

City Council Chamber, City Hall, Tuesday, December 12, 2000

A Regular Meeting of the Houston City Council was held at 1:30 p. m. Tuesday, December 12, 2000, with Mayor Lee P. Brown presiding and with Council Members Bruce Tatro, Carol M. Galloway, Mark Goldberg, Rob Todd, Mark A. Ellis, Bert Keller, Gabriel Vasquez, John E. Castillo, Gordon Quan, Orlando Sanchez, Chris Bell and Carroll G. Robinson; Mr. Paul Bibler, Senior Counsel, City Attorney's Office; Mr. Richard Cantu, Director Mayor's Citizens Assistance Office; Ms. Debra Dillard, Citizens Assistance Office; Ms. Marty Stein, Agenda Director present. Council Member Jew Don Boney, Jr., absent due to being ill. Council Member Annise D. Parker absent on city business.

At 2:08 p.m. Mayor Brown called the meeting to order and called on Council Member Vasquez who led all in prayer and in the pledge of allegiance.

At 2:09 the City Secretary called the roll. Council Member Boney absent due to being ill. Council Member Parker absent on city business. Council Members Galloway, Castillo, Sanchez and Robinson absent.

Council Members Vasquez and Quan moved that the minutes of the preceding meeting be adopted. Council Member Boney absent due to being ill. Council Member Parker absent on city business. Council Members Galloway, Castillo, Sanchez and Robinson absent. MOTION ADOPTED.

At 2:23 p.m. Mayor Brown stated that Council would hear from the public and requested the City Secretary to call the speakers. Council Members Galloway, Castillo, Sanchez and Robinson absent.

Mr. Samuel Jones, 5445 Preston Oaks #233, Dallas, Texas 75240 (972-778-3535) had reserved time to speak, but was not present when his name was called. Council Members Galloway, Castillo, Sanchez and Robinson absent.

Mr. Mark Killmorgen, 7306 Maidstone, Houston, Texas 77095 (713-207-3213) had reserved time to speak, but was not present when his name was called. Council Members Galloway, Castillo, Sanchez and Robinson absent.

Ms. Robin Franklin, 712 E. 9th, Houston, Texas 77007 (713-225-7124) appeared and stated that she was present regarding Agenda Item 26, the building line designation setback for the 700 block of E. 9th Street; that her block applied for the ordinance because they were consisting of 1920 bungalows with front porches and would like new construction to be built back with theirs so they would all have views from their front porches and she would appreciate Council's support. Council Members Galloway, Castillo, Sanchez and Robinson absent.

Council Member Tatro stated that one of his concerns was acceptance by all homeowners and he saw they were all notified and there were no protests; and Ms. Franklin stated that was correct; that there were 21 properties facing the block and it was signed by 62%, some homeowners they were unable to contact. Council Members Galloway, Sanchez and Robinson absent.

Ms. Honi Knowles, 703 E. 9th, Houston, Texas 77007 (713-861-4902) appeared and stated that she was also present asking for the 20 feet setback for any new construction; that they had over 70 people attend for Neighbor's Night Out and that did not include all the children and it was their topic of conversation and all did support it; that they stopped with the 62% because they knew that was the majority and they would like to keep their neighborhood "neighborhood friendly". Council Members Galloway and Sanchez absent.

Mr. Alan Tiller, 611 E.9th, Houston, Texas 77007 (713-658-2504) had reserved time to speak, but was not present when his name was called. Council Members Galloway and Sanchez absent.

Mr. Mike O'Brien, 12800 Briar Forest House No. 154, Houston, Texas 77077 (281-496-0752) appeared and stated that he was president of the Houston Homeowners Association and he felt everyone present understood the effort that the Houston Homeowners Association and its member group, especially the Neartown Association, put into working on Chapter 42 to have safeguards for residential neighborhoods and their biggest gain they received in the revised Chapter 42 was Section 163 which was the special building line requirement area and until today he thought all areas passed had been in the Neartown Area and he looked forward to this one passing and looked forward to multiple blocks in the Heights being able to use this tool; and urged all Council Members to pass the item tomorrow. Council Members Galloway and Sanchez absent.

The City Secretary stated that she understood Mr. Kollmorgen and Mr. Jones were present and at this time Council would hear from Mr. Kollmorgen and next Mr. Jones. Council Members Galloway and Sanchez absent.

Mr. Mark Kollmorgen, 7306 Maidstone, Houston, Texas 77095 (713-207-3213) was recalled and appeared and stated that he wanted to clarify Reliant Energy's position on the proposed street cut ordinance; that last week there were several news reports which indicated Reliant Energy wanted the city to not take care of their responsibilities of protecting the taxpayer's investments or that they wanted the city to regulate everyone but them and nothing could be further from the truth; that they had worked with the city from the time the ordinance was introduced in May, they worked closely with Mr. Richard Lewis and submitted input to Ms. Kathy Mosley and Ms. Jacqui Croy; that in the beginning Mr. Lewis agreed that the franchise utilities were not causing the problem and they were included in the ordinance because of a legal opinion that the city had to include all people operating within city right of way, that due to the Bill which deregulated the telecommunications, House Bill 1777, the wording did not give the city the leeway to exclude anyone from the ordinance not itself, METRO, the County or State of Texas; that Mr. Lewis had said he would love it if the way Reliant read the bill was correct and that it was strictly a telecommunications bill affecting no other utilities and they worked together to get an opinion from the Attorney General on the matter, as to what the real intent of HB1777 was and the City drafted the letter and the company's Legal Department reviewed the letter and it had to be set up by a state official and Sen. Brown agreed to do it so the letter went to Sen. Brown and he submitted it to the Attorney General's Office and to date they had received no answer and with the holidays it probably would not come until January, but they did have a letter from State Rep. Steve Wolens who had not only authored the deregulation bill but also chaired the committee the bill was heard in and the letter stated that the bill was never intended to address any utility except

telecommunication companies and that was the answer they and the city was looking for from the Attorney General to be able to omit themselves and Reliant Energy; that omitting Reliant was not omitting them from regulation as they were currently regulated and all this bill did was add another step and layer of red tape to get approval on work orders and they were not asking for special treatment, but equal treatment. Council Members Galloway and Sanchez absent.

Mayor Brown stated that he also felt the impression most people received after reading the newspaper account was that Reliant was opposing the ordinance and they were not and it was clear that they had asked for an opinion from the Attorney General with no answer; and upon questions, Mr. Kollmorgen stated that they contacted them yesterday and their contact said Sen. Brown had called several times on it and they knew it was a priority, but could not get it out before the holidays. Council Members Galloway and Sanchez absent.

Council Member Ellis stated that he agreed they needed to move forward on the ordinance, but understood Reliant's concerns and he had read the letter from Rep. Wolens which did state why he did not want to include municipalities water and sewer operations or anything other than the telecommunications sector of business, but Reliant was going into the telecommunications business; and upon questions, Mr. Kollmorgen stated that they would not want that sector of their business to be excluded. Council Members Galloway and Sanchez absent.

Upon questions by Council Member Ellis, Mayor Brown stated that he had insisted they move ahead with the ordinance in the interest of protecting the taxpayer dollars as the streets were continuing to be torn up, but Mr. Bibler could answer his questions; and Mr. Bibler stated that they were proceeding with caution and the only cautious approach he could suggest to this was to include the light company; that he did not think anyone was seriously disputing that the light company and gas company were subject to the regulations if the city wanted to make them subject to the regulations, but on the contrary other parties such as the phone company were making a terribly valid argument that not one, but two places in the ordinance said everyone had to be treated the same and if they excluded them there was a good chance the ordinance would be shot down immediately and if they included them he did not think they were at great risk; and he was made aware of the letter, but such letters were not admissible in court and he would doubt if a State Representative could even testify in court, the bill had to be construed on the basis of its four corners and if there was some ambiguity then you went back and looked at the history that was created in Austin when they made the bill, but having people testify was not how you determined what the bill was intended for. Council Members Galloway and Sanchez absent.

Upon questions by Council Member Ellis, Mr. Kollmorgen stated that he was certainly not a legal expert and he understood Mr. Bibler's point and their attorneys would have probably taken the same approach, it was more prudent to take the conservative approach than try to not submit the city to future litigation on an ordinance; that the problem he had with it was that he understood a request from the Attorney General's Office was to get his opinion on the intent of the legislation and they had a letter from the author of the bill and chairman of the committee telling them the exact intent and not being a legal scholar he could not understand the difference if the Attorney General's

opinion was going to give the intent and here they had the author and chairman stating the intent. Council Members Galloway and Sanchez absent.

Upon questions by Council Member Keller, Mr. Bibler stated that the Legislature was meeting in a few weeks and people could talk about intent, but the bill said what it said and if he had to balance it he would say it was more on the way Southwestern Bell read it; that if telecommunication was the real intent they could go in and amend the law until it was clear that it be applicable to telecommunication providers only. Council Member Sanchez absent.

Upon questions by Council Member Keller, Mr. Kollmorgen stated that it was always easier to get it fixed up front; that people were hesitant to reopen legislation they pass because they would hear the same testimony they heard the first time around; that this session would probably be dominated by redistricting and he did not think they would have time to go back and change legislation just to solve one of their problems; that the city did have a problem and Reliant agreed the city needed to move on it, when the legislation was introduced in May there were 18 companies dealing with permits and today there were 54 and the streets were being torn up and the city did not know who was digging where and many times when the city came back it had not been repaired to city standards and they did not know who to go to and that became a legal problem finding out who to go to and how to collect the money and the simplified thing would be to hit the people currently not working with the city in coordinating their business and make sure they did coordinate the business and he realized this ordinance did that, but it brought them and the city into it and Entex alone under the strict interpretation of this ordinance would have to submit 20,000 additional permits a year. Council Members Todd and Sanchez absent.

Council Member Robinson stated that he wanted to make sure he was clear and what he understood his concern now to be in terms of representation was inclusion in the ordinance; and upon questions, Mr. Kollmorgen stated that some major concerns was the duplication of permitting and insurance requirements requiring insurance for each project, they were self insured as was the city; that they were concerned about the added expense to the taxpayers and their rate payers; that recently they had two crews out on different jobs and they were stopped from working because they did not have a permit that they were never required to have before; that what they did in the past was submit detailed plan and profile drawings to the city along with a traffic control plan and that was signed off on by Traffic and Transportation and by Public Works and they had met with Mr. Rolan on the matter and he was trying to streamline it. Council Members Todd and Sanchez absent.

Upon questions by Council Member Robinson, Mr. Bibler stated that this was getting into the Administrative procedures and not the ordinance, however, as he had reviewed the draft Administrative procedures the Public Works Department was asking applicants to separately go to the traffic control engineers if they were within a certain proximity of the traffic control device, but that really should be addressed to Mr. Rolan as the ordinance did not dictate that. Council Members Todd and Sanchez absent.

Council Member Castillo stated that for a long time they had been attempting to regulate the excavation of streets because of the damage and inconvenience and in his experience the light company and phone company had not been in that group of people;

that he was for regulation, but believed there had to be a way to where they could be treated the same in terms of being regulated but not devise a cookie cutter approach; that it was unreasonable to utilities versus telecommunication companies and he wondered if it would be legal to have a multi tiered regulation, one for telecommunication companies that were going to be here and once they did their excavation would be gone and one for the light and gas and phone companies that would be here for time unforeseen; that he wondered if the Legal Department could draft something working with the light company. Council Members Todd and Sanchez absent.

Mayor Brown asked Mr. Bibler if that was possible; and Mr. Bibler stated that this was the problem they had been struggling with since last spring; that there were two phrases in the bill, one said the rules had to be consistent with construction permits issued to other persons excavating in the public right of way and the other said that the municipality may exercise the police power regulations in management of the public right of way that apply to all persons in the municipality and Southwestern Bell, which no longer had a franchise, asserts and he felt they were correct that under those rules they could not treat anyone differently. Council Members Todd and Sanchez absent.

Council Member Castillo stated that it was how you interpreted consistent and he thought you could be consistent within similarly situated utilities that did the same kind of work, how would you ask the light company to predict a five year plan everywhere they would make a street cut when they did not know where buildings would be coming up; that to treat them consistently to him meant they needed to be regulated in each of the phases of the repair, where you did the excavation, notification and bringing it back for restoration; that it did not say they had to use the same standard for each because they were doing different things; and he would ask the light company to offer a set of parallel and equivalent safeguards that would cover every facet they had to use on telecommunicators. Council Members Todd and Sanchez absent.

Upon questions by Mayor Brown, Mr. Kollmorgen stated that they fully agreed with the five year plan with yearly updates; that they thought it was important for the city to know who was where, it only made sense if you had four people going into the same section of street over a six month period that it be coordinated so all could do it at once. Council Members Todd and Sanchez absent.

Upon questions by Council Member Castillo, Mr. Kollmorgen stated that they would fully support submitting a plan that would consist of parallel and equivalent safeguards. Council Members Todd and Sanchez absent.

Council Member Quan stated that in Mr. Kollmorgen's presentation he stated that reliant had been involved since the beginning working with Mr. Lewis and he was concerned last week when Council heard from them and Southwestern Bell; and upon questions, Mr. Kollmorgen stated that they wanted to be treated equally; that city franchise were very detailed instruments which detailed your requirements and responsibilities to the city to be allowed to use the right of way and they were already going through the steps of coordination with the city and the city knew they were there to make repairs, the problems this ordinance was trying to address; that the ordinance was also trying to address smaller companies which did not have the wherewithal their company had, the ability to self insure; that a lot of the 20,000 permits he mentioned with Entex were not major excavations, they were test holes, etc., they had a regular routine

testing for leaks and under the ordinance each would have to be permitted; that Council had not heard from Reliant prior because they were trying to work within the system and they had what he thought was an agreement with Mr. Lewis and they were going to wait and see what the Attorney General's opinion was on whether the city had to include itself and Reliant Energy; that Mr. Lewis had agreed it would be beneficial to not apply the ordinance to the city and they were waiting for the opinion thinking all was in the process and working well; and after hearing from the person who drafted the bill he thought there was enough legal precedence to exclude Reliant and the City of Houston as is. Council Members Galloway, Todd and Sanchez absent.

Upon questions by Council Member Tatro, Mr. Kollmorgen stated that he did not actually make the inputs, but when asking how the ordinance compared to the original some changes that were in there were no longer in there, but he did not know the reason why some were out and some were in. Council Member Tatro stated that something needed to be adopted to get streets repaired, but they were basically going from a lazy affair attitude to a complete micro management of the entire process, but he knew his concerns and understood them. Council Members Todd and Sanchez absent.

Upon question's by Council Member Ellis, Mr. Kollmorgen stated that they submitted their plans on a project basis, prior to going out except for emergencies. Council Member Ellis stated that it seemed if you had a franchise with the city you were meeting requirements and those that had no franchise with the city should be required to be permitted and it seemed it could be argued from that position; and Mr. Kollmorgen stated that was correct. Council Members Todd and Sanchez absent.

Mr. Samuel Jones, 5445 Preston Oaks #233, Houston, Texas appeared and stated that he was the senior attorney in the southwest region for AT&T Corporation and was present today regarding the street cut ordinance; that they had previously submitted comments to the City of Houston on June 9 and September 2000 and received no feedback; that he wanted to share some major concerns and that was the indemnity and insurance provisions in the ordinance, HB1777 otherwise known as Section 283 of the Local Government Code, specifically required them to indemnify the city for any harm caused by their negligence but it also instructed them that in the event the city was partly negligent the liability was to be shared equally and in the ordinance as presently drafted the city was requiring them to indemnify the city for any negligence or misconduct as a condition for entering a right of way to provide telecommunication services and they felt that was unreasonable and inconsistent with the clear language of HB1777; that he would ask them to consider incorporating a device that would allow them an opportunity to decurt b defects before they were liable for the \$500.00 a day fine and there was nothing in the bill that let them know or advised them as to how long they could expect before a permit was issued, there was no guidelines that let them know the grounds the city could deny an application and any information needed should be outlined in the ordinance. Council Member Sanchez absent.

Upon questions by Council Member Tatro, Mr. Jones stated that the letters were submitted June 9 and September 19 on behalf of AT&T, one to Mr. Lewis and one to Ms. Mosley; that he believed when the city received comments from one telecommunication carrier they thought it was for the whole telecommunication industry and nothing could be more untrue, some of their objectives were opposed to one another and they were competitors and in fairness the city should be aware of that and take it into

consideration; that they attended all meetings they received notice of and none of the substantive or procedural issues he just spoke of were addressed; and he would be happy to provide copies of the two letters submitted to him. Council Members Keller and Sanchez absent.

Council Member Castillo stated that he already did things which put him in compliance with what the city required and the city was righting regulations which in some cases duplicated what he already did and upon questions, Mr. Jones stated that it was their position that if they were operating pursuant to a franchise agreement they were not falling under the purview of the particular ordinance, but they did have certain subsidiaries who may not be operating under a franchise agreement who would need to enter the right of way and would fall under the purview of the ordinance, but they would be willing to submit any text or drafts to alleviate burden on the city. Council Members Todd and Sanchez absent.

Upon questions by Mayor Brown, Mr. Bibler stated that they had received comments from his organization and incorporated a number of their recommendations, the ordinance had basically been static since June when the last section to the draft was prepared; that some things Mr. Jones had raised he did not understand, like the ordinance specifically said those covered by special indemnity provisions of Chapter 283 would be subject to those instead of the ones written into the application form and he did work with Ms. Croy and they prepared generic responses to comments received from all providers; that with stacks and stacks it was not possible to send out individual letters, but they did try to categorize letters received and prepare responses to them; that with regard to franchises and questions Council Member Castillo raised he was not aware of which telecommunication providers still had city franchises, but one thing the bill did was allow those with franchises to refutiate those franchises and Southwestern Bell refutiated theirs. Mayor Brown, Council Members Todd and Sanchez absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Bell, Mr. Jones stated they received notice of one meeting and a colleague did participate, but issues he addressed today were not addressed at that meeting and they would support a delay in passing the ordinance and believed it in order; that there was talk with AT&T as to what action might be taken if the ordinance were to be put into effect with the indemnification clause in place, but he could not disclose that. Mayor Brown, Council Members Todd and Sanchez absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Bell, Mr. Bibler stated that state law said they could not charge a fee to be paid in exchange for permits and they did not charge a fee and he did not have his copy of the ordinance with him, but would be glad to show Mr. Jones the sentence which said that his indemnification would be governed by Chapter 283 rather than the general indemnification provisions; that another thing he could point out, which Mr. Jones raised, was he had a lengthily conversation yesterday with counsel for Southwestern Bell which should not be confused with Mr. Jones as it was a separate company and they said they had the right under state law to do self insurance and he told them if they showed it to him the ordinance was drafted in such a way they would recognize it. Mayor Brown, Council Members Todd and Sanchez absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Keller, Mr. Bibler stated that last spring they went through three drafts and modified the ordinance extensively at the request of the industry and Ms. Mosley and Ms. Croy coordinated the receipt of those responses, there were stacks and stacks of them, and they could not respond individually but did respond by category and he helped them draft the letters; that more recently there may have been utility companies that thought come hell or high water the city was going to wait for the Attorney General to issue his opinion and he felt that was where some felt that someone reneged on them. Council Member Keller stated that on his own he wanted to look at potential problems or errors that AT&T, Southwestern Bell and Reliant may have caused and who would have such a score card; and Mr. Bibler stated that he could check with Mr. Rolan and another thing which had not been discussed here was that some utility companies they were used to seeing doing work were no longer doing it and they were farming out a lot of work and he was not sure the people were doing the same quality of work. Mayor Brown, Council Members Todd and Sanchez absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Keller, Mr. Jones stated that he could only speculate on their probability of success as to being exempted from the ordinance; that they believed if they had an opportunity to sit with the city attorney and staff and go over their comments they would be able to reach a healthy compromise as they had in the past, but as yet had not had the opportunity this time. Mayor Brown, Council Members Todd, Vasquez, Sanchez and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Council Member Quan stated that Ms. Thobae was present with an issue regarding Reliant and since they were present at this time, moved to hear Ms. Ann Thobae out of order, and was seconded by Council Member Tatro. All voting aye. Nays none. Mayor Pro Tem Boney absent due to being ill. Council Member Parker absent on city business. Mayor Brown, Council Members Todd, Vasquez and Robinson absent. Vice Mayor Pro Tem Castillo presiding. MOTION 2000-1492 ADOPTED.

Ms. Anne Thobae, 1204 W. Drew, Houston, Texas 77006 (713-228-9341) appeared and stated that she was present to voice her concern regarding plans mentioned to her by a Reliant Energy employee yesterday when she inquired as to why he was walking on her property since she read her own meter and he showed her plans to construct utility poles in her backyard and she had serious concerns for safety, security and a standard of respect for her property during the process based on a recent experience she had; that a manhole was placed on the property earlier and there was lack of notification to residents, inaccessibility to sidewalks and driveways and there was not the required ten feet of accessibility for emergency vehicle access; no fencing around the excavated hole, no flagger no covered metal steel plate placed over the hole, a gas line was ruptured, water main broken and it took months to reasonably restore property damage and the streets still were not restored to their condition; that police were out twice citing the subcontracting crew and state representatives were involved and a representative from the public utility company had to get involved in order to enforce any acceptable standard of operation with the subcontractor and if this work was to take place in her backyard she would like the name of someone, a contact person with the city to oversee it, that she wanted to work with someone to make this happen during business hours and maintain protection of her home and property and her animals. Mayor Brown, Council Members Todd, Vasquez and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Tatro, Ms. Thobae stated that the problems she described were with Southwestern Bell, they were installing fiber optic cable up and down West Drew and they had multiple excavated holes left uncovered and it was a very narrow street and it was extremely frustrating; that it was a tiny old area, the west section of Hyde Park in Montrose. Council Member Tatro stated that Mr. Kollmorgen was present at this time and with Reliant and she should speak with him today. Mayor Brown, Council Members Todd, Vasquez and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Council Member Quan stated that was what he was going to say; that Mr. Kollmorgen had already consented to speak with her about the issue and if she did not get satisfaction she should let Council know and they would see what they could do. Mayor Brown, Council Members Todd, Vasquez and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Mr. Arthur Thompson, 14135 Whispering Palms, Houston, Texas 77006 (281 440-1785) appeared, presented information and stated that he gained employment with the City of Houston in 1980 and since left, went back to college and came back in 1992 working in Parks and Recreation about two years, but left again and went back to college and then after graduation he started a career at the University of Houston and then came back to work for Public Works and Engineering in January 1999, then on November 29, 2000 he was terminated; that his immediate manager felt he was incompetent to write and not able to learn the basic skills of his position which was Engineer & Technician II; that he made statements he had been subordinate for taking a vacation day and going to the E. B. Cape Center for a class; that his job performance was in June and it said he needed help in the way they wanted job request written up and those at the E. B. Cape Center encouraged him to take the class and helped him to get enrolled, but later he found out his department felt it was insubordinate and he was terminated for that reason; that today he was present because he had no Civil Service grievance action because he had not worked with the city long enough to be a permanent employee and was still a probationary employee so he came to see what he could do. Mayor Brown, Council Members Todd, Vasquez and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Vice Mayor Pro Tem Castillo stated that he was terminated during his probationary period and unfortunately there were no appeals to that; that was the policy of the city that probationary employees had no appeal process and he knew of no other remedy; and upon questions, Mr. Bibler stated that what he said was the position of the city and he did not feel comfortable offering anything else, but he may want to visit with his own attorney. Mayor Brown, Council Members Todd, Vasquez and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Ms. Irma Lopez, 110 W. 10 1/2, Houston, Texas 77008 (713-426-6897) had reserved time to speak, but was not present when her name was called. Mayor Brown, Council Members Goldberg, Todd, Vasquez and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Ms. Jonell Lewis, 4000 Wilmington #108, Houston, Texas 77051 (713-734-1422) had reserved time to speak, but was not present when her name was called.

Mayor Brown, Council Members Goldberg, Todd, Vasquez and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Ms. Mildred Jackson, 2407 Haverhill, Houston, Texas 77008 (713-863-1371) had reserved time to speak, and her husband appeared at the podium to speak in her place. Mayor Brown, Council Members Goldberg, Todd, Vasquez and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Council Member Keller moved to allow Mr. Henry Jackson to speak for Mrs. Jackson, and was seconded by Council Member Ellis. All voting aye. Nays none. Mayor Pro Tem Boney absent due to being ill. Council Member Parker absent on city business. Mayor Brown, Council Members Goldberg, Todd, Vasquez and Robinson absent. Vice Mayor Pro Tem Castillo presiding. MOTION 2000-1493 ADOPTED.

Mr. Jackson stated that he and his wife were present today because of the large increase in his taxes at 2812 Baldwin, they had doubled this year and it was changed to commercial taxes; that no other place around him doubled; that the city had also authorized someone else to tax him and that was Midtown so he called Midtown about putting him up a street light and was told there was no money and there would be none for about five years. Mayor Brown, Council Members Goldberg, Todd and Vasquez absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Ellis, Mr. Jackson stated that his property value went up double but none of the others in the block went up. Council Member Ellis stated that he needed to go to the Harris County Appraisal District; and Mr. Jackson stated that they had gone there and was turned down, the lady did not know what he was talking about. Council Member Ellis stated that the city controlled the tax rates, but not the appraisal values and City Council had actually reduced tax rates, but his appraisal had gone up which raised his taxes; and Mr. Jackson stated that he knew what he was saying and they had told him the same thing, but why had his taxes gone up and all around him none did; that across from him were three bars and that should make his less; that his home was broken into and his son shot the man and police were there in 30 seconds so they had good police protection. Council Member Ellis stated that when his questioning was through he would look at his paperwork and try to assist him, but as a whole the Council body had reduced his tax rate; and he would urge him to call Mr. Bettencourt the Harris County Tax Appraiser. Mayor Brown, Council Members Tatro, Goldberg, Todd and Vasquez absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Sanchez, Mr. Jackson stated that his appraisal on his land increased and that was his complaint; that the other properties around him had not increased; that he was also being taxed by Midtown. Council Member Sanchez stated that Council Member Ellis would try had assist him. Mayor Brown, Council Members Tatro, Goldberg, Todd and Vasquez absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Galloway, Mr. Jackson stated that he owned two properties besides his home and his went up a little, but today he was speaking about property on Baldwin Street; that there was residential and commercial property there and his was always residential until this year; that his property was valued at \$47,870.00 And this year it was \$93,860.00; and right next door the property last year

was \$40,000 and this year was \$41,000. Council Member Galloway stated that he would have to appeal that with the Harris County Appraisal District because they had set the appraisal. Mayor Brown, Council Members Tatro, Goldberg, Todd and Vasquez absent. Vice Mayor Pro Tem Castillo presiding.

Vice Mayor Pro Tem Castillo stated that Council Member Ellis would meet with him at this time. Mayor Brown, Council Members Tatro, Goldberg, Todd and Vasquez absent. Vice Mayor Pro Tem Castillo presiding.

Mr. Al Johnson, 1217 Prairie #204, Houston, Texas 77002 (713-447-1992) appeared and stated that he was a spokesman for Texans for Justice and he was present today because they would like to see tougher regulations on multi family housing and tenants rights, maybe an Anti Slumlord Bill, that they became involved with the matter while pushing other legislation in Austin concerning misconduct of attorneys; that they became involved in two apartment complexes in Houston which had been run by a slumlord for about 15 years and he had been able to skirt the Neighborhood Protection Office and the City of Houston quite effectively and so had his attorneys; that they were looking for a basic bill of rights for tenants, especially poor tenants who did not have the means to employ lawyers to combat the slumlords; that they would like to see basic rights such as electricity, water, structural security meaning doors that lock and windows instead of cardboard and protection against rats and roaches, one of the complexes had three children hospitalized in the last 90 days because of rat bites; that the landlord openly condoned the use of crack and some complexes were so well known for selling that the dealers brought out lawn chairs to sell; that police were contacted by them and went in with undercover agents arresting seven dealers, but once out they went back to the same location and the slumlord did not want them gone; that Channel 13 covered one that had been victimizing the very poor for 10 years. Mayor Brown, Council Members Goldberg, Todd, Ellis, Vasquez, Sanchez and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Upon questions by Council Member Castillo, Mr. Bibler stated that the city had a longtime standards ordinance for property, but without knowing more specifically where the alleged breakdown occurred he could not say much about it, but most of what he spoke to was in existing ordinance. Mayor Brown, Council Members Galloway, Goldberg, Todd, Ellis, Vasquez, Sanchez and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Upon questions by Council Member Castillo, Mr. Johnson stated that he had worked with Neighborhood Protection, but the problem with a slumlord circumstance was on a normal tenant relationship you could call Neighborhood Protection and the matter was taken care of, but with a slumlord if parties complained the slumlord would nail their door shut and toss their property into the street and so they did not have the recourse and police say it's a civil matter and they need to take them to court, but people living there barley have money to put bread on the table; that in the slumlord provisions they were requesting they would like to see criminal provisions on it so the person was not only fined heavily, but because of the heavy intimidation would also be put in jail; that Neighborhood Protection had restrictions and they would like them to have more rights; and if Council saw the story or the follow-up on Dateline it was something Houston needed to do something about. Mayor Brown, Council Members Galloway, Goldberg,

Todd, Ellis, Vasquez, Sanchez and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Vice Mayor Pro Tem Castillo stated that Mr. Johnson's comments were well taken and would be taken under advisement. Mayor Brown, Council Members Galloway, Goldberg, Todd, Ellis, Vasquez, Sanchez and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Council Member Quan stated that he was interested in what was just said and he would like a copy of the tape and a list of the rights he spoke of, his proposals; that they had a Quality of Life Committee and he felt that would be the first step in enacting such ordinances; and Mr. Johnson stated that he would get those for him and that they were pushing for the rights in Houston because it was one of the leading communities in Texas, but he was also pushing for it in Austin; and slumlord provisions were very common in Los Angeles, Arizona and other states. Mayor Brown, Council Members Goldberg, Todd, Ellis, Vasquez and Sanchez absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Council Member Robinson moved to suspend the rules to hear Mr. Charles Taylor, Mr. Larry Green and Mr. Ray Fisher out of order, and was seconded by Council Member Tatro. All voting aye. Nays none. Mayor Pro Tem Boney absent due to being ill. Council Member Parker absent on city business. Mayor Brown, Council Members Todd, Ellis and Sanchez absent. Vice Mayor Pro Tem Castillo presiding. MOTION 2000-1494 ADOPTED.

Mr. Charles Taylor, 2028 Buffalo Terrace, Houston, Texas 77019 (713-524-4676) appeared and stated that he was past vice president of public finance at Coastal Securities and president of the National Football League Player's Association, Houston Chapter, and he had filed a federal law suit against Coastal Securities for racial discrimination; that the actions were not brought about lightly or with a lack of forethought, he was in the fifth year of a six year term as commissioner of the Texas Commission on Human Rights appointed by Governor Bush and their mission was to protect citizens against employment and housing discrimination and he was qualified in his area and Coastal Securities did an injustice to him and his family, they did not treat him fairly or give him the same opportunity to succeed that they gave White males on his level and they were so blatant he had non Black elected officials call their actions appalling and he could ignore it but it would happen to someone else so with him being a state commissioner he could not go away; that because they let him go on weak grounds they were now trying to assassinate his character; that the City of Houston employed Coastal Securities as their financial advisor and they had five offices with around 150 employees and no Blacks and they worked for a city with a diverse population. Mayor Brown and Council Member Todd absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Galloway, Mr. Taylor stated that because of those issues he called upon the City of Houston to reevaluate their relationship with Coastal Securities and terminate their financial advisor contract. Mayor Brown and Council Member Todd absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Bell, Mr. Taylor stated that he was terminated in February 2000 and had been employed five months, previous to that he worked for

Public Financial Management one year and that was also in Houston; that if Council wanted to read his specifics they could get copies of the lawsuit he filed; that he was the first African American to be hired in his capacity that he knew of. Mayor Brown and Council Member Todd absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Sanchez, Mr. Taylor stated that he was aware the city had targeted MWBE goals and he did not think Coastal practiced those goals; that he was aware of the contract that Coastal and First Southwest had and they had to give a portion of their fee to a minority firm and he remembered Coastal using a minority firm out of Dallas which they gave 20% of their fees to; that there were minority firms in Houston and he could not say why they went to Dallas; that Coastal had five offices with about 150 employees, not all in Houston, that in the Houston office there were no Blacks and he was not aware of any other office, he did not think there were any. Mayor Brown, Council Members Todd, Keller, Vasquez and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Quan, Mr. Taylor stated that he was vice president of Public Finance and he had recommended someone to try and diversify the population but they were never interviewed; that he knew there were a couple of Hispanic females in clerk positions and one Hispanic male in a professional position in San Antonio. Mayor Brown, Council Members Todd, Keller, Vasquez and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Tatro, Mr. Taylor stated that he first filed with the EEOC in April 2000 but because he was a commissioner and to avoid a conflict of interest the EEOC office in Houston gave the case to the EEOC office in New Orleans and in September they went further and filed a federal lawsuit in Houston; that he thought when they filed the federal lawsuit they requested a right to sue from the city and he believed they only could do one at a time so the EEOC was put on hold. Mayor Brown, Council Members Todd and Keller absent. Vice Mayor Pro Tem Castillo presiding.

Mr. Larry Green, 3401 Louisiana #155, Houston, Texas 77002 (713-526-2166) appeared and stated that he was representative for Mr. Taylor and his action against Coastal Securities and they believed Coastal was in violation of Article II of the City of Houston's anti discrimination provisions dealing with city contracts; that they believed Mr. Taylor was discriminated against because of his race and was treated differently and pursuant to Section 1519, contract compliance, they were requesting a formal investigation of Coastal Securities and were further requesting that Council not renew any contractual dealings until the contract compliance came back with a review; and their reason for termination was a performance issue, however, two weeks prior to his termination he received a \$20,000 bonus for good performance. Mayor Brown, Council Members Todd and Keller absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Bell, Mr. Green stated that they had not yet received a right to sue letter from the EEOC and their request today was in part to conduct an investigation of Coastal's employment practices pursuant to the City Ordinance, Section 1519; and he had been lured away from his previous position by Coastal which made it able for them to secure a contract with Harris County; that they were under the impression his bonus was based on performance. Mayor Brown, Council Members Todd, Keller and Vasquez absent. Vice Mayor Pro Tem Castillo presiding.

Upon questions by Council Member Sanchez, Mr. Green stated that they were asking the city to have the Contract Compliance Commission conduct an investigation relative to employment practices by Coastal; that pursuant to Section 1517 of the Equal Employment Opportunity Clause of the City of Houston, Section 1, it provided that all contracts entered into involving expenditure of \$10,000 or more of city funds should incorporate an equal opportunity clause and in that clause it said the contractor should not discriminate against anyone because of race. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Upon questions by Council Member Sanchez, Mr. Bibler stated that there was a good chance he was right, the ordinance was on the books and he would have to pursue it as it related to this particular situation and get back to him on it; that what he was saying was not inconsistent with his recollection of the ordinance. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Upon questions by Council Member Galloway, Mr. Green stated that Mr. Taylor began his employment at Coastal August 16, 1999 and was terminated February 8, 2000, the city entered into their contract in fall of 1999 and Mr. Taylor was a part of that lobbying effort and the City of Houston contract was an annual contract. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Upon questions by Council Member Tatro, Mr. Green stated that right now they were in the discovery mode of litigation and he had not verified whether there were other allegations against Coastal; that because they had requested a right to sue the investigation by the EEOC would stop and they would not issue a finding. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Mr. Ray Fisher, 5008 Lockwood, Houston, Texas 77026 (713-675-7477) appeared and stated that he was a practicing attorney in Houston and served as an associate Municipal Court Judge with the City of Houston; that today he was present to speak on behalf of Charles Taylor's character, he had known him approximately eight years and found his character beyond reproach; that the Governor appointed him in 1975 to the Texas Commission of Human Rights and he had served hard in that capacity; that he and Charles had been involved in numerous professional organizations and he had worked hard to find jobs for youth in Houston and he hoped and encouraged Council to investigate the matter. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Council Member Galloway thanked Mr. Fisher for supporting Mr. Taylor and stated that she knew if he came before Council on behalf of someone they were just what he said they were and she would be doing investigation on her own. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Mr. Johnny Lennon, 7203 Frostview, Houston, Texas 77489 (281-438-8911) had reserved time to speak, but was not present when his name was called. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Mr. Richard Kobarg, 6118 Queenswood, Houston, Texas 77008 (713-802-0658) appeared and stated that he lived in Timbergrove and was involved in an accident on June 2 with a Houston Police Officer and the officer was found at fault; that he filed his claim and was still waiting and he seemed to have a conflict with the person handling it; that he asked numerous times for a personal appearance, but she would not respond to it and his presence today was to get Council's assistance in a one on one meeting with someone in the Legal Department. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Upon questions by Council Member Tatro, Mr. Kobarg stated that Ms. Rachel Spencer in his department had done what she was able to do; that he had E-mail communication with the lady handling it but got no response; that he filed his claim August 2 and he had settled everything with his insurance company and understood they had filed their paperwork with the city, but his basic conflict was they would not reimburse him for his \$500 deductible or his rental car and his diminished value because of the wreck. Council Member Tatro stated that someone from his office would get more involved in shepherding the process. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Upon questions by Council Member Tatro, Mr. Bibler stated that damages were governed by the Texas Tort Claims Act which was the law under which the State of Texas waived governmental immunity for certain types of accidents in which the city had responsibility and he had a great deal of sympathy for Mr. Kobarg, but at the same time there seemed to be fundamental things he did not realize with the most basic one being when he had his insurance company fix his car they became the owner of his rights with respect to damage to the car and they had independently tried to settle with him and thought they had a settlement for his personal injuries, but with respect to his vehicle they would be dealing with his insurance company, except to his knowledge they had not filed as yet; and if he wanted a meeting with Mr. Heilman he would get him one, but they could not act as his legal counsel in this. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Rev. F. D. Sampson, 4812 Bennington, Houston, Texas 77016 (713-631-0329) appeared and stated that he was present today to address the proposed construction of a communications tower at 4301 Laura Koppe and though he was addressing Council on that particular tower there was another tower that would be under the same consideration and that was under application 00T4097013 2/3 Homestead; that according to the Code of Ordinances, Chapter 41 Article III Sections 41-50, the definition for residence was the term they were using as they opposed the construction as the community was a residential area and they had a list of day care centers, school, churches and residences and had turned in a petition to City Planning; that they were asking Council to reconsider reviewing the ordinance as it only allowed residents who lived within 600 feet of the tower

to request a hearing and other individuals may not live within that footage but they may work there or have children attending centers or schools in the area and they would be as impacted as those who did reside there. Mayor Brown, Council Members Goldberg, Todd, Keller, Vasquez, Quan, Sanchez and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Council Member Galloway stated that she thought 600 feet was not inclusive enough and she would like to revisit the ordinance and would get with the chair of the committee to do something about it. Mayor Brown, Council Members Goldberg, Todd, Keller, Vasquez, Quan, Sanchez and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Council Member Ellis stated that they had similar problems in the southwest; and upon questions, Mr. Bibler stated that problems would have more to do with federal law and essentially they could not make the ordinance so tight that telecommunication providers could not build and operate their networks. Mayor Brown, Council Members Goldberg, Todd, Keller, Vasquez, Quan, Sanchez and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Upon further questions by Council Member Ellis, Rev. Sampson stated that their concerns were based on Cancer facts; that studies were inclusive and not yet sufficient with the kind of magnetic field being proposed and they were opposed to towers in residential areas because of that lack of information. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan, Sanchez, Bell and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Mr. Bibler stated that he wanted to clarify that nothing in the City Ordinance was based upon health issues, the federal law expressly prohibited them from basing their regulation in any way on that and he would not want anyone to get the impression that was the basis for the ordinance. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan, Sanchez, Bell and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Ms. Jessie Morehead, 4312 Plaag, Houston, Texas 77016 (713-631-0817) appeared and stated that she lived in the area and there was not much money there, but what they had they wanted to keep and they wanted to keep their health and did not want the tower in the community; that she also wondered why they had no notification from the Planning Commission, if they were going to do such things in the community they should be notified earlier; that they were not opposed to the poles, but what they might cause; that they were there first and would like some consideration and would like the permits to not be issued. Mayor Brown, Council Members Goldberg, Todd, Ellis, Keller, Vasquez, Quan, Sanchez, Bell and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Mr. William Beal, 2711 Boicewood, Houston, Texas 77016 (713-633-0126) had reserved time to speak, but was not present when his name was called. Mayor Brown, Council Members Goldberg, Todd, Ellis, Keller, Vasquez, Quan, Sanchez, Bell and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Mr. Trent Winters, 7967 W. Airport, Houston, Texas 77071 (713-729-1153) appeared and stated that he needed to know what to do with some paperwork which showed Council Member Boney was paying \$20,000 to learn about a computer, it said he paid about \$1,400 for a computer and paid someone in California, Lamont Nash, over \$20,000 for computer consultation and unless he was stupid that was a whole lot of talking to someone about a computer and that was his own paperwork; that he was bringing it up because like he said to his face and would say if he was here you do wrong and sell out you need to be exposed and he planned on exposing as often as possible; and he did not appreciate \$20,000 going to someone in California there were people here that could help with a computer, what did he really spend \$20,000 on and who could he talk to about it. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan, Sanchez, Bell and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Council Member Goldberg stated that he would suggest Mr. Winters go to the District Attorney's Office, they had investigators; and Mr. Winters asked if he was the only one that saw something funny here with \$20,000 going to computer consulting; that something just did not seem right and he would go to the D. A. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan, Sanchez, Bell and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Mr. Bobby Taylor, 3107 Sumpter, Houston, Texas 77026 appeared and stated that he wanted to follow-up from last week, behavior, people, staffing, mental physical, growth, denial, citizenship, so unfair taking citizenship, violation of a hate crime; that he wanted HPD to check out Jesse Keys, Opal Wilson, Shirley Williams, Charles Rey, Nathaniel Johnson who did time in a state jail in Mississippi for kidnapping and Whyllie Lancaster. Mayor Brown, Council Members Todd, Keller, Vasquez, Quan, Sanchez, Bell and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Mr. James Partsch-Galvan, 1611 Holman, Houston, Texas 77004 (713-528-2607) stated that his web site address was www.galvan.org and he did not know if they subscribed to the magazine, Government Technology, but he had a fantastic issue managing the revolution and it was a special issue and he wanted a public speaker to speak and mention their web site address and the city of Houston's webmaster to make it where someone watching on the Municipal Channel could just press a button or the television and it took them to that web site address and he wanted Council to be on streaming video. Mayor Brown, Council Members Goldberg, Todd, Keller, Vasquez, Quan, Sanchez and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

Mr. Steven Williams, no address or phone, had reserved time to speak, but was not present when his name was called. Mayor Brown, Council Members Goldberg, Todd, Keller, Vasquez, Quan, Sanchez and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

At 4:36 p.m. upon motion by Council Members Ellis and Bell the City Council recessed until Wednesday, December 13, 2000 at 9:00 a.m. Mayor Pro Tem Boney absent due to being ill. Council Member Parker absent on city business. Mayor Brown,

Council Members Goldberg, Todd, Keller, Vasquez, Quan, Sanchez and Robinson absent. Vice Mayor Pro Tem Castillo presiding. (NO QUORUM PRESENT)

A Regular Meeting of the Houston City Council was held at 9:00 a.m. Wednesday, December 13, 2000, with Mayor Lee P. Brown presiding and with Council Members Bruce Tatro, Carol M. Galloway, Mark Goldberg, Jew Don Boney, Jr., 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. Al Haines, Chief Administrative Officer, Mayor's Office; Ms. Martha Stein, Agenda Director.

At 8:20 a.m. the City Secretary read the descriptions or captions of items on the Agenda.

At 9:06 a.m. Mayor Brown called to order the meeting of the City Council. Council Members Galloway, Goldberg, Boney, Todd, Vasquez and Sanchez absent.

MAYOR'S REPORT

CONSENT AGENDA NUMBERS 1 through 60

DAMAGES - NUMBER 8

8. RECOMMENDATION from City Attorney for settlement of lawsuit styled **OVERTON LEBLANC** v. Robert McGowen, et al.; Cause No. 708,596; in the County Civil Court at Law No. Three (3) of Harris County, Texas - \$25,000.00 - Property and Casualty Fund – was presented, moved by Council Member Quan, seconded by Council Member Tatro. All voting aye. Nays none. Council Members Galloway, Goldberg, Boney, Todd, Vasquez and Sanchez absent. MOTION 2000-1495 ADOPTED.

ACCEPT WORK - NUMBER 9

9. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$221,412.19 and acceptance of work on contract with **DOLSON SIERRA CONSTRUCTION GROUP, INC** for Construction of 1998 Major Thoroughfare Sidewalk Project 90-3, GFS N-0610A-90-3 (N-610A-90) - 16.82% under the original contract amount Street & Bridge Consolidated Construction Fund - **DISTRICTS B - GALLOWAY; E - TODD and H - VASQUEZ** – was presented, moved by Council Member Quan, seconded by Council Member Tatro. All voting aye. Nays none. Council Members Galloway, Goldberg, Boney, Todd, Vasquez and Sanchez absent. MOTION 2000-1496 ADOPTED.

PURCHASING AND TABULATION OF BIDS - NUMBERS 11 and 13

LOW BIDS

11. **CUSTOM PRODUCTS CORP.** for Aluminum Traffic Sign Blanks for Various Departments \$356,939.40 - Enterprise and METRO Funds – was presented, moved by Council Member Quan, seconded by Council Member Tatro. All voting

aye. Nays none. Council Members Galloway, Goldberg, Boney, Todd, Vasquez and Sanchez absent. MOTION 2000-1497 ADOPTED.

OTHER

13. **ABACUS DIAGNOSTICS, INC** - \$19,350.00, **APPLIED BIOSYSTEMS** - \$247,662.00 and **PROMEGA CORPORATION** - \$135,429.00 for Forensic Chemicals and Test Kits for Police Department - General Fund – was presented, moved by Council Member Quan, seconded by Council Member Tatro. All voting aye. Nays none. Council Members Galloway, Goldberg, Boney, Todd, Vasquez and Sanchez absent. MOTION 2000-1498 ADOPTED.

RESOLUTIONS AND ORDINANCES - NUMBERS 25 through 59

25. ORDINANCE relating to the rescheduling or postponement of certain City Council Meetings – was presented. All voting aye. Nays none. Council Members Galloway, Goldberg, Boney, Vasquez and Sanchez absent. ORDINANCE 2000-1071 ADOPTED.
27. ORDINANCE approving and authorizing an agreement terminating a Tax Abatement Agreement between the City of Houston and **EXCEL TELESERVICES, INC** and **CHEVRON USA, INC** – was presented. All voting aye. Nays none. Council Members Galloway, Goldberg, Boney, Vasquez and Sanchez absent. ORDINANCE 2000-1072 ADOPTED.
33. ORDINANCE consenting to the addition of 366.4161 acres of land to **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 367**, for inclusion in its district had been pulled from the Agenda by the Administration, and was not considered. Council Members Galloway, Goldberg, Boney, Vasquez and Sanchez absent.
36. ORDINANCE consenting to the addition of two tracts of land totaling 37.198 acres to **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 189** for inclusion in its district – was presented. All voting aye. Nays none. Council Members Galloway, Goldberg, Boney, Vasquez and Sanchez absent. ORDINANCE 2000-1073 ADOPTED.
37. ORDINANCE consenting to the addition of two tracts of land totaling 29.04 acres of land to **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 26** for inclusion in its district – was presented. All voting aye. Nays none. Council Members Galloway, Goldberg, Boney, Vasquez and Sanchez absent. ORDINANCE 2000-1074 ADOPTED.
38. ORDINANCE approving and authorizing agreement between the City of Houston, the **FOURTH WARD REDEVELOPMENT AUTHORITY** and **REINVESTMENT ZONE NUMBER FOURTEEN, City of Houston, Texas (Fourth Ward Zone)** in connection with the City's Reinvestment Zone Number Fourteen over the Fourth Ward Area - **DISTRICT I – CASTILLO** had not been received, and the City Secretary announced it would be considered at the end of the Agenda if received during meeting. Council Members Galloway, Goldberg, Boney, Vasquez and Sanchez absent.
40. ORDINANCE approving and authorizing a Master Agreement between the City of Houston and **UNISYS CORPORATION** for purchase of Hardware, Licensing of

Software, Professional Services and Training for Various Departments - \$4,618,319.00 - Equipment Acquisition Consolidated Fund had not been received, and the City Secretary announced it would be considered at the end of the Agenda if received during meeting. Council Members Galloway, Goldberg, Boney, Vasquez and Sanchez absent.

42. ORDINANCE approving and authorizing first amendment to contract (approved by Ordinance No. 95-1289) between the City of Houston and **WORLDWIDE SECURITY ASSOCIATES, INC** for Security Guard Services for the Library Department - 15 Months – was presented. All voting aye. Nays none. Council Members Galloway, Goldberg, Boney, Vasquez and Sanchez absent. ORDINANCE 2000-1075 ADOPTED.
46. ORDINANCE appropriating \$200,000.00 out of Parks Consolidated Construction Fund, \$1,200,000.00 out of General Improvement Consolidated Construction Fund, and \$500,000.00 out of the Accumulated Unexpended Fund and transferring the \$500,000.00 to the Parks Special Fund 491 and appropriating \$500,000.00 out of the Parks Special Fund 491; approving and authorizing an interlocal agreement between the City and **HARRIS COUNTY** for Renovation, Maintenance and Operation of Lincoln Park - **DISTRICT B - GALLOWAY** had not been received, and the City Secretary announced it would be considered at the end of the Agenda if received during meeting. Council Members Galloway, Goldberg, Boney, Vasquez and Sanchez absent.
54. ORDINANCE appropriating \$2,671,200.00 out of Street & Bridge Consolidated Construction Fund, awarding contract to **RAY SMITH CONSTRUCTION, INC** on low bid of \$2,340,086.10 and approving and authorizing professional services contract for engineering testing services with **TERRA-MAR, INC** in the amount of \$70,000.00 for Bay Area Boulevard Improvements, El Camino Real to Space Center Boulevard, GFS N-0637-01-3 (N-0637); providing funding for contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund - **DISTRICT E - TODD** – was presented. All voting aye. Nays none. Council Members Galloway, Goldberg, Boney, Vasquez and Sanchez absent. ORDINANCE 2000-1076 ADOPTED.
58. ORDINANCE appropriating \$1,377,451.92 out of Water & Sewer System Consolidated Construction Fund for reimbursement to the **METROPOLITAN TRANSIT AUTHORITY** for cost of Design and Construction of Water Main and Sanitary Sewer Lines in Metro Downtown/Midtown Transit Street Program-Fannin Street from Holman Street to Pierce Street under contract approved by Ordinance No. 93-274, CIP S-0443-16-3 and R-0537-09-3 (SB9037-03) - **DISTRICT I - CASTILLO** – was presented. All voting aye. Nays none. Council Members Galloway, Goldberg, Boney, Vasquez and Sanchez absent. ORDINANCE 2000-1077 ADOPTED.
59. ORDINANCE appropriating \$680,567.68 out of Water & Sewer System Consolidated Construction Fund for reimbursement to the **METROPOLITAN TRANSIT AUTHORITY** for cost of Design and Construction of Water Main and Sanitary Sewer Lines in Metro Downtown/Midtown Transit Street Program-Fannin Street from Wheeler Street to Holman Street under contract approved by Ordinance No. 93-274, CIP S-0443-17-3 and R-0537-10-3 (SB9037-04) - **DISTRICT I - CASTILLO** – was presented. All voting aye. Nays none. Council Members Galloway, Goldberg, Boney, Vasquez and Sanchez absent. ORDINANCE 2000-1078 ADOPTED.

Council Member Castillo moved to suspend the rules to take Item No. 71 out of order, seconded by Council Member Parker. All voting aye. Nays none. Council Members Galloway, Goldberg, Boney, Vasquez and Sanchez absent. MOTION 2000-1499 ADOPTED.

71. ORDINANCE appropriating \$41,265,620.00 out of Equipment Acquisition Consolidated Fund for purchase of FY2001 Equipment for Various Departments – **(This was Item 45 on Agenda of December 6, 2000, TAGGED BY COUNCIL MEMBERS TATRO and ELLIS)** – was presented.

Council Member Tatro stated that he planned to support the item, that it was an important item with the allocation and appropriation of funds for FY2001 Equipment Acquisition, but he wanted to point out to Council Members, from the budget they passed, which had about \$34.5 million budgeted to this acquisition and the needs for the City, that they were now a few months later at \$41.2 million which was 19.4% over budget, so as they continued on a week to week basis, month to month basis to put the City's business into place with respect to the budget, he thought it was important to know the possible missteps or miscalculations as they moved forward with what they were spending versus what they budgeted to spend. Council Members Galloway, Boney and Sanchez absent.

A vote was called on Item No. 71. All voting aye. Nays none. Council Members Galloway, Boney and Sanchez absent.

MATTERS REMOVED FROM THE CONSENT AGENDA WERE CONSIDERED AS FOLLOWS:

MISCELLANEOUS

1. RECOMMENDATION from Director Building Services Department for supplemental allocation of funds in the amount of \$65,000.00 for Environmental Consulting Services on contract with **ROY F. WESTON, INC** for Advanced Site Assessment and Project Management at Fire Station 1 and Old Central Waterworks Plant, GFS D-0076-02-2 - Enterprise Fund - **DISTRICT I – CASTILLO** – was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Members Galloway, Boney, and Sanchez absent. MOTION 2000-1500 ADOPTED.
2. RECOMMENDATION from the Director Department of Public Works & Engineering for approval of the FY2001 Operations and Maintenance Budget for the **COASTAL WATER AUTHORITY (CWA)** \$11,426,030.00 - Enterprise Fund – was presented, moved by Council Member Castillo, seconded by Council Member Vasquez, and tagged by Council Members Quan and Robinson. Council Members Galloway, Boney and Sanchez absent.

Council Member Castillo asked if the budgets for the Authority and subsequent contracts expired at the end of the year, and Mr. Haines stated yes, that they did, and Council Member Castillo asked if they had one more meeting, and Mr. Haines stated yes. Council Members Galloway, Boney and Sanchez absent.

3. RECOMMENDATION from the Director Department of Public Works & Engineering for approval of the FY2001 Operations and Maintenance Budget for the **LAKE HOUSTON FACILITY PROJECT** to be operated by the Coastal Water Authority - \$943,710.00 - Enterprise Fund – was presented, moved by Council Member Vasquez, seconded by Council Member Tatro, and tagged by Council Member Robinson. Council Members Galloway, Boney and Sanchez absent.
4. RECOMMENDATION from the Director Department of Public Works & Engineering for approval of the FY2001 Operations and Maintenance Budget for the **TRINITY RIVER AUTHORITY** \$2,147,510.00 - Enterprise Fund – was presented, moved by Council Member Vasquez, seconded by Council Member Quan, and tagged by Council Member Robinson. Council Members Galloway, Boney and Sanchez absent.
5. RECOMMENDATION from the Director Department of Public Works & Engineering for approval of the FY2001 Operations and Maintenance Budget for the **SAN JACINTO RIVER AUTHORITY** \$732,697.00 - Enterprise Fund – was presented, moved by Council Member Vasquez, seconded by Council Member Tatro, and tagged by Council Member Robinson. Council Members Galloway, Boney and Sanchez absent.
6. RECOMMENDATION from Chief of Police for approval of Law Enforcement Agreements between Harris County and sixty-six (66) different Civic Organizations for law enforcement services of Constable Precincts 1, 4, 5, 6, 7 as well as the Sheriff of Harris County - **DISTRICTS A - TATRO; B - GALLOWAY; C - GOLDBERG; D - BONEY; E - TODD; F - ELLIS; G - KELLER and H - VASQUEZ** – was presented, moved by Council Member Vasquez, seconded by Council Member Castillo. All voting aye. Nays none. Council Members Galloway, Boney, and Sanchez absent. MOTION 2000-1501 ADOPTED.
7. RECOMMENDATION from Chief of Police for approval of Law Enforcement Agreement between **HARRIS COUNTY** and the **HARRIS COUNTY DEPARTMENT OF EDUCATION** for Law Enforcement Services of **CONSTABLE PRECINCT 2 - DISTRICT I - CASTILLO** – was presented, moved by Council Member Vasquez, seconded by Council Member Castillo. All voting aye. Nays none. Council Members Galloway, Boney, and Sanchez absent. MOTION 2000-1502 ADOPTED.

PURCHASING AND TABULATION OF BIDS

LOW BIDS

10. ORDINANCE appropriating \$789,008.91 out of Water & Sewer Consolidated Construction Fund for purchase of Turbine and Magnetic Type Water Meters for Public Works & Engineering Department, CIP S0958 – was presented. All voting aye. Nays none. Council Members Galloway, Boney, and Sanchez absent. ORDINANCE 2000-1080 ADOPTED.
- 10a. **SCHLUMBERGER RESOURCE MANAGEMENT SERVICES, INC** - \$770,285.00 and **BADGER METER, INC** - \$18,723.91 for Turbine and Magnetic Type Water Meters for Department of Public Works & Engineering – was presented, moved by Council Member

Vasquez, seconded by Council Member Quan. All voting aye. Nays none. Council Members Galloway, Boney, and Sanchez absent. MOTION 2000-1503 ADOPTED.

12. **DELPHAX SYSTEMS** for Page Printer Paper and Supplies, Part II for Various Departments \$609,135.00 - General and Enterprise Funds – was presented, moved by Council Member Castillo, seconded by Council Member Vasquez. All voting aye. Nays none. Council Members Galloway, Boney, and Sanchez absent. MOTION 2000-1504 ADOPTED.

OTHER

14. ORDINANCE appropriating \$277,300.00 out of Housing Special Revenue Fund for the purchase of Two Refuse Collection Trucks for the Department of Solid Waste Management – was presented and tagged by Council Members Parker and Robinson. Council Members Galloway, Boney and Sanchez absent.

Council Member Bell asked if there was anyone from Solid Waste present, that he would like to raise a question and then in the course of the next week he would like to get an aging report on the fleet, that he was curious because there had been several suggestions over the last few months regarding the fleet and was wondering where it would put them on the overall aging of that. Council Members Galloway, Boney and Sanchez absent.

Mr. Haines stated that he could get that for him in the next few minutes, that he had it up in his office. Council Members Galloway, Boney and Sanchez absent.

Council Member Robinson asked why this was out of the Housing and Special Revenue Fund.

Mayor Brown stated that it was a fund that could be used for this purpose, and asked Mr. Haines to answer it.

Mr. Haines stated that this was not the first instance that this had happened, that what they did was to identify where there were specific applications for this kind of equipment as it related to the provisions under HUD and under the CDBG Program, that was the intent behind it and the equipment would be used partially for that purpose, that he could get him the details on that as well, and Council Member Robinson asked Mr. Haines to let him know how much was in the fund, that what raised his antenna was that he had a peculiar interest in affordable housing in the City and whenever he saw anything with housing money going in a different direction in light of the commitment they had to put more housing on the ground it always raised his antenna, and they still did not even have a formal program as far as he knew on how they would use the 1/3 increments that were generated off of the affordable petition created TIRZ, so he was still looking for the overall affordable housing plan and why those kind of revenues were diverted out of that stream over into this area, and asked for someone to come and visit with him, because there were two items on the agenda that were spending special housing funds on garbage trucks, and Mr. Haines stated that the funding for this was from the residual that came out of the old RTC Program and stated that he would get that information for him. Council Members Galloway, Boney and Sanchez absent.

Council Member Parker stated that she had questions similar to Council Member Robinson's and stated that she would be happy to remove her tag later on if she got her answers. Council Members Galloway, Boney and Sanchez absent.

Mayor Brown stated they would make sure she got her answers. Council Members Galloway, Boney and Sanchez absent.

14a. **HOUSTON-GALVESTON AREA COUNCIL** for purchase of Fourteen Garbage Trucks and Twelve Cabs and Chassis through the Interlocal Agreement for Cooperative Purchasing for the Solid Waste Management Department - \$2,761,489.92 - Equipment Acquisition Consolidated and Housing Special Revenue Funds – was presented, moved by Council Member Castillo, seconded by Council Member Vasquez, and tagged by Council Members Parker, Robinson and Keller. Council Members Galloway, Boney and Sanchez absent.

15. **MARTIN MARIETTA MATERIALS** - \$21,897,057.31 and **AMERICAN MATERIALS, INC** \$12,078,506.00 for Concrete, Hot Mixed Asphaltic for Various Departments - General, Enterprise and METRO Funds – was presented, moved by Council Member Quan, seconded by Council Member Vasquez. Council Members Galloway, Boney and Sanchez absent. MOTION 2000-1505 ADOPTED.

16. **AMEND MOTION #2000-1035, 8/23/00, TO INCREASE** award amount to **TROY CONSTRUCTION, INC** by \$500,000.00 for Additional Repairs of Water Lines/Leaks for Department of Public Works & Engineering - Enterprise Fund – was presented, moved by Council Member Castillo, seconded by Council Member Vasquez. Council Members Galloway, Boney and Sanchez absent.

Council Member Quan stated that they had several allocations for repairs of the water lines and before they send some more money that way he would like a report to see where they stood and what progress had been made, that it seemed it was always another allocation in this area and knew that it was a major concern to the City, but he just wanted to see that there was progress being made to resolve this. Council Members Galloway, Boney and Sanchez absent.

Mayor Brown stated that they did distribute a report to Council Members and would make sure he got another copy of it. Council Members Galloway, Boney and Sanchez absent.

Council Member Quan moved to suspend the rules to hear from Mr. Tom Rolen, Director, Public Works and Engineering. All voting aye. Nays none. Council Members Galloway, Boney, and Sanchez absent. MOTION 2000-1506 ADOPTED.

Mr. Rolen stated that what they had right now was approximately 380 water leaks on hand, that they had been making deliberate process in getting them down, that it was a time of the year, the rainy weather and everything, where it was a little bit higher than they wanted to, that the reason they were coming to Council asking for the additional money was that a couple of months ago they received a rather lengthy fire hydrant repair list, that they had gone about the business and repaired the majority of the fire hydrants, doing it with their folks and some contractor assistance, that they would be coming to Council in the next couple of weeks with a contract to replace, straighten up and turn around fire hydrants and they would be asking for

permission to contract it out, that they had recently received another lengthy list of fire hydrant repairs from the Fire Department and they were reviewing that to determine exactly how much of that could be contracted out or would be in that contract and how much they would have to do in house, if it was like last time they would have to do it in house, that what they were asking this money for was two fold, number one it was to help them to continue to work on the leaks, but what it would also do was to allow them to have additional crews to make water leak repairs, so that some of the crews who typically make water leak repairs could work on some of the fire hydrants, in other words it kept them going in a parallel track, addressing the water leaks and the fire hydrants. Council Members Galloway, Boney, and Sanchez absent.

Upon questions by Council Member Quan, Mr. Rolan stated that in this particular contract they work long hours and weekends, in fact since last Thursday they had asked them to gear up and they were able to and were fielding 10 to 11 crews a day making repairs, the contracts that they were referring to with normal hours were the other two contracts, the annual contracts, and those were basically five day a week normal working hours, that the total they were spending was higher this year and that was because of the drought they had this summer. Council Members Galloway and Sanchez absent.

Upon questions by Council Member Tatro, Mr. Rolan stated that they were working very hard to fill all of their FTE's now, that they were exploring the option of hiring additional full time City staff to the maintenance and repair group and once they completed their analysis it would be one of the alternatives they were looking at, increasing staff and or contracting it out; that the peak of water leaks this summer was 743, that the backlog last year rose significantly and as they recalled it carried over into this year when it was excessive, that what they were looking to do was to keep that number down around 100, that was their goal. Council Member Galloway absent.

Upon questions by Council Member Bell, Mr. Rolan stated that that this was part of the money that Council allocated last summer, the supplemental funds; that they were current on their reports and they were on the same format, that he would be glad to provide a copy of both reports, that they had submitted both reports, that Council had asked for bi-monthly reports and they had submitted two of them, that what the report included on water leaks the number of repairs reported during the two month period and the number of repairs made and the backlog at the end of the reporting period, that it had the same information for sewer repairs because they asked for that also, that they included information on the number of stoppages that had been reported to them, that they included some notes to explain different things, for example, they indicated in the report what the average time to respond to stoppages were, they indicated if they augmented staffing through contracts and that was an overview of what they included, and he trusted that it would allow Council to do what they wanted to do and if not they were more than willing to work with the Council to provide them what they needed, and Council Member Bell requested the two reports that Mr. Rolan referred to as meeting the requirements set forth and the amendment that he proposed in the summer. Council Member Galloway absent.

Upon questions by Council Member Parker, Mr. Rolan stated that yes, they did have three separate contracts for the supplemental water leak program, that they were using all three contracts as much as they possibly could, that the first two contracts when the plans and specifications were prepared were basically normal working hour contracts, they did not have any requirements as to a minimum number of crews that would be required, so basically they were trying to spend the money over the period with the contractor, that they had talked and

visited with him about the possibility of working overtime and had asked him for a proposal, that when they bid this contract was that in the pre bid conference they told the people that were there that they would expect them to work whatever time, ten or twelve hours a day, six to seven days a week, so they were clear on that when they bid it, that they would expect them to be there when they needed them and they responded; that they had asked the contractor for information and he had provided it to them and they were going to look to negotiate because what they initially received they needed to look at further. Council Member Galloway absent.

A vote was called on Item No. 16. All voting aye. Nays none. Council Member Galloway absent. MOTION 2000-1507 ADOPTED.

RESOLUTIONS AND ORDINANCES

17. RESOLUTION approving the action of the City of Houston **HIGHER EDUCATION FINANCE CORPORATION** for the University Courtyard Project (Texas Southern University) – was presented. All voting aye. Nays none. Council Member Galloway absent. RESOLUTION 2000-49 ADOPTED.
18. RESOLUTION approving amendments to the Bylaws and Guidelines for Regulations and Procedures of the City of Houston Health Facilities Development Corporation – was presented. All voting aye. Nays none. Council Member Galloway absent. RESOLUTION 2000-50 ADOPTED.

Council Member Castillo stated that he knew they passed Item No. 17 and wanted to take the opportunity to thank the leadership of Texas Southern University and Mr. Johnny Kyles for working so diligently on it to make housing available to students on campus. Council Member Galloway absent.

19. RESOLUTION consenting to the annexation of 362.6961 acres of land into the **WESTCHASE DISTRICT**, a Municipal Management District - **DISTRICTS F - ELLIS and G - KELLER** – was presented. All voting aye. Nays none. Council Members Galloway and Boney absent. RESOLUTION 2000-51 ADOPTED.
20. RESOLUTION approving amendments to the Articles of Incorporation and Bylaws of the Main Street/Market Square Redevelopment Authority - **DISTRICT I - CASTILLO** – was presented. All voting aye. Nays none. Council Members Galloway and Boney absent. RESOLUTION 2000-52 ADOPTED.
21. ORDINANCE relating to the issuance and sale of City of Houston, Texas, Tax and Revenue Certificates of Obligation, Series 2001A; authorizing publication of notice of intent to issue such certificates; authorizing the Finance Working Group to proceed with the issuance of such certificates; making various findings and provisions relating thereto; and declaring an emergency (Cotswold Project) - **DISTRICT I – CASTILLO** – was presented.

Council Member Boney asked why they had chosen to use Certificates of Obligation rather than Street Bonds on this particular project, and Mr. Haines stated that it was a transition effort where the initial issuance was a short term, that they felt the bonds needed to be extended for or needed to be reissued in order to recover or amortize to the life of the

project, that he would prefer to get him that answer with their financial advisor, and Mayor Brown stated that essentially they had short term debt and this extended the life of the debt to coincide with the life of the project itself, and Council Member Bell asked if it would not have been cheaper to go with the Street Bonds, and Mr. Haines stated that both of the issuance's were based on general obligation debt, that the rate structure would have been exactly the same. Council Members Galloway and Boney absent.

Council Member Keller stated that he noticed that a lot of the revenue was going to be achieved from parking meters, that some time ago they did a breakdown on parking meters and what he noticed was that it was a number like \$8.5 million that they got from parking meters, and \$6.7 million of it was coming from fines, that it was a 4 to 1 ratio and they did it in committee, and asked if they were taking some of this money from the revenue of parking meters, which he thought were over fined and needed to be worked on in that plan, then what was that money being taken from, and number two what was the status of their plan on parking meters, since it had now become a part of this important project, to maybe get parking meters longer for people to visit downtown for two, three or four hours and possibly pay more, so those were the two concerns he had that were related. Council Members Galloway and Boney absent.

Mr. Haines stated that the original intent behind the Cotswold concept was that it be a self sufficient or self supporting initiative, and it really came out of study that was initially done by a group of interested business leaders who were looking to privatize the project and when it was realized that it could not be done they went ahead and assumed the principal, the principal that they could improve the downtown streets and make them more pedestrian friendly and so forth, by pledging a new revenue stream, that the revenue stream pledged right now was part of the General Fund, but they track the revenue source coming out of the Cotswold project separately, and it was precisely to his first question that they were recommending that they not move forward with the construction of Phase II of Cotswold at this time, that they did not think there was enough of a track record at this point to verify or validate the original modeling that was done in putting the Cotswold Master Plan together in the first place, that in conjunction with that it had to do with the financing question, the original issuance was very short term and what they wanted to do was extend that issuance more to conform with the life of the project as they did in any other kind of bonding capacity, but the revenue itself is an additive revenue, it was not revenues that would have otherwise accrued, but for the development of the Cotswold area, the amenities, the restaurants and so on, that would be put into place there, and Council Member Keller asked what was the status of their implementing the new parking meter plan that they had talked about, and Mr. Haines stated that was under way, that the implementation initiative was really going forward with each phase of Cotswold, that there were some elements of the parking plan that still needed to be presented and discussed with City Council, such as the valet ordinance and some other issues, and Council Member Keller asked if they could assure the public that they had an intent to try and not make the ratio 4 to 1 on where they achieve the revenue from a fine versus the coins they put in the box, and Mr. Haines stated he thought that was one of the questions they had with the original model; that what they were proposing to do was to complete Phase 1, give them a few months to begin the design of Phase II, that those two elements they could manage based on the current revenue and the models they had. Council Members Vasquez and Parker absent.

Council Member Quan stated he thought there were several legitimate questions being raised and saw that it was on the agenda for the Regional Planning Meeting that afternoon so

he would like to tag the item for a week so they could get clarification. Council Members Tatro, Keller and Sanchez added their tag to the item. Council Members Vasquez and Parker absent.

Council Member Robinson asked Mr. Haines how much revenue were they talking about being generated and off of how many meters in the Cotswold area, and Mr. Haines stated that he would present that to the committee this afternoon, that he did not have it in front of him, and Council Member Robinson stated that he tagged the item also. Council Members Vasquez and Quan absent.

Council Member Boney reminded the Members of the Regional Planning Committee that they did have an urgent Regional Planning and Charter Ordinance Committee meeting scheduled for 1:30 p.m. this afternoon. Council Members Vasquez and Quan absent.

22. ORDINANCE providing for Performance Incentives in the form of Compensated Leave to be awarded to eligible City employees; containing findings and other provisions relating to the foregoing subject; providing for severability – was presented.

Council Member Tatro stated that this was a performance incentive plan and he had passed out a spreadsheet to Council Members, that he knew there had been discussion about the thresholds at which they instituted for department by department, that he wanted to take a step back and look at it sort of as a tree through the forest issue, and that was what was the threshold at the City where they decide to implement or not implement the PIP based on the City's and administrations performance for the taxpayer, that he would call attention to the original executive order that was issued by Mayor Lanier and the objective of the entire program under Section 2 of the Executive Order read "departmental plans that link employee awards to budgetary performance in terms of available savings or excess funds balances should provide a powerful incentive for enhanced performance", that obviously if they had been following the City's finances they did not have an excess fund balance and they failed to even meet the City's fund balance at 7.5% that they described in the budget, so the question became not in the micro management of the PIP and which department gets it, but whether the City was in a financial position, as the private sector would say, to be handing out bonuses to the employees when the City is effectively in the red for net current activity in the current year, that the spreadsheet he passed out to Council Members detailed the last 10 years, that Council Members would note that in the last two years they had a net current activity loss or had been in the red, so he thought the City ought to institute a policy by which they say when was the PIP going to be given to the employees, was the City going to have a net fund balance in the positive before they gave bonuses to employees, was the City going to have to meet its budgeted fund balance reserve, which they failed to do this year, before it gave bonuses to employees, that they were basically looking to give people days off for their work, that he did not object to time off, but it did impact the efficiency of the City and the constituents and their services, that he thought it was a substantial issue in policy for the City and thought what the Council Members had to ask was exactly what was the financial position did the City have to be in before they gave a performance incentive plan based on the previous years activity, and he asked could they loose in the net current activity \$20 million, could they be in the red \$30 million and still give a PIP, that he thought it was improper and penalized the taxpayer, that the wanted to benefit the City employees also but they had to think of the City's financial position and whether they were going to be giving bonuses out and whether those bonuses were fair and equitable for the taxpayers also. Council Members Goldberg, Castillo, Quan and Robinson absent.

Mayor Brown stated that he wanted to make a quick correction on Council Member Tatro's analysis, the City was not in the red and had never been in the red, the City had a 5% fund balance that was up to 7.5% fund balance, that they now had close to a 7% fund balance, so it was inaccurate and incorrect to say that the City had been in the red, and Council Member Tatro stated that he had said that the net current activity was in the red, and Mayor Brown stated that he wanted to correct Council Member Tatro's false information, the City was not in the red, the City had not been in the red and the City would not be in the red and it was incorrect for Council Member Tatro to say that, that he thought it was appropriate to give the employees some consideration and that was what it was about. Council Members Goldberg and Quan.

Council Member Boney stated that he shared Mayor Brown's feelings about the remarks of Council Member Tatro with regard to the PIP program, that he had gone on a tour of Enron, one of the leading corporations in America, that they hired the best and brightest and paid them the best, that in fact if they exceeded their objectives and benchmarks their bonuses were more than their salaries, that the City could not keep good employees if they did not pay them well and if they did not give incentives and reward their good work, that part of the problem that was created by the strange economics that Council Member Tatro often asserted was that they cut the revenue of the City which gave them less money available in order to increase the salaries or the staffing levels of Police and Fire, even if they did not believe that the civilian employees ought to be rewarded, not only did they then decrease the available money so they might compensate the employees that needed to have their salaries raised or did exceptional work and therefore needed to be rewarded financially, which was what every employee wanted, but now he did not even want to give them comp time off, that it did not make any sense, that if they did not have enough money in the City, for whatever reasons, for pay increases and incentive pay for performance the very least they could do was give them comp time. Council Members Goldberg and Quan.

Council Member Bell stated that his understanding was that as far as the departments that set these goals no departments failed to meet the goals and asked if that was correct and accurate information, and Mr. Haines stated that each department set more than one objective and what they determined was that all of the departments met at least half of those objectives, similar to the evaluation they did a year ago, that based on that scoring they would provide a minimum of one day to those employees, and Council Member Bell asked if the goal of the program was to set the bar high enough to where they were truly rewarding extraordinary type performance or was it merely to reward what was just to be expected of every employee, and Mr. Haines stated that each department director set his or her own goals, that there were two basic requirements that they had as those goals were set, first that they had to be greater than the prior year, that there had to be an increment of improvement if they were using the same set of objectives year to year, and secondly in order for any employee to benefit from any award that employee had to have received a satisfactory individual performance rating or an EPE, that based on those two criteria the departments themselves had discretion to set their goals and objectives, that one of the things that he had noted in his memo to the Council was that they would intend to do was to apply a uniform and consistent set of standards to those goals year to year, that up to this year they had left that entirely to the discretion of the director, and Council Member Bell asked as far as any new program that may be brought forth would they anticipate that they would see that in the coming year if they were going to more of the corporate model where they had a lottery system if they met a certain standard of performance then they qualified for perhaps a prize at the end of the year like some major

corporations were doing, and Mr. Haines stated that actually the Aviation Department did do that, a lottery type of program, but what they were proposing here, and he thought it was because the individual objectives had been set, what they wanted to do was come back to City Council prior to the beginning of the budget process to actually review and discuss with Council Members this in context of general performance issues as it related to the City employees, that what they were doing here, because it was driven on the basis of excess fund balance, because the goals and objectives had been set and because they saw no likelihood of any type of adjustments within the civilian employees this year, that at least they could do a non fiscal impact type of program which was what this one was. Council Member Goldberg absent.

Council Member Robinson asked what was the cost of a 3% to 4% salary increase for General Fund non classified employees, and Mr. Haines stated that based on the last time anything like this was done it was 2% and the annualized impact was about \$2 million, so it was 4% per percentage give or take, and Council Member Robinson asked that he find that out for him and Mr. Haines stated yes, and Council Member Robinson stated that during the course of the discussion earlier he heard that they had moved up from about a 5% reserve in the General Fund to about 7%, and Mr. Haines stated that the goal was 7.5%, that they were at 6.7% this last fiscal year, and Council Member Robinson stated that he remembered during the course of the conversation around the tax cut they passed an amendment that said they were going to move away from the 7.5% requirement to a \$5 million rainy day fund and asked what was 6.7% equivalent to in dollars, and Mr. Haines stated that he did not have the Monthly Financial Report in front of him that showed the CAFR numbers, or what that fund balance figure was, but thought about \$69 million or \$70 million was at 6.5%, and Council Member Robinson stated that if they as Council adopted a process where they were moving away from the percentile to a flat \$5 million then they could fully fund a \$5 million rainy day fund and they would still have \$64 million if they were at 6.7% now, and Mr. Haines stated yes, and that was assuming they set aside the \$5 million and they had to do that this fiscal year, and Council Member Robinson stated that the point he was trying to get to was that they could talk about it but if they went to a flat \$5 million rainy day fund and they had \$69 million, they had \$64 million that was still out there, and the other observation he would make was that he had the same concern that Council Member Boney had to a certain degree, that he thought their wage structure was prohibited and they had to make modifications in it to make the City more competitive with the private sector, and the other observation he would make was that as far as he knew there had never been an analysis of the workforce in terms of size, scope and responsibility and the like and those things had to be a part of the analysis. Council Member Boney, Vasquez and Sanchez absent.

Mayor Brown asked Mr. Haines if there were a number of items that they had to cover in this fiscal year like increase in health benefits, Workman's Compensation, debt service and all those things where they rollback to the 5% rainy day fund, that those other funds would be used for these purposes, and Mr. Haines stated yes.

Council Member Keller stated that he was going to support the item for a lot of different reasons that were mentioned by some of his fellow colleagues, but the plan did need improvement, that he had numerous meetings on the plan and did not think it should be uniform, that what he would like to see in an incentive was that they had \$838 million being spent a year in capital improvement and interest on that could be somewhere to \$60 million to \$70 million, that if a crew could finish something a month or two months earlier on a \$20 million to \$40 million size project that was a \$200,000 savings or maybe even more in some

regards to the taxpayers of the City of Houston, that why would that crew in Public Works, Solid Waste, etc. if they saved \$200,000 for coming in early on a job, like they did when they did Pierce overpass, why would it not be substantial to give them \$5,000 and those guys would now have the incentive when they wake up in the morning to get this thing done sooner or better, that he would like each department to really think about it and not just come up with just a uniform across the board, and Mr. Haines stated that they would agree, but the fact was that the performance incentive plan itself was tailored by each department and he believed there were two areas they thought there was significant opportunity for improvement, and one was that they get it on the front end and they identify what that award could be on the front end as opposed to dealing with it unfortunately the way it happened here, and secondly that they really needed to look at performance, that this type of program, in the general context that had been raised by other Council Members as well, and that was the general issue of compensation and it would be their intent, as they spelled out in the memorandum to them that accompanied the RCA, that in anticipation of the budget that they would not do a PIP for Fiscal 2001 but that they would do one for Fiscal 2002 in a comprehensive context that would be presented to Council as they proceeded forward on the budget. Council Member Boney absent.

Council Member Parker stated that they actually only converted their 2.5% Rainy Day Fund, that they had a 5% reserve that they maintained, but at Council table they did not take away the whole 7.5% they only converted 2.5% reserve to \$5 million, and Mr. Haines stated that was correct, that if they could get there they were probably looking at somewhere around \$16 million to \$18 million, that as the Mayor stated clearly they wanted to make sure that they were recognizing that there were other potential contingencies that had to be addressed. Council Members Boney and Todd absent.

Council Member Castillo stated that he intended to support the item, that he believed the employees deserved more consideration than they were giving them, but under the circumstances this was the best that they could do.

Council Member Castillo moved to call the question, seconded by Council Member Vasquez. All voting aye. Nays none. Council Members Boney and Todd absent. MOTION 2000-1508 ADOPTED.

A vote was called on Item No. 22, with Council Member Tatro voting no, balance voting aye. Council Members Boney and Todd absent. ORDINANCE 2000-1081 ADOPTED.

23. ORDINANCE adopting a three-year Annexation Plan in accordance with Section 43.052 of the Texas Local Government Code; containing findings and other provisions relating to the foregoing subject; providing for severability – was presented.

Council Member Todd moved to suspend the rules to hear from Mr. Jerry Wood, Planning and Development, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Boney absent. MOTION 2000-1509 ADOPTED.

Council Member Todd asked Mr. Wood for the purposes of actually explaining the actual item before them, the State statute requires that the City list all territories that they either wanted to annex or include in a strategic partnership agreement on their own initiative over the next three years and asked if that was initially what it was.

Mr. Wood stated that it was a little more restricted than that, that they did include a listing of the districts that they wished and the fact that they would be looking at strategic partnership agreements in the annexation plan, but the State did not require them to do that, that they required them to list everything that they were going to annex on their initiative, not anything that they were going to annex at the request of a property owner or water district, that the City had established a policy at this time and through the annexation plan expressed that policy of annexing based on a request for annexation by property owner, home owners or a municipal utility district board and those were among the exceptions in the State statutes that were included for not listing in an annexation plan, and Council Member Todd stated that Baybrook One was the only strategic partnership agreement that he saw in the plan and asked if there were a great number of other areas that had asked to be included, and Mr. Wood stated that they had some discussion with some other utility districts that were commercial utility districts on the possibility of strategic partnership agreement with those MUDS, but in those particular cases they had not passed a resolution of making it official that they were in negotiations, that they had given them copies of the Baybrook plan so that they could understand better how it worked because it was all new for the water district lawyers at this point, that they were still learning how they could be used, and Council Member Todd asked for the purpose of initiating a request could any citizen in an unincorporated area initiate it or did it have to be a MUD, and Mr. Wood stated that they did not have to be in a Municipal Utility District, that in 1998 they did an annexation of a two block area, that residents there wanted to get access to City of Houston utilities, that they had to do an analysis because sometimes it was not possible for them to annex, so they had to do an analysis to respond to any kind of request they got from a resident or from a MUD, and Council Member Todd asked with certain areas like the Woodlands that had a 10 year agreement with the City, that even though they had that agreement with would they still have to list them in a plan at the appropriate time, and Mr. Woods stated that if they had an annexation plan, if there was some future administration proposal that they annex the Woodlands it would have to be on an annexation plan and so three years from the date which they would be proposing to annex them they would have to announce that and then they would have certain steps they would have to take including an infrastructure development plan, that the districts would have the option of requiring the City to negotiate with them for a strategic partnership agreement and that strategic partnership agreement would be a alternative to annexation, and Council Member Todd asked if part of the State statute were they required to post any sort of de-annexation plan if they had any intent to de-annex, and Mr. Wood stated there was no reference to de-annexation in the State statute. Council Members Boney and Quan absent.

Council Member Ellis asked that assuming that a neighborhood or some area came to the City and requested to be annexed how would they go through that process, and Mr. Wood stated that it was not laid out in ordinance, that in the particular cases that they had, they had a request from the affected residents, so they had a listing of the people who wanted to be annexed in the two block area, that having gone through the annexation process before, they start out with the knowledge that there would be some people in the neighborhood who wanted to be annexed and many people perhaps who did not want to be annexed, so they did not assume an expression of interest for annexation by a small number of people in a populous area represents the will of everyone in that area, what they would do in that situation was they would try to get some sense of the concerns of some of the other residents in the area, that they had not been through that process so he could not tell them exactly the process they would go through, but they would not assume that two people would represent the concerns of everyone there, and Council Member Ellis asked that assuming that the City's plans changed what would be the process, would they have to come back and adopt a new

ordinance at that time, could they adopt a new ordinance at any time or would they do that before each session, and Mr. Wood stated that it was his understanding that it was possible for the City to amend the annexation plan, that there was nothing preventing them from doing that. Council Members Boney, Quan, Keller and Robinson absent.

A vote was called on Item No. 23. All voting aye. Nays none. Council Members Boney, Quan, Keller and Robinson absent. ORDINANCE 2000-1082 ADOPTED.

24. ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of (i) that portion of the Cityway Drive Right-of-way between Citywest Drive and the Frontage Road of the Sam Houston Tollway, containing 65,498 square feet, and (ii) a sanitary sewer easement, containing 3,768 square feet, both out of Unrestricted Reserve "A", Citywest Place Section Two, in the George Bellows Survey, A-3, Harris County, Texas; vacating and abandoning said right-of-way and sanitary sewer easement to BMC Software, Inc., the abutting property owner, in consideration of the dedication to the City by owner of three water meter easements, a water line easement and a sanitary sewer easement, and payment of the sum of \$1,176,707.00 to the City by owner, and other good and valuable consideration to the City **DISTRICT G – KELLER** – was presented. All voting aye. Nays none. Council Members Boney, Quan, Keller and Robinson absent. ORDINANCE 2000-1083 ADOPTED.
26. ORDINANCE establishing the north and south sides of the 700 Block of East 9th Street within the City of Houston as a Special Building Line Requirement Area pursuant to Chapter 42 of the Code of Ordinances, Houston, Texas; making findings and containing other provisions related thereto; providing for severalty - **DISTRICT H - VASQUEZ** – was presented. All voting aye. Nays none. Council Members Boney, Quan, Keller and Robinson absent. ORDINANCE 2000-1084 ADOPTED.
28. ORDINANCE approving and authorizing lease and development agreement between the City and **500 TEXAS AVENUE LIMITED PARTNERSHIP** related to the Albert Thomas Convention Center **DISTRICT I - CASTILLO** – was presented. All voting aye. Nays none. Council Members Boney, Quan, Keller and Robinson absent. ORDINANCE 2000-1085 ADOPTED.
29. ORDINANCE approving and authorizing two applications for grant assistance to the Governor's Criminal Justice Division for funding for Local Delinquency Prevention Program; declaring the City's eligibility for such grants; authorizing the Mayor to act as the City's Representative in the application process; authorizing the Director of the Mayor's Office of Public Safety and Drug Policy for the City of Houston to accept such grant funds and to apply for and accept all subsequent awards, if any, pertaining to the program - \$500,000.00 Grant Fund - \$257,576.00 General Fund FY2002 – was presented. All voting aye. Nays none. Council Members Boney, Quan, Keller and Robinson absent. ORDINANCE 2000-1086 ADOPTED.
30. ORDINANCE approving and authorizing contracts between the City and **PILGRIM COMMUNITY CENTER, WHEELER AVENUE BAPTIST CHURCH, JULIA C. HESTER HOUSE, WESLEY HOUSE SENIOR CENTER, INDOCHINESE CULTURE CENTER** and **DENVER HARBOR SENIOR CENTER** for the provision of Nutrition and Transportation Services for the Elderly; providing a maximum contract amount;

approving and authorizing first amendment with **INTERFAITH MINISTRIES FOR GREATER HOUSTON - Area 8** (and Service Areas 1 and 4 as required); amending Ordinance No. 97-1175 to increase the maximum contract amount - 2 Years \$3,107,642.00 - Grant Fund - **DISTRICTS B - GALLOWAY; D - BONEY; E - TODD; H - VASQUEZ and I - CASTILLO** – was presented. All voting aye. Nays none. Council Members Boney, Quan, Keller and Robinson absent. ORDINANCE 2000-1087 ADOPTED.

31. ORDINANCE consenting to the addition of 25.37 acres of land to **FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 23**, for inclusion in its district – was presented. All voting aye. Nays none. Council Members Boney, Quan, Keller and Robinson absent. ORDINANCE 2000-1088 ADOPTED.
32. ORDINANCE consenting to the addition of 10.5168 acres of land to **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 221**, for inclusion in its district – was presented. All voting aye. Nays none. Council Members Boney, Quan, Keller and Robinson absent. ORDINANCE 2000-1089 ADOPTED.
34. ORDINANCE consenting to the addition of 63.1359 acres of land to **GRANT ROAD PUBLIC UTILITY DISTRICT**, for inclusion in its district – was presented. All voting aye. Nays none. Council Members Boney, Quan, Keller and Robinson absent. ORDINANCE 2000-1090 ADOPTED.
35. ORDINANCE consenting to the addition of 1.4739 acres of land to **DOWDELL PUBLIC UTILITY DISTRICT**, for inclusion in its district – was presented. All voting aye. Nays none. Council Members Boney, Quan, Keller and Robinson absent. ORDINANCE 2000-1091 ADOPTED.
39. ORDINANCE approving and authorizing sublease agreement between **CAMPAIGN STRATEGIES, INC**, as sublessor, and the City of Houston, Texas, as sublessee, for space at 1220 Colorado, Austin, Texas, to be used as Office Space for the City's Legislative Affairs Group \$28,200.00 - General Fund – was presented, and tagged by Council Members Bell and Keller.

Council Member Keller stated that he noted that there was research done for the possibility of leasing office space in other office buildings, and it was possibly done by the Legal Department and asked for a copy of the market survey that they did it would be helpful in expediting the item, that he would not have a problem with doing his own market survey if they did not have it, but with those numbers it showed a \$56.42 per square foot rental rate on an annualized basis and that would also be using if they were paying \$150 per month for a parking space, so he was just trying to back into what was the rental rate for square foot that they were basing it on and how much were they having to pay to lease the five parking spaces also, and he requested it all broken out, and Mayor Brown stated they would get that for him. Council Member Boney absent.

41. ORDINANCE approving and authorizing first amendment to contract (approved by Ordinance No. 96-42) between the City of Houston and **WORLDWIDE SECURITY ASSOCIATES, INC** for Security Guard Services for the Parks & Recreation Department - 15 Months – was presented, tagged by Council Member Goldberg. Council Member

Boney absent. **(Note: Council Member Goldberg removed his tag later in the meeting.)**

43. ORDINANCE approving and authorizing first amendment to contract (approved by Ordinance No. 95-953) between the City of Houston and **WORLDWIDE SECURITY ASSOCIATES, INC** for Security Guard Services for the Various Departments - 15 Months – was presented. All voting aye. Nays none. Council Member Boney absent. ORDINANCE 2000-1092 ADOPTED.
44. ORDINANCE appropriating \$1,250,000.00 out of Airport System Subordinate Lien Revenue Bond Fund (NON-AMT) and authorizing payments as required by the Federal Uniform Relocation Assistance Act to persons displaced from property required for the Expansion at Bush Intercontinental Airport, CIP A-0024 - **DISTRICT B - GALLOWAY** – was presented. All voting aye. Nays none. Council Member Boney absent. ORDINANCE 2000-1093 ADOPTED.
45. ORDINANCE approving and authorizing amendment to an Interlocal Agreement between the City of Houston and the **TEXAS DEPARTMENT OF TRANSPORTATION** for the Central Street Extension over the Manchester Train Yard, CIP N-0676-01-2 (N-0676-01) - **DISTRICT I - CASTILLO** – was presented. All voting aye. Nays none. Council Member Boney absent. ORDINANCE 2000-1094 ADOPTED.
47. ORDINANCE appropriating \$74,004.00 out of Street & Bridge Consolidated Construction Fund to reimburse Union Pacific Railroad Company (“UPRR”) for certain fixed material costs for the improvement of the at-grade crossings of UPRR’s Tracks at San Felipe, North Braeswood Blvd., and South Braeswood Blvd., and approving and authorizing the Mayor to execute a Grade Crossing Surface Improvements Construction and Maintenance Agreement with UPRR for such crossing improvements; CIP N-0670-02-3 (N-0670) - **DISTRICTS C - GOLDBERG and G - KELLER** – was presented.

Council Member Keller stated that after learning a lot from the railroad and Doug Miller and Tom Rolen the actual cost would have been about \$300,000 to the City so he was glad that Mr. Rolen went and cut a good deal with them to where it was only \$74,000, that he was glad that they were getting three crossings fixed and was hopeful that in the next year they would be able to continue the program and maybe get eight more crossing fixed. Council Members Boney and Bell absent.

A vote was called on Item No. 47. All voting aye. Nays none. Council Member Boney absent. ORDINANCE 2000-1095 ADOPTED.

48. ORDINANCE approving and authorizing contract between the City of Houston and **MONTGOMERY WATSON AMERICAS, INC** for engineering services relating to the City’s Water Modeling Project - \$59,800.00 - Enterprise Fund – was presented. All voting aye. Nays none. Council Members Boney and Bell absent. ORDINANCE 2000-1096 ADOPTED.
49. ORDINANCE appropriating \$341,460.00 out of Water & Sewer System Consolidated Construction Fund and approving and authorizing professional services contract between the City of Houston and **JAYMARK ENGINEERING CORPORATION** for the

- Design of Water Lines Replacement in Gulf Meadows Subdivision, CIP S-0035-81-2 (10667); providing funding for contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund - **DISTRICT E - TODD** – was presented. All voting aye. Nays none. Council Members Boney and Bell absent. ORDINANCE 2000-1097 ADOPTED.
50. ORDINANCE appropriating \$124,300.00 out of Street & Bridge Consolidated Construction Fund and approving and authorizing an amendment to professional engineering services contract between the City of Houston and **SES HORIZON CONSULTING ENGINEERING, INC** for the Design of Neighborhood Street Reconstruction in Afton Oaks Subdivision, Segment II, CIP N-0369-01-2 (N-0369-01); providing funding for contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund - **DISTRICT G - KELLER** – was presented. All voting aye. Nays none. Council Members Boney and Bell absent. ORDINANCE 2000-1098 ADOPTED.
51. ORDINANCE appropriating \$96,300.00 out of Street & Bridge Consolidated Construction Fund as an additional appropriation for Design of Lyons Avenue Paving from Waco Street to Southern Pacific Railroad, CIP N-0719-01-2 (SB9015), under professional engineering services contract with **WAYNE SMITH & ASSOCIATES, INC**, (approved by Ordinance No. 99-1393); providing funding for contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund - **DISTRICTS B - GALLOWAY and H - VASQUEZ** – was presented, and tagged by Council Members Vasquez and Keller. Council Members Boney and Bell absent. **(Note: Council Member Keller released his tag later in the meeting.)**
52. ORDINANCE appropriating \$1,315,000.00 out of Water & Sewer System Consolidated Construction Fund and approving and authorizing professional services contract between the City of Houston and **PATE ENGINEERS, INC** for Design of the Rehabilitation of Water Storage Tanks, CIP S-0600-25-2 (WA10675); providing funding for contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund – was presented. All voting aye. Nays none. Council Member Bell absent. ORDINANCE 2000-1099 ADOPTED.
53. ORDINANCE appropriating \$482,260.00 out of Water & Sewer System Consolidated Construction Fund and approving and authorizing professional services contract between the City of Houston and **PEPE ENGINEERING, LTD.** for the Design of Water Lines Grid Extension Package 1 at various locations, CIP S-0700-56 (WA10677); providing funding for contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund - **DISTRICTS A - TATRO; B - GALLOWAY; F - ELLIS and G - KELLER** – was presented. All voting aye. Nays none. Council Member Bell absent. ORDINANCE 2000-1100 ADOPTED.
55. ORDINANCE appropriating \$3,608,500.00 out of Water & Sewer System Consolidated Construction Fund, awarding contract to **ALSAY, INCORPORATED** on low bid of \$3,075,215.00 and approving and authorizing professional services contract for engineering testing services with **HBC ENGINEERING, INC** in the amount of \$100,000.00 for Rehabilitation of existing water wells, GFS S-0200-11-3 (10562-01);

providing funding for construction management and contingencies relating to construction of facilities financed by the Water & Sewer Consolidated Construction Fund – was presented. All voting aye. Nays none. Council Member Bell absent. ORDINANCE 2000-1101 ADOPTED.

56. ORDINANCE appropriating \$1,401,000.00 out of Water & Sewer System Consolidated Construction Fund, awarding contract to **LEM CONSTRUCTION CO., INC** on bid of \$1,230,350.00 and approving and authorizing professional services contract for engineering testing services with **ASSOCIATED TESTING LABORATORIES, INC** in the amount of \$35,000.00 for Bissonnet No. 4 Lift Station Rehabilitation, GFS R-0267-64-3 (4276-22); providing funding for contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund - **DISTRICT F - ELLIS** – was presented. All voting aye. Nays none. ORDINANCE 2000-1102 ADOPTED.
57. ORDINANCE appropriating \$2,860,000.00 out of Water & Sewer System Consolidated Construction Fund, awarding construction contract to **RELIANCE CONSTRUCTION SERVICES, L.P.**, and approving and authorizing professional services contract for engineering testing services with **MURILLO SERVICES, INC** in the amount of \$85,000.00 for On-Call Water Main and Sanitary Sewer Extensions, GFS S-0700-OD-3 (WA10660); providing funding for contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund – was presented, and tagged by Council Member Tatro.

Council Member Tatro stated that this item was for a construction contract that was labeled on call water maintenance sanitary sewer extensions, that he was going to tag the item and wanted to meet with someone from Public Works, but it went more to a policy matter than the particular contract in lieu of the redo of the developer participation agreement, that his concern was that they were going to give a contract, which would be evergreen and then the contractor would then go out and add to water and sewer mains possibly for the development of homes or housing and his concern was who was going to benefit from this and for what criteria was going to be used for the City installing some water and sewer mains and for development reimbursement agreements to be utilized for other developers extending water and sewer mains, so he saw those as possibly conflicting interests, that Council needed to be aware that this contract would put into place the City's ability to go out and extend water and sewer mains and ostensibly it would be for housing, and that was not a bad thing, but the criteria that would be used was up in the air, and he asked if this particular contract gone through any Council committee and Ms. Stein stated no, and Mayor Brown stated there was a great deal of coordination with their development participation efforts, but they would have someone meet with him and go over in detail about what was going on.

60. ORDINANCE appropriating \$120,000.00 out of Housing Special Revenue Fund for the purchase of One Refuse Collection Truck with two Roll-Off Containers as ancillary equipment for the – was presented, and tagged by Council Members Robinson and Parker.

NON CONSENT AGENDA - NUMBERS 61 and 62

MISCELLANEOUS

61. RECEIVE nominations for Position 4 of the Land Assemblage Redevelopment Authority Board for a term to expire October 31, 2002 – was presented.

Council Member Boney stated that he did not know if it was possible legally, but would like to ask for a one week delay on Item No. 61, and Mayor Brown stated that they had no objections to a delay.

Council Member Sanchez stated that he would ask the purpose of the delay, that the item had been posted and Council had agreed that today was the day to receive nominations, and Council Member Boney stated that he had a few questions, that he obviously supported the Land Assemblage Redevelopment Authority and did not have another person to nominate, but was simply trying to work on some matters that would facilitate them getting the program up and running and thought he might be able to do so if he had another week to work on it, and Council Member Sanchez stated that he did not quarrel with the idea of Council Member Boney needing the time to look at the program, that it was simply the nomination of a member which was adequately posted and Council agreed that today would be the day to receive nominations.

Council Member Boney moved to postpone Item No. 60 for one week, seconded by Council Member Todd.

Council Member Keller stated that he was certainly hopeful that it did not have anything to do with a nominee, that he wanted to point out to the Council that Mr. Wolff had given unselfishly thousands of hours of his time to the City.

Council Member Robinson stated that why not take nominations and then delay the vote on the nominations if there was a need for time, but it just did not make sense not to take nominations if people were ready to nominate today.

Council Member Boney stated that he thought some of these matters might not best be discussed at the table, that he did not have a problem with either of the nominees personally at all, but as they knew it was a program that they had been working on for some time and had not been able to secure support from the other governmental entities that were required in order for them to move the project and if they would allow him the opportunity to brief them during the week then he thought they would be prepared to receive whatever nominees, that he was only interested in trying to get the program moving and saw some potential stumbling blocks.

Council Member Sanchez moved to call the question, seconded by Council Member Tatro. All voting aye. Nays none. MOTION 2000-1510 ADOPTED.

A roll call vote was called on Council Member Boney's motion for a one week delay of Item No. 61.

ROLL CALL VOTE:

Mayor Brown voting aye
Council Member Tatro voting no
Council Member Galloway voting aye
Council Member Goldberg voting no

Council Member Vasquez voting no
Council Member Castillo voting aye
Council Member Parker voting no
Council Member Quan voting no

Council Member Boney voting aye
Council Member Todd voting no
Council Member Ellis voting no
Council Member Keller voting no

Council Member Sanchez voting no
Council Member Bell voting no
Council Member Robinson voting no
MOTION 2000-1511 FAILED

Council Member Sanchez stated that he had previously distributed to Council a resume on Mr. Ed Wolff as his recommendation. Council Member Tatro absent.

Council Member Galloway stated that she would like to nominate Mr. Roy Douglas Malonson for Position 4, that she did pass out a resume. Council Member Tatro absent.

Council Member Castillo moved to close nominations, seconded by Council Member Ellis. All voting aye. Nays none. Council Member Tatro absent. MOTION 2000-1512 ADOPTED.

Mayor Brown stated that if it was the Council's desire to delay it next week that motion could be made. Council Member Tatro absent.

Council Member Sanchez stated that if he understood the procedure correctly today was simply a day to take nominations and meant that the Council did not have to decide on the nominees today so by default essentially there was a week built in, and Mayor Brown stated that was correct.

PURCHASING AND TABULATION OF BIDS

62. RECOMMENDATION from Department of Finance & Administration to make the following awards for Paper and Supplies Contract for Various Departments - \$3,043,223.66 - General, Grant, Enterprise and Central Service Revolving Funds:

UNISOURCE WOLRDWIDE, INC - \$2,507,094.03
CLAMPITT PAPER COMPANY - \$288,246.17 and
OLMSTED-KIRK PAPER COMPANY - \$246,583.46

COUNCIL DRAW LOTS

ITEM NO. 81 due to receiving identical bids from **UNISOURCE WOLRDWIDE, INC** and **OLMSTED-KIRK PAPER COMPANY** in the amount of \$1,300.00 – was before Council, and Council Member Vasquez drew Olmsted-Kirk Paper Company as the successful bidder.

Council Member Quan moved that the recommendation be adopted and awarded as drawn, seconded by Council Member Tatro.

Council Member Quan stated that he wanted to make mention that there was 138 types of paper involved in the bid and was pleased to learn that 40 of them specified recycled paper and of the contracts for \$3 million, \$1.9 million would be spent on recycled paper.

A vote was called on Item No. 62. All voting aye. Nays none. MOTION 2999-1513 ADOPTED.

MATTERS HELD - NUMBERS 63 through 74

63. ORDINANCE appropriating \$157,500.00 out of Water & Sewer System Consolidated Construction Fund for services required to provide and install Emergency Shower and Eye Wash Stations for Department of Public Works & Engineering, CIP S-1000-MIIAB – **(This was Item 17 on Agenda of December 6, 2000, TAGGED BY COUNCIL MEMBERS PARKER, ELLIS, KELLER and SANCHEZ)** - was presented. All voting aye. Nays none. ORDINANCE 2000-1103 ADOPTED.
- 63a. MOTION by Council Member Sanchez/Seconded by Council Member Castillo to adopt recommendation from Finance & Administration Department to award to **RJ CONSTRUCTION COMPANY, INC** to Install Emergency Shower and Eye Wash Stations for Department of Public Works & Engineering - \$150,000.00 and contingencies for an amount not to exceed \$157,500.00 – **(This was Item 17A on Agenda of December 6, 2000, TAGGED BY COUNCIL MEMBERS PARKER, ELLIS, KELLER and SANCHEZ)** – was presented. All voting aye. Nays none. Council Member Todd absent. MOTION 1514 ADOPTED.
64. ORDINANCE amending **CHAPTER 40 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to Excavating in the Public Way; containing findings and other provisions relating to the foregoing subject; providing for severability – **(This was Item 21 on Agenda of December 6, 2000, TAGGED BY COUNCIL MEMBERS BELL and TATRO)** – was presented.

Council Member Vasquez stated that he had submitted a motion at the table and wanted to comment about the motion, that the motion dealt with the Attorney General's opinion, that he recognized that they had not received that and at the same time recognized the need to go forward with the street cut ordinance, that what the particular motion did was that it built in a provision in the event that the Attorney General's opinion ruled that for non-telecommunication utility firms the Chapter 283 of the Texas Local Government Code did not apply then the particular motion would allow for reconsideration of amendments consistent with the Attorney General's opinion, that he had visited with Mr. Cole Morgan from Reliant and stated that he was in support of this and he would ask Council Member's indulgence to support the item, that he also recognized that this particular motion did not address telecommunication companies and believed that the request of the Attorney General's opinion was very specific and narrow in terms of dealing with non-telecommunication utilities and did recognize that there were other questions and other matters related to the telecom industry but this particular motion was intended to address the Attorney General's opinion and the potential that they would come back and say that it did not apply. Council Members Galloway and Todd absent.

Council Member Parker asked if there were other companies beside Reliant that would be covered under this. Council Members Galloway and Todd absent.

Mr. Bibler stated that it would apply to the light and gas company and would potentially apply to the cable television companies if they were not also providing telecommunication services over their system, that they had some hot and cold water companies that had franchises, but telecommunication companies, however, had all abandoned their franchises, that he had inquired about it yesterday, that there may be

one or two that went out of business that did not renounce their franchises but all the others had.

Council Member Vasquez moved that Item No. 64 be amended to provide that within 30 days of an Attorney General's opinion, should it be determined that Chapter 283 of the Texas Local Government Code does not require said ordinance to be applied to telecommunication utilities, the Street Cut Ordinance be returned to Council for consideration of amendments consistent with the Attorney General's opinion, seconded by Council Member Bell.

Council Member Tatro asked that although the Attorney General's opinion would not be binding, he believed, what would be the ramifications of possibly making the ordinance moot to that degree if that opinion came forward. Council Members Galloway and Todd absent.

Mr. Bibler stated that the question before the Attorney General was whether or not the telecommunication utilities that were covered by Chapter 283 could be treated differently than other type of utilities, so if it came down to yes and if they had confidence in that opinion than the option would open up to perhaps exclude the light company, that gas company, the City's own water and sewer crews and others that Council believed could be safely trusted to go out and do the work without requiring a permit. Council Members Galloway and Todd absent.

Council Member Boney asked if what Council Member Vasquez's amendment would do was if the Attorney General and Legislature gave them an option, to simply bring it back to Council for consideration as to whether they would choose to amend the motion or not, and Council Member Vasquez stated yes, that was correct. Council Members Galloway and Todd absent.

A vote was called on Council Member Vasquez's motion. All voting aye. Nays none. Council Members Galloway and Todd absent. MOTION 2000-1515 ADOPTED.

Council Member Bell stated that he had passed out six amendments, in a packet, and asked that they take them up, skipping the first one having to do with the delay and going instead with the second one in the packet having to do with Section 40-128. Council Members Galloway and Todd absent.

Council Member Bell presented the following written motion: Motion to amend Section 40-128 to read as follows: "The rules and regulations shall be consistent with applicable Federal and State laws, City ordinances and sound engineering practices and the City Council Committee on Transportation, Technology & Infrastructure shall conduct a public hearing on the proposed rules and regulations not less than 10 days following the publication of notice of intent in a newspaper of general circulation and the proposed rules and regulations shall be approved by a majority vote of the City Council Committee on Transportation, Technology & Infrastructure prior to implementation." Council Members Galloway and Todd absent.

Council Member Bell stated that he thought it was incumbent upon them since the rules and regulations would contain much of the meat of the particular ordinance that they build in some checks and balances on the front end so when the rules and

regulations were brought forth by the director there would be a sounding board by way of a public hearing and by way of the committee members beginning to weigh in on those particular proposals. Council Members Galloway and Todd absent.

Mayor Brown stated that they did not support this and asked Mr. Bibler to express the reason why, that the charter did not provide for that type of counsel administrative oversight, that the role of the Council was to set the policy and it was the responsibility of the administration to carry out the policy, that he knew of no other circumstance where this had occurred, that it was totally new and contrary to the Charter of the City of Houston. Council Members Galloway and Todd absent.

Mr. Bibler stated that the Mayor summed up his concerns as they would exist, that the charter only contained one plea in reference to the existence of City Council committee's and that had to do with annexations, that he knew of no authority for a City Council committee to essentially adopt legislation, that if the City Council thought that it needed to approve the rules and regulations, then he would suggest that they would need to be built into the ordinance rather than be separate, giving them the flexibility then he thought they needed to have them separate, but if they were to give that up then he thought the items would have to be presented to City Council. Council Members Galloway and Todd absent.

Upon further discussion by Council, Council Member Tatro stated that the rules and regulations as proposed in the ordinance were pretty carte blanche for Public Works in the way that businesses or even constituents could be treated and made to comply with basically changing or possibly unknown regulations, that it behooved Council to have some oversight into the rules and regulations to make sure that the rules and regulations were not ever changing. Council Members Galloway, Todd and Ellis absent.

Council Member Boney stated that he was trying to understand the rationale for so many of the amendments to the ordinance, that he did not have a problem with putting the application process online by the internet, that it made sense, that he was unclear as to the need for a hearing on the proposed ordinance, that he did not know the need for so many amendments, and Council Member Bell stated that each one of them dealt with a separate concern, that much of the impact of the ordinance was built into whatever rules and regulations, at some point, brought forth by the director, that as it was presently proposed the rules and regulations were not even going to be published for public review and comment until after the ordinance was adopted and suggested that it did not pass the good government test, that this allowed it to go straight to the committee and with a majority vote of the committee pass them on and implement those rules and regulations, that it served as somewhat of a compromise to bringing it back to the full Council, but on the other side having some checks and balances built in. Council Members Galloway, Goldberg, Todd, Vasquez and Parker absent.

Mayor Brown asked Mr. Rolan if the Council routinely would pass ordinances that required his department to do certain work and what was the procedure that he used to carry out the policies established by the Council, recognizing that he was responsible for developing the administrative procedures. Council Members Galloway, Todd and Vasquez absent.

Mr. Rolen stated that typically they would develop the procedures, if they had a certain industry that was affected they would visit and get input from them, that they would also try to visit with the appropriate Council Member or Members who may have offered it and had a concern, that they tried to keep everybody involved in the loop as they developed the rules and regulations.

Mayor Brown asked if on this issue or ordinance before Council, he followed the same procedure, received input from the industry and also input from Council Members before he adopts finally the rules, and Mr. Rolen stated yes. Council Members Galloway, Todd and Vasquez absent.

Council Member Sanchez stated that years ago they had a proliferation of cell towers that were being installed throughout the City by virtue of new telecommunication companies moving to Houston and at the time one of the complaints was that the installers of cell towers were installing the devices too close to neighborhoods therefore depreciating not only the value, but also the quality of life of neighborhoods, that similarly a committee was empanelled to take information, similar to the TTI Committee, and come up with an ordinance, that they gave similar authority to the Director, Mr. Litke, to develop specific rules and he did not recall Council being involved in the particulars of the rules, that he understood where Council Member Bell wanted to go, and stated that speaking for himself, he was not qualified as an engineer to help design the rules, that he did not know anyone at the table who held an engineering degree, and stated that when it came to rules and specifications one had to give deference to the professionals in the City which was the Department of Public Works and Engineering, and Council Member Bell stated that not all of the aspects of the rules and regulations were going to be such that they were going to be too complicated for Council Members to grasp, that some of them were going to fall into the realm of policy and Council should have that oversight, and Council Member Sanchez stated that he thought the amendment left wide open a complete review of the proposed rules and regulations, which the vast majority of dealt with technical aspects of cutting, reconstruction and specifications to which the reconstruction would be achieved. Council Members Galloway, Todd, Vasquez and Castillo absent.

Council Member Boney stated that he thought they were getting into the minutia of the rules and thought that the thrust was to put into place an ordinance that protected the streets, that if there was some input they wanted to give the Public Works Director he was more than willing to accept that.

Mayor Brown stated that it was appropriate to develop the rules and regulations after the Council took this action and not before, and when that occurred there would be a 10 day comment period where people in the industry could have their input and the Council Members could have their input and as Mr. Rolen pointed out he would make sure that every Council Member would have the opportunity to have their input at that time.

Council Member Robinson stated that he understood the thrust of Council Member Bell's amendment and was not necessarily opposed to it, but thought there were other ways they had also tried to do those things where Council had the ordinance come back and base on the implementation, and they just did it with Chapter 42, they could make changes by inserting, what was described as rules and regulations, into the ordinance or

vice versa, that there had to be some bridge on the ordinance, that it came through committee and was represented that folks had been intimately involved, but since he had gotten back he had been approached by a number of people in the industry that described that they were never provided any notice for participation and even with general responses to their specific inquiries they did not feel there was a full blown discussion. Council Members Galloway, Todd and Vasquez absent.

Mayor Brown asked Mr. Rolan to tell them what input people in the industry as well as Council Members into the ordinance, and Mr. Rolan stated that when Mr. Lewis was coordinating the effort actually conducted two public sessions at the George R. Brown where they talked about the ordinance and concerns and people had an opportunity to discuss that, that additionally he knew that Mr. Lewis had submitted one briefing for the Transportation, Technology & Infrastructure Committee, and stated that Mr. Bibler reminded him that there were two with written comments periods where anyone who was interested had an opportunity to provide written input, and Mayor Brown stated that he thought Mr. Rolan would certainly be amenable to taking the rules back and give the committee a briefing, that way they would insure that any concerns that the committee had would be heard and taken into consideration, so he thought that was a better way of handling it, taking it back to committee, once the rules were developed and have a complete briefing and then after that the final rules could be developed. Council Members Galloway, Todd, Vasquez and Castillo absent.

Council Member Quan asked Council Member Bell if he wanted to tie it to a specifically named committee, and Council Member Bell stated that he would accept a friendly amendment if he wanted to add a like committee or something of that nature, and Council Member Quan stated that he did not see any harm in going through this layer because it really did not deviate that much from what they already had in the proposal. Council Members Galloway and Todd absent.

Council Member Keller stated that all three companies that were present yesterday had representatives, who in his opinion, in a very subtle fashion made reference to the possibility that they may resist that ordinance and that resistance could possibly be in a legal fashion, and he asked what was the potential delay if one or all three of those entities filed suit against the City of Houston if Council went forward today. Council Members Galloway and Todd absent.

Mr. Bibler stated that he did not perceive any delay unless the judge issued an injunction, that he was not personally aware of any grounds that the ordinance was incurring, and stated that the thought the amendment could give them the grounds because then they were placing an authority, that was not authorized by the City Charter, in a City Council committee. Council Members Galloway and Todd absent.

Mayor Brown stated that they intended to work with the industry, and as Mr. Rolan pointed out they had done that, that they had hearings and they had a chance to make input, that once the Council approved the ordinance they would continue to have input not only of what they had done up to this point on the ordinance, but also on the rules and everyone who so desired would have an opportunity to have an input on the rules, that the role of Council here was to set the policy by virtue of the ordinance, that once the policy was set then it was an administrative responsibility to develop the administrative procedures. Council Members Galloway and Todd absent.

Mayor Brown asked Mr. Rolan what would be his timeframe of accomplishing his task, after Council approved the ordinance, of getting the rules implemented, and Mr. Rolan stated that his plan would be that right after the first of the year to get the rules to be looked at for the 10 day period, that they would publish them and give the 10 days notice, they would then take that and put it together, that currently the ordinance provided for a 60 day implementation period, that actually they had to come up with the rules and start doing that in advance because the ordinance required anyone who was digging on the 60th day to have a permit, so they would have had to have the rules and review the plans and have the permits ready to be issued on the 60th day. Council Members Galloway and Todd absent.

Council Member Castillo stated that in reviewing the ordinance it was obvious that there were some very broad perimeters that were being laid out as policy by the Council and they were depending on the administration, specifically Mr. Rolan and his staff to flush out what the administrative requirements were going to be to provide guidance to the companies that would be regulated, and stated that he believed, in his opinion, that they ought to give him the authority to develop those, to issue them and promulgate them and give them a complete briefing on it and at that time they as, not only Council Members, but as citizens had strenuous objections or very vigorous objections to some of the policies it was within his discretion, as the professional, to amend them to make them more workable, and stated that in keeping the definition clear between what was policy and administration the best option would be to refer it to Mr. Rolan and let him do his job, that they would give him the best guidance that they could, and then he could come back and brief them on how good a job he did in meeting their requirements. Council Members Galloway and Todd absent.

Council Member Castillo moved to table the amendment proposed by Council Member Bell to amend Section 40-128 of Item 64, seconded by Council Member Boney. Council Members Galloway and Todd absent.

A roll call vote was called on Council Member Castillo's motion. Council Members Galloway and Todd absent.

ROLL CALL VOTE:

Mayor Brown voting aye	Council Member Vasquez voting aye
Council Member Tatro voting no	Council Member Castillo voting aye
Council Member Galloway absent	Council Member Parker voting aye
Council Member Goldberg voting aye	Council Member Quan voting no
Council Member Boney voting aye	Council Member Sanchez voting no
Council Member Todd absent	Council Member Bell voting no
Council Member Ellis voting no	Council Member Robinson voting no
Council Member Keller voting no	MOTION 2000-1516 FAILED

Council Member Boney stated that he would tag Council Member Bell's motion to amend Section 40-128 of Item No. 64. Council Members Galloway and Todd absent.

Council Member Bell asked Council Member Boney if he was tagging all of the amendments and Council Member Boney stated no, that he just tagged the first one. Council Members Galloway and Todd absent.

Council Member Bell stated that he was glad that they got the most controversial one out of the way, and Mayor Brown stated that they supported all the other ones. Council Members Galloway and Todd absent.

Council Member Bell presented his second written motion to amend Item No. 64 as follows: "Motion to require the application process to be available on line (via the Internet) consistent with provisions already existing in the building permit process." Council Members Galloway and Todd absent.

Mayor Brown stated that they certainly thought it was a good amendment if it was all technically feasible and were certainly prepared to do so. Council Members Galloway and Todd absent.

Council Member Boney asked Mr. Rolan if it was technically feasible, and Mr. Rolan stated that they could put the application on the internet, but they still needed to bring it in for them to look at the plans, that it needed to be a hard copy to follow up on it. Council Member Bell moved to call the question. Council Members Galloway and Todd absent.

Council Member Sanchez asked Mr. Rolan what they could do to expedite the applications, that it was his understanding that there were some utilities who had applied for either a street closure or to be in a lane of traffic several months ago and had not had a response and was that typical or atypical, and Mr. Rolan stated that it was not typical, that they took two to three weeks to get a response back on those kind of issues, where part of the confusion came in was that people brought their plans in and asked them to look at them, and they look at them and review and approve, and they ask that they get back with them prior to going in the roadway and at that point and time they actually give them a lane closure permit, that was one of the things he thought part of the confusion might be. Council Members Galloway and Todd absent.

Mayor Brown stated that if they had cases where someone was saying it was a long delay to please let them know and they would check it out and make sure there was no delay. Council Members Galloway and Todd absent.

Council Member Boney moved to call the question on the motion to amend Item No. 64 relative to requiring application process to be available via the Internet, seconded by Council Member Robinson. Council Member Tatro voting no, balance voting aye. Council Members Galloway and Todd absent. MOTION 2000-1517 ADOPTED.

A vote was called on the motion to amend Item No. 64 to require the application process to be available on line (via Internet). All voting aye. Nays none. Council Members Galloway and Todd absent. MOTION 2000-1518 ADOPTED.

Council Member Bell presented the following written motion to amend Section 40-140 (2) to read as follows: Warrant the excavation following its completion for three years, subject to remediation as provided in Section 40-159 of this Code. Council Members Galloway and Todd absent.

Council Member Bell stated that the only change was from one year to three years, the idea behind the amendment was that he had been told by friends in the field of engineering to really see the full affect, because of the weather and the situation, that he would defer to Mr. Rolan, and stated that Mr. Bibler told him yesterday that originally two years was contemplated, so there seemed to be some disagreement. Council Members Galloway and Todd absent.

Mr. Bibler stated that the ordinance as it was originally drafted said two years and one of the many comments that they received from the industry, and they supposedly did not hear, was that it was too long, that the then Deputy Director of Public Works said that they ought to be able to tell within a year if it was going to crater and so they accommodated the industry with that change, that later some other people stated that maybe that was ill advised and it should be longer, and he also pointed out that the amendment would have to be made in two places, that the period was also mentioned in Section 159 of the ordinance. Council Members Galloway and Todd absent.

Council Member Castillo stated that given the comments by Mr. Bibler he would offer a friendly amendment to change the period of warranty back down to two years in both places, and Council Member Bell accepted the friendly amendment and the motion was seconded by Council Member Quan. Council Members Galloway and Todd absent.

Council Member Tatro stated that it brought up a question he had, because they had some streets where they had done storm sewer drainage work and sanitary sewer work and after a year they had significant base failure, and asked how would it correspond to a regular construction contract and a regular replacement of a water or sewer line down a thoroughfare, and Mr. Rolan stated that he was talking about two types of construction, that he was talking about the typical construction for utilities which usually was more linear in effect and the specifications and everything were designed for that, that those were currently one year warranty, that in the past he was given to understand that some of their water replacement contracts had two year warranty period and after a period of time it was reduced back to one year, because that was generally what was accepted in the industry, that the Street Cut Ordinance was somewhat different because they were not talking always about linear projects.

Council Member Ellis moved to call the question on the motion to amend Section 40-140 (2) of Item No. 64, seconded by Council Member Robinson. All voting aye. Nays none. Council Members Galloway and Todd absent. MOTION 2000-1519 ADOPTED.

A vote was called on the motion to amend Section 40-140 (2) and 20-159. All voting aye. Nays none. Council Members Galloway and Todd absent. MOTION 2000-1520 ADOPTED.

Council Member Bell stated that the last amendment referred to page 11 of the main ordinance and paragraph 17, referenced there in the paragraph read, "any additional information reasonably required by the City engineer to determine whether the permit should be issued or whether the permit should be issued with certain conditions", that he found it to be way to open and there seemed to be some agreement with that, that it would leave it up to the City engineer to add whatever criteria he or she may deem necessary before the permit was issued and could lead to big problems down the road,

that he thought that if there was going to be additional information required it could be addressed through the rules and regulations, and also they needed to try to be as straight forward as possible and include as much of the criteria up front, not just have a catch all phrase that could allow the permitting process to drag on and on, and that was the idea behind deleting that particular paragraph. Council Members Galloway and Todd absent.

Council Member Bell presented the following written motion: "Motion to delete Section 40-136 (b) (17) in its entirety."

Mr. Bibler stated that he had pointed out last week that he thought such a clause was good draftsmanship, that he thought the clause could have been better written and would suggest possibly for the Council's sake that in the second line, "any additional information reasonably required by the City engineer to determine" adding "under the terms of this article", to make it clear that they were not asking people for their eye color or something like that was not required under the terms of the article to determine whether or not they were entitled to the permit. Council Members Galloway and Todd absent.

Mayor Brown asked Council Member Bell if that was something he would accept. Council Members Galloway and Todd absent.

Council Member Castillo stated that he did not quite get the main point of Mr. Bibler's suggestion, that he thought the idea was to eliminate any arbitrariness that would keep the application process going on. Council Members Galloway and Todd absent.

Mayor Brown asked Mr. Rolan what his comments were about the type of information that would be required, and Mr. Rolan stated that he would support leaving Item 17 in, because try as hard as they might, to list everything that was needed, there may be some unique circumstances that warrant their asking for something else and that would give them the latitude to do it. Council Members Galloway and Todd absent.

Council Member Castillo asked Mr. Rolan what would happen if somebody came in to do an excavation and applied for a permit and the drawings were in a certain way that from a reasonable person's interpretation of the rules were compliant, and then somebody in his department said it was done in black ink and should have been done in red ink or something, was that the kind of information, that he could not foresee how once they wrote the rules they could not cover every possible variation to some degree of determinacy without having it open ended, and Mr. Rolan stated that certainly they would not be talking about what he mentioned in terms of the red, blue or black ink, but this was the ability, that should they have missed something, that was material, that the problem that they ran into was that if they had a set of rules and the ordinance was codified and they needed something else and they ask the applicant for that they could say they did not have to provide it. Council Members Galloway, Todd, Keller and Vasquez absent.

Mayor Brown asked if it was basically a tool to allow them to do their job on behalf of the City of Houston, and Mr. Rolan stated that was correct. Council Members

Galloway and Todd absent. Council Members Galloway, Todd, Keller and Vasquez absent.

Council Member Boney stated that he was going to tag this amendment. Council Members Galloway, Todd, Keller, Vasquez and Robinson absent.

Council Member Bell presented the following written motion to amend Item No. 64 as follows: "Such notice required in paragraph (b) above shall include, but not be limited to, the name of the permittee, the permittee's telephone number and the City of Houston permit number." Council Members Galloway, Todd, Keller, Vasquez and Robinson absent.

Council Member Bell stated that it still would allow the Director to set forth rules regarding where it should be posted and all that, but at a minimum would require that information that had been discussed at the table fairly routine now. Council Members Galloway, Todd, Keller, Vasquez and Robinson absent.

Mayor Brown stated that it was already contained in the rules, but did no harm to put it in the ordinance so they had no problem with that. Council Members Galloway, Todd, Keller, Vasquez and Robinson absent.

Council Member Sanchez stated that in other areas where a permit was required, for example if a home owner was remodeling their house the City require that a permit be placed where it could be seen and asked what the language was and where did it go, and Mr. Rolan stated where it was readily visible, that the details on the notification were contained in the rules and the notification that was in the working copy rules by a 3 by 3 sign with 2 inch high letters posted in the immediate area of the construction, so that should fulfill that need. Council Members Galloway, Todd, Keller and Vasquez absent.

A vote was called on Council Member Bell's motion to amend Item No. 64, Section 40-142. All voting aye. Nays none. Council Members Galloway, Todd and Vasquez absent. MOTION 2000-1521 ADOPTED.

Council Member Bell stated that the final motion that was offered was actually the first in the packet as follows: Motion to postpone consideration for a time certain of 30 days during which the City Council Committee on Transportation, Technology & Infrastructure shall conduct a public hearing on the proposed ordinance not less than 10 days following the publication of notice of intent to consider the Street Cut Permitting Ordinance in a newspaper of general circulation. Council Members Galloway, Todd and Castillo absent.

Council Member Bell stated that the idea behind it was not to kill the ordinance and that was why the language "a time certain of 30 days" appeared in the amendment, that he wanted to see the ordinance move forward but thought that what they had seen in the last couple of weeks was that there were some unintended consequences that perhaps could be addressed and thought that 30 days would allow for that type of discussion to take place and could be rather valuable, that he thought that 30 days with the hearing built in would be a prudent course of action and was not designed to kill the measure. Council Members Galloway, Todd and Castillo absent.

Mayor Brown stated that he strongly urged the Council not to support that, that they had been working on the ordinance for almost a year, that they had a duty, obligation and responsibility to be the custodians of the taxpayers dollars, that they spent literally millions of dollars on the streets and they found now that there were those who were going in and tearing up the streets and leaving them in a state of disrepair, and that was costing the taxpayers dollars, that there was not logical reason for a 30 day delay considering the fact they had been addressing the issue for almost a year now, that once they passed the ordinance then there was an opportunity for input into the rules and regulations, but there was no logical reason for the delay. Council Members Galloway, Todd and Castillo absent.

Council Member Boney stated that he did not want 30 more days of streets being torn up, that what was happening here was industry lobbying, that they should pass the ordinance and get the work done, that if there was some egregious burden that surfaces up in the next 30 days, 6 months or a year even, by anybody legitimately from the industry, they could come back and amend the ordinance if that was required, that he supported all the major corporations and industries but all this was going to do was make them put back into place that which they tear up so that they could use our right of way so they could generate some more revenue, that he did not have a problem with them doing that, but he sure wanted the streets back in the same or better condition after they finished, and stated that he was going to tag the amendment and urged that they vote for the item and get it off the agenda. Council Members Galloway and Todd absent.

Council Member Bell stated that it was a procedural motion and not taggable. Council Members Galloway and Todd absent.

Council Member Sanchez stated that to hold the matter up for 30 days would add 30 days to the already 60 days that they were articulating they had to wait for implementation and on top of that the 10 day period that Mr. Rolan had talked about, that they were talking about 100 days, that it could turn into a half a year, and 6 months would continue to cost the City additional money, and stated that on the other hand he wondered if the industry did indeed have sufficient notice to participate in the process, that Mr. Rolan had stated that there were publications put out that set out the time, manner and place in which public comment would be taken, and Mr. Rolan stated that they distributed a draft to the industry in March of this year, got comments back and integrated the comments and then in June they went through that process again, that there had been two public meetings and there had been subsequent meetings with some of the industry. Council Members Galloway, Boney, Todd and Quan absent.

Council Member Sanchez moved to suspend the rules to hear from a representative of the industry and limit it to 5 minutes, seconded by Council Member Ellis. Council Members Galloway, Boney and Todd absent. All voting aye. Nays none. MOTION 2000-1522 ADOPTED.

Council Member Sanchez stated that if someone would like to speak on behalf of one of the utilities and if there was some reason why they believed that the City did not give adequate notice or why they felt they were not able to participate or indeed some of their letters were not responded to, he would like to hear that.

Council Member Sanchez asked Mr. David Brown, Southwestern Bell, why he believed that they were left out of the crafting process or the public hearing process, and Mr. Brown stated that they provided the City with comments on each of the comment cycles and the comments did not make it into the ordinance, that certainly the City staff had to exercise its judgement in deciding what was and was not appropriate to go in the ordinance, but many of the things that they recommended were things that were strictly a matter of looking at the existing State law or looking at the various things that were practicable, and Mayor Brown stated that Council Member Sanchez question was did they have an opportunity to have input, and Mr. Brown stated that if the question was whether or not they had an opportunity to send letters to the staff or to attend meetings, the answer was yes, that the point was not just that, that the point was did the staff take into account and consider those items appropriately, and with all due respect to the City staff, they do not believe that they did everything they should have done, and Council Member Sanchez stated that no one from the industry contacted his office saying that they send in a letter and did not get a response and would he as a Council Member intervene, which they often did, and Mr. Brown stated that was explainable, that what happened was that after the comment periods the request for the Attorney General opinion was issued in August, and that of course was discussed for the months between the June period and the August period when the actual request to the Attorney General was provided, that they were in communication with the staff, as were other members of industry that he had spoken with, and stated that what happened was that the staff said they were not going to bring the ordinance up until after the Attorney General considered the request and that request, which they may or may not be aware of, had about a 180 day time period, so they left it alone waiting for the City staff to call them and tell them or have it appear on an agenda, that it was time to come back and review the issues substantively again, that was why there had been nothing since at least probably June from anyone in the industry until just now. Council Members Galloway and Todd absent.

Council Member Tatro stated that they were waiting for an Attorney General's opinion, which may stand this ordinance on his head, and as the gentleman just pointed out many people were told that nothing would happen until the Attorney General's opinion was received, and stated that to suggest that there was not logical reason to delay it was absurd, that they did have a repair problem, yet 90% of the ordinance dealt with the permitting aspect of it, that he would support the 30 day review which would give Council Members that time to review, that he did not think that Council had reviewed it in the detail it needed to, that it was a significant ordinance and thought the input did need to come from the private sector and thought that was what had been missing here. Council Members Galloway and Todd absent.

Council Member Boney stated that Council Member Vasquez's amendment dealt with a significant interpretation by the Attorney General, that in fact the safety provision of the amendment, which passed, that if the Attorney General did issue an opinion which significantly did impact the ordinance, the matter would be brought back to Council for consideration of any amendments that they needed, so they did not have anything to worry about there, that clearly the representative from Southwestern Bell said that they had input into the process, that they did not quite like the result of it, that he would like for the Council to move on. Council Members Galloway and Todd absent.

After further discussion, Council Member Ellis moved to call the question, seconded by Council Member Tatro. All voting aye. Nays none. Council Members Galloway, Todd and Sanchez absent. MOTION 2000-1523 ADOPTED.

A roll call vote was called on the motion to delay Item No. 64 for 30 days.

ROLL CALL VOTE:

Mayor Brown voting no	Council Member Vasquez voting no
Council Member Tatro voting aye	Council Member Castillo voting no
Council Member Galloway absent	Council Member Parker voting no
Council Member Goldberg voting aye	Council Member Quan voting no
Council Member Boney voting no	Council Member Sanchez voting no
Council Member Todd absent	Council Member Bell voting aye
Council Member Ellis voting aye	Council Member Robinson voting aye
Council Member Keller voting no	MOTION 2000-1516 FAILED

ORDINANCE amending **CHAPTER 40 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to Excavating in the Public Way; containing findings and other provisions relating to the foregoing subject; providing for severability – **(This was Item 21 on Agenda of December 6, 2000, TAGGED BY COUNCIL MEMBERS BELL and TATRO)** – was again presented, and tagged by Council Members Robinson and Vasquez. Council Members Galloway and Todd absent.

Council Member Robinson moved to suspend the rules to take Item No. 73 and No. 74 out of order, seconded by Council Member Ellis. All voting aye. Nays none. Mayor Brown, Council Members Galloway and Todd absent. Mayor Pro Tem Boney presiding. MOTION 2000-1525 ADOPTED.

73. SELECT and confirm the appointment of either **MS. LANA SMITH, MS. JOSIE MENDOZA POSTEL** or **MR. ALAN AINSWORTH** to Position Six of the **CIVIC ART COMMITTEE** with terms to expire January 1, 2002 – **(This was Item 1 on Agenda of November 29, 2000, POSTPONED BY MOTION #2000-1463)** – was presented.

Mayor Brown stated that the City Secretary would explain how they would proceed on this.

The City Secretary stated that she would call the roll and Council Members would vote by name of the person they wished to vote for, and then Council would have to pass a motion to actually appoint that member who received the most verbal votes.

ROLL CALL VOTE:

Mayor Brown - Mendoza Postel
Council Member Tatro - Smith
Council Member Galloway - Smith
Council Member Goldberg - Smith
Council Member Boney - Mendoza Postel
Council Member Todd - Smith
Council Member Ellis - Smith
Council Member Keller - Smith

Council Member Vasquez - Ainsworth
Council Member Castillo - Mendoza Postel
Council Member Parker - Mendoza Postel
Council Member Quan - Smith
Council Member Sanchez - Mendoza Postel
Council Member Bell - Smith
Council Member Robinson - Smith

The City Secretary stated there were 9 votes for Smith, 5 votes for Mendoza Postel and 1 vote for Ainsworth.

Council Member Robinson moved to confirm the appointment of Ms. Lana Smith to Position Six of the Civic Art Committee, seconded by Council Member Ellis. All voting aye. Nays none. MOTION 2000-1526 ADOPTED.

74. CONFIRM the appointment of **MR. CHRIS HAGENEY** to Position Seven of the **CIVIC ART COMMITTEE** with a term to expire January 1, 2002 – **(This was Item 1 on Agenda of November 29, 2000, POSTPONED BY MOTION #2000-1463)** – was presented.

Council Member Quan moved to confirm the appointment of Mr. Chris HageneY to Position Seven of the Civic Art Committee, seconded by Council Member Tatro. All voting aye. Nays none. Mayor Brown absent. Mayor Pro Tem Boney presiding. MOTION 2000-1527 ADOPTED.

65. ORDINANCE approving and authorizing contract between the City and **ELECTRONIC DATA SYSTEM CORPORATION, INC** for Alarm Tracking, Billing and Collections for the Houston Police Department; providing a maximum contract amount - 5 Years with two one-year options \$6,766,538.00 - General Fund – **(This was item 27 on Agenda of December 6, 2000, TAGGED BY COUNCIL MEMBERS TODD, GOLDBERG, ELLIS and SANCHEZ)** – was presented.

Council Member Sanchez stated that it had come to his attention that in this particular ordinance there was a provision which would allow the Chief of Police authority to grant EDS the ability to have a surcharge of \$3.00 for each bill paid through the internet and which Council would have no say in the matter and wanted to know if he was correct in that assumption, was his information correct. Mayor Brown and Council Member Ellis absent.

Mr. Bibler stated that he did not know the answer to that question. Mayor Brown and Council Member Ellis absent.

Mayor Pro Tem Boney asked if someone from the Police Department was available to speak on this. Mayor Brown and Council Member Ellis absent.

Chief Breshears stated that he had heard the question, but was not aware of the \$3.00 surcharge and asked if they were talking about that there was a provision in the contract that would allow them later on to go to the internet charges, but was not aware of the \$3.00 surcharge, and Council Member Sanchez asked if no one had brought it to his attention, and Chief Breshears stated that no one had brought it to his attention, and Council Member Sanchez stated that it was brought to his attention by the Controller's office and stated that

rather than tie up any more time he asked for a one week delay, and Mayor Pro Tem Boney asked Chief Breshears if this was some emergency, and Chief Breshears stated that the current contract expired on the 12th, that they had funding that would let them run the program through the 20th, and Mayor Pro Tem Boney stated that the administration would be fine with a one week delay until the Council meeting on the 20th.

Council Member Sanchez moved to postpone Item No. 65 for one week, seconded by Council Member Tatro. All voting aye. Nays none. Mayor Brown, Council Members Ellis, Keller and Castillo absent. Mayor Pro Tem Boney presiding. MOTION 2000-1528 ADOPTED.

66. ORDINANCE appropriating \$90,000.00 out of Street & Bridge Consolidated Construction Fund and approving and authorizing professional services contract between the City of Houston and **ROBERT J CONSULTING ENGINEER, INC** for Design of Bingle Road Bridge Replacement over Cole Creek, CIP N-0445N-21-2 (SB9034); providing funding for contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund - **DISTRICT A – TATRO – (This was Item 34 on Agenda of December 6, 2000, TAGGED BY COUNCIL MEMBERS TATRO and QUAN)** – was presented. All voting aye. Nays none. Mayor Brown, Council Members Ellis and Castillo absent. Mayor Pro Tem Boney presiding. ORDINANCE 2000-1104 ADOPTED.

67. ORDINANCE appropriating \$517,000.00 out of Street & Bridge Consolidated Construction Fund and approving and authorizing professional services contract between the City of Houston and **CENTURY ENGINEERING, INC** for the Design of Ella Blvd. from Pinemont to W. Little York, CIP N-0546-01-2 (SB9046); providing funding for contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund - **DISTRICTS A - TATRO and B - GALLOWAY – (This was Item 35 on Agenda of December 6, 2000, TAGGED BY COUNCIL MEMBERS QUAN and KELLER)** – was presented.

Council Member Quan stated that these were items that he had tagged last week regarding the City's policy regarding bike lanes and just wanted to comment and appreciated Mr. Rolan meeting with him, that they were looking at the issue very carefully and that Mr. Rolan had resolved his question on the matter so they were ready to proceed in it. Mayor Brown, Council Members Ellis and Castillo absent. Mayor Pro Tem Boney presiding.

A vote was called on Item No. 67. All voting aye. Nays none. Mayor Brown, Council Members Ellis and Castillo absent. Mayor Pro Tem Boney presiding. ORDINANCE 2000-1105 ADOPTED.

68. ORDINANCE appropriating \$561,000.00 out of Street & Bridge Consolidated Construction Fund and approving and authorizing professional services contract between the City of Houston and **PIERCE GOODWIN ALEXANDER & LINVILLE** for the Design of Wheeler Avenue Paving from 2000' east of SH35 to Old Spanish Trail, CIP N-0528-03-2 (SB9052); providing funding for contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund – **DISTRICT I – CASTILLO – (This was Item 40 on Agenda of December 6, 2000, TAGGED BY COUNCIL MEMBER QUAN)** – was presented. All voting aye. Nays none. Mayor

Brown, Council Members Ellis and Castillo absent. Mayor Pro Tem Boney presiding. ORDINANCE 2000-1106 ADOPTED.

69. ORDINANCE appropriating \$407,000.00 out of Street & Bridge Consolidated Construction Fund and approving and authorizing professional services contract between the City of Houston and **LANDTECH, INC./D/B/A LANDTECH CONSULTANTS, INC** for the Design of Lyons Avenue Reconstruction, Phase 2, CIP N-0719-02-2 (SB9040); providing funding for contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund **DISTRICT H – VASQUEZ – (This was Item 41 on Agenda of December 6, 2000, TAGGED BY COUNCIL MEMBER QUAN)** – was presented. All voting aye. Nays none. Mayor Brown, Council Members Ellis and Castillo absent. Mayor Pro Tem Boney presiding. ORDINANCE 2000-1107 ADOPTED.
70. ORDINANCE appropriating \$1,050,000.00 out of Accumulated Unexpended Fund, transferring such funds to the Parks Special Fund, appropriating \$1,050,000.00 out of Parks Special Fund, appropriating \$1,308,300.00 out of Parks Consolidated Construction Fund; awarding construction contract to **PARALLAX BUILDERS, INC** on low bid of \$2,190,000.00 and approving and authorizing professional services contract for engineering testing services with **MCBRIDE-RATCLIFF & ASSOCIATES, INC** in the amount of \$15,000.00 for Parks to Standard Program Phase II – Bid Package No. 19 – Yellowstone Park Pool and Stude Park, F-0363-11-3 and F-0363-38-3; providing funding for contingencies relating to construction of facilities financed by the Parks Special Fund and Parks Consolidated Construction Fund – **DISTRICTS D – BONEY and H – VASQUEZ – (This was Item 44 on Agenda of December 6, 2000, TAGGED BY COUNCIL MEMBER TATRO)** – was presented.

Council Member Tatro stated that he would not be supporting the item, that again they were utilizing water and sewer funds from the un-accumulated unexpended fund to fund regular Public Works projects that had been funded by ad valorem and property tax supported bonds. Mayor Brown, Council Members Ellis and Castillo absent. Mayor Pro Tem Boney presiding.

A vote was called on Item No. 70, with Council Member Tatro voting no, balance voting aye. Mayor Brown, Council Members Ellis and Castillo absent. Mayor Pro Tem Boney presiding. ORDINANCE 2000-1108 ADOPTED.

72. ORDINANCE appropriating \$39,690.00 out of Public Library Consolidated Construction Fund as additional appropriation for Renovation of Smith Branch Library-Interior under construction contract with **R. H. TONETTI COMPANY**, GFS E-0063-02-3; (Approved by Ordinance #99-1400), providing funding for contingencies relating to construction of facilities financed by the Public Library Consolidated Construction Fund - **DISTRICT D – BONEY - (This was Item 49 on Agenda of December 6, 2000, POSTPONED BY MOTION #2000-1491)** – was presented.

Council Member Sanchez stated that he had looked into this item for a number of days, that it was for approval of Change Order No. 4 in the amount of about \$40,000, that he appreciated the Director of Building Services being forthright with the information, that he was trying to get to the bottom of why they were having to pay \$40,000 and was led to believe that

it was an issue between the architect and the construction management firm when he thought what really in essence happened was that it was an oversight by the City and it cost them money, that he understood that Ms. McGilbra came in at a time when there was a lot of transition and she had to ramp up on a lot of projects so to her defense they had talked about insuring that it would not happen again in the future, that he wanted to thank her for being forthcoming with them, that it was clearly a City mistake and therefore was something that regrettably ought to be supported. Council Members Ellis, Castillo and Bell absent.

Council Member Keller stated that he wanted to ditto what Council Member Sanchez had stated, that on the surface in studying some of the change orders he felt that he was going to find error on the part of some people who did business with the City and then along with Council Member Sanchez taking the lead with Building Services they unfortunately at that time were guilty, they were indecisive too many times and therefore, if they were going to start holding the private sector accountable and attacking them for waste and overcharging, then they were going to have to do that to themselves, and stated that he felt strongly that Monique, Trinh and Ollie were taking those measures, he was assured that they were, and unfortunately this was one that must go through. Council Members Ellis, Vasquez and Castillo absent.

Council Member Sanchez stated that he could not reiterate enough of what a vast difference there was in the manner in which construction contracts were dealt with now, that it was rare as he said before to see a change order that was not appropriately channeled through and thought that the administration deserved to be commended for that and the Department of Public Works and Engineering for working these issues out, that he thought a lot of people did not understand the benefit to that and that was savings of tax dollars and that was an important function and one that the Mayor had marshaled through effectively. Council Members Ellis, Vasquez and Castillo absent.

A vote was called on Item No. 72. All voting aye. Nays none. Council Members Ellis, Vasquez and Castillo absent. ORDINANCE 2000-1109 ADOPTED.

72a. MOTION by Council Member Boney/Seconded by Council Member Vasquez to adopt recommendation from Director Building Services Department for approval of Change Order No. 4 in the amount of \$39,690.00 on contract with **R. H. TONETTI COMPANY** for Smith Branch Library Renovations, GFS E-0063-02-3 - **DISTRICT D – BONEY** – (**This was Item 49A on Agenda of December 6, 2000, POSTPONED BY MOTION #2000-1491**) – was presented. All voting aye. Nays none. Council Members Ellis, Vasquez and Castillo absent. MOTION 2000-1529 ADOPTED.

Items received during the meeting were considered as follows:

38. ORDINANCE approving and authorizing agreement between the City of Houston, the **FOURTH WARD REDEVELOPMENT AUTHORITY** and **REINVESTMENT ZONE NUMBER FOURTEEN, City of Houston, Texas (Fourth Ward Zone)** in connection with the City's Reinvestment Zone Number Fourteen over the Fourth Ward Area - **DISTRICT I – CASTILLO** – was presented. All voting aye. Nays none. Council Members Ellis, Vasquez and Castillo absent. ORDINANCE 2000-1110 ADOPTED.

40. ORDINANCE approving and authorizing a Master Agreement between the City of Houston and **UNISYS CORPORATION** for purchase of Hardware, Licensing of Software, Professional Services and Training for Various Departments - \$4,618,319.00 - Equipment Acquisition Consolidated Fund – was presented, and tagged by Council Member Goldberg. Council Members Ellis, Vasquez and Castillo absent.

Council Member Goldberg stated that he would remove his tag on Item No. 41. Council Members Ellis, Vasquez and Castillo absent.

Council Member Boney stated that he had considered tagging Item No. 38 which dealt with the Fourth Ward, and asked if Mayor Brown would have someone from the administration meet with him he would appreciate it, and Mayor Brown stated he would have someone meet with him. Council Members Ellis, Vasquez and Castillo absent.

46. ORDINANCE appropriating \$200,000.00 out of Parks Consolidated Construction Fund, \$1,200,000.00 out of General Improvement Consolidated Construction Fund, and \$500,000.00 out of the Accumulated Unexpended Fund and transferring the \$500,000.00 to the Parks Special Fund 491 and appropriating \$500,000.00 out of the Parks Special Fund 491; approving and authorizing an interlocal agreement between the City and **HARRIS COUNTY** for Renovation, Maintenance and Operation of Lincoln Park - **DISTRICT B - GALLOWAY** – was presented.

Council Member Tatro stated that this was again utilization of rate payer water and sewer money out of the ALP fund to the tune of \$.5 million being utilized for Public Works projects and in this case another park project, that these funds had typically been used and paid for out of property and sales tax funded bonds, that he would not be supporting it.

A vote was called on Item No. 46, with Council Member Tatro voting no, balance voting aye. Council Members Ellis and Vasquez absent. ORDINANCE 2000-1111 ADOPTED.

41. ORDINANCE approving and authorizing first amendment to contract (approved by Ordinance No. 96-42) between the City of Houston and **WORLDWIDE SECURITY ASSOCIATES, INC** for Security Guard Services for the Parks & Recreation Department - 15 Months – was again before Council. All voting aye. Nays none. Council Members Ellis and Vasquez absent. ORDINANCE 2000-1112 ADOPTED.

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS

Council Member Tatro stated that about two months ago he had brought up a situation that they had in their district, that it was a large retention facility that was being built off of Old Katy Road near Conrad Sauer, that with that construction of a rather large hole they had buildings situated rather close to the large hole and the buildings foundations were failing and structural damage was being caused to their property because of the City project, and stated that he had asked the administration to take note of that and assist, that recently he went to visit one of the properties that sat behind it and found out that they had not received any remedy up to this point, that it had been thrown to the Legal Department, that he did not necessarily object to that but all of their remedies, they were told, was to talk to the general contractor and to have him provide a solution for them, that his solution was basically wait until he got done with his project and he would take care of the problem, that he did present a workable solution but it was not fair to the property owner in the sense that he had to wait 3 to

5 months before he could get relief to his property and they had damage, that his concern was with the policy that the City had with this, that it was his understanding that there was no City engineer, no city personnel, other than Legal, that was assisting the constituent in resolving the problem, that they simply gave it to the Litigation Department in the City Attorney's office and he understood the possible reason for that, that he did not think it was good policy and knew the property owners did not think it was good policy and this would obviously end up in litigation, that they had failed to monitor the situation and failed to bring a remedy in a fair manner to the property owner, that he would hope that the policy would be looked at.

Council Member Tatro stated that the issue he brought up last week with the Fire Department and the institution of the eleven squads they had placed a couple of weeks ago, that the questions he had brought up last week had not been responded to or answered, that the questions were what was the financial impact of placing these eleven new pieces of equipment or twenty-two new positions on the shift, what was the financial impact to the budget, and also where did the twenty-two people come from, that he wanted to know what the policy was with allowing units to go out with only three people on them, and how many of trucks and apparatus that they had at the Fire Department were going to be staffed to the proper four men designation, that those were the questions he asked last week and thought they were significant, that he would like a response. Council Members Galloway, Boney, Ellis, Vasquez and Robinson absent.

Mayor Brown stated that he would have someone meet with him, that what was being done was being done for a very special reason, that he wanted to make sure that when someone called 911 for a medical emergency that they would get a rapid response and this was one way of accomplishing that, that without giving him the details, it was obviously it was done within budget, that they would not overspend the Fire Department's budget. Council Members Galloway, Boney, Ellis, Vasquez and Robinson absent.

Council Member Keller stated that he would like to make a clerical correction and take his name off of Item No. 51, to un-tag Item No. 51 and put it on Item No. 50, and Mayor Brown stated that he was a little late on Item No. 50. Council Members Galloway, Boney, Ellis, Vasquez and Robinson absent.

Council Member Sanchez stated that he noticed last night in the cold that members of the Houston Police Department working diligently to expedite traffic through intersections and wanted to thank the Houston Police Department for keeping traffic moving in downtown Houston particularly in inclement weather, that it was a tough job. Council Members Galloway, Boney, Ellis, Vasquez and Robinson absent.

Council Member Parker stated that she wanted to remind them that the Fire Department briefing that Council Member Tatro was wanting to see happen was scheduled for Monday morning at 9:30 a.m. at the NTP committee and encouraged Council Members to attend. Council Members Galloway, Boney, Ellis, Vasquez and Robinson absent.

Council Member Castillo stated that each year they had a Christmas party for the needy children in the district and they got their referrals from the school counselors, however they never got a chance to publicly thank their benefactors because the press did not cover things like this and he recognized publicly the benefactors who helped. Council Members Galloway, Boney, Ellis, Vasquez and Robinson absent.

Council Member Goldberg stated that tomorrow night at 7:00 p.m. at Fondren Middle School they were holding their second townhall meeting regarding the Willow Waterhole, it was a 250 acre park that was going into District C, that the first meeting was to try and get a general idea of what elements the park should have, and the second meeting tomorrow night would better define what type of activities and recreational exhibits would go into the park, and that was at Fondren Middle School on South Braeswood. Council Members Galloway, Boney, Ellis, Vasquez and Robinson absent.

There being no further business before Council, the City Council adjourned at 12:27 a.m. upon MOTION by Council Member Quan, seconded by Council Member Tatro. All voting aye. Nays none. Council Members Galloway, Boney, Ellis, Vasquez and Robinson absent. MOTION ADOPTED. COUNCIL ADJOURNED.

DETAILED INFORMATION ON FILE IN THE OFFICE OF THE CITY SECRETARY.

MINUTES READ AND APPROVED

Anna Russell, City Secretary