

AGENDA - COUNCIL MEETING - TUESDAY - OCTOBER 12, 2010 - 1:30 P. M.
COUNCIL CHAMBER - SECOND FLOOR - CITY HALL
901 BAGBY - HOUSTON, TEXAS

with notes of action taken

MOTIONS - 2010-0729 to 2010-0747
ORDINANCES - 2010-0792 to 2010-0815
RESOLUTION - None

2010-0728-1

PRAYER AND PLEDGE OF ALLEGIANCE - Council Member Jones

1:30 P. M. - ROLL CALL

ADOPT MINUTES OF PREVIOUS MEETING

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

5:00 P. M. - RECESS

RECONVENE

WEDNESDAY - OCTOBER 13, 2010 - 9:00 A. M.

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

MAYOR'S REPORT

CONSENT AGENDA NUMBERS 1 through 26

ACCEPT WORK - NUMBER 1

1. **Council Member Hoang tagged**

RECOMMENDATION from Interim Director General Services Department for approval of final contract amount of \$4,404,659.00 and acceptance of work on contract with **PYRAMID CONSTRUCTORS, L.L.P.** for Renovation of Magnolia Health and Multi-Service Center - 13.69% over the original contract amount - **DISTRICT I - RODRIGUEZ**

PROPERTY - NUMBERS 2 and 3

2. Motion 2010-0729

RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from J. Kent Marsh of Marsh Darcy Partners, on behalf of Engin-Real, Inc. of Texas (Randal Holste, Vice President), for abandonment and sale of a 15-foot-wide prescriptive utility easement, from the north property line of Lot 8, Block 316 to the south property line of Lot 7, Block 324, and a sanitary sewer easement in Lot 2, Block 324, in exchange for the conveyance to the City of a 20-foot-wide utility easement, from the south right-of-way line of the proposed Koehler Street extension to the south property line of Lot 7, Block 324, all located within the Houston Heights Subdivision, out of the John Austin Two Leagues Survey, Parcels SY11-005A, SY11-005B and VY11-011 - **DISTRICT H - GONZALEZ**

3. Motion 2010-0730

RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Oscar De Los Santos, on behalf of Houston Gateway Academy, Inc. (Richard Garza, Chief Executive Officer), and Broadway Baptist Church, (Dr. Randy Fowler, Pastor) that (1) the City abandon and sale a ±18.5-foot-wide portion of excess Dahlia Street right-of-way and (2) the City decline the acceptance of, reject and refuse the dedication of a 20-foot-wide alley, between Coral Street and Parsons Street, both within Block 108, out of Harrisburg Addition, Parcels SY11-002A, SY11-002B, SY11-019A, and SY11-019B **DISTRICT I - RODRIGUEZ**

PURCHASING AND TABULATION OF BIDS - NUMBERS 4 through 5A

4. Council Members Sullivan and Clutterbuck tagged

FORMS + SURFACES, INC for Stainless Steel Litter and Recycling Receptacles for the Houston Airport System - \$386,873.00 - Enterprise Fund

5. Ordinance 2010-0792

ORDINANCE appropriating \$3,604,203.00 out of Equipment Acquisition Consolidated Fund for the purchase of additional Patrol Vehicles for the Houston Police Department

a. Motion 2010-0731

AMEND MOTION #2009-38, 1/28/09 as previously amended by Motion #2009-769 and #2010-10, TO PURCHASE additional Patrol Vehicles for the Houston Police Department and the Houston Airport System, awarded to **PHILPOTT MOTORS, LTD d/b/a PHILPOTT FORD** \$192,591.00 - Enterprise Fund

ORDINANCES - NUMBERS 6 through 26

6. Ordinance 2010-0793

ORDINANCE authorizing the Issuance of City of Houston, Texas Public Improvement Refunding Bonds, Series 2010A, Series 2010B, and Taxable Series 2010C for the purpose of Refunding Certain Outstanding General Obligation Commercial Paper Notes, General Obligation Bonds, and General Obligation Pension Note; authorizing the execution and delivery of a Paying Agent/Registrar Agreement, Escrow Agreement and Bond Purchase Agreement relating to such bonds; approving the use of a Preliminary Official Statement and authorizing the preparation and distribution of an Official Statement to be used in connection with the sale of the bonds; approving a Co-Bond Counsel Agreement and a Co-Special Disclosure Counsel Agreement, and other related and necessary agreements pertaining to the bonds; delegating authority to enter into such agreements and to approve certain other procedures and provisions related thereto; making other findings and provisions relating to the subject and matters incident thereto, and declaring an emergency

ORDINANCES - continued

7. Ordinance 2010-0802

ORDINANCE approving the issuance and sale of Coastal Water Authority Contract Revenue Refunding Bonds, Series 2010 (City of Houston Projects); approving the form, terms, and substance of the supplemental resolution of the authority relating to the bonds and related agreements; containing other provisions relating to the subject, and declaring an emergency

8. Ordinance 2010-0803

ORDINANCE **AMENDING VARIOUS SECTIONS OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, related to the creation of a Fleet Management Department; containing findings and other provisions relating to the foregoing subject; providing for severability; providing an effective date

9. Ordinance 2010-0804

ORDINANCE approving and authorizing contract between the City of Houston and **CAROLINA SOFTWARE TECHNOLOGIES, INC d/b/a CST, INC** for Consulting Services to implement a fleet consolidation plan for the City of Houston - Not to exceed \$800,000.00 - General Fund

10. Ordinance 2010-0815

ORDINANCE **AMENDING CHAPTER 10 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to Administrative Adjudication of certain Health and Safety Violations; containing findings and other provisions relating to the foregoing subject; providing for severability

11. Council Member Rodriguez tagged

ORDINANCE **AMENDING VARIOUS PROVISIONS OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to creation of a Regulatory Framework for the operation of Pedicabs and Low-Speed Shuttles as Vehicles for Hire; declaring certain conduct to be unlawful and providing penalties therefor; containing findings and other provisions relating to the foregoing subject; providing for severability

12. Ordinance 2010-0805

ORDINANCE appropriating \$17,430,949.00 out of Tax Increment Funds for Reinvestment Zone Number One, City of Houston, Texas (Lamar Terrace Zone), Reinvestment Zone Number Two, City of Houston, Texas (Midtown Zone), Reinvestment Zone Number Three, City of Houston, Texas (Main Street/Market Square Zone), Reinvestment Zone Number Four, City of Houston, Texas (Village Enclaves Zone), Reinvestment Zone Number Five, City of Houston, Texas (Memorial Heights Zone), Reinvestment Zone Number Seven, City of Houston, Texas (Old Spanish Trail/Alameda Corridors Zone), Reinvestment Zone Number Eight, City of Houston, Texas (Gulfgate Zone), Reinvestment Zone Number Nine, City of Houston, Texas (South Post Oak Zone), Reinvestment Zone Number Eleven, City of Houston, Texas (Greater Greenspoint Zone), Reinvestment Zone Number Twelve, City of Houston, Texas (City Park Zone), and Reinvestment Zone Number Thirteen, City of Houston, Texas (Old Sixth Ward Zone) for affordable housing, administrative expenses, payments to Houston Independent School District, and payments to certain redevelopment authorities as provided herein

13. Ordinance 2010-0806

ORDINANCE authorizing the sale of a 1.1852 acre subsurface pipeline easement located in the Reels & Trobough League, A-59, Houston, Harris County, Texas, to **MAGELLAN PIPELINE COMPANY, L.P.**, in consideration of its payment to the City of \$14,713.00 - **DISTRICT I - RODRIGUEZ**

ORDINANCES - continued

14. Ordinance 2010-0794

ORDINANCE amending Ordinance No. 2009-1059 that authorized and approved Purchase Agreement between **COMMUNITY FAMILY CENTERS / CENTROS FAMILIARES DE LA COMUNIDAD, Purchaser**, and the City of Houston, Texas, Seller, to substitute a new Purchase Agreement for the sale of 1.2548 acres at 7228 Canal Street in the City of Houston Canal Street Subdivision, Samuel M. Williams Survey, A-87, Houston, Texas, for a cash payment of \$142,000.00 - **DISTRICT I - RODRIGUEZ**

15. Ordinance 2010-0795

ORDINANCE approving and authorizing Purchase Agreement between Special Recreation Services, Inc., Purchaser, and the City of Houston, Texas, Seller, for the sale of a tract of land, 0.2820 acres, more or less, located at 7301 Avenue F (Parcel SY9-039) in the Canal Street Subdivision, Samuel M. Williams Survey, A-87, Houston, Texas, for \$14,700.00; approving the Development Agreement and Special Warranty Deed - **DISTRICT I - RODRIGUEZ**

16. Ordinance 2010-0807

ORDINANCE appropriating \$3,800,000.00 out of Airports Improvement Fund and \$2,000,000.00 out of the Houston Airport System Subordinate Lien Revenue Bonds, Series 1998B (AMT) Construction Fund and approving and authorizing Amendment No. 1 to the Evaluation, Repairs and Cleanup Services Contract between the City of Houston and **TEXAS DRAIN TECHNOLOGIES, INC** at George Bush Intercontinental Airport/Houston (Project No. 642) **DISTRICT B - JOHNSON**

17. Ordinance 2010-0796

ORDINANCE approving and authorizing submission of an application for grant assistance to the U.S. Department of Justice, Office of Justice Programs' Bureau of Justice Assistance under the FY 2010 Congressionally Selected Awards Program to provide Automated Fingerprint Identification System Unit Mobile Suspect ID/Booking Enhancements; declaring the City's eligibility for such grant; authorizing the Chief of the Houston Police Department to act as the City's representative in the application process, to accept such grant funds, if awarded, and to apply for and accept all subsequent awards, if any, pertaining to the program

18. Ordinance 2010-0797

ORDINANCE approving and authorizing submission of an application to the United States Department of Health and Human Services for grant assistance for the Centers for Disease Control and Prevention's Expanded HIV Testing for Disproportionately Affected Populations Project; declaring the City's eligibility for such grant; authorizing the Director of the Houston Department of Health and Human Services or his designee to act as the City's representative in the application process, with the authority to approve, accept, reject, alter or terminate such grant funds, if awarded, and to apply for and accept all subsequent awards, if any, pertaining to the program

19. Ordinance 2010-0808

ORDINANCE approving and authorizing contract between the City of Houston and **SMART CITY ELECTRIC, INC** to provide Electrical and Plumbing Services to exhibitors for the facilities of the Convention & Entertainment Facilities Department - 2 Years with three one-year options Revenue

20. Ordinance 2010-0798

ORDINANCE appropriating \$18,000.00 out of General Improvement Consolidated Construction Fund as an additional appropriation for Professional Materials Engineering and Testing Services Laboratory Contract between the City of Houston and **ALLIANCE LABORATORIES, INC** (Approved by Ordinance No. 2008-0480) for Pierce Elevated parking lot improvements **DISTRICT I - RODRIGUEZ**

ORDINANCES - continued

21. Ordinance 2010-0799

ORDINANCE repealing Ordinance No. 74-2051 relating to establishment of building lines for Sabine Street, from Lubbock Street to Washington Avenue - **DISTRICT H - GONZALEZ**

22. Ordinance 2010-0800

ORDINANCE approving and authorizing Memorandum of Understanding between the City of Houston and **TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT)** for the adoption of TXDOT's Federally approved Disadvantaged Business Enterprise Program

23. Ordinance 2010-0801

ORDINANCE approving and authorizing an Advance Funding Agreement between the City of Houston and **TEXAS DEPARTMENT OF TRANSPORTATION** for Houston Heritage Corridor Bayou East Trail Segment 1 replacing the original Funding Agreement for Houston Heritage Corridor East and West Segments (Approved by Ordinance No. 1995-1290) - **DISTRICT H - GONZALEZ**

24. Ordinance 2010-0809

ORDINANCE approving and authorizing contract between the City of Houston and **CLAY POPE AND CLIFF JOHNSON** for State and Federal Representation related to water and wastewater issues; providing a maximum contract amount - 3 Years - \$522,000.00 - Enterprise Fund

25. Omitted

26. Ordinance 2010-0810

ORDINANCE appropriating \$724,663.00 out of Water & Sewer System Consolidated Construction Fund; awarding contract to **SPECIALIZED MAINTENANCE SERVICES, INC** for Sanitary Sewer Cleaning and Television Inspection in support of rehabilitation; setting a deadline for the bidder's execution of the contract and delivery of all bonds, insurance, and other required contract documents to the City; holding the bidder in default if it fails to meet the deadlines; providing funding for engineering and testing, and contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund

END OF CONSENT AGENDA

CONSIDERATION OF MATTERS REMOVED FROM THE CONSENT AGENDA

NON CONSENT AGENDA - NUMBER 27

MISCELLANEOUS

27. Motion 2010-0732

MOTION TO SET A DATE not less than seven (7) days from October 13, 2010, to receive nominations for Positions 2, 4, 6, 8, 10 and 12 of the **HOUSTON BUSINESS DEVELOPMENT INC**, for three year terms

MATTERS HELD - NUMBERS 28 through 34E

28. Motion 2010-0733 – Adopt

RECOMMENDATION from Director Planning & Development Department to approve amendments to the 2009 Major Thoroughfare and Freeway Plan (MTFP) and authorize publication of the 2010 MTFP in map form

TAGGED BY COUNCIL MEMBERS JONES and RODRIGUEZ

This was Item 1 on Agenda of October 6, 2010

29. Motion 2010-0734 – Adopt

RECOMMENDATION from Purchasing Agent for award to **ADA RESOURCES, INC** - \$1,895,231.15 and **HOUSTON-PASADENA APACHE OIL COMPANY** - \$731,656.30 for Automotive Lubricants for Various Departments - General and Enterprise Funds

TAGGED BY COUNCIL MEMBER JONES

This was Item 11 on Agenda of October 6, 2010

30. Motion 2010-0735 – Adopt

RECOMMENDATION from Purchasing Agent for award to **WEBSTER VETERINARY SUPPLY, INC** - \$2,000,000.00 and **MACI FEED & SUPPLY** - \$180,847.89 for Veterinary Supplies for Various Departments - General Fund - **TAGGED BY COUNCIL MEMBER JONES**

This was Item 12 on Agenda of October 6, 2010

31. Ordinance 2010-0811

ORDINANCE approving and authorizing Automobile Rental Concession Agreement between the City of Houston and **SIMPLY WHEELZ, LLC d/b/a ADVANTAGE RENT A CAR** at William P. Hobby Airport - **DISTRICT I - RODRIGUEZ** - **TAGGED BY COUNCIL MEMBER SULLIVAN**

This was Item 22 on Agenda of October 6, 2010

32. Ordinance 2010-0812

ORDINANCE appropriating \$836,228.00 out of Street & Bridge Consolidated Construction Fund awarding construction contract to **ISI CONTRACTING, INC** for Neighborhood Traffic Management Program; setting a deadline for the bidder's execution of the contract and delivery of all bonds, insurance and other required contract documents to the City; holding the bidder in default if it fails to meet the deadlines; providing funding for contingencies, project management, construction management and engineering testing relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund

TAGGED BY COUNCIL MEMBERS ADAMS and BRADFORD

This was Item 35 on Agenda of October 6, 2010

MATTERS HELD – continued

33. Motion 2010-0740 – Adopt

WRITTEN Motion by Council Member Adams to amend Item 13 on the October 6, 2010, City Council Agenda by adding a new Section 27.5 to follow Section 27 of the Ordinance, as follows:

“**Section 27.5.** That Section 33-253 of the Code of Ordinances, Houston, Texas, is hereby amended to read as follows:

‘Sec. 33-253. Appeal.

(a) An applicant aggrieved by a decision of the HAHC with respect to any certificate of appropriateness may appeal to the planning commission by filing a written notice of appeal, stating the grounds for the appeal, with the director within ten days following the date the HAHC renders its decision.

(b) The planning commission shall consider the appeal at its first regularly scheduled meeting for which required notice can be given. The planning commission shall consider the application, the findings of the HAHC and any evidence presented at the meeting at which the appeal is considered. The planning commission shall reverse or affirm the decision of the HAHC based upon the criteria applicable to the certificate of appropriateness. If the planning commission does not make a decision on the appeal within 30 days following the planning commission's hearing on the appeal, the decision of the HAHC with respect to the application for the certificate of appropriateness shall be deemed affirmed.

(c) An applicant aggrieved by the decision of the planning commission on an appeal from a decision of the HAHC may appeal to the city council. The city council shall consider the appeal at its first regularly scheduled meeting for which the required notice can be given. The city council shall consider the appeal under the provisions of Rule 12 of Section 2-2 of this code. At the conclusion of the city council's review of the matter, the city council shall reverse or affirm the decision of the planning commission. The decision of the city council shall be final and exhaust the applicant's administrative remedies.

(d) The director shall provide the applicant with notice of the time and place of the meeting at which each appeal will be considered by mail no less than ten days before the date of the meeting.”

TAGGED BY COUNCIL MEMBER LOVELL

33a. Council Member Clutterbuck withdrew

WRITTEN Motion by Council Member Clutterbuck to amend the proposed Historic Preservation Ordinance as follows:

Amend Sec 33-253

(d) An applicant aggrieved by a decision of the commission with respect to any certificate of appropriateness may appeal to the city council by filing a written notice of appeal, stating the grounds of the appeal, with the director within ten days following the date the commission renders its decision. Appeals considered by city council shall be conducted pursuant to Sec. 33-228 (f) or Sec. 2-2, rule 12 of the code of ordinance.

TAGGED BY COUNCIL MEMBER LOVELL

MATTERS HELD – continued

33b. Council Member Clutterbuck withdrew

WRITTEN Motion by Council Member Clutterbuck to amend the proposed Historic Preservation Ordinance as follows:

Amend Sec 33-228

e. If the HAHC finds that the subject of an application does not qualify for a certificate of non designation, the HAHC shall deny the application and shall notify in writing of the denial, ~~if the HAHC denies the certificate of non designation the property shall be subject to the provisions of section 33-223 of this code for the time specified therein, and of their right to appeal the decision on the record to the city council pursuant to~~ section (f) of this chapter

f. Appeals to City Council.

Appeals of the rulings of the HAHC may be made to Houston City Council pursuant to Section 2-2, rule 12 of the Code of Ordinances.

Every appeal that is authorized by federal law, state law, the City Charter, or city ordinance to be made to the city council from a decision by an officer, agency, board or commission shall be reviewed by the city council, without the taking of further evidence by city council, on the basis of the record of the decision from which the appeal is taken. Consideration of appeals may be scheduled at any specific time on the agenda, irrespective of the order of business established by these rules.

The director of each department (or a designee), or the presiding officer of a board, commission or agency, or a hearing examiner (the "hearing officer"), as appropriate, shall conduct an evidentiary hearing, the record of which shall be made by a certified court reporter of any matter that may be appealed to the city council. The term "record" shall include, but is not limited to, a transcript of oral testimony, exhibits offered and considered, written or oral responses, answers or questions, and all documents reviewed or considered by a hearing examiner or officer, commission or agency, board, or department director or his designee at an evidentiary hearing.

Each presiding officer or hearing officer shall give written notice to any party appearing in an evidentiary hearing that:

(1) A court reporter is required to prepare a record in order for there to be an appeal to the city council;

(2) The party must request, in writing, the presence of a court reporter at the hearing before the hearing officer not less than 24 hours prior to such evidentiary hearing; and

(3) The party requesting the court reporter agrees to pay all costs of the court reporter, including preparation of transcript(s) for appeal to city council.

(4) Except as otherwise provided by the city Code, the party appealing to city council shall submit the complete court reporter-certified record to the city secretary as required by this Code within 60 days of the decision of the officer, agency, board, or commission whose decision or action is the basis of the appeal. Failure to submit the requested or required records within the required time period shall constitute an untimely appeal to city council and a waiver by the appealing party to an appeal before city council.

In the event that an appeal to the city council is filed by a party to a decision, the city council shall consider the appeal solely on the basis of:

(1) The written record of the hearing conducted below; and

(2) The written exceptions, if any, of each party to the proceeding to the facts and administrative rulings and decisions made by the officer, agency, board or commission.

In the event the city council finds that the record is incomplete or inadequate, the city council may refer the matter to the officer, agency, board or commission for further proceedings to complete the record. All decisions of the council on the record, other than a referral for further proceedings, as described above, shall be final and not subject to further appeal or rehearing.

MATTERS HELD – continued

Item 33b - continued

~~Delete (g) — If the city council designates as a landmark or archaeological site a building, structure, object or site that is the subject of an unexpired certificate of non designation, the designation shall not be effective until the expiration of the certificate of non designation. If the city council designates an historic district, the designation shall not be effective with respect to an individual building, structure, object or site located within the historic district that is the subject of an unexpired certificate of non designation until the expiration of the certificate of non designation with respect to the individual building, structure, object or site.~~

TAGGED BY COUNCIL MEMBER LOVELL

33c. Motion 2010-0741 – Adopt

WRITTEN Motion by Council Member Pennington to amend Item number 13 on the October 6, 2010, City Council Agenda by amending Section 13 of the Ordinance to amend Subsection (f) of Section 33-222.1 of the Code of Ordinances, Houston, Texas, as added by Section 13 of the Ordinance, to change the number “60” to the number “67” in every place it appears. - **TAGGED BY COUNCIL MEMBER LOVELL**

33d. Council Member Hoang withdrew

WRITTEN Motion by Council Member Hoang to amend Item 13

Amendment #1 - Application for Historic District

Sec 33-222.1 Application for designation of an historic district

Shall read as follows:

Sec 33-222.1 (f) After the deadline for returning cards mailed in accordance with the subsection (e) has passed, the director will determine if owners of ~~60 percent~~ **67 percent** of all the tracts in the proposed district support the designation of the district. If so, the application will be considered final. If the director determines that the owners of less than ~~60 percent~~ **67 percent** of tracts in the proposed historic district support the designation of the historic, then the director shall either:

(1) Modify the boundaries of the proposed historic district if the modification will result in boundaries where the owners of ~~60 percent~~ **67 percent** of the tracts support designation of the proposed historic district. If the director modifies the boundaries, the application shall be considered final; or - **TAGGED BY COUNCIL MEMBER LOVELL**

MATTERS HELD – continued

33e. Motion 2010-0742 – Adopt

WRITTEN Motion by Council Member Clutterbuck to amend the proposed Historic Preservation Ordinance as follows:

Amend Sec 33-221.1

(e) After the final public meeting, the director shall mail notice to the owners of all property within the proposed historic district. The notice shall include a card to be returned by the property owner which shall indicate whether the property owner does or does not support designation of the historic district. The card must be placed in the U.S. mail with proper postage affixed and postmarked or delivered to the director not later than the thirtieth day after the date on the notice

(f) After the deadline for returning cards mailed in accordance with subsection (e) has passed, the director will determine if owners of 67 percent of all the tracts in the proposed district support the designation of the district. If so, the application will be considered final. If the director determines that the owners of less than 67 percent of tracts in the proposed historic district support the designation of the district then the director shall either:

(1) Modify the boundaries of the proposed historic district if the modification will result in boundaries where the owners of 67 percent of the tracts support designation of the proposed historic district. If the director modifies the boundaries, the application will be considered final; or

(2) Determined that the application fails and that no further action will be taken by the HAHC. The director shall mail notice to the owners of all property within the proposed historic district that the public hearing before the HAHC has been cancelled.

TAGGED BY COUNCIL MEMBER LOVELL

33f. Motion 2010-0743 – Adopt

WRITTEN Motion by Council Member Lovell to amend Item 13 on the October 6, 2010, City Council Agenda by amending Section 25 to replace the words “total added height” with the words “plate height” in the one instance it occurs.

TAGGED BY COUNCIL MEMBER LOVELL

33g. Council Member Clutterbuck withdrew

WRITTEN Motion by Council Member Clutterbuck to amend the proposed Historic Preservation Ordinance as follows:

Amend Sec 33-241

(b) (1) b. The total added height of the addition does not exceed 1.25 times the plate height of the existing structure or the tallest existing building in the District, whichever is higher. - **TAGGED BY COUNCIL MEMBER LOVELL**

33h. Council Member Clutterbuck withdrew

WRITTEN Motion by Council Member Clutterbuck to amend the proposed Historic Preservation Ordinance as follows:

Amend Sec 33-201:

Contributing Structure means a building , structure, object, or site that reinforces or that has conditions which if reversed would reinforce the cultural architectural or historical significance of the historic district in which it is located and that is identified as contributing upon the designation of the historic district which it is located. ~~The term also includes any structure that was identified as partially contributing in any historic district designated prior to the effective date of this ordinance.~~

TAGGED BY COUNCIL MEMBER LOVELL

MATTERS HELD – continued

Motion 2010-0744 – Motion by Council Member Clutterbuck/seconded by Council Member Noriega to amend Item 33i as follows:

1. Amending subsections (a) and (b) of Section 33-223 of the Code of Ordinances, Houston, Texas, as set forth in Section 14 of the proposed Ordinance to amend to read as follows:

“(a) Upon initiation of an application for designation of a landmark, archaeological site or historic district that satisfies the minimum age criteria of section 33-224(b) of this Code, the building, structure, object or site proposed for designation as a landmark or archaeological site and any building, structure, object or site located in an area proposed for designation as an historic district shall be subject to the requirements of division 4 of this article as though the building, structure, object, site or area had been designated by the city council. If the HAHC denies an application for certificate of non-designation for any property pursuant to section 33-228 of this Code, the property shall also be subject to the provisions of this section.

(b) The protected status provided in subsection (a) above ends on the earliest of the following dates:

- (1) The day after an action of the city council rejecting an application for designation;
- (2) In the case of an application initiated by the HAHC, the day after an action of the HAHC recommending against the designation;
- (3) In the case of an application for designation of a landmark or archaeological site initiated by the property owner, the day after the withdrawal of the application by the property owner;
- (4) In the case of an application for designation of an historic district initiated by property owners, the 181st day after the director determines the application is initially complete; *
- (5) In the case of an application for designation of an historic district initiated by property owners, the day after the director determines that the application fails; or
- (6) In the case of the denial of a certificate of non-designation by the HAHC, the 181st day after the decision of the HAHC.

For purposes of this article, an application for designation is initiated immediately upon the occurrence of either the filing of an application for designation by the requisite owners pursuant to section 33-222 or section 33-222.1 of this Code or, in the case of an application initiated by the HAHC, the date a majority of the HAHC votes to authorize the preparation of an application.” - **Adopted**

*** - the amendment does not apply to applications currently received and pending, specifically heights South, Woodland Heights and Glenbrook Valley**

MATTERS HELD – continued

- 33i. **Motion 2010-0744 – See substitute motion above - Adopted**
WRITTEN Motion by Council Member Clutterbuck to amend the proposed Historic Preservation Ordinance as follows:
Amend Sec 33-223:
(b) The protected status provided in subsection (a) above ends on the earliest of the following dates, but not later than 90 days after the application has been deemed complete pursuant to section 33-221 (d) (1) of this chapter.
Delete Section (5) ~~In the case of the denial of a certificate of non designation by the HAHC the 181st day after the decision of the HAHC~~
TAGGED BY COUNCIL MEMBER LOVELL

- 33j. **Council Member Clutterbuck withdrew**
WRITTEN Motion by Council Member Clutterbuck to amend the proposed Historic Preservation Ordinance as follows:
WHEREAS, the foregoing shall apply only to historic districts created following the passage of this ordinance. Historic districts created prior to passage shall be controlled by the provisions of this chapter that were in effect at the time of the designation of the historic district. Existing districts wishing to extend the protections of the revised ordinance may do so by following the procedures proscribed in Sec. 33-221.1 of this chapter.
TAGGED BY COUNCIL MEMBER LOVELL

Motion 2010-0745 – Written motion by Council Member Pennington to amend Item 33k as follows:

Amend subsection (b) of Section 33-237 of the Code of Ordinances, Houston, Texas, as set forth in Section 21 of the proposed Ordinance to read as follows:

- (b) A certificate of appropriateness is not required for the reconstruction of a contributing or noncontributing structure that was completely or partially destroyed by a fire, natural disaster, or other damage not intentionally caused by the owner of the structure only if the reconstruction is built within the same footprint and has the same exterior features as the contributing or noncontributing structure. – **Adopted**

Motion 2010-0746 – Written motion by Council Member Rodriguez to amend Item 33k as follows:

Amend by adding a new Section 33.1 to the proposed Ordinance, which shall read as follows:

“Section 33.1. That the applications for designation of the proposed Glenbrook Valley and Woodland Heights historic districts, which were filed before the effective date of this Ordinance, shall be governed by the former provisions of Article VII of Chapter 33 of the Code of Ordinances, Houston, Texas relating to the designation of historic districts, which are hereby saved from repeal for the limited purpose of their continued applicability to these previously filed applications for designation. The Director of the Planning and Development Department, based on information received during public hearings on the applications, may recommend to the City Council that the designation of either or both of the proposed historic districts be reconsidered pursuant to Section 3 of the Ordinance establishing a process for the reconsideration of historic district designations adopted in conjunction with the passage of this Ordinance.” - **Adopted**

MATTERS HELD – continued

Motion 2010-0747 – Written motion by Council Member Lovell to amend Item 33k as follows:

- (1) By amending Section 33-201 of the Code of Ordinances, Houston, Texas as set forth in Section 3 of the proposed Ordinance by adding in appropriate alphabetical order the definition of “*place of worship*” which shall read as follows:

“*Place of worship* means a building, structure, object or site, owned by a nonprofit religious organization for a period of ten years prior to the later of _____¹ or the date an application for designation of an historic district that includes the building, structure, object, or site is filed with the department and that is used primarily for worship or conducting religious services. A place of worship does not include ancillary buildings used for administration, schools, living quarters, or meeting halls not primarily used for worship. An organization may establish that it is a nonprofit religious organization through a determination letter from the United States Internal Revenue Service that the organization is tax-exempt pursuant to Section 501(c)(3) of the Internal Revenue Code or other equivalent evidence.”

AND

- (2) By amending Section 33-250 of the Code of Ordinances, Houston, Texas, as set forth in Section 27 of the proposed Ordinance to read as follows

“Sec. 33-250. Ninety-day waiver certificate.

(a) The director shall not issue a 90-day waiver certificate for any protected landmark or for any property located within the OSWPHD.

(b) The director shall not issue a 90-day waiver certificate for any property located within any historic district other than a place of worship.

(c) Only for landmarks, archaeological sites, and places of worship within an historic district, if for any reason a certificate of appropriateness has not been issued on or before the ninetieth day following the scheduled submittal deadline at which a complete application for a certificate of appropriateness was received by the director, then the applicant, upon request to the director, shall be entitled to the immediate issuance of a 90-day waiver certificate, which shall for all purposes be the equivalent of a certificate of appropriateness.

(d) Before the expiration of the 90 days, the applicant shall consult with department staff to explore alternatives to the actions proposed by the applicant to mitigate the reasons for which the certificate was denied. Notwithstanding the foregoing, any landmark or architectural site for which a 90-day waiver certificate is granted pursuant to the provisions of this section shall not be eligible for any tax exemptions or other financial benefit authorized by the city council for the property based on its designation pursuant to this article.”

¹ Editor to insert effective date of the Ordinance.

MATTERS HELD – continued

33k. Ordinance 2010-0814 – Adopt as amended

ORDINANCE AMENDING CHAPTER 33 OF THE CODE OF ORDINANCES relating to Historic Preservation; making findings and containing other provisions relating to the foregoing subject; containing a repealer; providing for severability

TAGGED BY COUNCIL MEMBERS JONES, JOHNSON, CLUTTERBUCK and SULLIVAN

This was Item 13 on Agenda of October 6, 2010

34. Council Member Gonzalez withdrew

WRITTEN Motion by Council Member Gonzalez to amend Item 13a on the October 6, 2010, City Council agenda by amending Sections 2 and 3 of the Ordinance to change the number “15” to the number “30” where it appears in the first paragraph of each Section.

34a. Council Member Hoang withdrew

WRITTEN Motion by Council Member Hoang to amend Item 13a

Amendment #2 - Transition Provisions

Provisions for Reconsideration of Certain Historic Districts

Shall read as follows:

Section____. The request must be submitted in writing in the form prescribed by the Director of the Planning and Development Department (the "Director") not later than ~~15-day~~ **60 days** following the date of passage and approval of this Ordinance

TAGGED BY COUNCIL MEMBER LOVELL

34b. Council Member Clutterbuck withdrew

WRITTEN Motion by Council Member Clutterbuck to amend the proposed Historic Preservation Ordinance as follows:

Amend Subsection (c) of Section 33-227

That the following provisions shall apply to all historic districts previously designated by the city council other than the Old Sixth Ward Protected Historic District. The owner of property in an historic district previously designated by the city council who desire the city council to repeal the designation may submit a request of reconsideration of the designation of the district. The request must be submitted in writing in the form prescribed by the Director of the Planning and Development Department (the “Director”) not later than 30 days following the date of passage and approval of this Ordinance.

The request must be signed by the owners of at least 10 percent of the tracts within the historic district or proposed historic district. ~~The request shall identify the basis for the request, including any changed circumstance that render one or more of the criteria on which the designation or proposed designation was based no longer applicable.~~

TAGGED BY COUNCIL MEMBER LOVELL

Motion 2010-0737 – Motion to accept Council Member Stardig’s written motion as amended

MATTERS HELD – continued

Motion 2010-0738 – Written motion by Council Member Stardig as substitute for Item 34c as follows:

I move to amend item number 34e on the October 13, 2010, City Council Agenda by amending Sections 2 and 3 of the proposed Ordinance to read as follows:

“Section 2. That the following provisions shall apply to all historic districts previously designated by the City Council other than the Old Sixth Ward Protected Historic District and the Main Street Market Square Historic District (“Designated Historic District”). The owners of property in a Designated Historic District who desire the City Council to repeal the designation may submit a request for reconsideration of the designation of the district. The request must be submitted in writing in the form prescribed by the Director of the Planning and Development Department (the “Director”) not later than 30 days following the date of passage and approval of this Ordinance. The request must be signed by the owners of at least 10 percent of the tracts within the Designated Historic District. The request shall identify the basis for the request, including any changed circumstances that render one or more of the criteria on which the designation or proposed designation was based no longer applicable.

As soon as practicable after receipt of a complete request for reconsideration of the designation, the Director shall give notice by mailing a letter, first class United States postage, to the owners of all property within the historic district as shown on the most current Harris County Appraisal District records. The notice shall include the time, date, and location of a public meeting on the request for reconsideration, which the Director will endeavor to conduct in or near the historic district. The notice shall also include a card to be signed by the property owner and returned to the Planning and Development Department indicating whether the property owner does or does not support repeal of the designation of the historic district. The card shall be deposited in the United States mail with proper postage affixed and postmarked or delivered to the Director not later than the fifteenth day after the date of the public meeting.

The Director shall consider each request for reconsideration pursuant to the criteria of Section 33-224 of the Code of Ordinances, City of Houston, Texas (the “Code”), the information on changed circumstances submitted with the request for reconsideration and the evidence of support for the repeal of the designation. The Director shall consider:

- (1) The criteria for designation of the historic district;
- (2) The provisions of Article VII of Chapter 33 of the Code that were applicable to the percentage of property owners required to initiate an application;
- (3) Any changed circumstances identified in the request for reconsideration; and
- (4) The current level of support for repeal of the district.

The Director shall make findings with respect to each request for reconsideration and shall report her findings to the City Council. The director may recommend with respect to a request for reconsideration that the City Council:

- (1) Take no action with respect to the designation of the historic district;
- (2) Repeal the resolution creating the historic district if the owners of 51 percent of the tracts in the Designated Historic District indicate that they do not support the continued designation of the Designated Historic District; or
- (3) Amend the resolution designating the historic district to reduce its boundaries.

The City Council shall consider the Director’s recommendation and the criteria considered by the Director and determine whether to accept the Director’s report and take the actions recommended. The decision of the City Council shall be final.

Section 3. That the following provisions shall apply to the proposed Houston Heights South historic district, whose application was filed prior to June 9, 2010 (the “proposed historic district”). The owners of property in the proposed historic district who desire the City Council to not consider the proposed designation may submit a request for reconsideration of the proposed designation of the district. The request must be submitted in writing in the form prescribed by the Director not later than 30 days

MATTERS HELD – continued

Motion 2010-0738 - continued

following the date of passage and approval of this Ordinance. The request must be signed by the owners of at least 10 percent of the tracts within the proposed historic district. The request shall identify the basis for the request, including any changed circumstances that render one or more of the criteria on which the proposed designation was based no longer applicable.

As soon as practicable after receipt of a complete request for reconsideration of the proposed designation, the Director shall give notice by mailing a letter, first class United States postage, to the owners of all property within the proposed historic district as shown on the most current Harris County Appraisal District records. The notice shall include the time, date, and location of a public meeting on the request for reconsideration, which the Director will endeavor to conduct in or near the proposed historic district. The notice shall also include a card to be signed by the property owner and returned to the Planning and Development Department indicating whether the property owner does or does not support designation of the proposed historic district. The card shall be deposited in the United States mail with proper postage affixed and postmarked or delivered to the Director not later than the fifteenth day after the date of the public meeting.

The Director shall consider any request for reconsideration of designation of the proposed historic district pursuant to the criteria of Section 33-224 of the Code, the information on changed circumstances submitted with the request for reconsideration and the evidence of support for the rejection of the designation. The Director shall consider:

- (1) The criteria for designation of the historic district;
- (2) The provisions of Article VII of Chapter 33 of the Code that were applicable to the percentage of property owners required to initiate an application;
- (3) Any changed circumstances identified in the request for reconsideration; and
- (4) The current level of support for designation of the district,

The Director shall make findings with respect to the request for reconsideration and shall report her findings to the City Council. The director may recommend with respect to the request for reconsideration that the City Council:

- (1) Adopt a resolution creating the historic district and establishing its boundaries; or
- (2) By motion, deny the application for designation if the owners of 51 percent of the tracts in the proposed historic district indicate that they do not support the designation of the proposed historic district.

Notwithstanding any procedural requirements for designation in Article VII of the Code that have not been completed, the City Council shall consider the Director's recommendation and the criteria considered by the Director and determine whether to accept the Director's report and take the actions recommended. The decision of the City Council shall be final." - **Adopted**

MATTERS HELD – continued

34c. Council Member Pennington withdrew – see Motion 2010-0738 above

WRITTEN Motion by Council Member Pennington to amend item number 13a on the October 6, 2010, City Council Agenda by amending Section 2 of the Ordinance to read in its entirety as follows:

“Section 2. That the following provisions shall apply to all historic districts previously designated by the City Council other than the Old Sixth Ward Protected Historic District (a “Designated Historic District”). Each Designated Historic District shall be resurveyed within a period of 90 days upon passage of Ordinance No. 2010-0814 (the “Ordinance”). One public meeting shall be held for each Designated Historic District in a suitable location in or near such Designated Historic District within a period of 60 days following the effective date of the Ordinance, to explain the provisions of the Ordinance and the impact of any such amendments including, without limitation, the elimination of the 90-day waiver provision. The Director of the Department of Planning and Development (the “Director”) shall give notice of the meeting by mailing a letter, sent by first class United States postage prepaid, to the owners of all tracts of land located within the Designated Historic District as shown on the most current Harris County Appraisal District records. The notice shall include the time, date, location and purpose of the public meeting. Following the public meeting, the Director shall mail a ballot to each owner of property within a Designated Historic District which will direct the property owner to return it to the Director indicating whether the property owner does or does not support the continued designation of the Designated Historic District. Each tract shall receive one ballot regardless of the number of owners of that tract. The ballots shall be returned to the Director by the later of (i) 90 days following the effective date of the Ordinance, or (ii) 30 days after the above-referenced public meeting has been conducted. . Tracts of publicly owned land, utility easements, and public rights-of-way shall not be counted towards determining support for or against remaining in a Designated Historic District. The Director shall report to City Council the result of the resurvey and other information relevant to the designation of the Designated Historic District. If the number of properties supporting the continued designation of the Designated Historic District equals 67% or more of the total number of properties located in the Designated Historic District, the Director shall recommend to City Council that it take no action with respect to the designation of the historic district. If the number of properties supporting the continued designation of the Designated Historic District equals less than 67% of the total number of properties in the Designated Historic District, the Director shall recommend to City Council that it repeal the resolution creating the Designated Historic District or amend the boundaries of the Designated Historic District to reduce its size, and the City Council may vote to repeal the resolution or take other action it deems appropriate. The vote of the City Council shall be final.”

TAGGED BY COUNCIL MEMBER LOVELL

Motion 2010-0739 – Written motion by Council Member Jones to substitute for Item 34d as follows:

Amend the third sentence of Section 2 and the third sentence of Section 3 of the Ordinance to read as follows:

“The request must be submitted in writing in the form prescribed by the Director of the Planning and Development Department (the “Director”) not later than 15 days following the date a form for the request for reconsideration is first made available to the public by posting on the Planning and Development Department website.” - **Adopted**

MATTERS HELD – continued

34d. Motion 2010-0739

MOTION by Council Member Jones/Seconded by Council Member Pennington “that they make the effective date from the date they post the petition or re-petition, whatever it was called” - **TAGGED BY COUNCIL MEMBER CLUTTERBUCK**

34e. Ordinance 2010-0813 – Adopt as amended

ORDINANCE establishing a process for the reconsideration of the designation of historic districts within the City of Houston designated or pending designation by the City Council in connection with the amendment of certain provisions of Article VII of Chapter 33 of the Code of Ordinances, Houston, Texas, relating to Historic Preservation

TAGGED BY COUNCIL MEMBERS JONES, JOHNSON, CLUTTERBUCK and SULLIVAN

This was Item 13A on Agenda of October 6, 2010

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

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

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

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

10/12/2010 – All Present

10/13/2010 – All Present