

City Council Chamber, City Hall, Tuesday, April 25, 2000

A Regular Meeting of the Houston City Council was held at 1:30 p. m. Tuesday, April 25, 2000, with Mayor Pro Tem Jew Don Boney, Jr. presiding and with Council Members Bruce Tatro, Mark Goldberg, Rob Todd, Mark A. Ellis, Bert Keller, Gabriel Vasquez, John E. Castillo, Annise D. Parker, Gordon Quan, Orlando Sanchez, Chris Bell and Carroll G. Robinson; Mr. Paul Bibler, Senior Counsel, City Attorney's Office, Mr. Jesse Cantu, Director, Citizens Assistance Office; Ms. Martha Stein, Agenda Director and Ms. Linda Layton, Agenda Office present. Mayor Lee P. Brown and Council Member Carol M. Galloway absent on city business.

At 1:49 Mayor Pro Tem Boney stated that they had a number of proclamations and the first would be Council Member Todd.

Council Member Todd stated that it was a great pleasure to present the proclamation and stated that Ms. Kristol Joslin was present, that she was a Woodlands resident but was originally from Venezuela and very active in the community, that she was spearheading a local project that would be very interesting to a lot of Houstonians and read a proclamation that stated that Lee P. Brown, Mayor of the City of Houston proclaimed Sunday, April 30, 2000 as Bear Hugs for Venezuela Day. Council Members Tatro, Goldberg, Ellis, Keller, Vasquez, Castillo, Parker, Sanchez, Bell and Robinson present. (NO QUORUM PRESENT)

Ms. Joslin stated that she was very glad to be present and very honored to receive the proclamation, that their program was based on helping children who had been traumatized due to the floods in Venezuela, that they had over 100,000 children that had been displaced and they were collecting all the teddy bears they could and

would be used in UNICEF Physiological Psychosocial Counseling Trauma Programs that were put in place in Venezuela by the Boy and Girl Scouts, that what they were trying to do in Houston was a joint effort between the Boy and Girl Scouts, the Houston Fire Department and the City of Houston to take the program and show Houston that it was what the children of Houston could do to help other children that were in need, that in this case it was in Venezuela where there was a very close economical relationship and oil relationship between the City and the Country and it was a loving gesture from the children of Houston to the children of Venezuela, that so far they had 62,000 and hoped to collect 75,000, that they were having their big teddy bear collection drive on April 29 and 30th and all 87 fire departments in the City of Houston would be collecting new teddy bears for the Teddy Bear Drive to be sent to Venezuela by the end of June, that a group of children representing the different participating organizations from the City of Houston would travel to Venezuela to turn the program in to the same organizations in Venezuela. Council Members Tatro, Goldberg, Keller, Vasquez, Castillo, Sanchez, Bell and Robinson present. (NO QUORUM PRESENT)

Council Member Quan recognized Mr. Larry Kinchon who came from El Paso and was involved in numerous efforts and concerns for young people and people in crisis and thanked him for coming and presented Mr. Kinchon a certificate for his tireless efforts as a volunteer on behalf of youth and persons in crisis. Council Members Tatro, Goldberg, Todd, Vasquez, Castillo, Sanchez, Bell and Robinson present. (NO QUORUM PRESENT)

Mayor Pro Tem Boney stated that it was Community Development Week in the City and they had been blessed to have an outstanding Community Development that

was led by Ms. Margie Bingham and were honored to have this week the Secretary of Department of Housing and Urban Development, Secretary Cuomo who was in the City touring the many positive projects they had ongoing through the Community Development Department and would like to recognize the department for the good work as they acknowledged National Community Development Week and read a proclamation that stated that Lee P. Brown, Mayor of the City of Houston proclaimed April 24th through 28th of 2000 as National Community Development Week in Houston, Texas. Council Members Tatro, Goldberg, Ellis, Castillo, Sanchez, Bell and Robinson present. (NO QUORUM PRESENT)

Ms. Paulette Wagner, stated they wanted to share a few of the goodies with Council and they would find gift bags in front of them and on behalf of the department she wanted to thank Council for all the support they received in getting the projects funded and their support in coming out to activities and sharing their thoughts on the kinds of improvement that were needed, and presented posters to Mayor Brown and Mayor Pro Tem Boney. Council Members Tatro, Goldberg, Ellis, Keller, Sanchez, Bell and Robinson present. (NO QUORUM PRESENT)

At 1:59 p.m. Mayor Pro Tem Boney stated they would adopt the minutes later and requested the City Secretary to call the list of speakers. Council Members Sanchez, Bell and Robinson absent.

Ms. Glenda Barrett, 14958 Bramblewood, Houston, Texas 77079 (713-942-7275) stated that she was Executive Director of the Park People and was present to voice the support of the Park People of the designation and thus the protection

of the live oak tree at 6301 Almeda, that the Park People were very pleased that the first tree to be officially protected under the amendments to the Tree and Shrub Ordinance that they all worked so hard to pass in 1996 was finally before City Council and they asked their support of it, that the tree was listed on page of 42 of the Harris County Tree Registry which was a listing of the largest trees of Harris County that the Park People put out every 3 to 5 years and the latest 2000 edition just came out in February, that she brought one for every member of Council, that they thought the most important thing about the whole tree designation process was the fact that the owner must agree, that the process did not even begin if the owner did not agree that he wanted his tree to be protected and likewise the tree did not get in the registry if the owner was not willing of course, that in the future the Park People would present probably a long list of trees that were listed in the registry for Council's consideration along with letters of support and agreement from the owners in order to keep from clogging up what she knew was already a crowded agenda, that this was the very first one and they were excited and delighted that it was there and thanked Council for their participation in keeping Houston green and growing. Council Members Sanchez, Bell and Robinson absent.

Council Member Parker asked if they had a tree that they thought was significant how did they get on the registry and Ms. Barrett stated to call the Park People office and they would send a nomination form to be considered for the next tree registry which they thought would come out in the year 2005, that it could be a little before that and took a while to put one out, and Council Member Parker stated that Ms. Barrett mentioned that the tree which was on the agenda for Wednesday would have certain protections under the ordinance as an agriculturally significant tree and asked what kind of protections, and Ms. Barrett stated that it could not be damaged or removed, and Council Member Parker

asked if the owner had to designate it as such and then Council would move forward with those protections and Ms. Barrett stated yes, that it was so recorded in the County Records with the property, and one would assume that future purchases of the property would be apprised that they had to. Mayor Pro Tem Boney thanked Ms. Barrett for the Tree Registry she provided for the members of Council, that it was an excellent project and very well done. Council Members Sanchez, Bell and Robinson absent.

Council Member Quan stated that the item on the Agenda was the first to be discussed on Wednesday and was taken by the fact that Mr. Williams had consented to it and requested the designation as well and thought it was very commendable because if he owned the property he did not have to do that, and Ms. Barrett stated that Mr. Williams centered the whole residential complex around the wonderful live oak tree, that they were very pleased when he came forward without it being their idea because they were not aware of the tree at the time, and Council Member Quan stated he thought it was a great collaboration because often times it seemed that they had such disputes with people saying why were they doing it and how were they impeding development and Mr. Williams on his own initiative felt it was important to have the designation and develop the property in that manner and so he commended Ms. Barrett and her group in their efforts to help keep Houston green. Mayor Pro Tem Boney stated that in being a developer he was certainly sensitive to matters of development, that the circumference of the tree was 118 inches and was 46 feet high and a spread of 88 feet, that it was a wonderful tree. Council Members Sanchez, Bell and Robinson absent.

Upon questions by Council Member Keller, Ms. Barrett stated that the tree was registered in the book on page 42 at 6301 Almeda, that Doug Williams Consulting was

the owner, and there were maps in the back of the book showing where the champion trees were, and Mayor Pro Tem Boney stated that they were at a reception last night of environmentalists and one of the things that they related to him was the impact of trees on air quality and asked Ms. Barrett to speak on that because he thought that there was more that they could do to enhance not only the quality of life with regard to the preservation of trees but also enhance the issues of air quality, and Ms. Barrett stated that trees were one of their friends as far as air pollution went and everyone in Houston was concerned about the air pollution problem, that they helped to clean the air and absorbed some of the pollutants and the shade was comfortable to be under but also brought the temperature down thus contributing less to ozone that way and that soils did not erode so much when tree roots were holding them down. Council Members Sanchez, Bell and Robinson absent.

Mayor Pro Tem Boney stated that there was a large book that was produced relating to the impact of trees to cleaning the air and ecology and asked if Ms. Barrett could help members of Council have that book and hoped that when they were in budget negotiations that they could try to find some additional resources for the planting of trees, and Ms. Barrett stated she believed that book was put out by the Greater Houston Air Pollution Council and would certainly make sure that they got copies. Council Members Sanchez, Bell and Robinson absent.

At 2:06 p.m. Mayor Pro Tem Boney stated they had a quorum and Council Member Keller led everyone in the prayer and pledge of allegiance. Mayor Brown and Council Member Galloway absent on city business. Council Members Sanchez, Bell and Robinson absent.

At 2:07 p.m. Mayor Pro Tem requested the City Secretary to call the roll. Mayor Brown and Council Member Galloway absent on city business. Council Members Sanchez and Robinson absent.

Council Members Castillo and Tatro moved that the minutes of the preceding meeting be adopted. Mayor Brown and Council Member Galloway absent on city business. Council Members Sanchez and Robinson absent.

Mr. Charles Snider, 2215 Harbor, Houston, Texas 77020 (713-671-0511) appeared and thanked Council Members Todd, Castillo and Goldberg for helping guide his company in certain arenas, that he owned a company called Netco Electric and had been a businessman in Houston for about 21 years, that like most businessmen they came with solutions, but he came with his hands down at his side and had no solutions, that he felt somewhat like Jonah and was not sure if it was right before the whale or right after the whale, but in either way he was in a desperate situation, that they had been the low bidder since approximately August 16, 1999 for a motor contract for repair of 500 horse power motors and less for the City of Houston, that the aggregate amount was about 5.5 million dollars and they were 1.4 million dollars low, that he had been doing that same work for about 20 years and before those 20 years he was with General Electric, that he was told on City of Houston stationary that he did not have the equipment to do the repairs, that even during the time when their inspection team was there he was repairing motors for the Port of Houston, that in fact they were loading and unloading ships that day with some of that equipment, that he did not know what to ask Council for, mercy perhaps, or as Jonah got thrown out of the whale and into the City of Niniva maybe

he should yell repent because in forty days they were going to be destroyed, but he would not go there, he would ask them please to look carefully as to why as a businessman they would throw away 1.4 million dollars worth of savings, that he did not understand it but perhaps they did. Council Members Sanchez and Robinson absent.

Mayor Pro Tem Boney asked Mr. Bibler if he was acquainted with the matter and asked that he explain what happened and what was the City's position, and Mr. Bibler stated that it was a matter in the Public Works Department and the Purchasing Division of Finance and Administration, that they put out bid specifications for the repair of electric motors and required that the facility have certain equipment and meet certain specifications with regard to their repair facility and it was his understanding that Mr. Snider was the low bidder as he stated and when they first went out to see if his shop complied with the specs Mr. Snider was in the process of moving and he begged that they come back and they did, they went back two more times, which he thought was rather extraordinary and never found it to be in compliance, that the professional engineer from the Public Works Department could meet with any Council Member who had further questions, that he had already met with Council Members Castillo and Goldberg in their office. Council Members Sanchez and Robinson absent.

Upon further questions by Mayor Pro Tem Boney, Mr. Bibler stated there were a number of items and believed it had been mis-characterized at some point, that the representative from Netco thought there was only one deficiency which related to a piece of equipment that they were going to rent or use someone else's equipment, but in fact the Public Works Department related there were several other significant deficiencies in respect that the facility did not meet their bid specifications, that there was an item on

Wednesday's agenda to award it to the next low bidder, that he did not know what else Mr. Snider had done and understood that the next low bidder was the current person who held that particular contract and did not know whether Netco had done other similar work for the City. Council Members Sanchez and Robinson absent

Council Member Goldberg stated he had met with Mr. Snider's representative, the people from Purchasing and the people from Legal and had come to the conclusion that some times the stated bid laws required them to do something that was not economically prudent and in this case Mr. Snider was 100% correct that the City would be paying 1.5 million dollars and maybe close to 5 million dollars more than it really needed to for the equivalent work and that was a shame, but he was briefed by Legal and did not know why they told him there was only one deficiency and saw that documented, but in a meeting with Legal he was told there were nine deficiencies and given a list, that he was also told at that same time that to discuss the deficiencies with him or his representative would violate some State bid laws so he did not discuss those issues with him, that he did not know what the solutions were and why they had to pay more money and was told that something as simple and mundane as an improper signature on a bid package would invalidate a bid and that the City would be in the same position of losing a lot of money, so he concurred with him and would endeavor to find a solution, but at that point did not have a solution. Council Members Sanchez and Robinson absent.

Mr. Snider stated that the issue that kept coming up was deficiency, that the writing did not represent something that was not there, that they said he did not have a burnout oven that was functional, but they saw it operate that he did not have a bake out oven that was functional, but they saw it operate it, that he did not have a steam cleaner

that was functional, but they saw it there and did not see it operate, they were correct about that, that he did not have a sandblaster and a recovery system functional, but it was there and it was there when they came, and Council Member Goldberg stated he did not recall 100% what the list of defectives were that the Legal Department and Purchasing made to him, but he did not believe those items were on the list or if they were there were others in combination, that the problem was that it was a way of properly following the State bid laws that they could not tell a company what the small deficiency was because it would invalidate the bid laws, and Mr. Snider stated they not only showed the inspectors the equipment, they had employees there who made the junk work but were there watching it work while the inspectors were there, but when they told him they were not functional that was a blatant error, and Council Member Goldberg stated that perhaps the solution would have been for them to realistically never to have gone out and done an inspection at all, maybe that was part of the problem, and Mr. Snider stated that what he found so interesting was that the current vendor of 7 plus years or there about had a different inspection team than the ones who came to him and because he asked a couple of folks, including Jerry Roberts and Dallas Evans, if they saw the other location and they stated that they were not there and did not see that one, and Mr. Snider wondered why, and Council Member Goldberg stated that he was told that EMI Electric Motor, the company that was the recommended winner of the bids that Council was going to vote on Wednesday, when they originally contracted with the City their shop and machinery was also not in place and they were given a second chance at the time and of course he was not around 7 years ago when it happened, but he thought that was probably the deference they gave to Mr. Snider in going back out, because of that unique situation, and Mr. Snider stated that he was not sure he could address chronologically the going back out part, but what he did know, that rather than he begging them, which was a

strong word and he did not remember begging, but what he did recollect was that they were at a old location of 20,000 square feet and moving to a new location of 30,000 square feet within one mile distance and that they told them it was going to happen and Mr. Odwire, the president of the company got a call from Jerry Roberts sometime in October who asked what was going on with it why was somebody not out there, and he had to beg off, that he begged for anybody to not come because they could have come earlier to the old facility and seen everything that had been there, that he had been at that plant since 1982 or they could have come to the new one, that one of the Council Members wrote a letter saying to give them some deference because they were moving to another facility, that the distinction between the two facilities was exponential, that it was an industrial facility, that for 20 years he had been doing it and now somebody was telling him he did not have the equipment to do it and he thought that it was patently and maybe blatantly unfair, and Council Member Goldberg stated that he agreed with him and when they had to spend more money for the same product then they knew something was wrong with the system. Council Member Robinson absent.

Mayor Pro Tem Boney asked Mr. Snider if he stated that he was in compliance with the facility now, but was not when the contract was initially let out, and Mr. Snider stated that the day they came in December it was all there and all operable and functional. Council Member Robinson absent.

Council Member Todd thanked Mr. Snider for being present and for being consistent and aggressive on the issue and knew it was an important one to his company, that he personally felt as a taxpayer for the City of Houston that it was an important one for all of Houston, that the RCA (Request for Council Action) on that

particular item indicated that in addition to his company there was another one that was a low bidder, Lopez Electric Works came in at 2.1 million dollars and Mr. Snider came in at 4.2 million dollars and the next one was Electric Motors Inc. at 5.7 million dollars and the question that he had was that the list of supposed defects that Mr. Snider had, that if he was able to do the job and do it well, then those specifications should not really matter, that the way to do that was a matter of Council, to simply reject all bids, and to rebid the thing without the specifications, and for it to go back to Council so they could award it to the low bidder, but the list and the RCA had seven things on it and did go through the particular defects and had the whole list, that his question to legal was that with the apparent low bidder Lopez, and he did understand they did not have an operation in town, that it was San Antonio, and they were actually 2 million dollars below Mr. Snider's bid and that was a pretty big savings, that he did not know how many car trips it would take to San Antonio.

Upon further questions by Council Member Todd, Mr. Snider stated that he was doing work for the Port of Houston at present, that they had done work for the City of Houston during the 1980's before they went out on a contract basis, that they repaired motors for the City of Houston quite some time ago, that he had worked for Brazos River Authority, Rice University, University of Houston occasionally, Dupont, Williams Energy, and had several other large accounts.

Council Member Todd asked that Public Works explain to Council what their estimate was as to how much it would cost the department to make trips to San Antonio if they went with the low bidder, because if it was less than 2 million dollars it was an important consideration for the purpose of deciding whether to reject all bids and to

simply rebid it with different specifications, and then with regard to Mr. Snider's bid, if they were capable of doing the work if Council rejected their bid when they were capable of doing the work then it would make them out to be bureaucrats and he did not intend to be in that category and would like to know from Public Works if they felt that in light of their client base were they capable of doing the work, and Mayor Pro Tem Boney stated that they would entertain a motion to suspend the rules and ask Jerry Roberts to come up.

Council Member Todd moved to suspend the rules to hear from Jerry Roberts, seconded by Council Member Tatro. All voting aye. Nays none. Mayor Brown and Council Member Galloway absent on city business. Council Member Robinson absent. MOTION 2000-0554 ADOPTED.

Mr. Bibler stated that if that bid (Lopez) was rejected because they were out of town then that must have been part of the specs and they would not have the option at that point to waive the specs, that there was no telling who would have bid and the only reason to have said that the people had to have a local shop was because they needed someone who could promptly service their equipment and Jerry and the people at Public Works could address it but that was the specs they would put in if they had like water supply motors and they wanted someone who was local to be able to come in and work on them.

Mayor Pro Tem Boney stated that they had requested that the engineer or technical person from Public Works that had dealt with the engineering specifications was

on the way to Council Chambers and they may want to defer the discussion until all of the staff was present and take back up again.

Council Member Keller asked Mr. Snider why he thought they did not give the contract to him and he answered in the form of a question, why would the inspecting teams that visited his shop include some that did not inspect the current vendor, and whether or not they had a hand picked team that saw what they wanted, that it was not apples to apples in his opinion, that he had spent five months working on it, and Council Member Keller stated that he may go to the other facility and inspect it himself with Mr. Roberts, and asked Mr. Snider if basically he was saying that when they said low bid it did not mean low bid it could be selectively low bid or conveniently selected low bid, and Mr. Snider stated he could lift up to 20 tons in his building and had wound up to a 4,500 horse powered motor and it was a 500 horse power motor contract, that he had wound 10 MVA transformers and it was a 10,000 KVA transformer, that he had been onsite when plants were shutdown to test their electrical system, that he brought that to the table with a 1.5 million dollars less in that facility.

Mayor Pro Tem Boney stated he felt they would benefit by getting the staff here who were on the way and wanted to take it up when everyone was present, because they were hearing one side and he wanted to hear both sides at the same time.

Council Member Castillo stated that when the person from Public Works was present it was going to boil down to a he said she said and they knew what Public Works had said, that they did not have it, that Mr. Snider was the other side that they had not heard and they needed to hear from the side that they had not heard from before, and

Mayor Pro Tem Boney stated that he did think they ought to give Mr. Snider an opportunity to speak, but they had not had the benefit of Purchasing and Public Works and why they came to certain conclusions, and they were going to try find out what the bottom line was and they would have the opportunity in just a few minutes, and Council Member Castillo stated they had it in the RCA and Mayor Pro Tem Boney stated that as they knew sometimes when they had discussions with staff they found additional facts, that it was at the pleasure of Council but he did think they ought to give the staff an opportunity to respond and if they wanted to go on down the list they could, and Council Member Castillo stated that if they were going to wait on the other party he suggested they maintain the order of the list. Council Member Robinson absent.

Council Member Tatro stated he did not want to get into a back and forth back and forth and would like to complete the statements from Mr. Snider and then have the staff questioned when they got there, that it was not fair to keep Mr. Snider and they could not get into a triangular discussion, that it was not beneficial, and Mayor Pro Tem Boney stated that they would not go back and forth, that at least the staff ought to get the benefit of what was being said so that when they did get the opportunity to respond they would understand what had been said from that perspective, that they were not going to do a debate or Legal questioning. Council Member Robinson absent.

Council Member Bell stated that the speaker list was put out well in advance and it was no secret to anybody in the administration that Mr. Snider was going to be present, that they were usually well prepared to answer questions of the people who appeared on the list and if they wanted to have somebody present to listen to Mr. Snider's testimony then they could have made arrangements beforehand and did not see why they should

be delayed in asking Mr. Snider their questions to wait for people to get over to Council Chambers, that they should go on and as Council Member Tatro pointed out a lot of them had questions for Mr. Snider and they could bring the other folks up to date when they got there.

Council Member Bell moved to suspend the rules to continue questions of Mr. Charles Snider, seconded by Council Member Quan. All voting aye. Nays none. Mayor Brown and Council Member Galloway absent on city business. Council Member Robinson absent. MOTION 2000-0555 ADOPTED.

Council Member Quan asked Mr. Bibler what recourse did Council have when they saw situations like those where they had severe doubts as to the bid process, and Mr. Bibler stated that there was a very important distinction being made there, that on the one hand they could put out bids for Crown Victorias and somebody could bid Pintos and come to Council and say Pintos would be just as good for the Police Department to drive around in, that would be a nonresponsive item and if Council agreed they could say to reject all those bids and put out bids for subcompacts and not buy giant cars, but on the other hand if Council disagreed and found that Mr. Snider's bid met specs they could award it to him, but if they had put out a spec that did not require the vendor to be local, and did not require the vendor to have certain pieces of equipment and all of a sudden someone came in and said they wanted the job even though he did not have those pieces of equipment and was not local then they did not know who would have bid on that, that there was a big difference between whether or not they would agree that it would have saved the City money if they would have bid it differently than whether they disagreed on whether or not Mr. Snider in fact met specs, and Council Member Quan

asked if Mr. Bibler was saying that Council could award the contract if they found that his bid was responsive and they found it to be low bid despite the recommendation, and Mr. Bibler stated that if they found that he in fact met specifications, and Council Member Quan asked if it was correct that they did not need to throw out all the bids and rebid it again, and Mr. Bibler stated that they could reject the man from Kingville because he was in Kingville if they found that they should and they could award it to Mr. Snider if they found that he met specs. Council Members Castillo and Robinson absent.

Council Member Tatro stated that he looked at the explanations and reasons that the administration had given and heard what Mr. Bibler stated about compliance and looked at the first one that said shop lighting was below par for an electrical equipment repair/coil rewinding and machine shop and asked Mr. Snider if in the bid specifications did he recall if there was a lighting criteria, and Mr. Snider said it was not there, that there was no response required for lighting, and Council Member Tatro stated that Mr. Bibler had made the analogy between a Crown Victoria and a Pinto and obviously if somebody bid a Pinto they would not be in compliance and they would not be having this discussion, but when he saw that lighting was below par it caused him some concern about (1) what exactly were the specifications and (2) what exactly were they debating, that they had other things that stated they were not functional and he asked Mr. Snider if he had all the equipment that was specified in the bid specifications and Mr. Snider said yes, and Council Member Tatro stated that if they put the same criteria to every contract that came in they would ask a contractor if their backhoe or jack hammer was functional, that all these things were obviously important to conducting their business but to say it was not functional at a specific point in time as opposed to not having equipment he thought those were very significant differences, that he would be concerned that a contractor did

not have any equipment as opposed to his backhoe needing a tire, and Council Member Tatro asked Mr. Snider that in his bid specification what was his percentage MWBE participation, and Mr. Snider stated 12%, and Council Member Tatro stated he would support Mr. Bibler in the Crown Victoria and Pinto analogy, but thought this was a little bit different and to follow-up on Council Member Quan's line of questioning, he thought their remedy would be, if they saw that the process and what they thought was broke, their remedy was to either award it to the low bidder or have them rebid completely and those were the options that they had at this point and time. Council Member Robinson absent.

Upon questions by Council Member Castillo, Mr. Snider stated that he would respond to the weld part, that it was the same piece of equipment that they had used with a 2 ton hoist on it for 15 years, that they welded it in place where it was, that if they looked at his OSHA, the modifier that he paid on, it was superb, that it was lower than the industry and he would not have a weld that would hurt his guys, that his certification with OSHA required him to have equipment that met certain specifications, and it did meet OSHA specifications, that it had not broken since then and they had equipment as big as what they would use, that in industrial shops things did not have to look pretty or bright and shiny to be functional, that they worked on dirty stuff, that he thought his shop looked pretty the day the inspections came, that they were still in the process of moving, that the sandblasting box did not have to look pretty to be functional, that he had just purchased it from the Westinghouse Shop that closed down, that it was a premier piece of equipment even though it looked old and dirty. Council Members Todd, Quan and Robinson absent.

Council Member Bell stated that one reason it caused him a great deal of concern was that early on in his tenure at Council they had situations where the next low bidder

would come in and try to say for one reason or another the low bidder should be disqualified and it was pointed out during those discussions that if they got into a situation where they were always undoing the low bid to give it to the next low bidder that it was basically all they would do, that it made a great deal of sense to him and convinced him of the sanctity of the process and that they should go to great lengths to defend it, and that it was disturbing to hear a situation where there was that great a difference of 1.4 million dollars and it seemed to be thrown out the window and they would hear in a minute the reasons as to why and hoped the reason were very good and it was not the first time they had been confronted with that type of situation in recent months and thought it had probably happened on other occasions that they did not know about because people did not want to come forward because they wanted to continue to do business with the City and were scared if they made waves that people would find other reasons to disqualify them in the future, and asked Mr. Snider when was he made aware that his company was suffering from those deficiencies, and Mr. Snider stated they had three visits from personnel with the City of Houston, that the first one was a walkthrough and they were still between the two buildings, that second one started off with Mr. Roberts who said they had a list of deficiencies they needed to address and the inspection team was there and Mr. Snider brought his secretary to take notes on every item he had, and gave Mr. Roberts within two days a list of what he said were the problems and with that list a two week correction of action on it and sent it to his office, and they came back two weeks later and Mr. Snider heard nothing except that the president of Netco heard orally that the only thing keeping them from being compliant was a core loss test set and he subsequently called Purchasing and Jerry Roberts and told him they had that test set and Jerry Roberts said that as far as he was concerned they were in compliance, and Council Member Bell stated that he heard earlier that for

some reason in the Bid Laws they were not allowed to discuss the deficiencies with him at some point and asked Mr. Snider if he had heard that, and Mr. Snider stated that he had heard that, but he recalled the events that happened, and Council Member Bell asked Mr. Bibler to explain how it worked in terms of deficiencies and were there some guidelines or statutes that prevented the department from discussing deficiencies with them. Council Members Vasquez, Castillo, Sanchez and Robinson absent.

Mr. Bibler stated that he wanted to recap that conversation with the other people that were at that meeting, that he did not recall that coming out in the same way that Council Member Goldberg heard it so he suggested they visit about it later, that he thought there was some discussion about what all the deficiencies were and at what point Netco would be advised and in the essence that he recalled was that the final decision had been made that they had been given three strikes and were out and that would be disclosed if, as and when the item was presented to City Council, and Council Member Bell stated three strikes being three chances to correct the deficiencies and Mr. Bibler stated yes, re-inspections, even though he thought that from a very legal perspective that if they had failed the first inspection there really was not an obligation to go back, that Public Works went back twice, and Council Member Bell asked Mr. Snider if there were three inspections and he stated yes. Council Members Vasquez, Sanchez and Robinson absent.

Upon a further lengthy discussion Council Member Todd asked Mr. Snider if he was bonded and insured and he stated yes, that he had never had any question on his ability to perform the work, that he had been in business for 21 years and employed about 25 people and was in the east end of Houston, and would be able to expand his

operation and hire about 7 people if awarded the contract, and Council Member Tatro asked for clarification if Mr. Snider was given a list of 16 items and he stated yes and that he presumed the inspectors came back two weeks later and rechecked the 16 items, that when they left he had no inclination as to whether the 16 items were in compliance, and Council Member Keller asked if there was anything that Mr. Snider was in deficiency or did not have and Mr. Snider stated he did not have a core loss tester, and was \$10,000 short of compliance, that he told the inspectors the first day they came that if he were awarded the contract he would buy it and did not hide the fact he did not have a core loss tester.

Mayor Pro Tem Boney stated that they had Mr. Jerry Roberts and Mr. Calvin Wells from Purchasing and Mr. John Mahvash, Engineer for Waste Water Operations present.

Council Member Quan moved to suspend the rules to hear from Mr. John Mahvash, Waste Water Operations, at this time, seconded by Council Member Parker. All voting aye. Nays none. Mayor Brown and Council Member Galloway absent on city business. Council Members Sanchez and Robinson absent. MOTION 2000-0555-1 ADOPTED.

After further lengthy discussions and review of the RCA Mayor Pro Tem Boney stated that there were basically two principle issues, one was the sanctity of the bid process and the bid specifications, and why they had certain things in the bid specifications and in what way did they not meet specifications and so forth and Mr. Roberts stated they did not normally go three times to inspect to his knowledge, that

given the fact that there was such a disparity in the bids and given the fact that Netco was indeed moving to another location the decision was made to inspect after they got moved, that a point in their bid process was that the specification in the second paragraph stated that all equipment should be in place and functional prior to award and it was not, that the original award to Electric Motors Inc. was perhaps as long as three years ago, that the inspections were conducted prior to the award, that the Department of Public Works designed the specifications for the particular contract, and Mayor Pro Tem Boney stated he had a memo dated December 22, 1999 from Mr. Mahvash to Mr. Jerry Blankenship of Netco Services and asked if he provided a copy of the memorandum to Netco, and Mr. Mahvash stated no, that Public Works was not authorized to disclose information regarding City business to outsiders, that the Purchasing Department was the only one authorized to communicate with the outsiders, and Mr. Roberts said that they did not tell anyone who was bidding if they found out from inspectors that certain things were not in order and in this case Netco did indeed take notes, and that was where Netco developed their deficiency list, that to his knowledge by policy they did not communicate in writing or orally any deficiencies to the bidders, and Mayor Pro Tem Boney stated that all they were asking was that whatever standards and policy and procedures established for bidding be followed and thought perhaps one of the reasons they got into the issue was because it appeared they were bending over backwards to give an opportunity to have that bidder inspected because they could save 1.4 million dollars and he would love to save 1.4 million dollars, but whatever the standard was they had to apply it fairly. Council Member Sanchez absent.

Council Member Tatro asked if it was a City Policy or State Law or ordinance that they were not discussing anything with the people or try to work with them in anyway and

Mr. Roberts stated that there was not a State Law or City Ordinance, that the controlling document was the specification and it listed what the City would look for and it made reference to acceptable City Code, and Council Member Tatro stated that what seemed to be a policy of non-negotiation and non discussion about coming into compliance may have cost them a 1.4 million dollars or more and it appeared that they did not have a State Law or City Ordinance which prohibited it and it appeared they had a Public Works Policy which did not communicate that and that was one of their concerns, that they were instituting those policies that ended up costing them more, and Mr. Mahvash stated that it was not a Public Works policy it was the City Purchasing Department policy that Public Works was not permitted to communicate with the vendors because there were several vendors at the same time being reviewed, and Mr. Roberts stated that he understood what Mr. Bibler was making reference to in the integrity of their process and if they would have simply said no after the first time they would not have spent the last hour and a half talking about it, but in an effort to be conscientious about the expenditure of taxpayer funds they did indeed make that decision, and Council Member Todd stated that if it were a private sector company they would never be in this position, that the private sector would have simply looked at the bids that came in and made the right decision and go with the company that appeared to be able to do the job at the lowest price, that he looked at the savings and it was 1.4 million dollars and there were a lot of things they could do with that, and Council Member Bell stated he was curious if there was a similar document of deficiencies for EMI Inc., the company that was getting the award, and Mr. Roberts stated he was unaware if there was, and Mr. Mahvash stated that on the same day they were instructed by the Purchasing Department to visit both EMI as well as Netco, that they visited EMI and made reports which were available and he had his copy of the inspection and would give Council Member Bell a copy, and Council Member Keller

asked if they could assure them that it was apples to apples comparisons as far as making them live up to the specifications of the inspection and Mr. Roberts stated that at this point in time that was hard for him to assure and was sure that whomever Council deems would be acting in the highest professional manner and the City of Houston would do everything that the specification called for to enforce that they were getting a good quality product for the taxpayers, and Council Member Keller asked Mr. Mahvash to go with him to EMI, Inc. to make sure that they had every single item on the list and Mr. Mahvash stated that he would go with him, and Mayor Pro Tem Boney stated that his admonition would be and obviously they would like to have some discretion and some flexibility because most rules did not work when they were originally held, but it was hard to have apples to apples if they said that on a particular day they were going to do an inspection and then they gave one guy 40 more days because he was not quite ready to be inspected that day, and that the other bidder had a right to at least complain, so they had to get the best deal for the City and if they felt that sometimes they would get a better deal for the taxpayer he understood that, but whenever the process looked ugly they had that type of discussion and sometimes it was just better to go with the process that looked consistent, standard and straight and deal with the bottom line, that he would anticipate that the matter would likely be delayed so they would probably have another week or two to chew on it anyway, and strongly urged the Purchasing Department and Public Works to visit with each Council office or at least offer themselves to each Council office so that they could do as much as they could prior to the next Council meeting, and thanked Mr. Snider for bringing it their attention, that it was not a judgement as to what was right or wrong they were just trying to get to the bottom line facts. Council Member Vasquez, Castillo and Sanchez absent.

Ms. Ella Wilson, 3115 Ebbtide, Houston, Texas 77045 (713-433-7547) had reserved time to speak, but was not present when her name was called. Council Members Vasquez, Castillo and Sanchez absent.

Ms. Debra Thomas, 7829 Richland, Houston, Texas 77028 (713-635-5213) had reserved time to speak, but was not present when her name was called. Council Members Vasquez, Castillo and Sanchez absent.

Ms. Linda Morrison, 5701 Deep Forest Circle, Houston, Texas 77092 (713-686-1056) had reserved time to speak, but was not present when her name was called. Council Members Vasquez, Castillo and Sanchez absent.

Ms. Shirley Myers, 5701 Lost Forest, Houston, Texas 77092 (713-680-3743) had reserved time to speak, but was not present when her name was called. Council Members Vasquez, Castillo and Sanchez absent.

Mr. Sanders August, 8102 Sandhurst Dr., Houston, Texas 77033 (713-738-6542) appeared and stated that he was present as one voice crying for hundreds in the wilderness and asked Council for help with several concerns and problems which were in his neighborhood, Inwood Terrace a community on the south side of the City and in District D, that his concerns were the safety and welfare of their community and about poor City service that they receive in their neighborhood, that the issues of his concerns were the poor upkeep of the esplanade on Bellfort and the cleaning of debris out of the storm drainage on the side streets off of Bellfort and the selling of drugs in their neighborhood, that last month they had a violent storm full of strong winds and heavy

rains and thunder and lightening which went through their community and left debris everywhere, that after the storm he called the City about safety concerns about a tree limb which fell on the esplanade on Bellfort in the 5400 and the 8100 Block of Sandhurst Drive, that the reason he called was because the limb was blocking the view of the traffic coming east on Bellfort Avenue and he also reported that the grass needed cutting on the esplanade and the storm drains needed cleaning on Sandhurst Drive, that the day was March 29, 2000 and here it was a month later and the limb was still there, that he called the Parks Department concerning their problems, and he also called Council Member Boney's office and reported the problem, but on Friday, April 21, 2000 a grass cutting crew came from the Park Department and tried to cut the esplanade and they did a poor job, that the grass was still high at the curbs and around the trees and flower beds and the limb was still there, so he was present to ask for Council's help and what could they do for the south side of Houston, that he sat an hour and fifteen minutes listening to the City arguing about saving money and spending money, but his little problem was not about a whole bunch of money it was about the community on the south side and people had been living there 37 years and were still receiving poor service in their community; that his community was having a parade for a March Against Drugs, Precinct 276, on May 13, 2000, that he went to a civic club meeting on the 17th of April and Council Member Boney's name was on the list to be there, but he had not confirmed that he would be participating in that community drive and he asked Council Member Boney to come out for the march on crime because he said save the children and their children were dying, that crack was killing their neighborhood, that there was a bus stop on Bellfort and Herschelwd and the citizens had to go two blocks to get off the bus because of the crack dealer at that bus stop and that was at the 5200 Block of Bellfort. Council Members Todd, Keller, Castillo and Sanchez absent.

Mayor Pro Tem Boney asked Mr. August when he contacted his office and Mr. August said he called his office on April 19, 2000 and Mayor Pro Tem Boney stated that whenever anyone contacted his office regarding a constituent concern they received a written letter from him acknowledging their concern and forwarding it to the appropriate department and require the department to also communicate back in writing, that the letter probably had not worked its way through the system and would give him a person on his staff to liaison with, Mr. Carl Shaw, and would make sure that there was a response to the concerns he had raised, that Mr. Brain Hill from the Parks Department was present to speak with him about the esplanade issue and the cleaning of the ditches and also Assistant Chief Stewart was present and if he would identify the location for the drug traffic they would deal with that, and that Vascola Stoney in his office handled his scheduling and if he was available he would come to the march. Council Members Todd, Keller, Castillo and Sanchez absent.

Ms. Barbara Green, 8159 St. Lo, Houston, Texas 77033 (713-733-9366) had reserved time to speak, but was not present when her name was called. Council Members Todd, Castillo and Sanchez absent.

Ms. Breenet Sherman, 8142 St. Lo, Houston, Texas 77033 (713-738-9035) had reserved time to speak, but was not present when her name was called. Council Members Todd, Castillo and Sanchez absent.

Mr. Robert Young, 8644 Lipan, Houston, Texas 77063 (713-782-3320) had reserved time to speak, but was not present when his name was called. Council Members Todd, Castillo and Sanchez absent.

Mr. Steven Williams, no address, no phone had reserved time to speak, but was not present when his name was called. Council Members Todd, Castillo and Sanchez absent.

Mr. James Roberts, 8410 W. Bartell, Houston, Texas 77053 (713-666-0898) had reserved time to speak, but was not present when his name was called. Council Members Todd, Castillo and Sanchez absent.

Ms. Patricia Nevels, 9434 Pembroke, Houston, Texas 77016 (713-631-2019) appeared and stated that she was present to discuss a noise disturbance that came from a church that used an external loud speaker to broadcast all of their services into the neighborhood, that the disturbance had occurred as early as 6:00 a.m. in the morning at times as well as 12:00 a.m. midnight, that she too was a churchgoer but the question she had was did a preacher have the right to break the laws of the City because he was a preacher, that so far it had been allowed to go on for quite some time, that there were laws concerning decibel levels and laws concerning times allowed to make noise at or below the decibel level, that the Bible that she read told her to obey the laws of the land and from the Judeo Christian history, Jesus obeyed the laws when he was here on earth, that for example he paid taxes, that she had not been able to get assistance in resolving the problem in the past, that she had talked to the pastor of the church and he refused to accommodate her, that she called the police numerous times to ask them to ask the

church to lower the speaker volume, but the pastor would lower the volume until the police left and then he would blast it again really loud, that she went to the Justice of the Peace Courts and they threw the case out of court and did not notify her of a court date, that she too was a Christian and an ordained licensed minister and attended church so she was not against Christians, that her case was that she had to sleep and go to work for a 11:00 p.m. to 7:00 a.m. shift and also was sick and needed time to rest, that she would like assistance from them in anyway she could get it, that other churches in the area had begun to imitate the actions of that one church without regard for law and order or for children who had to go to school, or for the sick or elderly, that evangelism in the church had its place and with the proper and effective way to evangelize the community for the good and benefit of all and she asked them to remember the scenario when they revised or make City ordinances concerning noise or zoning and if there was anyway they could help her by talking to the police chief or anyone and would appreciate any assistance they could give her. Council Members Todd, Castillo and Sanchez absent.

Mayor Pro Tem Boney asked Ms. Nevels if anyone had contacted her from the Northeast Division of the Police Department, and she stated that she called over there yesterday and was told that someone was going to contact her, but so far they had not, and Mayor Pro Tem Boney stated that Assistant Chief Stewart was present and would speak with her and see if they could not get the department to intervene and provide her some relief. Council Members Todd, Castillo and Sanchez absent.

Mr. Frank Black, 5112 Clay, Houston, Texas 77023 (713-921-7678) had reserved time to speak, but was not present when his name was called. Council Members Todd, Castillo and Sanchez absent.

Ms. Gladys Yvonne Carter, 5034 Pershing, Houston, Texas 77033 (no phone) had reserved time to speak, but was not present when her name was called. Council Members Todd, Castillo and Sanchez absent.

Mr. Ferman Smith, 4209 Sterling, Houston, Texas 77051 (713-733-5240) appeared and stated that he was present because they had a very bad and unique traffic situation at Hamilton Middle School, that just two weeks ago a student was seriously injured, that in 1997 a blind woman was also injured at that same intersection, that there had been a number of accidents there and he was present basically as a last resort, that there had been many complaints, that he had talked to the principal and many of the teachers and they kind of put a Band-Aid on the traffic situation there, that the school was situated on 20th Street and Heights Boulevard dead ended into the school, that when the light was green for the students to cross traffic could still turn left and also 20th Street when students were crossing to the parking lot there was no sign from keeping the traffic from turning right, that it had been a very bad situation for a long time and he personally contacted members of the Engineering Department and talked with Mr. Jerry King and he called him several times and looked at the situation, that the only thing they had done was put a bell for the blind people, the way that situation was it was probably a disservice to the blind people because they were liable to get run over, that he was told that the student was injured because she jay walked, but looking at that situation the way traffic turned they probably felt safer jay walking because the cars came across and sometimes stopped at the last minute, that they were really fortunate that it had been the only injury, that they had a school policeman there who kind of took it on his own to direct traffic but really that was not enough, that he spoke with the principal and they discussed what they

thought needed to be done there as a minimum, and they felt that when the students had the light the traffic should not be able to turn left, that also on 20th Street there should be a sign saying not to turn right on red, and if that did not do it then they probably needed to block off the street where traffic could not enter at all. Council Members Todd, Castillo and Sanchez absent.

Council Member Vasquez stated he was aware of the problem, and agreed with Mr. Smith that it was a difficult intersection in terms of safety, that the bikes that were added to 20th Street made the situation much worse, and as a point of clarification the student that was injured darting out in front of a car was not seriously hurt, that they were working on making that environment more safe and in terms of some of the suggestions he made about no left or right turns and they were looking at pedestrian lights so when the students actually walked across the street there would be no traffic whatsoever, and they were also looking at the potential of a crossing guard, so they were working on that and he would be happy to sit and visit with him and that was something of the utmost importance to them. Council Members Todd, Castillo and Sanchez absent.

Mrs. Deborah Elaine Allen, 7809 W. Belfort No. 227, Houston, Texas 77071 had reserved time to speak, but was not present when her name was called. Council Members Todd, Castillo and Sanchez absent.

President Joseph Charles, P.O. Box 53831, Houston, Texas 77052 (713-710-1715) had reserved time to speak, but was not present when his name was called. Council Members Todd, Castillo and Sanchez absent.

Ms. Dorothy Olmos, 420 Broadway, Houston, Texas 77012 (713-928-3538) appeared, presented and read from a letter addressed to the Mayor and City Council which stated that she was present again to express her deepest concerns regarding the Lead Abatement Program and asked City Council not to forget the health issues of the future leaders of tomorrow, that it was important to think about keeping the program active with the allotted amount of 2 million dollars, that she understood that the budget was in review and asked that they please consider it a priority for their constituency, that there were many constituents that were not satisfied with the useless spending of tax dollars, that health was a major concern. Council Members Todd, Keller, Vasquez, Castillo and Sanchez absent.

Mr. James Partsch-Galvan, 1611 Holman, Houston, Texas 77004 (713-528-2607) appeared and stated that his web site address was www.galvan.org, that the City was harassing him again for the condition of his house, that the grass was high or whatever, that it could get like that, that he could not cut that grass because (expressed his personal opinions) James Honey stole all his stuff and he wanted them to help him instead of harassing him. Mr. Partsch-Galvan continued to express his personal opinions and displayed the centerfold from Playgirl magazine. Council Members Todd, Keller, Vasquez, Castillo and Sanchez absent.

Mayor Pro Tem Boney stated that they did have some standards and profanity was not one that Council was going to tolerate repeatedly at the microphone and those kind of pictures.

At 3:40 p.m. upon motion by Council Members Quan and Tatro the City Council was recessed until 9:00 a.m. Wednesday, April 26, 2000. Mayor Brown and Council Member Galloway absent on city business. Council Members Todd, Keller, Vasquez, Castillo and Sanchez absent.