiderhofer*, 83 S.W.2d 685 (Tex. Civ. App.—Beaumont 1935, no writ) supports this conclusion. It held that a county judge was subject to a writ of mandamus where he refused to recognize a motion duly proposed and seconded at a commissioners court meeting. The court stated that a county judge must allow the members of the court to submit motions to a vote of the court. *Id.* at 685. Attorney General Opinion JM-63 concluded that the commissioners

¹Section 3A of article 6252-17, V.T.C.S., is not the exclusive means of placing a subject on the agenda of a meeting subject to the Open Meetings Act. *See* Attorney General Opinion MW-32 (1979).

²The terms "agenda" and "notice" have been used interchangeably in discussions of the Open Meetings Act, because of the practice of posting the agenda as the notice or as an appendix to the notice. *See City of San Antonio v. Fourth Court of Appeals*, 820 S.W.2d 762, 764 (Tex. 1991). However, an agenda of a meeting is defined as "a list, outline, or plan of things to be considered or done," while the notice of the meeting is a written announcement. WEBSTER'S NINTH NEW COLLEGIATE DICTIONARY 63, 808 (1983). We assume in answering your questions that the same list of subjects appears on both the written notice of the commissioners court meeting and on the agenda before the commissioners at the meeting.

court as a whole has the authority to determine its own agenda. See Tex. Const. art. V, § 18 (county commissioners court shall exercise power and jurisdiction over county business); Gov't Code § 311.013; *Canales v. Laughlin*, 214 S.W.2d 451 (Tex. 1948). It also stated that "[e]ach member of the court . . . must be permitted to place on this agenda any item of his choosing." Attorney General Opinion JM-63 at 3. Thus, a county commissioner may place a matter on the agenda for a meeting.

This conclusion does not mean that a commissioners court cannot adopt a procedure for placing items on the agenda. The net effect of any procedure adopted, however, cannot be to preclude a member of the court from placing an item on an agenda so that it may be discussed publicly. While votes on any particular matter may be subject to majority rule, we cannot condone the implementation of any procedure that would effectively preclude a duly elected representative on the commissioners court from at a minimum providing a public forum for discussion of any particular issue.

You also ask:

- (3) May *Robert's Rules of Order* be used to govern discussion in the Commissioners Court meetings?
- (4) If a treatise may be used to regulate the conduct of meetings, must it be formally adopted as the controlling authority in Commissioners Court?

Sections 81.005 and 81.006 of the Local Government Code address the time, location, and quorum requirements of commissioners court meetings. The court is also subject to the Open Meetings Act, but we have found no statute setting out comprehensive procedures for the conduct of commissioners court meetings.

The commissioners court of a county has only those powers that are expressly or by necessary implication granted it by the constitution and the statutes, but it has broad discretion in exercising expressly conferred powers. *Canales*, 214 S.W.2d 451; *Anderson v. Wood*, 152 S.W.2d 1084 (Tex. 1941). A commissioners court may adopt reasonable rules that are consistent with relevant provisions of law³ to govern the conduct of its meetings. See generally Attorney General Opinion H-188 (1973). If the commissioners court wishes its meetings to be conducted according to *Robert's Rules of Order* or of those provisions of a treatise that are consistent with law, and to require compliance with those provisions from all members of the court, the court must formally vote to adopt the provisions.

³For example, rules applicable to meetings of the commissioners court must be consistent with the Open Meetings Act.

S U M M A R Y

The commissioners court may continue to discuss an issue in a subsequent meeting even though it has previously taken final action on it, provided the topic of discussion has been properly noticed. Authority to prepare the agenda for a meeting is vested in the commissioners court as a whole, and not in the county judge. An individual commissioner may place items of his choosing on the agenda. The commissioners court may adopt reasonable rules consistent with relevant statutes and constitutional provisions to govern its meetings. If the court wishes its meetings to be governed by the provisions of a treatise that are consistent with law, it must vote to formally adopt those provisions as its controlling authority.

Very truly yours,



DAN MORALES
Attorney General of Texas

WILL PRYOR
First Assistant Attorney General

MARY KELLER
Deputy Attorney General for Litigation

RENEA HICKS
State Solicitor

MADELEINE B. JOHNSON
Chair, Opinion Committee

Prepared by Susan L. Garrison
Assistant Attorney General

SAMPLE COUNCIL MEETING PROCEDURES

The following is a sample set of procedures that can be used as a guide by a city in developing its own council meeting procedures. These have been adapted from the Council Procedures adopted by the City of College Station while Gary Halter, Professor of Government at Texas A&M University, was mayor.

COUNCIL MEETING PROCEDURES FOR THE CITY OF LOS DIABLOS, TEXAS

Effective immediately following the adoption of this policy by the City Council of the City of Los Diablos, the following rules and order of business are those to which this city will adhere. And they shall remain in effect unless otherwise changed by the City Council.

A. **MEETINGS** -- Three types of meetings are recognized.

1. Regular Meetings will be held on the second Thursday night of each month. These meetings will be held in the Council room at the City Hall commencing at 7:00 p.m.
2. Special Meetings are subject to call by the Mayor, City Manager, or any councilmember, subject to majority will. Except in unusual circumstances, these meetings will be held at the City Hall, at a stated time. The purpose of such meetings is to act upon matters of an emergency nature which should not be delayed until a regular meeting. Special Meetings, as all other meetings, unless meeting specific criteria shall be open to the public. Minutes of such meetings will be maintained as a regular meeting.

Majority will of the Council shall be determined by a canvass of all members by telephone or letter, with a majority of Councilmembers expressing themselves as able and willing to attend the meeting if called.

3. Workshop Meetings are subject to call by the Mayor, City Manager or any councilmember, subject to majority will. The time, place and purpose will be stated at each instance. The purpose of such meetings shall be to hear reports and to discuss in depth matters of interest to the city, such as a meeting with one of the City's appointed committees, or the Council alone may wish to explore a matter in great detail without taking action.

Recent policy has been to hold regular workshop meetings at 4:00 p.m. on the Wednesday of the week preceding the regular meeting. Normally, no official council action will be taken at such meetings and no minutes will be taken. The public is welcome to attend, but will not ordinarily participate in the discussions. The council may hear reports, but may not deliberate any matter unless that matter is listed on an agenda that has been posted as required as required by the Open Meetings Act.

- B. **AGENDA** The following stipulations relate to the agenda for meetings of the Council.

NO ACTION CAN BE TAKEN ON ANY ITEM UNLESS THAT ITEM HAS BEEN POSTED ON THE AGENDA FOR THAT MEETING AND THE AGENDA POSTED IN A PUBLIC PLACE SEVENTY-TWO (72) HOURS PRIOR TO THE MEETING.

1. All Council members may submit agenda items. The submission by a councilmember of a request for an item to be placed on the agenda must be specific and contain an explanation of the purpose of the item and the effect of the items' enactment. Agenda items must reach the City Secretary's Office at City Hall by (5) p.m. Friday two weeks prior to the regular Thursday meeting. This deadline is necessary in order to have the item of the agenda for the workshop session prior to the regular meeting. Items submitted after that time will be held over until the next council meeting, unless the item is of such importance that the mayor elects to place it on an earlier agenda or calls a special meeting.

The City Manager, working in conjunction with the Mayor, will exercise his/her best judgment in determining the most important items received for placement on the agenda and adding other items of business to come before the Council. An item not appearing on the agenda shall not be taken up for discussion as a matter of Council business during any Council meeting. However, the Council may receive items as information.

Any member of the city staff wishing to have an item placed on the agenda shall submit that item to the City Managers' office, through regular supervisory channels, for approval. The City Manager may establish procedures for submission of routine items without his approval.

2. The agenda packets for all regular meetings will be made up and can be picked up by the Councilmembers late Friday afternoon preceding the meetings. Agenda packets not picked up by 4:45 PM will be delivered to the appropriate councilmember's home on Saturday. Agenda packets for special meetings will be distributed to the councilmembers' home as early as possible. This should afford ample time for all councilmembers to inquire into the nature of each matter to be discussed or to personally investigate the matter so as to better inform himself or herself before a Council Meeting. Councilmembers are encouraged to call the city manager or the appropriate staff regarding any questions about items on the agenda or any other matter that concerns the city.
3. The City Secretary's office will assume responsibility for issuing to newspapers, radio and television stations, a copy of the agenda advising them of the date, time and place and items to be discussed at all council meetings. It is the expressed wish of the Council that a notice of Council Meetings appear in the news media at least the day before the scheduled meeting. The City Secretary's office, in conjunction with the city attorney, will also assume the responsibility for compliance with the open meetings law.

Another responsibility of the City Secretary is to notify each individual who has placed an item on the agenda of the fact that they are expected to be at the meeting to discuss their item. The City Secretary shall only give the person the fact that the item is on the agenda and the number of the item as shown on the agenda, but shall make no attempt to give a time for that person to be ready to appear before the council.

4. In special meetings, as in all meetings of the city council, the Council will restrict consideration only to the item or items on the Agenda. The City Secretary will follow the same procedure as above advising the parties concerned. No matter will be accepted by the chair for discussion at any meeting unless has been posted on the agenda for that meeting; however items may be received as information.
5. The purpose of workshop meetings is to explore or discuss problems without taking specific action. The general public may, of course, attend such meetings if they wish, but they may not participate in the proceedings unless invited to do so. Occasionally, public hearings may be held at workshop meetings for the convenience of the public. Items to be discussed at a workshop meeting must be placed on an agenda for that meeting and the agenda posted as required.
6. Emergency items. In the event that a situation arises in which the mayor, city manager or councilmembers **can legitimately classify as an emergency as specified in the statutes**, that item may be added to the agenda as late as two hours before a meeting. In such event, the nature of the emergency must be specified in the agenda and notices given to any who have filed a written request for same.

C. **COUNCIL PROCEEDINGS**

These procedures shall apply to all meetings of the City Council. The Mayor shall be the presiding officer at all meetings of the City Council and have a voice in all of its proceedings, but the mayor shall have no vote except in the event of a tie vote by the council. **(This is a statutory requirement in a Type A municipality.)** Councilmembers shall speak in Council Meetings only upon being recognized by the presiding officer, whose recognition shall not be unreasonably withheld. In the event of the absence of the Mayor, the Pro-tem Mayor shall be the presiding officer. The mayor pro-tem shall be able have a vote in all matters as the mayor pro-tem continues to be a councilmember even when presiding. In the event of the absence of the Mayor and Pro-tem Mayor, the councilmembers in attendance, if constituting a quorum, shall select one of its members to preside over that meeting. Councilmembers shall refrain from private conversations with one another.

1. **Call to Order** All meetings will begin promptly at the hour stated. A quorum shall be the attendance of a majority of the members of the council. In the event of there not being a quorum at the time the meeting is called to order, the council may discuss matters, but shall not take any action until a quorum is present. In the event a councilmember leaves the council room and the remaining councilmembers do not constitute a quorum, the council may continue to discuss matters, but may take no vote or conduct other business.
2. **Agenda** Ordinarily the mayor or other presiding officer will follow the agenda as published, however the presiding officer shall have, subject to the approval of the council, the prerogative of addressing items out of order should such change facilitate guests or other factors.
3. **Presentation of Agenda Items** Agenda items scheduled by the city manager or city staff will be presented by the city manager or the city manager may call on a staff member to present the item. Staff members may attend council meetings and be available as resource persons, however they are not to speak on city issues unless directed by the city manager. This does not preclude a staff member representing himself or herself at a meeting, but staff members should be cautious about taking positions that could be contrary to the position of their supervisors, for this could cause questions concerning their ability to follow through with instructions from their supervisors.

Agenda items scheduled by others will be presented by the one who asked for the item to be placed on the agenda.

It shall be the responsibility of the City Secretary to notify each person or organization which has requested an opportunity to have an item on the agenda when the item has been scheduled.

4. **Presentations from the Floor** All guests and other persons who are to speak to the city council including staff members, other than the city manager, city attorney, or city secretary who are seated at the table, shall wait in the audience until recognized. When called by the presiding officer for a presentation, that person shall move immediately to the podium and make the presentation from that spot.

The speaker shall identify herself or himself by name and address, the agency represented, and the nature of the presentation prior to beginning. The speaker shall remain at the podium until all council questions have been answered and the speaker has been dismissed by the mayor. Speaking from the podium will assure that the presentation is picked up by the recording equipment.

5. **Council Action** After the council has heard all of the facts, reviewed the supporting data, and listened to the arguments for and against each agenda item, it will act by approving or disapproving a motion. In the event that there is no motion or no second to a motion, no action will be deemed taken.

The city council acts in one of two methods. It may adopt a resolution or an ordinance. A resolution is an expression of the will of the council. The resolution may be written to honor some person, to recognize an event, to ask the city administration to look into a matter, perform a task, to execute a contract, or to fulfill some other desire of the council. An ordinance is a law or regulation. The council adopts an ordinance to set traffic regulations, to establish zoning or land use regulations, to set the tax rate, etc. Both ordinances and resolutions require the presentation of the item on the agenda, a motion and a second to the motion and an affirmative vote by a majority of those present and voting.

From time to time, a question is raised about the legality of a person making a motion and then voting against his/her own motion. There is nothing wrong with that. The person may be opposed to an action and wants the motion on the floor so that person can register the opposing vote.

There may be situations in which the presiding officer concludes that there is a consensus among the council, and that the issue is one that would not require an official vote and states for the record the determination of the council. (i.e. Hearing no objection, so ordered.)

D. MINUTES OF MEETINGS

Minutes of all meetings will be kept by the City Secretary. The Secretary will record the proceedings and the tapes will be kept for at least six months unless there have been questions raised which indicate possible need to keep the tapes longer. The minutes will record the presence of each councilmember, each city staff member, and all guests who registered their attendance. The minutes will include all areas of discussion and identify each speaker and then, as far as possible, the key point or points that were made. The minutes will not be a verbatim recording of all discussions. The minutes will reflect all motions made, who made and who seconded the motions, and the outcome of each motion including the roll call vote if requested. The minutes will include the key points of any specific comments made by members for the record.

Each agenda item will be identified in the minutes by sub-headings to facilitate review by councilmembers. It is important that the minutes include the name and address of any guests who address the council as well as the specific subject or request presented.

The minutes shall not include verbatim copies of statements nor any extraneous discussions, however any councilmember who desires to have a verbatim statement included as a part of the minutes shall provide a typed copy of such verbatim statement to the city secretary prior to the presentation of such statement. This statement will not be typed into the minutes, but will be attached to the minutes and so noted.

Copies of the minutes will be included in the agenda packets distributed to councilmembers prior to the next regular meeting. Minutes may be amended should a councilmember recognize an incorrect statement and then may approved by the city council without a motion unless a councilmember desires otherwise. After allowing time for review, the chair may state that the minutes are approved as amended or approved as distributed.

E. PARLIAMENTARY PROCEDURE

In regular and special meetings, Robert's Rules of order will be followed as far as is feasible. The following commonly used procedures shall be followed: For a more detailed description of Parliamentary Procedure as contained in Robert's Rules of Order please see the Appendix.

PARLIAMENTARY QUESTIONS, MOTIONS AND THEIR PRECEDENCE:

	<u>Debatable</u>	<u>Amenable</u>	<u>A Majority Vote</u>	<u>2/3 (of those present)</u>
1. To adjourn	NO	NO	YES	NO
2. To take a recess	NO	YES	YES	NO
3. For the previous question	NO	NO	NO	YES
4. To continue to a time certain	YES	YES	YES	NO
5. To commit, refer or recommit	YES	YES	YES	NO
6. To amend	YES	YES	YES	NO
7. To amend an amendment	YES	NO	YES	NO
8. To offer a substitute amendment	YES	NO	YES	NO
9. To amend a substitute amendment	YES	NO	YES	NO
10. To postpone indefinitely	YES	NO	YES	NO
11. Take under advisement	YES	NO	YES	NO
12. For the original question	NO	NO	YES	NO
13. To table	NO	NO	YES	NO

Any councilmember may call for the question on any issue, and upon seconding by another councilmember, the issue to call for the question shall immediately be put to vote. Passage of the motion to address the previous question shall terminate debate on the motion, amendment or item under discussion and action shall be taken on that item immediately, and the chair shall move to the next item.

The Council may agree to limit debate on any business before it. That agreement should be formalized by a majority of the Council on a roll call vote prior to up any deliberation on that item.

Any member may request a roll call vote at any time.

The presiding officer shall not entertain any dilatory or delaying motions.

F. DECORUM AND DEBATE

IT IS IMPERATIVE THAT THE CHAIRPERSON MAINTAIN ORDER AT ALL TIMES. THE CHAIR MUST NOT PERMIT DEBATE OR COMMENTS FROM ANY WHO HAVE NOT BEEN RECOGNIZED. INTERRUPTIONS MUST BE SILENCED BY VOICE, USE OF THE GAVEL OR OTHER MEANS, AND, IN THE EVENT OF ANY PERSON'S FAILURE TO HEED THE DIRECTIONS OF THE CHAIR, THE CHAIR MAY HAVE THAT INDIVIDUAL REMOVED FROM THE ROOM.

When a measure is presented to the Council for consideration, the presiding officer shall recognize the appropriate individual to present the case. When two or more members wish to speak, the presiding officer shall name the member who is to speak first and may direct that the other shall speak next. No member of the Council shall interrupt another who is speaking except to make a point of order or to make a point of personal privilege. No member shall speak more than five minutes on any question or amendment to the question except as further provided in this rule.

No member shall speak more than the time limits provided herein on any subject or amendment, but such member may use his/her time in any combination, in separate speech or comments totaling the number of minutes permitted. The mayor shall not be obligated to recognize any councilmember for a second comment on the subject or amendment until every councilmember wishing to speak has been allowed a first comment. Councilmembers shall also have the right to yield a portion of time to another member.

Any member deciding to speak more than five minutes on any question or more than five minutes on any amendment to the question shall be accorded the privilege only upon motion supported by two-thirds of the Council. No member shall be permitted to interrupt while another member is speaking.

No councilmember shall be permitted to indulge in personalities, use language personally offensive, arraign motives of members, charge deliberate misrepresentation, or use language tending to hold a member of the City Council up to contempt.

If a member is speaking without being recognized or otherwise transgressing the rules of the Council, the presiding officer shall, or any councilmember may, call him or her to order in which case he or she shall immediately be quiet unless permitted to explain. The Council shall, if appealed to, decide the case without debate. If the decision is in favor of the member called to order, he/she shall be at liberty to proceed, but not otherwise, and if the disruptions continues, he/she shall be liable to censure or to such punishment as the Council deem proper consistent with State Statutes, City Ordinances or City Charter if applicable. (Yes, a councilmember who is disorderly may be removed from the meeting, but that should be only as a last resort.)

G. CITIZEN PARTICIPATION AT MEETINGS

1. All citizens attending any regular or special Council meetings will be asked to sign the visitors register provided. Their names will be added to the minutes of said meeting by the City Secretary as a matter of record. Persons wishing to speak to the Council, in addition to signing the visitors register, must complete a "Speakers Card" and indicate the subject that they wish to address. Ordinarily, one who wishes to address an agenda item will be invited to speak when the agenda items comes up for discussion. One who wishes to address a subject not on the agenda will have an opportunity to speak during the agenda item, "Hear Visitors."
2. To maintain decorum, the Mayor, at all meetings, will ask the citizens present if they wish to speak for or against any item on the agenda. If so, they will be given an opportunity to do so at the proper time, when recognized by the chair. Ordinarily the mayor will designate one who is to speak in favor of an item to speak and be followed by one who is against that same item. If more than five citizens wish to address the Council on any single agenda item, those citizens are advised to select spokespersons to present their case.

NO CITIZEN NOR STAFF MEMBER MAY SPEAK NOR OTHERWISE INTERRUPT ANY MEETING UNTIL RECOGNIZED BY THE PRESIDING OFFICER.

3. Citizens who wish to bring up a matter not on the agenda at a regular meeting may do so, but only under the agenda item, "Hear Visitors." Citizens must remember that the Council is prohibited from acting on any item that has not been posted on the agenda.
4. As a general rule, citizens may not participate in the discussions of the Council workshop sessions.

Always remember that the purpose of the meeting of the city council is for the councilmembers to conduct the affairs of the city. Council meeting are not public forums for the public to debate among themselves. Most councils welcome visitors who wish to offer proposals, suggestons, or constructive criticism, but will not permit indulging in personalities, derogatory comments, offensive language, nor interruptions.

As noted above, these are only sample rules. Each city should review these suggestions and adopt such rules which are appropriate for that city. There is a more complete description of procedures included as Appendix c.

CITY OF ALAMO HEIGHTS
6116 BROADWAY
SAN ANTONIO, TEXAS 78209
210-822-3331
FAX 210-822-8197



ACTION TAKEN

PUBLIC NOTICE OF MEETING

Take notice that a regular meeting of the City Council of the City of Alamo Heights, Texas will be held on Monday, the 8th day of February, 2016, in the Council Chambers, at 6116 Broadway, San Antonio, Texas at **5:30 p.m.** to consider and act upon any lawful subjects which may come before it.

1. Approval of Minutes of the January 25, 2016 Council Meeting **APPROVED; AYES: 5, NAYS: 0**
2. Announcement
 - a. 27th Annual Alamo Heights Band Association's Run to the Beat 5K, March 5, 2016
3. Citizens to be heard concerning items not listed on the agenda

Items for Individual Consideration

4. Architectural Review Board Case No. 612F, consider a request of Trey Siller, representing Escape Development Group, owner, for the significance review of the existing home and detached accessory structure located at 409 Normandy Ave under Demolition Review Ordinance No. 1860 in order to demolish 100% of the existing main structure – Jason Lutz, Community Development Services Department Director **APPROVED; AYES: 5, NAYS: 0**
5. Architectural Review Board Case No. 613F, consider a request of Jack Uptmore, Uptmore, LLC, owner, for the compatibility review of the proposed main structure located at 612 Ogden Lane under Demolition Review Ordinance No. 1860 in order to construct a new single-family residence and accessory structure – Jason Lutz, Community Development Services Department Director **APPROVED WITH ARB CONDITIONS; AYES: 5, NAYS: 0**
6. Architectural Review Board Case No. 614F, consider a request of Kelly and Audra Kerr, owners, for the significance and compatibility review of the proposed replacement structure located at 248 Castano W. under Demolition Review Ordinance No. 1860 in order to demolish and/or encapsulate 83% of the existing roof and encapsulate 52% of the street-facing facade to add to the existing main structure – Jason Lutz, Community Development Services Department Director **APPROVED; AYES: 5, NAYS: 0**
7. Planning and Zoning Commission Case No. 383, public hearing, consideration, and action regarding a request for approval of a specific use permit (SUP) application to allow for a vapor shop at 4704 Broadway St on property zoned B-1 (Business District). The property is currently identified as a portion of CB 5600, BLK 2, LOTS 20 & 21 & W 1/2 of 22 – Jason Lutz, Community Development Services Department Director **DENIED; AYES: 5, NAYS: 0**

In the Matter of the Removal Proceeding of
Pamela Dodson in Response to a Sworn
Written Complaint Filed by Herbert J. Laing
on June 30, 2015

City Council of the City
of Windcrest, Texas

ORDER

WHEREAS, on or about June 30, 2015 a sworn written complaint was filed pursuant to Section 3.08 of the Windcrest City Charter against Pamela Dodson alleging abandonment of office or neglect to perform the duties thereof; and

WHEREAS, the City Council convened a hearing on August 31, 2015 to determine whether Pamela Dodson should be removed from the City Council on account of said complaint; and

WHEREAS, at the hearing the complainant testified as to the facts in controversy and made statements of his position; and

WHEREAS, at the conclusion of the complainant's testimony, and after cross examination by Pamela Dodson's attorney, the complainant stated that he was not sure that the complaint had any merit; and

WHEREAS, upon such suggestion, the Mayor adjourned the meeting and no consideration or vote by the City Council occurred.

IT IS THEREFORE ORDERED that the complainant's complaint was withdrawn so that Pamela Dodson is not removed from the City Council in response to the complaint filed against her by Herbert J. Laing on or about June 30, 2015.

EXECUTED this 31st day of August, 2015.

ALAN BAXTER, MAYOR

ATTEST:



KELLY RODRIGUEZ, CITY SECRETARY

APPROVED AS TO FORM:



MICHAEL S. BRENNAN, CITY ATTORNEY



In the Matter of the Removal Proceeding of
Pamela Dodson in Response to a Sworn
Written Complaint Filed by John P. Gretz
on December 15, 2015

City Council of the City
of Windcrest, Texas

ORDER

WHEREAS, on or about December 15, 2015 a sworn written complaint was filed pursuant to Section 3.08 of the Windcrest City Charter against Pamela Dodson alleging malfeasance in office and other matters; and

WHEREAS, the City Council convened a hearing on February 11, 2016 to determine whether Pamela Dodson should be removed from the City Council on account of said complaint; and

WHEREAS, at the hearing the complainant and Pamela Dodson testified as to the facts in controversy and made statements of their positions; and

WHEREAS, the City Council proceeded to vote on the question of the removal of Pamela Dodson from the City Council, which vote did not produce the necessary unanimous vote to remove.

IT IS THEREFORE ORDERED that the City Council of the City of Windcrest declares that Pamela Dodson is not removed from the City Council in response to the complaint filed against her by John P. Gretz on or about December 15, 2015, and that the complaint having been properly addressed by the City Council pursuant to the requirements of the Windcrest City Charter is hereby DENIED.

EXECUTED this 11th day of February, 2016.

ALAN BAXTER, MAYOR

ATTEST:

Kelly Rodriguez
KELLY RODRIGUEZ, CITY SECRETARY

APPROVED AS TO FORM:

Michael S. Brennan
MICHAEL S. BRENNAN, CITY ATTORNEY

