

City Council Chamber, City Hall, Tuesday, February 6, 2001

A Regular Meeting of the Houston City Council was held at 1:30 p. m. Tuesday, February 6, 2001, with Mayor Lee P. Brown presiding and with Council Members Bruce Tatro, Mark Goldberg, Jew Don Boney, Jr., Rob Todd, Mark A. Ellis, Bert Keller, John E. Castillo, Annise D. Parker, Gordon Quan and Chris Bell, Mr. Paul Bibler, Senior Counsel, City Attorney's Office, Mr. Jesse Cantu, Director, Citizens Assistance Office, Ms. Martha Stein, Agenda Director present. Council Members Carol M. Galloway and Carroll G. Robinson absent on personal business. Council Member Vasquez absent due to being ill.

At 2:07 p.m. Mayor Brown recognized Council Member Parker for a presentation. Council Members Goldberg, Boney, Keller, Castillo, Quan and Sanchez absent.

Council Member Parker stated that a presentation of the annual report of the Buffalo Bayou Partnership would be presented for the Mayor and Council; that Buffalo Bayou runs through the heart of Houston, the heart of downtown and had become one of the real jewels of downtown; that it was being developed in wonderful ways but a lot more could be done to it to make it more of an amenity for citizens to enjoy; Council Member Parker invited Mike Garver, Chairman of the Buffalo Bayou Partnership and Ms. Ann Olsen, President of the Partnership to the podium. Council Members Goldberg, Boney, Keller, Castillo, Quan and Sanchez absent.

Mr. Garver stated that he wanted to take the opportunity to thank the Mayor and the Council for their continued support of Buffalo Bayou and the projects on Buffalo Bayou; that as the Buffalo Bayou Partnership they never fail to take the opportunity to sing the praises of Buffalo Bayou and what was happening; that time was now, that they conceived projects that were actually on the ground and they had a lot of conversation for many years, but now they were into action; they had Allen's Landing, Sesquicentennial Park, the trails along the Bayou on Memorial and Allen Parkway; that many things were happening; that he would brief them on the year 2000 accomplishments and they had an incredibly hard working Board and that Ann Olsen was an incredibly hard working Director and President and without her many of these projects would have never happened; that Council had a package before them that contained much of what he would be going over; that it had a part on Heritage Corridor; that it had the new development guidelines which were guidelines on recommendations for developers doing projects adjacent to Buffalo Bayou and how the treatment of the Bayou would best work for the City of Houston and also had their last newsletter that highlighted the Allen Landing project, a list of their 2000 accomplishments and a *Houston Chronicle* editorial that had been favorable to the efforts along Buffalo Bayou. Council Member Sanchez absent.

Mr. Garver reviewed the report and stated that what was going on in Buffalo Bayou was definitely a partnership happening; that they had the City, the County, Flood Control, Tex DOT, Texas Parks and Wildlife, Federal funding, foundations and corporate money; that this was a major collaborative effort; that their year 2000 was considered a year of progress and partnerships in forging new partnerships into making this all happen; that in fund raising they had continued their capital campaign to secure funds for Buffalo Bayou land acquisition for the trails and amenities; that they had raised more than \$3.5 million in 2000 and successfully fulfilled the Brown Foundation challenge grant to match \$1.0 million that they provided; in addition, there had been numerous important federal and

state grants; that the Texas General Land Office had provided \$95,000 and the National Parks and Wildlife had provided \$50,000. Mr. Garver further stated that he wanted to thank everyone for their support and he looked forward to seeing them on one of their twilight canoe opportunities on the Bayou and he would send a notice to Council Member Keller and make sure that he would participate. Council Member Sanchez absent.

Mayor Brown stated that he wanted to thank Mr. Garver for briefing them and that he was very impressed with what Mr. Garver was trying to do, his vision of Buffalo Bayou was one that would make all of them proud; that when it was all said and done he thought every Houstonian would be very proud of what he was contributing to the City; that he saw it as a place where people go, relax, enjoy themselves and where visitors would come to the City because of Buffalo Bayou and what they had done with it. Council Member Sanchez absent.

Council Member Keller stated that he appreciated the time Mr. Garver had put into this; that it was maybe the most important natural resource that they had in the City and that it was the spinal cord of his District. Council Member Keller discussed with Mr. Garver how they could best address the current level of erosion that they had between Barker-Cypress and Allen's Landing. Council Member Castillo and Sanchez absent.

Council Member Quan thanked Mr. Garver for coming and stated that he had intended to bring in the dragon boat races in May; that he believed it would give people a chance to see a sport that was very popular in the Far East brought to Houston to Buffalo Bayou and he looked forward to working with Mr. Garver on that. Council Member Sanchez absent.

Mr. Garver thanked the Council Members for their comments and stated that one day Buffalo Bayou would remind him of the Lakeshore Drive in Chicago; that it would be a long linear park and that it would happen. Council Members Parker and Sanchez absent.

At 2:26 p.m. Mayor Brown called to order the meeting of the city Council, and Council Member Quan lead everyone in prayer and the pledge of allegiance. Council Members Galloway and Robinson absent on personal business. Council Member Vasquez absent due to being ill. Council Member Sanchez absent.

At 2:27 p.m. Mayor Brown requested the City Secretary to call the roll. Council Members Galloway, and Robinson absent on personal business. Council Member Vasquez absent due to being ill. Council Member Sanchez absent.

Council Members Boney and Tatro moved that the minutes of the preceding meeting be adopted. Council Members Galloway and Robinson absent on personal business. Council Member Vasquez absent due to being ill. Council Member Sanchez absent.

Council Member Bell moved to suspend the rules to hear from Dr. Kenneth Huete first on the speakers list and Mr. David Hutzelman after Mr. Larry Lane, seconded by Council Member Tatro. All voting aye. Nays none. Council Members Galloway, and Robinson absent on personal business. Council Member Vasquez absent due to being ill. Council Member Sanchez absent. MOTION 2001-0114 ADOPTED.

At 2:36 p.m. Mayor Brown stated that Council would hear from the public and requested the City Secretary to call the speakers.

Council Member Parker moved to suspend the rules to add Ms. Vanessa Nawrocki to the speakers list after Ms. Mary Young and move Ms. Anne Pyke after Mr. Larry Welch, seconded by Council Member Boney. . All voting aye. Nays none. Council Members Galloway, and Robinson absent on personal business. Council Member Vasquez absent due to being ill. Council Member Sanchez absent. MOTION 2001-0115 ADOPTED.

Dr. Kenneth Huete, 3429 West Holman, Houston, Texas 77025 (713-661-3190); appeared and stated that he had brief presentation which was primarily excerpts from journal articles that spoke to the advocacy, cost effective, safety and care as compared to other disciplines; that regarding advocacy only 15% of all medical interventions were supported by solid scientific evidence; that in contrast a number of scientifically valid research was published on spinal manipulation to have made it one of two treatment protocols given the highest recommendation to the treatment of low back problems in adults by the Agency for Health Care Policy and Research and with the U.S. Department of Health and Human Services; that Fran Mangma in his report entitled "The Effectiveness and Cost Effectiveness of Management of Low Back Pain" performed for the Ontario Ministry of Health in Ottawa, Ontario stated that in addition to being cost effective that chiropractic was more clinically effective than other accepted treatments of low back pain; that the Rand Corporation performed a study entitled "The Appropriateness of Spinal Manipulation for Low Back Pain" and concluded that spinal manipulation was an appropriate treatment for certain low back pain conditions; that *The British Medical Journal* published a report entitled "Low Back Pain of Mechanical Origin Randomized Comparison of Chiropractic and Hospital and Out-Patient Treatment concluded that for persons with low back pain and whose manipulation was not contraindicated chiropractic almost certainly conferred worthwhile long term benefits in comparison to standard hospital out-patient management; that *The British Medical Journal* published a study entitled "Randomized Clinical Trial with Manipulative Therapy and Physiotherapy Persistent Back and Neck Complaints Results of a One Year Follow-up"; that the Dutch project compared the effectiveness of manipulation physical therapy for the treatment of persistent back and neck complaints; that the manipulative therapy group showed greater improvement in the primary complaint as well as physical function with fewer visits; that it also demonstrated manipulation and physical therapy were not interchangeable; that Dr. Mangma in his study entitled "Effectiveness of Cost and Effectiveness of Chiropractic Management of Low Back Pain" made the following statement that "there was an overwhelming new body of evidence indicating that chiropractic management of low back pain is more effective than medical management;" that a lack of any information or evidence to the contrary must be noted and is significant enough in forming out conclusions and recommendations; that the evidence included studies showing lower chiropractic costs for the same diagnosis and episodic need for care; that *The Journal of Manipulative and Physical Logical Therapeutics* published a study entitled "A Comparison of Health Care Costs for Chiropractic and Medical Patients". Council Members Keller and Sanchez absent.

Upon questions by Council Member Bell, Dr. Huete stated that there were 495,641 patients that were studied and that the conclusion was that chiropractic knowledge

relative to medical costs was more cost effective; that there was another study performed in the document in *The Journal of Occupational Medicine* that stated the compensation cost for work time lost was astonishing; that at \$68.38 for patients who received chiropractic care compared to \$668.39 for patients who received standard non-surgical medical treatment; that the number of work days lost by those under medical care was ten times higher than days lost by those who received chiropractic care. Council Member Bell stated that what he had quoted there was chiropractic versus non-surgical; but that if he had gone to a chiropractic vs. non-surgical but if you were to go to a comparison between chiropractic and surgical that he assumed that the difference would be much greater and Dr. Huete stated that there were a number of health plans that included chiropractic health plans and that he dealt with these on a regular basis; that he was certified in clinical neurology; that he was certified in industrial consulting; that he was an independent medical examiner for the Texas Workers' Compensation Commission; that he had served on the Insurance Relations Committee for the Texas Chiropractic Association; that he was President of the Texas Chiropractic Association in this District and that he had been one of the State Directors for Texas Chiropractic Association. Dr. Huete stated that it would certainly be a mistake to leave chiropractic services out of the health benefit plan; that it would negatively impact on the health of the persons who should receive it and it would also positively impact on the bottom line of how much money was spent for health care in Houston. Council Members Goldberg, Keller and Sanchez absent.

Counsel Member Tatro stated that he thought that this was a substantial benefit and that he knew it would cut down on the surgical versus medical expenditures and that it had benefited him for not missing days being sick and being laid up and so had some of his employees; that the assistance and the manipulation as Dr. Huete said could remedy those in a much quicker manner and put people back in a much more productive manner sooner and that he felt would be a substantial benefit to the City and its employees and Dr. Huete stated that it was for that very reason the paragraph had been included in the health care system for the United States Armed Forces. Council Members Goldberg, Keller and Sanchez absent.

Counsel Member Boney stated that he had raised this issue with the administration some time ago; that he had benefited from chiropractic care and he was a big believer from it for years before he was elected to City Council and that he understood that the staff was working with HMO Blue to work that out; that he thought the situation they had was in order to implement the contract for their deliberation they could not get all of the work done in order for it to be in this package now; that discussions had gone ahead with HMO Blue on adding a chiropractic option and HMO Blue had said that they believed they could do that and that they were looking for the providers that would not have a significant financial impact for the plan; that he thought they were almost there and the administration was in support and they would work it out. Mayor Brown stated that Council Member Boney's statements were accurate and he had been working on the matter even before he was Mayor; that he was invited to the College and met with the President and members of the Association; that it was something he had been working on since then and he expected to have that material in a systematic timing and his staff had been working very diligently on this issue. Council Members Goldberg, Keller and Sanchez absent.

Upon questions from Council Member Todd, Dr. Huete stated that he could not speak to the fact that the Armed Forces Plan had chiropractors on staff to service the military; that the Plan had just been incorporated to the health plan system and there was a trial setting done for a number of years; that looking at the number of days lost by servicemen and the amount of money that was spent on chiropractic care and that it was decided that chiropractic care should be incorporated in the health benefit system of the Armed Forces; that he did not know of any other governmental entities that were receptive to this plan; that the chiropractic providers were licensed by each State; that a licensed chiropractic provider would become a diplomat of the National Board of Chiropractic Examiners when graduated from Chiropractic College Dr. Huete reviewed certification requirements and stated that there were chiropractors that were certified in radiology, orthopedics, sports medicine; that there were specialties and that they had to be tested then by certification of the National Board once again for those specialists. After further discussion, Mayor Brown thanked Dr. Huete for his appearance. Council Members Keller and Sanchez absent.

Mr. Brian Cweren, P. O. Box 20175, Houston, Texas, (713-667-3330), appeared and stated that each Council Member had received a packet with a picture of a house on the front of it which would go along with his presentation; that he was present on behalf of his father to ask Council to vote against Ordinance No. 38 which pertained to land purchases and condemnation proceedings regarding the South Central Police Station; that his father owned a house which would be condemned to make way for the project; that he hoped that each and every one of the Council Members would agree that the City's taking of a citizen's property by force was a very serious step which should only be undertaken after given careful consideration and without any bias whatsoever; that he asked them to vote against this Ordinance for three main reasons; first, that he didn't think that his father's small piece of property was necessary to the project; second, the home had historical value to the community; and third, he did not think that the Police Department was being fair in the process; that on page 1 of the packet in between the their property which was highlighted and the station were several vacant lots which he understood that the City had already purchased; that the person who was in charge of the project for the Police Department had stated that he felt that their property was not needed; that the City should only acquire the vacant lots between their property and the current station; that pages 2 and 3 of the packet were site plans as prepared by the City; that page 2 which was prepared in 1999 and page 3 that was prepared recently in the year 2000 he hoped that the City would move the vehicle service building, which was also highlighted, that was originally never near their property; that recently when he complained that nothing was going to be built on their property and that it should not be taken, this building suddenly appeared there; that in his discussion with HPD where he was told that it was needed temporary parking during construction and he pointed out that there were other lots in the area more convenient to park and that their property would only hold approximately twenty police cars; that this property could be leased from other people in the area or taken by a temporary condemnation and the plan would have avoided the necessity of destroying a historic home for the sake of temporary parking; that most recently HPD also stated that nothing would be built on their property and he didn't understand why it needed to be taken, why there was a movement of the service building; that he had also been told that even with their property it would be too small for parking; that if this was the case why were tax dollars being spent on this project when it was already too small before it opened its doors; that this station served a large area

including the medical center, the Village and Mid-Town and could be placed in a number of locations which he asked that Council Members study; that he asked they take the opportunity to carefully review these plans and ask themselves was this the best place for this project and was their land absolutely necessary to be taken. Council Member Keller absent.

Upon questions by Council Member Goldberg, Mr. Cweren stated that the home meant a lot to the family; that it was very old and well-maintained and that he believed in talking with Police Officials that their property should not be taken and that he didn't think it was fair; that the neighbors' land in their immediate vicinity was not taken when they were originally supposed to have been taken as well and he thought that the plan of the project should be studied again and that their home again be spared from it; that it was not going to accommodate but just a few patrol cars and that it was not going to make or break anything. Council Member Boney absent.

Council Member Goldberg asked if there were other parcels of land around that is convenient for parking and Mr. Cweren stated that he believed that Council Member Goldberg was referring to available, alternative sites to their property; that there were properties actually more convenient to where the new station would be located; that they were across the street and also further up the street; that it was his understanding the way the current plans were that the officers would have to park their cars and walk a significant amount of area to actually reach the patrol station; that there were actually better sites of vacant land across where those cars could be parked; that he understood that the bottom line was a need for temporary parking; that there was also parking along Chartres Street where there was an inlet that had never been used and was made for school buses and stuff like that; that there were plenty of sites would accommodate the twenty cars that would be used for their lot that were better and he thought they should also take a look to see if there was a need for a parking garage; if the station was being built to accommodate major business events that were coming to town for other things in the area; that maybe there was a need and instead of worrying about twenty cars to take a look at the plan and perhaps put another parking garage or go to another site altogether where the cars would be properly accommodated; that there were no structures on the land that he mentioned that could be used for parking. Council Member Boney absent.

Council Member Ellis asked Mr. Cweren why they had chosen his property when he had stated that there were other properties more suitable and Mr. Cweren stated that he understood the reason they had chosen his property was that it was adjacent to where they were; that he didn't know if it was whether they felt it was an opportunity to not have a neighbor next door to them; that he would have to speculate as to why his property had been targeted; that there were vacant lots across the street that would be more appropriate for parking; that he understood temporary parking was what they needed; that he had been speaking to the Houston Police Department and had spoken to Assistant Chief Dennis Richards who was in charge of the project and that he had tried again to speak to the Assistant Chief who had now resumed the responsibilities but that they no longer wanted to talk to them about it and that the word had come from upper command not to discuss it with him anymore. Council Members Boney and Todd absent.

Mayor Brown stated that Ms. Nancy Collins from Public Works was present and that she could answer some of the questions. Council Members Boney and Todd absent.

Council Member Ellis moved to suspend the rules to hear from Ms. Nancy Collins, Public Works Department, seconded by Council Member Tatro. All voting aye. Nays none. Council Members Galloway, and Robinson absent on personal business. Council Member Vasquez absent due to being ill. Council Members Boney and Todd absent. MOTION 2001-0116 ADOPTED.

Mayor Brown asked Ms. Collins to tell them why this property was being considered for the purpose that it is being considered for and Ms. Collins stated that at the request of the Police Department they were asked to acquire additional land for expansion of this site; that Mr. Cweren's property had been identified as being needed for the project and there were four additional lots to the North of his that they were acquiring as well. Council Members Boney and Todd absent.

After further questions by Mayor Brown and Members of Council, Council Member Castillo stated that he thought she was the wrong person to be asking for the design decisions that have been made and that the Police Department had Assistant Chief present who could answer those questions, the questions of continuity, the questions of efficiency, the questions of security, and that he would like to have whatever Chief was present to speak to. Council Members Boney and Todd absent.

Council Member Castillo moved to suspend the rules to hear from Chief Dennis Richards, seconded by Council Member Parker. All voting aye. Nays none. Council Members Galloway, and Robinson absent on personal business. Council Member Vasquez absent due to being ill. Council Members Boney and Todd absent. MOTION 2001-0117 ADOPTED.

Council Member Castillo asked the Chief to tell the Council the general plan for this police substation and why it was that this particular property was the most efficient and most desirable in his estimation for this project. Chief Richards stated that the reason that it was most desirable was that they wanted one continuous piece of property that they could fence, that they could secure; that originally the plan had called for a maintenance facility; that he had asked that to be cut from the original plan; that consequently that much property was needed because they had cut back on the plan; that the original plan was to take the entire block; that at the South end of the block there was a small brick bungalow that was a homestead; that he didn't want to take that homestead; that originally he didn't want to take Mr. Cweren's property as well; that he was hopeful that since they had cut back on the plan that they may not have to take his property and he has asked the people in Property Design to take the plan up to Mr. Cweren's line; that they told him they could not complete the project without that additional property; that as far as the question of temporary parking that this was not a temporary parking situation; that the new station would be built on the existing parking lot and they needed the parking to park the police cars while the construction was being accomplished for the new station and then once the new station was completed they would demolish the old one; that when he had the garage and maintenance facility cut in the plan he did ask them to include gasoline, air, water and car wash and that was what

that facility was. Council Member Castillo asked if the parking would be most proximate to the building with the service areas farther to the South and Chief Richards stated that was correct and if they tried to park the vehicles across the street or up the block they would have a security problem as well. Council Member Castillo asked if with the current arrangements the police officers would have the shortest walking distance from the parking to the building and Chief Richards stated that they hoped that it would and it was mentioned about a parking garage and that they had looked at that option as well but the dollars were not there in the project; that parking garages were quite expensive especially the costs of materials nowadays. Council Members Boney, Parker and Bell absent.

Council Member Goldberg asked if there were lots closer to the station than Mr. Cweren's lot and Chief Richards stated that he believed Mr. Cweren had mentioned some vacant lots that were East and they were across the street; that the Police Department would not be able to secure the lot; that they could put a fence around it but then they would have to put somebody on the lot or at the gate and that would be rather difficult. Council Member Goldberg asked if they had electric gates or technology that would allow police officers to open and close the gate as they go in and Chief Richards stated that it may be that they could provide for that if they had the money for it. Council Members Boney, Ellis, Parker and Bell absent.

Upon questions by Council Member Goldberg, Mr. Cweren stated that their family members had ties with the land for over fifty years and that the family had actually owned it for approximately fifty years; that the home itself was approximately eighty years old and lot was approximately 9,000 square feet and the had been told by an architect that it would only accommodate about twenty cars; that as for clarification he understood that they were the only property that would be taken to court for a domain; that he thought that when the word acquisition was used at other lots those owners had already sold; that his lot was the only piece of property that the City will have to pursue legal action on. Council Members Boney and Castillo absent.

Council Member Tatro asked what the difference percentage wise between what the City is offering and what Mr. Cweren believed the value of the property was and Mr. Cweren stated he believed that it would be a large percent but that he had really not pursued that avenue because he had been focusing on trying to preserve the home and that he had made the statement to Ms. Collins that he thought they were way off on the appraisal and that they insinuated that he was trying to keep the home just to make money and he believed that was the insinuation that came back. Council Member Tatro stated that he was familiar with how the City dealt with the eminent domain process and asked Mr. Cweren if he thought that the original offer was 50% of the market and Mr. Cweren stated he thought the original offer was way out of line. Council Members Boney and Keller absent.

Council Member Quan stated that he had spoken with Mr. Cweren and his father about moving the house and that he expressed to him that he was capable of moving the house and asked Mr. Cweren to explain to Council as to why that would not work and Mr. Cweren stated that they had met with two house members and the first was recommended by the City of Houston and he believed it was called the Historical Commission, an individual who had experience in moving these homes; that he came out to the site to look at it and because of the house's width that it was built to where the

rooms extend out from the front porch and that those rooms would have to be chopped off; that the roof of the house with the rafters and all going almost to the ceiling it would have to be chopped off because once it was placed on the top of the moving equipment it would not make it down the street because it was too high and too expensive to have HL&P remove power lines and that it was too wide to go down the street in its present condition because telephone poles and light poles are near there; that they were out there with another mover and his dad was there and was instantly stopped by a police officer and told they needed to leave the property because it was now owned by the City of Houston; that they had been told it would be hard to move and impossible unless they wanted to rebuild it. Council Member Quan stated that the City would like to work with him in preserving the house since it meant so much to his family and that the City had indicated it was willing to provide additional funds as opposed to the demolition costs if they had a solution. Mr. Cweren stated that he thought the first step would be to meet with these people but that he believed they were refusing to meet with him. Council Members Boney and Keller absent.

Mr. Larry Lane, P.O. Box 1593, Kingwood, Texas 77347 (281-306-8065) appeared and stated that he had been told he could catch more flies with honey than with vinegar; that the problem was it didn't have much use for flies; that there were a couple of apparent issues that beg examination and honest open discussion; that we would shortly be discussing employee health benefits with enhancements that were sure to provoke vigorous debate; that emergency medical services were still not what they should be despite the appointment of a Red Ribbon Commission and the administration's use of the water, sewer fee slush fund continued unabated; that given the limited amount of time that you grant your humble servant, he would confine the balance of his remarks to Metro; that each of them understood that Metro's Main Street's Trolley was not a sound and efficient project; that each of them understood that development patterns would make the central business district or downtown less and less a factor in our region; that each of them understood to attempt to style a signature boulevard would not reverse the underlying trends in our regional economy; that they knew in their hearts that Mr. Vogel was right; that they knew the petitioners who had taken the issue to court were right and that the Mayor even recognized Council Member Todd was right; that our strategy to appeal, appeal and appeal was a waste of his city tax dollars; that Metro's toy train was a waste of his Metro tax dollars; that he knew who let the legal dogs out and he submitted that it was time to leash them and put them back in the kennel; that the charter was pretty darn clear; that not only our former barricader Bill Clinton would spend this one; that they should muzzle the lawyers and set the date for the referendum on light rail; that Metro had put them in a strange position because Metro elected to proceed without lining up their ducks and getting proper legal permission; that our duty was clear that they needed a referendum. Council Members Boney and Keller absent.

Mr. David Hutzelman, 12415 Woodthorp, Houston, Texas 77024 (713-256-7881); appeared and stated that he was the Director of BUSCAR, the political action committee that sponsored the petition drive that resulted in 1100 petitions being submitted to the City Secretary in calling for a referendum on light rail; that the petitions figured prominently in Judge Devine's decision to grant a temporary injunction regarding the light rail project; that however they still reflected the fact that 78% of Houstonians favored a vote on light rail as published in the *Chronicle* in the only scientific poll published to date; that they wanted to thank Council Member Todd for having the political courage to stand up for his

rights and the rights of the 1100 petition signers; that he had not met or spoken to Council Member Todd until well after they had completed their petition drive and that he also wanted to thank him for allowing one of the petition voters, Allen Vogel, to enter in an existing lawsuit as an intervener; that he wanted to also thank Council Members Ellis, Keller, Goldberg and Sanchez for supporting the amendment to Ordinance 1028 in November 21st of last year calling for a vote in this issue; that two separate judges had upheld a right to a light rail referendum under the City Charter; that he wanted to suggest three plausible scenarios on how they could proceed to minimize the further expenditure of taxpayer dollars; that first if it's within their purview council could pass an ordinance to have a provision for a public referendum on light rail; that he believed it would only take a switch of two votes to cause this to happen; that second they could join Metro and use their considerable influence with the Texas Legislature to introduce a bill to authorize a referendum on light rail here in Houston similar to the one they had authorized to Austin; that this would allow Metro to nullify the County Attorney's opinion making such a vote illegal; third, that Mayor Brown controlled the majority of the appointees on the Metro Board and that would instruct those appointees to have Metro issue a little amount of debt or bonds; that such issuance of bonds would trigger world wide on this issue and stated that he concluded by asking Council to stop the City's runaway train of the City's and Metro's tax dollar funding legal expenditures being used to deny citizens the right to vote and asked that they work with their colleagues in Metro and in the Legislature to fully honor the Mayor's promise to give Houstonians a referendum on light rail. Council Member Boney absent.

Council Member Bell thanked Mr. Hutzelman for coming and stated that he thought as the debate went forward he thought it was important that they all were on the same page; that when the proposal was originally rolled out by Metro there was going to be an election and he knew Mr. Hutzelman recalled that the election was going to be on all the various road projects along with the rail and Mr. Hutzelman stated that he did not know whether they had actually drafted the ballot but that could well be. Council Member Bell stated that was certainly the suggestion that was what they would vote on; that he had sat at the time at the table and he thought that would be somewhat disingenuous at the time because he thought the idea was that people would support the various road projects that would affect their areas and if he had put rail in with those projects that they wouldn't necessarily have to vote for that; that he knew if the vote had taken place in the past people would have come back and said that people voted for the rail projects but that they didn't support rail or they voted for the road projects; that they didn't support rail; that they voted for the road projects but they didn't support rail; that rail proponents would come back and say no that they did support rail – look at the vote and then at the end of the day you don't really have any agreement; that he was curious if Mr. Hutzelman would agree with his description of that process and Mr. Hutzelman stated that he did agree and that what they were pushing for and what actually the vote calls for in the City Charter would be clearly on the light rail and that the vote that was conducted in Austin which the State Legislature authorized was an unbundled project on just light rail as well; and that was certainly what they were pushing for. Council Member Bell stated that particular election had it taken place in that fashion really would not have amounted to much at the end of the day in terms of a reflection of public opinion and Mr. Hutzelman stated that he thought that was probably the case. Council Member Bell stated that now he was just talking about a City election because his understanding was that the County was no where in this process as in terms of agreeing to put it on a ballot and Mr. Hutzelman

stated that as far as he knew the only referendum they were entitled to was the one on Ordinance 1028 which only included the City which they concluded was better than no vote at all. Council Member Bell asked if it was also fair to say that if that election went forward and it passed in the City that opponents of rail such as Mr. Hutzelman would then come back and say had the others been included in the Metro area then it would not have passed; was he going to gladly embrace this rail project and say the public clearly wanted to go for it and Mr. Hutzelman stated that he had not made up his mind on that issue; that it never occurred to him actually; that they were only interested in the City Charter and the referendum and Council Member Bell stated that in the reading the paper and watching he thought Mr. Hutzelman would think of little else and Mr. Hutzelman stated that was not true; that they would support a Metro light rail referendum and that if Council Member Bell would work with Metro in the State Legislature he was sure they would get one. Council Member Bell stated that there was some suggestion when it came up at the table that could easily be accomplished with not much effort by Metro by calling for some debt to be included in the project. Council Member Bell asked Mr. Hutzelman if he would agree with that and would he support that scenario and Mr. Hutzelman stated yes. Council Member Bell asked what efforts were they making to try to make it happen either at the County or any other levels and Mr. Hutzelman stated that he had taken the occasion to address the Metro Board yesterday with the same option; that they certainly knew they were in favor of that; that it was not actually for him to speak on behalf of the two plaintiffs in this lawsuit; that he was simply involved in trying to bring this issue to a vote. Council Member Bell asked what efforts were being made to the County to try to get them to move forward and include that area in the vote, that it seemed like it would make sense and Mr. Hutzelman stated that personally he was not involved with any issues to try to work with other people in the County; that they had plenty on their table to just look at the City Ordinance and that he knew that from a standpoint of his position that was the only view that he saw as being publicly available for a citizen who worked towards the referendum. Council Member Bell asked if it was fair to say that at the end of the day that would be all that they would be left with, did Mr. Hutzelman believe that if that particular vote, a city-wide vote, that they would have an inconclusive result as to the overall feeling toward rail and Mr. Hutzelman stated that he didn't think it would be inconclusive in the City of Houston; that he could not speak for the overall area. Council Member Boney absent.

Council Member Tatro stated that as one of the 1100 signatures he wanted to publicly thank him for all the heavy lifting he and the others had done.

Council Member Todd asked Mr. Bibler if he was familiar with the rules at the State level regarding if a bill could go through on an emergency basis could it be in effect before September and Mr. Bibler stated that if it was passed in both houses with a 3/5ths record vote and the Governor signs it, it could. Council Member Todd asked Mr. Bibler if it would be feasible to have an emergency vote to allow for a Metro service wide election before May and Mr. Bibler stated that he supposed so, but if Judge Devine's order stood and that he didn't think it would on appeal, he would still have to have an election in the City. Council Member Todd stated that he understood that, but wanted to know if it was possible under certain circumstances if the Legislature passed it on an emergency basis that we could have a service-wide referendum by May and Mr. Bibler stated for calling an election with the exception of Charter elections, the rule was that you would have to call them 45 days before the election; that the election day in May was very early this year, it

was on the 5th and that he would be working against a schedule that in his experience would be virtually impossible. Council Member Todd asked Mr. Bibler if based on his experience with the Legislature if the City and Metro would not oppose a bill would it sail through pretty easily and Mr. Bibler stated based on what he had been told with re-districting in effect that virtually nothing would sail through. After further lengthy discussion Council Member Todd stated that the rail was being advertised as high capacity transit, if you were to look at their study you would find that the light rail project would carry 37% fewer passengers than the existing bus service that were going to terminate.

Council Member Goldberg moved to hear Ella Tyler out of order, seconded by Council Member Ellis. . All voting aye. Nays none. Council Members Galloway, and Robinson absent on personal business. Council Member Vasquez absent due to being ill. Council Member Tatro absent. MOTION 2001-0118 ADOPTED.

Ms. Anne Pyke, 5451 Imogene, Houston, Texas 77096 (713-951-3700); appeared and stated that she was present to speak in support of domestic partners benefits for City employees; that she could not speak for Vinson & Elkins but that she could speak from her personal experiences having been an employee there and having been instrumental in providing information to the firm to help them make a decision as to whether or not to provide the benefits; that Vinson & Elkins had actually provided benefits; that their research into other different major employers and different institutions that provided domestic partnership benefits for their employees showed that it had a general effect of increasing employee morale, not only for employees that might at some point avail themselves for such benefits but also generally as an indicator to employees that the benefits indicated that the employer was interested in providing equal benefits to all employees and their families and that employers interested in them as individuals and the merits they would bring to their job; that although it had acted as a symbolic measure in that respect it had also made a real difference for a few employees who availed themselves to those benefits and that she had personally spoken to a few of the employees at Vinson & Elkins who did avail themselves of those benefits and that were very grateful they existed and that all of this act of goodwill was provided at minimal or no cost to the employer; that she thought there was no reason to believe that the City experience would be different; that other major employers, companies, public employers also had provided domestic partnership benefits; that she believed the City had probably done the research that those benefits were being provided on a wide scale and made these organizations, both the companies, law firms and metropolitans that provided the benefits more competitive with people who were interested in public service; that it should not and probably would not cost the City any additional money, it was good for employee recruitment; that she had spoken to some individuals who were looking to determine what law firm they would want to go to during summer recruiting season; that at Vinson & Elkins she had heard a number of people say that was a positive aspect for them, an indicator that made them feel interested in coming to the firm to begin with; that people who were working in the workforce did take that into consideration and she wanted to reflect that her experience in talking to different people who availed themselves to the benefit and that her research showed that benefits were good for morale and were not abused or over-utilized and that they did provide an atmosphere for employees of feeling valued by their employer and able to provide for themselves and their families.

Council Member Sanchez stated that Ms. Pyke made the statement that it would probably not cost the City any money and he wanted to know what she based that on. Ms. Pyke stated that the statement had been based on her prior research that she had suggested that there was probably more updated information available; that she thought it probably bears through that the benefits were available without significant cost to employers. Council Member Sanchez asked Ms. Pyke if she was aware that administration had stated there was a potential that if 100 people sign up that the cost was close \$250,000 and Ms. Pyke stated that she was not aware of that particular statement; that she knew that there were circumstances of estimates that did or did not bear out; that it seemed like an extreme amount of people to sign up to her. Council Member Sanchez asked if she thought that 100 people signed up was an extreme number. Ms. Pyke stated that she thought it was a larger number than she would expect; that she no longer worked for Vinson & Elkins and that she was not reporting for Vinson & Elkins and that she was not speaking as an expert; that she wanted to make it clear that she was speaking as an individual who had some familiarity with the process and had some anecdotal information for people who had taken advantage of it or had come to a place because of the policies that existed. Council Member Boney absent.

Council Member Todd asked Ms. Pyke if she was an attorney and had she done any research in other cities had done in this area. Ms. Pyke stated that she was an attorney but that she had no idea what other cities in this area had done; that she was speaking on what little information was available to some of the large employers five years ago or so that she had researched and based on her personal experience of interacting with people who were aware of the policy and had asked questions to her. Council Member Todd asked if Ms. Pyke if she regarded in traditional insurance plans that made distinctions based on sexual preference discriminatory. Ms. Pyke stated that she personally believed that it should not a basis of whether or not someone should have received insurance benefits; that she did regard it as being discriminatory. Council Member Todd asked Ms. Pyke if she regarded this as being anti-discriminatory. Ms. Pyke stated that she regarded this as non-discriminatory as a basis for gauging employees based on their merit to writing them a comparable benefits package; that she had not regarded it as a effort to remedy past discrimination. Council Member Boney absent.

Council Member Todd asked Council Member Parker if at the Health Benefits Committee level were there discussion about how there had not been any benefits in the past and Council Member Parker stated that there was discussion but not extensive discussion; she had asked the question in the fiscal context how much was the cost and if our insurance company would be willing to provide these benefits; that the answer back from the insurance company was that there was no cost on the policy that they did it every time and it was a fairly routine matter; that it was discussed in the Committee only to the extent whether we should ask these kinds of questions. Council Member Todd asked Council Member Parker if she regarded policies that exclude domestic policy benefits as being discriminatory and Council Member Parker stated that she did and that she thought this was an opportunity to hear from the public rather than Council; that she considered it an equal benefits issue that she deserved the same pay and benefits that her colleagues around the Council table received; that she agreed this effort was anti-discriminatory; that the Benefits Committee had not made a decision on this; that it was a policy decision made by the administration. Council Member Boney absent.

Council Member Todd asked Mayor Brown if this came from him or from the Committee. Mayor Brown stated that time was up; that he would be glad to discuss outside of Council, but that he thought now was the time to hear from the public. Council Member Boney absent.

Ms. Ella Tyler, 5150 Indigo, Houston, Texas 77096 (713-665-2236); appeared and stated that she was present to speak in favor of domestic partner benefits in insurance for city employees; that she was a resident in District C and the Democratic Executive Committee Member from Precinct 176 which was at Lovett Elementary; that Lovett Elementary in Precinct 176 was not a bastion of Democratic voters in Harris County, however, they tried to be good voters and tried to support what they thought was good for the City; that she knew, having lived in that precinct for a long time, the precinct was surprisingly diverse and included a number of residents who were gay and lesbian; that she thought they all believed that insurance was some isolated thing that means something to somebody else, some abstract, intangible employee; that she worked for Barnes Noble and that she had practiced law; that she had run into one of her former law school classmates who said she had come to work for the City; that the reason she came to work for the City was that the City offered her some very attractive insurance benefits and she was getting a little old; that her health insurance was costing her close to \$5,000 per year; that the City had an exceptionally able intelligent lawyer away from her private practice because they had offered her private insurance benefits; that another friend of hers had gone to work for a large chain of home improvement centers because she received insurance benefits for herself and her partner; that this chain was getting an exceptional and talented employee because they offered domestic partner benefits; that benefits and insurance benefits made a real difference to real people and she thought they would aid the City in recruiting talented people in all levels of employment. Council Members Boney, Ellis, Keller, Castillo and Quan absent. (NO QUORUM PRESENT)

Mr. Larry Welsh, 4355 Wild Acres, Houston, Texas 77072 (281-495-5135); appeared and stated that he was present to talk about the Library; that the computers allocated to the Library were paid for by City funds and they were not working; that sometimes you had long lines, that the Library was spending thousands and millions of dollars on the paper they used; that the generic cartridges, half of them were thrown away and did not work; that even the staff and technicians couldn't work them; that he thought the time limits on the computers or paying to use them should be used somewhere else; that he was for the light rail because the voters of the City had allocated money for the light rail; that where he lived in the Bellaire area, it took about an hour and a half each way to come to town; that the City buses did not come on time; that this City was the fourth largest city in the nation and thought that the lawsuit was just really frivolous; that they should have more transportation in the City to benefit all of the people. Council Members Boney, Ellis, Keller, Castillo and Parker absent. (NO QUORUM PRESENT)

Council Member Goldberg asked Mr. Welsh if he worked for the City Library and Mr. Welsh stated that he did not that he was just a patron; that there were long lines just everywhere and if some of them break down then you had to go to other floors to use them; that it was chaos. Council Members Boney, Ellis, Keller, Castillo, Parker and Bell absent. (NO QUORUM PRESENT)

Council Member Goldberg stated that his concern about the cartridges; that he had looked into it about six months ago and that they used to buy new cartridges but now they got them and repaired them; that they were not buying new cartridges; that if they were buying new cartridges then they were not sticking to their word. Mr. Welsh stated that they were generic and that he was told that half of the generic cartridges were no good. Council Member Goldberg stated that they should be filling them and reusing them; that he would look into that. Council Members Boney, Ellis, Keller, Castillo, Parker and Bell absent. (NO QUORUM PRESENT)

Minister John Whitley, 2721 McIlhenny, Houston, Texas 77004 (713-659-6057); appeared and stated that he was the minister at Church of Christ in the third ward; that he understood next week Council would have an agenda for benefits for domestic partners at tax payers expense; that domestic partners was a nice way of addressing a sinful lifestyle; that we knew that homosexuality was a violation of God's law and even as they did want to retain God in their knowledge God gave them over to a reprobate mind, a morally unprincipled person, one rejected by God and without hope of salvation; "don't you know that the wicked will not inherit the kingdom of God?"; that neither a sexual immoral nor adulteress, nor a mere prostitute, nor homosexual offenders, nor thieves, nor greedy, nor the drunkards or slanders and swindlers shall inherit the kingdom of God; that this was what some of them were; that they were considering allowing individuals to enjoy the benefits of marriage without having been married; that they were also endorsing a life style which Heaven forbids, same sex relationships of an intimate nature; that by mandate of a scripture as a citizen he was obligated to submit to every ordinance of man for the Lord's sake, whether it be to the King of Supreme or to Governors as of the Emperor sent by him to punish evil doers for the praise of them to do well; that in this context you are obligated to punish the evil doer, not reward the reprobate; that there was no expected good to come from such action; that righteousness exalter the nation, but sin was a reproach to many people; that our past President issued an executive order for approval of this self-styled minority and was not accepted by the Bible believing community; that Mayor Brown had attempted to do the same thing when he came into office for his first term; that it was not approved nor appreciated by many of us who knew and worked with him as our Chief of Police; that it had been a personal pleasure to appear on many programs with Mayor Brown and to respect his sound judgment for the protection of our City, he must hasten to say that they were on opposite sides of this issue and because it had become so acceptable ruining so many children, corrupting our society, he chose not to remain silent any longer; that he was happy that Houston was an equal opportunity employer, however, that as our elected representative Mayor Brown did not have the right to impose this domestic partner benefit package up on us, the taxpayers; that the Supreme Court had given us a President without due process, many of us were still unhappy and what you were attempting to do was no less reprehensible and he asked that Council vote no for benefits for domestic partners; that if they chose to live together in violation of the highest law in the universe, let them pay for their own benefits; that as one of the speakers spoke before him that he was not as privileged as she; that he came in on time at 1:30 and while he was waiting he still had to pay the City; that it was good to each of them but he was concerned about what was happening on the national level; that he would be happy at any point and time to visit and talk and stated personally to the Mayor that it was good

to see him but that he hated to be standing there based on what had transpired in our City. Council Members Goldberg, Boney, Keller and Bell absent.

Council Member Todd discussed with Minister Whitley the referendum in 1985 and stated that he would be happy to know that there was a section of the City Charter, Article 8, Section 9 and that it stated that no resolution which had been adopted by popular vote shall be repealed except by popular vote; that when our grandparents were setting up this City that they provided for a charter provision to make certain that when the public speaks that City Council had to go back to the public to get permission to do otherwise. Minister Whitley stated that he had observed and read in the paper that there was supposed to be some action next week and if City Council passed it then they would have to go back through a lawsuit referendum and he thought that intelligence dictated that it ought not to be something that was political; that those who chose to live that way should not as we tend to say "come out of the closet" that we are bombarded and we were having so many of our children having problems. Council Member Todd stated that he had a question for the Legal Section on that, did Article 8, Section 9 pertain to this situation and Mr. Bibler stated that it was not in any way that he could conceive of; that he had drafted the item that was voted on in 1985 and that referendum had nothing to do with benefits. Council Member Boney absent.

Rev. Marilyn Meeker-Williams, 1440 Harold, Houston, Texas 77006 (713-526-1017); appeared and stated that she was pastor at Bering Memorial United Methodist Church; that Bering Memorial was a diverse congregation; she had people representing many kinds of diversity at Bering; that one kind of diversity was sexual orientation, others were race, age, sex, ethnicity; that many members and friends of Bering were couples; that some of them were straight couples, some of them were gay couples; that one of their newest Sunday School classes was a couples class that welcomed both straight and gay couples; that it was formed three years ago because they became aware of a need for support for couples in their church, all couples; that they found out after beginning that class about one year into it that the church was the main source of support for particularly the gay couples because it was lacking in other parts of their lives such as in their employment, in their families and sometimes in their neighborhoods; that she thought that the whole question about the domestic benefits was about whether they were going to treat all people the same and whether they were going to respect who people were; that regardless of what her colleague in the faith had said, she understood that they were all created in the image of God; that some were created gay and lesbians; that others were created straight, heterosexual; that she thought they should look at this as an issue about whether they were going to treat people equally and fairly; she thought that it was a justice issue; she thought justice issues were very much a concern of God; that the Bible was full of injustice and how God worked to remove the injustice so that people might live whole, healthy lives; that equal pay for equal work includes equal benefits; that she had left Bering a couple of minutes ago and that one of the men in the parking lot, a man who was in a gay relationship and had a partner, and asked him why he wanted to the domestic partners issue to pass and he stated that he really would like benefits to help pay for his medication; that he happens to be living with AIDS and that she would be happy to have benefits for him so that he could live healthy, full kind of life while he lives with AIDS; that they heard from the last speaker about sinners and she needed to remind us that we all stand before God and that each one of us stands as a

sinner but also created in God's image and saved by grace. Council Member Castillo absent.

Upon questions by Council Member Sanchez , Rev. Meeker-Williams stated that gay and lesbian partners would be two men as partners and two women as partners and that she assumed domestic partners would be any couple living together in a household that probably suggested commitment to one another as partners in life. Council Member Sanchez asked Mayor Brown if he drew a distinction between gay and lesbian relationships and domestic partners because there seemed to be some confusion as to who could avail themselves as to the benefit. Mayor Brown stated that he didn't know who labeled them as domestic partners. Council Member Castillo absent.

Council Member Boney asked Mr. Bibler about the health benefits for domestic partners, same sex partners, gay and lesbian partners who are living together, if this was defined for legal purposes in the health benefit package as persons who were living in what was legally defined as a spousal relationship; that as he understood it when they discussed it last week that they had tracked the guidelines to be similar with that of the County in that if two human beings were living together in what they determined as a permanent spousal relationship for at least six months that it would be if they were heterosexual common law marriage and wanted to know if that helped to get to some of the questions raised by Council Member Sanchez and Mr. Bibler stated that we had been working with this issue for some days; that first we needed to think about that we have retirees that have gone to the far corners of the universe; that we were trying to write this in a way that it would apply anywhere, but generally speaking, the insurance that had been supplied to us by the insurance company essentially describes where the attributes were of a common law marriage; that in some jurisdictions there were ways such as in Texas you could register an informal marriage and so they were trying to write this in a way that it would fit that description and would work everywhere. Council Member Boney asked if they had finished drafting that language in any way yet and Mr. Bibler stated that they had not. Council Member Castillo absent.

After further discussion Mayor Brown stated that Council Member Todd had just handed everyone a legal document that read Richard Hotze and The Hon. Rob Todd vs. Hon. Lee P. Brown, Mayor of the City of Houston and the City of Houston handed out by his aid, Mr. Biggs and wanted to know if Council Member Todd was using his aid to do his personal legal work. Council Member Todd stated that he was not. Mayor Brown stated that Council Member Todd was using the City time to have his personal aid to hand out his personal lawsuit. Council Member Todd asked the Mayor if he was threatening him. Mayor Brown stated that he was asking the question if this was appropriate use of a City employee's time to hand out your personal lawsuit against the City of Houston. Council Member Boney stated that it was time to go back to the agenda. Council Member Castillo absent.

Ms. Mary Ann Young, 3807 Purdue, Houston, Texas 77005 (713-663-7159); appeared and stated that the time had come for the City of Houston to adopt the best corporate practice employed by other big cities that invite so many of its valued major employers; businesses that in fact participate with this City government as partners in efforts to improve their quality of life to enhance economic development; that included in the gay pride parade, which some of them had participated in, were enthusiastic displays

of support by valued corporate citizens including Chase Bank, Wells Fargo and one of the most Houston of Houston companies, Gallery Furniture; that these companies know that good business in the 21st century must be done; be competitive, constructive and compassionate; that this policy was an incredibly small and sound investment for them to make in keeping the City competitive and keeping good employees; that some of her best friends were gays and lesbians living as domestic partners and that there were heterosexual men and women who were living as domestic partners; that they were bankers, teachers, lawyers, builders, artists, doctors, nurses and elected officials; that they were adoptive parents, civic volunteers and good citizens; they had six and in many cases seven figure incomes, beautiful homes in neighborhoods throughout this City and that they paid the taxes that go along with all of that; that their contribution to this City was immeasurable; that Houston was trying to repair and rebuild its national image nicked by some inauspicious politics last year; that it was interesting to watch "the worm turn" and watch the other side of the political divide seek to drag this City into yet another round of bad publicity; that this time the feature was intolerance and hate; that lately they had been spinning their wheels on so many important issues in the City. Council Member Castillo absent.

Upon questions by Council Member Tatro, Ms. Young had stated that she thought it was time for it to pass, that she was familiar with what happened in Austin in 1993, that she was someone who believed that public policy should be formed by strength in numbers and if the numbers evident here today, which by her count, the number of people testifying in support of the measure outnumbered the ones present to speak in opposition, that she was of the mindset that the majority of citizens of Houston understood this to be a best corporate practice and supported it. Council Member Castillo absent.

Upon questions by Council Member Keller Mr. Bibler stated that it was a plain old contract, that it was an ordinance that approved the Mayor signing some contracts, and did not amend the City Charter, and Council Member Keller asked if the person who determined the financial impact to be \$175,000 could facilitate him or his office with how they came to that number which would be helpful to him, that he wanted it comparable to Continental. Ms. Young stated that the one person or organization that could be most helpful in the debate would be the benefits provider because she would imagine that the City was using a major nationally known well established provider and she would assume that the provider already had a program in place for corporations and businesses and maybe even public entities that did provide those benefits and they should be able to give them chapter and verse on how to implement the procedure. Council Members Castillo and Sanchez absent.

Council Member Bell asked Ms. Young if it was time to simply have an election on this particular issue, in her opinion, and Ms. Young stated that she did not think that anyone involved in this issue was afraid of an election and were not trying to advance it at the Council level to prevent an election, but they as an elective body had the ability to adopt the policy, that yes there was an initiative and referendum in Texas and yes it could be overturned by collecting signatures, but what they all had to ask themselves, was that what they wanted to do. Council Members Castillo and Sanchez absent.

Council Member Boney stated that if some human beings, however they were linked together, traditionally or nontraditionally, sought to do whatever they did as partners in life, should receive the same protection as any other partners in life who made those commitments, that they certainly they may have to go through some processes of trying to fine tune the language to make sure that they were treating traditional heterosexual couples the same and every other nontraditional couple the same. Council Members Todd, Castillo, Parker and Sanchez absent.

Ms. Vanessa Nawrocki, 513 Ridge, Houston, Texas 77009, (713-864-4216) appeared and voiced her personal and religious beliefs in regard to the same sex benefits until her time expired. Council Members Castillo and Sanchez absent.

Mr. Ricky Hurt, 2500 West Mt. Houston, Houston, Texas 77038 (281-448-0959) appeared and stated that \$7 million was how negligent the vacant building that was on Channel 13 was, that he was present to respond on the front page article, that the patriotic song, America the Beautiful, was written by Catherine Lee Bates, a Lesbian, and she had a domestic partner, that the song was sung in churches nationwide, that it was one of the first songs he learned in elementary school, that it was a song they sang when he was in the scouts, but he never knew of the sexual preference of the author, that one of the verses in the song mentioned patriotic dreams, and when he thought of patriotic dreams he thought of a man from another country, an ally, Allen Turing, a World War II military man who decoded the German code and was considered a World War II hero, that because of this gay man's intelligence they as Americans were not saying the Pledge of Allegiance in German, and there were less bodies buried in the forties in Arlington Cemetery because of this man, that in other words there was no social experiment because they had already made a difference and like other minority groups they had a heritage and had made a difference beside the stereo typical job such as hairdressers, they were their scientists, athletes, doctors, lawyers, bankers, teachers, mechanics, electronics, artists and designers, that they were not all Hollywood queens or high profile murderers, they had made a difference and were not going away, that it was time to bring their heritage out of the closet and tell the world, Nation and local governments and schools that they had made a difference, that hopefully the media would have the conscience and consider exploring where the gay and lesbian and bisexual transgender community had made a difference, that knowledge was power and they had made a difference, that they may be different but they had made a difference. Council Members Goldberg, Castillo, Parker and Sanchez absent.

Council Member Quan stated that he thought that Mr. Hurt had raised the point that basically homosexuality had been in our society from the very beginning, that they had contributed but may not have been recognized, that they had a lifestyle and it was time that they began to recognize their contributions. Council Members Goldberg, Castillo, Parker and Sanchez absent.

Ms. Doretha Bailey, 10022 Woodwick, Houston, Texas 77016 (713-631-2777) appeared and stated that she was the Texas Representative for the National Title One Chapter One Parent Coalition, that as she went to each national conference she tells everyone as she greets them that she represents the Yeeha State and that was because in the State of Texas they take their children to heart when any positive programs come through, that their Title One Program through the Regional Six would be celebrating their

twenty second anniversary in the City of Houston, that they had not hosted since 15 years ago, and now she came before them of the Council to be able to write to their conferees a letter of welcoming from their Mayor and Council at Large, that they had been given folders with information, that it was because of their children that they wanted to make sure that their at risk children were given the same equal opportunity as all children, that they make sure that the schools participate and embark upon the policy and enforce the policy that the parents were the first teachers and insist that they become equal partners in their children's education, that they strongly believe that in cultivating their teaching and nourishing their children was a source of hope and gleam of pride in themselves, and she asked that they continue to join them in their walk and struggle to make sure that all parents feel as equal partners in their children's education, that was the reason why they now had their regions, that their regions represented and came down to the states to make sure that their children were being able to have opportunities as other children, that they wanted to make sure that no child was left behind. Council Members Goldberg, Castillo, Parker and Sanchez absent.

Ms. Linda Harris, 8624 Beechcrest, Houston, Texas 77083 (281-495-2219) appeared and stated that she was a Metro bus operator, that she had been a bus operator for 21 years, that on February 3, 2000 an off duty police officer gave her two tickets at the intersection of Bellaire and Wilcrest, where the City had a sign that said no turning except for buses between the hours of 4:00 p.m. and 7:00 p.m., that he gave her one for an illegal turn and one for running a red light, that the City had a timer where the light would not change until 7:00 p.m. and this was at 6:00 p.m., that he was off duty in his own personal vehicle and chased her to the facility and caused a rage at Metro's parking garage with several other employees, that they filed a complaint with IAD and they sent her a letter and told her that the officer was found guilty of four allegations, sound judgement, use or racial slur, off duty traffic arrest and untruthfulness, that she had been to court four times on this and had paid two attorneys, that in August of 2000 the case was dismissed and this officer had reopened the case, that he had been vindictive towards her, that he received a nine day suspension on this, that now she had to go back to court in February and had just paid a lawyer another \$375 last week, that she would like for Council to take this officer's discrepancy of power to keep opening the case back up, that he was being vindictive because of the penalty that he received from Internal Affairs. Mayor Brown stated that Assistant Chief Richards would meet with her and asked that she give him all the details, and he would follow-up and see what needed to be done with her concern. Council Members Goldberg, Castillo, Parker and Sanchez absent.

Mr. Christopher Cato, 7701 Burgess, Houston, Texas 77016 (713-633-3200) had reserved time to speak, but was not present when his name was called. Council Members Goldberg, Castillo, Parker and Sanchez absent.

Mr. Roland Curry, 5519 Caplin, Houston, Texas 77026 (713-633-8329), had reserved time to speak, but was not present when his name was called. Council Members Goldberg, Castillo, Parker and Sanchez absent.

Mr. Michael Johnson, 4001 Wilmer, Houston, Texas 77003, had reserved time to speak, but was not present when his name was called. Council Members Goldberg, Castillo, Parker and Sanchez absent.

Mr./Coach Bobby Taylor, 3107 Sumpter, Houston, Texas 77026 (202FA34511), had reserved time to speak, but was not present when his name was called. Council Members Goldberg, Castillo, Parker and Sanchez absent.

Mr. Sheldon Modelist, 5619 Lakefield, Houston, Texas 77033 (713-733-6994), had reserved time to speak, but was not present when his name was called. Council Members Goldberg, Castillo, Parker and Sanchez absent.

Ms. Hortensia Baldez, 7215 Parson, Houston, Texas 77012, (281-460-4995) was called and she advised that she would not speak. Council Members Goldberg, Keller, Castillo, Parker and Sanchez absent. (NO QUORUM PRESENT)

Ms. Judy Emerson, 17435 Imperial Valley, No. 1609, Houston, Texas 77060 (281-447-2592) appeared and stated that she used to drive a Liberty Cab and drove down Airline Drive a lot and kept seeing a big wonderful vacant lot that had lots of trees on it and had two rows of trees all in a line and kept thinking that it sure looked like a park, that she called and inquired about it to see how much it would cost, that it did cost a lot, that one parcel was over a million dollars and the smaller parcel was pretty much too, that she still wanted to suggest it as a park, that it was a good location for availability to the people at Independence Hall at Burress and Airline, and also the neighborhood, that she thought there was plenty of room for a community center and other facilities for younger kids to play on, that she wrote the information down for the Council Members, and Mayor Brown stated that Mr. Hill was present and would meet with her and pursue it. Council Members Goldberg, Keller, Castillo, Parker and Sanchez absent. (NO QUORUM PRESENT)

Ms. Shawnedria McGinty, 12647 Ashford Meadow Drive, Houston, Texas 77082 (281-589-1628), had reserved time to speak, but was not present when her name was called. Council Members Goldberg, Keller, Castillo, Parker and Sanchez absent. (NO QUORUM PRESENT)

Mr. James Partsch-Galvan, 1611 Holman, Houston, Texas 77004 (713-528-2607) appeared and stated that his web site address was www.galvan.org, and stated to Mayor Brown that maybe instead of chastising Council Member Todd maybe he should talk about Metro's Shirley DeLibrio and that it was reported on Channel 2 the thousands and thousands of tax dollars that she wasted by making personal calls on the telephone, that the Channel 2 estimate, not on Shirley DeLibrio but Metro employees, it was about \$1 million of taxpayer's money that was wasted on personal telephone calls, that maybe he needed to talk about Shirley DeLibrio on that, that on the domestic partner benefits, he supported a referendum, and he thought Council Member Todd was right to file a lawsuit with the City of Houston, and if they did pass it he hoped that the lawsuit would overturn it and it would be the people of Houston who would decide if they wanted to pass it or not, that Council Member Todd seemed to be the only one standing up for the City of Houston citizens rights to vote on it and vote on rail. Council Members Goldberg, Keller, Castillo, Parker and Sanchez absent. (NO QUORUM PRESENT)

Mr. Steven Williams, no address, no phone, appeared and stated his personal opinions until his time expired. Council Members Goldberg, Keller, Castillo, Parker and Sanchez absent. (NO QUORUM PRESENT)

At 4:39 p.m. upon motion by Council Member Tatro and seconded by Council Member Ellis, City Council recessed until 9:00 a.m. Wednesday, February 7, 2001. Council Members Galloway and Robinson absent on personal business. Council Member Vasquez absent due to being ill. Council Members Goldberg, Keller, Castillo, Parker and Sanchez absent. (NO QUORUM PRESENT)

City Council Chamber, City Hall, Wednesday, February 7, 2001

City Council reconvened in the City Council Chamber at 9:00 a.m. Wednesday, February 7, 2001, 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 and Chris Bell; Mr. Anthony Hall, City Attorney, Mr. Paul Bibler, Senior Counsel, City Attorney's Office; Ms. Sara Culbreth, Deputy Director, Finance and Administration; Ms. Martha Stein, Agenda Director present. Council Member Carroll G. Robinson absent on personal business.

At 8:31 a.m. the City Secretary read the descriptions or captions of items on the Agenda.

At 9:11 a.m. Mayor Brown reconvened the meeting of the City Council. Council Members Goldberg, Boney and Castillo absent.

MAYOR'S REPORT

CONSENT AGENDA NUMBERS 1 through 33

MISCELLANEOUS - NUMBER 3

3. RECOMMENDATION from Chief of Police for approval of Law Enforcement Agreement between **FORT BEND COUNTY** and **QUAIL GLEN HOMEOWNERS ASSOCIATION, INC** for Law Enforcement Services of 1 Deputy from Constable Precinct 2 - DISTRICT D – BONEY – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0119 ADOPTED.

PROPERTY - NUMBER 4

4. RECOMMENDATION from Director Department of Public Works & Engineering to Rescind Motion #99-2013, 11/23/99, which authorized purchase of Parcel C99-9, located in the 3600 block of Beaver Drive, owned by Willie E. Fields, for the **BEAVER DRIVE LIFT STATION PROJECT**, CIP R-0267-00-1; **TO AUTHORIZE** condemnation of said parcel - DISTRICT B - GALLOWAY – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All

voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0120 ADOPTED.

PURCHASING AND TABULATION OF BIDS - NUMBERS 6 through 16

LOW BIDS

6. **PARALLAX SERVICES, INC** for Installation of HVAC Systems at Fire Station Nos. 35, 50 and 52 for Fire Department - Replacement - \$98,250.00 and contingencies for an amount not to exceed \$103,162.50 - Fire Department Revolving Fund – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0121 ADOPTED.

OTHER

8. **AMEND MOTION #99-563, 4/7/99, TO EXTEND** expiration date by 98 days from April 7, 2001 to July 13, 2001, for Special Purpose Clothing, Part II for Fire Department, awarded to **SKAGGS PUBLIC SAFETY UNIFORMS & EQUIPMENT (Bid #2)** – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0122 ADOPTED.
9. **DIRECT ACTION UNIFORMS** for Apparel, Motorcycle Patrol for Police Department \$195,726.95 - General Fund – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0123 ADOPTED.
10. **CONTROL CONCEPTS, INC** for Emergency Service to Repair Centrifuges for Department of Public Works & Engineering - \$21,200.00 - Enterprise Fund – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0124 ADOPTED.
11. **BAYOU CITY PUMP WORKS, INC** for Emergency Pump Repair for Department of Public Works & Engineering - \$17,800.00 - Enterprise Fund – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0125 ADOPTED.
12. **ALFA-LAVAL, INC** for Rotating Assembly Repair Service for Department of Public Works & Engineering - \$47,705.00 - Enterprise Fund – was presented, moved by

Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0126 ADOPTED.

16. **MUSTANG TRACTOR AND EQUIPMENT COMPANY** for Caterpillar Tractor Parts and Service Contract for Various Departments - \$422,164.00 - General and Enterprise Funds – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0127 ADOPTED.

RESOLUTIONS AND ORDINANCES - NUMBERS 17 through 32

17. RESOLUTION of the City Council of the City of Houston, Houston Texas relating to the use of Criminal Justice Department Grant Funds for Purchasing Specialized DNA Testing Equipment designating the Chief of Police as the Official Representative of the City of Houston relating to the grant - \$365,500.00 - Grant Fund – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Boney and Castillo absent. RESOLUTION 2001-0006 ADOPTED.
18. ORDINANCE approving and authorizing submission of an application for grant assistance from the **STATE CRIMINAL JUSTICE DIVISION (CJD), Office of the Governor**, to fund the Deoxyribonucleic Acid (DNA) Improvement Project Grant; declaring the City's eligibility for such grant; authorizing the Mayor to act as the City's representative in the application process; authorizing the Chief of the Police Department, or any designated Assistant Chief, to accept such grant funds, if any, and to apply for and accept all subsequent awards, if any, pertaining to the program; and authorizing four new staff positions to be funded by the grant - \$256,141.00 Grant Fund - \$85,380.00 General Fund - \$341,521.00 Total 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 Boney and Castillo absent.
25. ORDINANCE approving and authorizing amendment to sponsorship agreement between the City and **LAKEVIEW CIVIC CLUB, INC** for Garbage Collection Service for the respective subdivision 5 Months - \$30.00 - **DISTRICT G - KELLER** – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Boney and Castillo absent. ORDINANCE 2001-0131 ADOPTED.
26. ORDINANCE issuing a permit to **MAIN/LAMAR DEVELOPMENT, L.P., a Texas limited partnership**, for constructing, maintaining, using, occupying, operating and repairing three subsurface pedestrian walkways adjacent to Block 139, S.S.B.B., and within portions of Main Street, McKinney Avenue, and Lamar Avenue, such space being within public street rights-of-way of the City of Houston, Texas; conditionally authorizing the transfer of such permit and a related vault permit issued pursuant to Ordinance No. 2000-155 to Main/Lamar Partnership, L.P.; containing findings and prescribing the conditions and provisions under which said

permit is issued - **DISTRICT I - CASTILLO** – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Boney and Castillo absent. ORDINANCE 2001-0132 ADOPTED.

30. ORDINANCE appropriating \$35,000.00 out of Airport System Subordinate Lien Revenue Bond Fund (NON-AMT) and approving the purchase of Lots 40, 41 and 42, Lakeview Park, out of the J. Skorupski Survey, Abstract 720, Houston, Harris County, Texas, for the Expansion of Bush Intercontinental Airport, CIP A0024; approving Purchase and Sale Agreement with **JESSE WAYNE and ELIZABETH JOHNSON** to acquire the land for a purchase price, including Title Insurance and Closing Costs, which does not exceed the sum hereby appropriated - **DISTRICT B - GALLOWAY** – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Boney and Castillo absent. ORDINANCE 2001-0133 ADOPTED.
31. ORDINANCE appropriating \$255,000.00 out of Airport System Subordinate Lien Revenue Bond Fund (NON-AMT) and approving the purchase of a tract or parcel of land containing 0.6979 acres, more or less, out of the Amos Barber Survey, A-125, Houston, Harris County, Texas, and improvements located thereon, for the Expansion of Bush Intercontinental Airport, CIP A-0024; approving Purchase and Sale Agreement with **ALLEN WILLIAM JONES and BETTY JOYCE JONES** to acquire the land and improvements thereon for a purchase price, including Title Insurance and Closing Costs, which does not exceed the sum hereby appropriated - **DISTRICT B - GALLOWAY** – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Boney and Castillo absent. ORDINANCE 2001-0134 ADOPTED.
32. ORDINANCE appropriating \$895,000.00 out of Airport System Subordinate Lien Revenue Bond Fund (NON-AMT) and approving the purchase of 2.693 acres of land out of the J. Skorupski Survey, Abstract 720, Houston, Harris County, Texas, and improvements located thereon, for the Expansion of Bush Intercontinental Airport, CIP A-0024; approving Purchase and Sale Agreement with **NORTHVIEW BAPTIST CHURCH OF HUMBLE TEXAS** to acquire the land for a purchase price, including Title Insurance and Closing Costs, which does not exceed the sum hereby appropriated; approving a lease agreement with Northview Baptist Church of Humble Texas - **DISTRICT B - GALLOWAY** – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Boney and Castillo absent. ORDINANCE 2001-0135 ADOPTED.

MATTERS REMOVED FROM THE CONSENT AGENDA WERE CONSIDERED AS FOLLOWS:

MISCELLANEOUS

1. REQUEST from Mayor for confirmation of the appointment or reappointment of the following to the **BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER NINE, CITY OF HOUSTON (SOUTH POST OAK)**:

MS. ALGENITA SCOTT DAVIS, reappointment as Chair, for a term expiring 12/31/2001

Position Six - **MS. JESSICA FARRAR**, reappointment, for a term expiring 12/31/2002

Position Seven - **MS. WILLIE BELLE BOONE**, appointment, for a term expiring 12/31/2002

– was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0128 ADOPTED.

2. REQUEST from Mayor for confirmation of the appointment or reappointment of the following to the **MUNICIPAL ART COMMISSION**, for terms to expire on January 2, 2002 for Positions 1 through 9 and January 1, 2003 for Positions 10 through 18:

Position 1 - **MR. RICK LOWE**, reappointment

Position 2 - **MR. GEORGE SMITH**, appointment

Position 3 - **MS. ARTIE LEE HINDS**, reappointment

Position 4 - **MS. LESLIE D. BLANTON**, appointment

Position 5 - **MR. REY de la REZA**, reappointment

Position 6 - **MR. KEIJI ASAKURA**, reappointment

Position 7 - **MR. CHARLES TAPLEY**, appointment

Position 8 - **MS. EMILIE S. KILGORE**, reappointment

Position 9 - **MR. SHUNNEY NAIR**, reappointment

Position 10 - **MS. SARAH A. TROTTY**, reappointment

Position 11 - **MS. SALLY REYNOLDS**, reappointment

Position 12 - **MR. ELLENA HUCKABY**, reappointment

Position 13 - **MS. DOROTHY OLMOS**, reappointment

Position 14 - **MS. KIM RENTERIA**, appointment

Position 15 - **MR. ISBEN ESPADA**, appointment

Position 16 - **MS. BARBARA CLAIBORN**, reappointment

Position 17 - **MS. DRUCIE CHASE**, reappointment

Position 18 - **MS. DEBORAH DANBURG**, reappointment

– was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0129 ADOPTED.

PURCHASING AND TABULATION OF BIDS

LOW BIDS

5. **M. C. KOENIG & ASSOCIATES** for Static Uninterruptible Power Supply Unit for the 3-1-1 Call Service Center for the Building Services Department - New - \$39,590.00 - General and Equipment Acquisition Consolidated Funds – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0130 ADOPTED.

7. **CARBIS, INC** for Specialized Ladders for Fire Department - \$134,711.00 - General Fund – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez.

Council Member Quan stated that he had mixed feelings on the item, that he was happy that they were able to get the item at a better price than they had in the past, but as they knew in their contracts they had a provision that if the price of an item went down the vendor was supposed to give them the lower price, that it seemed that on Item No. 7 and on Item No. 13 the episode happened but the department did not follow up on that, so he asked the administration if they could put some safeguards in place to enforce that on their contracts. Council Members Boney and Castillo absent.

Mayor Brown stated that he would have both the department and Purchasing look at that and make sure they follow through on that. Council Members Boney and Castillo absent.

A vote was called on Item No. 7. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0131 ADOPTED.

OTHER

13. **HOUSTON G&G DEMOLITION SERVICE, INC** for Site Clean-up Services for Department of Public Works & Engineering - \$19,580.00 and contingencies for an amount not to exceed \$20,559.00 - Dangerous Building Consolidated Fund - **DISTRICTS B - GALLOWAY; D - BONEY and H - VASQUEZ** – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0132 ADOPTED.
14. **CHIEF ENVIRONMENTAL SURVEYS, INC** - \$163,500.00 and **AAA FLEXIBLE PIPE CLEANING CO.** - \$135,000.00 for Emergency Sanitary Sewer Line Cleaning and Stoppage Removal Services for the Department of Public Works & Engineering - Enterprise Fund – was presented, moved by Council Member Sanchez, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0133 ADOPTED.
15. **3M** - \$738,155.90, **NIPPON CARBIDE INDUSTRIES** - \$444,390.13 and **STIMSONITE CORPORATION, a subsidiary of Avery Dennison Corporation** - \$30,255.00 for Reflective and Nonreflective Materials for Various Departments - General, Enterprise and METRO Funds – was presented, moved by Council Member Sanchez, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Goldberg, Boney and Castillo absent. MOTION 2001-0134 ADOPTED.

RESOLUTIONS AND ORDINANCES

19. ORDINANCE authorizing the issuance, sale and delivery of City of Houston, Texas, Airport System Special Facilities Taxable Revenue Bonds (Consolidated Rental Car Facility Project), Series 2001; approving the form and substance of a Trust Indenture, a Master Special Facilities Lease Agreement, a Bond Purchase Agreement, and Official Statement; authorizing the purchase of Bond Insurance and Reserve Fund Surety; authorizing the imposition of a Customer Facility Charge; authorizing and ratifying other actions; making certain findings with respect thereto; containing other provisions relating to the subject; and declaring an emergency – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Boney and Castillo absent. ORDINANCE 2001-0136 ADOPTED.

Mayor Brown stated that on the item that just passed, as they knew there was litigation on the Metro issue that impacted other aspects of the City operations and asked Mr. Hall, City Attorney, to explain why they were proceeding with what they were doing at this time. Council Members Boney and Castillo absent.

Mr. Hall stated that they had been working through and after the hearing for the temporary injunction to try and determine what recommendations they could make to Council about how to proceed in doing the day to day business of the City under the issues that were developing in the litigation, that the memorandum that was distributed this morning was their analysis of the legal situation at this point and an expression of the options they thought were available to the City Council, that the memo spoke for itself, but in short the issues that were raised by the litigation, if in fact, the decision of the Court in issuing the temporary injunction, was sustained on the reasoning of that injunction it would cause them to completely change the way they did business in the City, that as the memo outlined there had been at this point the granting of a temporary injunction, which was not a final order on the issues of this case, that they believed that it would be the prudent course of the City, given that this potentially impacted so many things that the City was both trying to do now and had done in the past, was that they proceed as they had for the last 90 years until there was a final judgement in this case, that obviously that raised some issues of potential liability to the City, that it was their hope that as they reviewed it, and they did not have all of the answers about all the potential situations that could come up between now and a final determination of the matter, that they were analyzing those and would be working as hard as they could to bring Council their recommendation for how they would proceed on individual issues such as liability for the decisions that they made in the past, that their hope was when they found those difficulties, get a chance to work with the parties involved and impacted to try to insure as best they could that the City or taxpayers would suffer no liability because they were proceeding at their request. Council Member Boney absent.

Council Member Sanchez stated that he sensed an overreaction by the administration and asked Council Member Todd if in his opinion it was a potential overreaction by the administration and was it the intent of the plaintiffs to essentially bring the City operations to a screeching halt or was the petition a narrowly worded petition to address only the issue as it addressed the Charter and the requisite signatures and bringing that particular dispute before the bench, and Council Member Todd stated that he did believe that it was an overreaction on the part of the administration, that the petition

that they filed was limited solely to a particular ordinance and the judges order was in fact limited to a particular ordinance and to work on the Light Rail Project, Council Member Sanchez asked if the Court had indicated that other projects would also be suspect in this manner or was there any intimation by the Court that other Public Works projects should be reviewed in the same light, and Council Member Todd stated that he did not recall any reference to that at all, that the temporary injunction itself was pretty clearly was limited to the ordinance that Council passed authorizing an interlocal agreement as to Metro's Light Rail Project. Council Member Boney absent.

Council Member Tatro stated that he was hearing from the Legal Department on a very tightly worded petition dealing specifically with Metro that somehow the way the City had conducted business over the last 90 years maybe subject to change and stated that he did believe they were really reaching and was being done to bring public support against the actions taken by Council Member Todd. Council Members Goldberg, Boney and Castillo absent.

Council Member Quan asked Council Member Todd if the legal principal established in his case could be applied in a similar way with some of the other projects, and Council Member Todd stated that the legal principal could, that in fact the argument was made at the bench that because they had approved projects before without three readings that somehow they had waived the City Charter provisions, that the Court clearly ruled that they could not waive a City Charter provision, that he was willing to say on this project, that as a Council Member and as a party to the lawsuit, he had no objection to this item going forward, and saying that did not weaken his case against Metro because the judge clearly ruled that a City Council Member could not waive the City Charter provisions. Council Members Goldberg, Boney and Castillo absent.

Council Member Quan asked Mr. Hall that while Council Member Todd had no objection to it, there was nothing to say that anybody else in the public could not file a similar type of suit and that he was presenting different options to Council, but was he saying to them that each issue would be looked at individually and with some they would have to do things and some they could ignore and asked what was his advise as their lawyer, and Mr. Hall stated that there were a million eight hundred thousand people in the City of Houston and any or each one of them could have been a plaintiff in a lawsuit as they could in any action that Council took, that it was regrettable that they were having to explain the legal issues in a political context, that it was also very difficult to explain some of these principles in the heat of a very politicized environment, but he would say to the non lawyers that in a lawsuit a Court could only address the specific orders to the parties that were in the lawsuit, so it should not be surprising that nobody else was addressed in the lawsuit, that was called jurisdiction, they did not have authority to address anybody else, that the principals that were enunciated established the law the way they did all over the Nation all the time, that it was a question of how Council could grant authority to use City property, that clearly the Legislature was superior to City government and the Legislature had specifically granted Metro the right to use City streets, that the argument and issue here was very precise, that the same statute further said thought that if they were to alter the City streets they had to get written permission, the question was simply how the City Council had to give it, that at this time he was recommending that until they got a final order that they, as a matter of risk analysis, proceed with the way they did business, giving notice to all the vendors that those issues were available, that there

were a lots of people looking at this, that they had a number of issues that were yet resolved around a number of projects that Council had before them even today. Council Members Goldberg and Boney.

Council Member Keller stated that he wanted to caution his colleagues that there were a lot of things in play, that although he supported a lot of the political issues that were in play he did not want things to backfire on their overreaching. Council Members Goldberg and Boney absent.

Council Member Vasquez asked Mr. Hall if he was basically saying that under Judge Devine's interpretation that he cast a very broad net, and Mr. Hall stated that what the judge had enunciated from the bench was what was called a catchall sentence that was part of the Charter provision that said any grant of a right to use the City property was captured by that provision because there was no other expressed way to give that permission in his view, and Council Member Vasquez asked if other city municipalities affected by the ruling, and Mr. Hall stated that not at this stage, but it could be if the appellate proceeded and the decision was not reversed, that their research indicated that no city in Texas had interpreted that provision this way, that they had not yet had a trial on the merits of this matter they had a temporary injunction hearing, that the case was set for trial in March 2001. Council Members Goldberg and Boney absent.

Council Member Todd stated that he just wanted to reiterate that the injunction itself was limited to a particular ordinance, that the Charter were the rules and people set the rules and the rules say that they had to have three readings and publish it three times. Council Member Boney absent.

- 19a. ORDINANCE approving and authorizing concession agreements at George Bush Intercontinental Airport/Houston between the City and **SOUTHWEST-TEX LEASING CO., INC d/b/a ADVANTAGE RENT-A-CAR, ALAMO RENT A CAR, L.L.C., AVIS RENT A CAR SYSTEM, INC, BUDGET RENT A CAR SYSTEM, INC, DOLLAR RENT A CAR SYSTEM, INC, ENTERPRISE RENT-A-CAR, THE HERTZ CORPORATION, NATIONAL CAR RENTAL SYSTEM, INC and PACE CAR CORP., d/b/a THRIFTY CAR RENTAL** – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Member Boney absent. ORDINANCE 2001-0137 ADOPTED.
20. ORDINANCE approving and authorizing execution of a lease agreement with City of Houston as landlord, and **GILLUM/STINSON PROPERTIES, INC dba FAMILY CAFÉ**, as tenant, for restaurant space on the ground floor of the building located at 1219 Milam - 5 Years - Revenue **DISTRICT I- CASTILLO** – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Member Boney absent. ORDINANCE 2001-0138 ADOPTED.
21. ORDINANCE appropriating \$430,000.00 out of Low Income Housing Fund (Fund 872) and approving and authorizing agreement between the City of Houston and **CONCORD AT PALM CENTER, LLC** to pay eligible costs in connection with the construction and acquisition of the Concord at Palm Center Apartments to provide housing to low-income persons - **DISTRICT D – BONEY** – was presented, and

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

22. ORDINANCE appropriating \$60,000.00 out of Housing Special Revenue Fund and approving and authorizing City of Houston to enter into contract with **HOLMES COMMUNITY DEVELOPMENT CORPORATION** to provide a loan to subsidize portion of the cost to acquire ten (10) Residential Lots to be developed as Single-Family Affordable Housing - **DISTRICT D - BONEY** – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Member Boney absent. ORDINANCE 2001-0139 ADOPTED.
23. ORDINANCE approving and authorizing contract between City of Houston and **VOLUNTEERS OF AMERICA TEXAS, INC** to provide \$811,117.00 in Housing Opportunities for Persons With AIDS Funds for Administration of a Housing Supportive Services and Short-term rent, Mortgage and Utility Assistance Program, together with related operating expenses - Grant Fund – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Member Boney absent. ORDINANCE 2001-0140 ADOPTED.
24. ORDINANCE approving and authorizing contract between the City of Houston and **MAYOR, DAY CALDWELL & KEETON, L.L.P** for Legal Services relating to the City's appeal in the lawsuit styled City of Houston v. Precast Structures, Inc, presently on appeal to the Fourteenth Court of Appeals District of Texas and having Appeal Number 14-99-00739-CV; providing a maximum contract amount of \$40,000.00 - Property and Casualty Fund – was presented, and tagged by Council Member Tatro.
27. ORDINANCE determining that the formal taking of competitive bids is not required for the work described herein; delegating to the Purchasing Agent the authority to issue up to \$2,000,000.00 in purchase orders for Sanitary Sewer Point Repairs without further council action – was presented.

Council Member Quan stated that he knew of the necessity of the repairs and the condition of some of the sewer systems and it was his understanding in speaking with people from Public Works that the bid process was being conducted at this time.

Council Member Quan moved to postpone Item No. 27 to the end of the agenda, seconded by Council Member Sanchez. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Member Boney absent.. MOTION 2001-0135 ADOPTED.

28. ORDINANCE appropriating and transferring \$2,864,134.98 out of Airports Improvement Fund to the Water and Sewer Impact Fees Fund for a Wastewater Capacity Reservation and a Water Impact Fee for Expansion Programs at George Bush Intercontinental Airport/Houston - **DISTRICT B - GALLOWAY** – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Member Boney absent. ORDINANCE 2001-0141 ADOPTED.

29. ORDINANCE appropriating an additional \$723,932.69 out of Water & Sewer System Consolidated Construction Fund for agreement between the City of Houston, Texas and the **TEXAS DEPARTMENT OF TRANSPORTATION (“TXDOT”)** for Mykawa Road from Southcrest to South Wayside approved and authorized by Ordinance No. 96-525, CIP R-0018-TX-3 **DISTRICTS E - TODD and I - CASTILLO** – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Member Boney absent. ORDINANCE 2001-0142 ADOPTED.
33. ORDINANCE appropriating \$216,000.00 out of Storm Sewer Consolidated Construction Fund as additional appropriation for Design of Conrad Sauer Storm Sewer Improvements under professional engineering services contract with **HNTB CORPORATION** (Approved by Ordinance No. 96-1199), GFS M-0221-01-2; providing funding for contingencies relating to construction of facilities financed by the Storm Sewer Consolidated Construction Fund - **DISTRICT A - TATRO** – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Member Boney absent. ORDINANCE 2001-0143 ADOPTED.

NON CONSENT AGENDA - NUMBER 34

MISCELLANEOUS

34. MOTION to set a date not less than seven (7) days from February 7, 2001 to receive nominations for Positions 4 and 6 of the **ETHICS COMMITTEE** for terms to expire December 31, 2002 – was presented. Council Member Sanchez moved to set Wednesday, February 14, 2001 to take nominations, seconded by Council Member Quan. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Member Boney absent.. MOTION 2001-0136 ADOPTED.

MATTERS HELD - NUMBERS 35 through 39

35. MOTION by Council Member Boney/Seconded by Council Vasquez to adopt recommendation from Director Planning & Development Department to approve amendments to the 1999 Major Thoroughfare and Freeway Plan (MTFP) and authorize publication of the 2000 MTFP in map form – (**This was Item 5 on Agenda of January 31, 2001, TAGGED BY COUNCIL MEMBERS QUAN, CASTILLO, TATRO, SANCHEZ, VASQUEZ, BONEY and KELLER**) – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Member Boney absent.. MOTION 2001-0137 ADOPTED.
36. MOTION by Council Member Sanchez/Seconded by Council Member Vasquez to adopt recommendation from Director Building Services Department for approval of final contract amount of \$2,631,681.85 and acceptance of work on contract with **MESA SOUTHWEST CONSTRUCTION COMPANY** for Parks to Standard Program - Phase I Miller Outdoor Theatre Improvements - Package 1, GFS F-0351-

81-3 - 04.43% over the original contract amount General Improvements Consolidated Construction Fund - **DISTRICT D – BONEY – (This was Item 6 on Agenda of January 31, 2001, TAGGED BY COUNCIL MEMBER QUAN)** – was presented.

Council Member Quan stated that last week he had tagged the item and had made efforts to contact Mesa Southwest Construction Company to discuss the concerns they had with them, that he was very disappointed that they never returned their calls on the item, that his concerns were that there was an MWBE goal and they failed to meet that goal and a letter went out from their department asking what had happened and they completely ignored the letter with any type of response, that he thought this was the type of case that they needed to really look at some of the contractors working with the City, that he did not know what other things they could do in this case, and Mayor Brown stated that they (Mesa) had received an unsatisfactory rating on that and it would be taken into consideration when they bid on future contracts. Council Member Boney absent.

Council Member Castillo stated that he had asked for information just as Council Member Quan did and had not received it but was looking forward to getting some response from them, and urged the administration to take their non response into account whenever they submitted future bids, that there was a letter that originated in the Affirmative Action Division asking for a legal opinion on his and Council Member Quan's behalf, that he did not think he had asked for a legal opinion, that he had asked for a report on the matter, so he wrote to the Legal Department and stated that it was not a legal opinion he requested but a report on what they could do about it, and Mayor Brown stated that they would get a report to him, but also they would take this into consideration when they (Mesa) bid on future contracts. Council Members Boney and Todd absent.

A vote was called on Item No. 36, with Council Members Goldberg and Quan voting no, balance voting aye. Council Member Robinson absent on personal business. Council Members Boney and Todd absent.. MOTION 2001-0138 ADOPTED.

37. MOTION by Council Member Boney/Seconded by Council Member Sanchez to adopt recommendation from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Ron Nielsen, R. G. Miller Engineers, Inc, on behalf of The St. Joe Company (Marshall Bruce Snyder, president), for abandonment and sale of a 20-foot wide drainage easement and a 12-foot wide drainage easement in exchange for the conveyance to the City of a 30-foot wide drainage easement and a 20-foot wide drainage easement, all located in the R. B. Gaut Subdivision, William White Survey, Abstract 836, Parcels SY1-024A, SY1-024B, LY1-006A and LY1-006B - **STAFF APPRAISERS - DISTRICT G - KELLER – (This was Item 7 on Agenda of January 31, 2001, TAGGED BY COUNCIL MEMBERS KELLER and PARKER)** – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Boney and Todd absent.. MOTION 2001-0139 ADOPTED.

38. ORDINANCE appropriating \$295,000.00 out of Police Consolidated Construction Fund for payment of the cost of Land Purchases/Condemnations, Title

Policies/Services, Recording Fees, Court Costs and Expert Witness Fees for and in connection with the South Central Police Substation Project; Parcel Numbers IYO-002, IYO-003 and IYO-004, CIP G-0058-02-01 - **DISTRICT I - CASTILLO** – **(This was Item 34 on Agenda of January 31, 2001, TAGGED BY COUNCIL MEMBER GOLDBERG)** – was presented.

Council Member Goldberg moved to delay Item No. 38 for three weeks, seconded by Council Member Keller. Council Members Boney and Todd absent.

Council Member Goldberg stated that it involved the condemnation of some property where someone was currently living, that vacant land was available and the land they wanted to take would only accommodate another additional twenty parking spaces, that they did not know what the design was. Council Members Boney and Todd absent.

Council Member Keller stated that he wanted a meeting and wanted to see the plan. Council Members Boney and Sanchez absent.

Council Member Parker stated that she wanted to be clear when they said it was someone's home, that it was rental property, that she had met with Mr. Cweren a month ago and met with Chief Richards and seen all the plans, that she was not opposing the motion to delay, it may be appropriate, and Council Member Goldberg stated that whoever rented the property it was their home and they considered it their home, and Council Member Parker stated that she was a property owner and rented property and would hate to think that they had more rights over the property than they did. Council Member Boney and Sanchez absent.

Council Member Castillo stated that the property where the temporary Police Station for South Central Command had been located had been inadequate property for a long time, that officers were not able to operate computers to fill out reports because the electrical system in the facility was not up to where they could do that, that it was very inconvenient and did not lend to the efficient carrying out of the work that the police station had to do, that the City began this around two years ago when the City got the Houston Independent School District to sell the property and the Police Department had been working on it for two years and there were certainly plans available, that the plans had evolved over time so that it included all of the necessary services for that police station and now it included a vehicle maintenance facility, that as it had evolved it has needed more land including the land up to and including the property owned by Mr. Cweren family, that obviously nobody wanted to lose property that had been in their possession for so many years, but Council approved those transactions all the time, that they condemned land for the airport and roads and certainly that was somebody's property and in many cases somebody's home, that he hoped that it was an honest attempt to find information and be convinced by the facts, that he knew there were police officers present who could explain it. Council Member Sanchez absent.

Council Member Castillo moved to suspend the rules to hear a representative from the Police Department, seconded by Council Member Ellis. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Member Sanchez absent. MOTION 2001-0140 ADOPTED.

Mayor Brown stated that he wanted to remind Council that this item did not condemn any land, that it was only an appropriation of funds, that before the land was condemned or taken over by the City it would have to come back to City Council, that it was only a transfer of funds from one account to another for that purpose.

Assistant Chief Frank York stated that the information he had coincided with the information of Council Member Parker in that the parcel of land at issue dealt with a house that was rented at this time, that beyond that the primary information source on this matter would be the City Legal Department who was working to condemn the property. Council Member Sanchez absent.

Upon questions by Council Chief York stated that he had not been working on this project himself, that Assistant Chief Dennis Richards had been and would be the more appropriate source for any information, that he was familiar with the operations at the South Central Command Station and considered those current facilities the worst substation they had in the City, that the electrical was certainly a problem and the construction of a new station was very critical, that he thought that the design was to have the parking and building fenced in on the same side of the street, that he had not seen the design, that he thought it was a fairly minimal tract of land to be used for parking as previously stated. Council Member Bell absent.

A vote was called on Council Member Goldberg's motion to delay Item No. 38 for three weeks. Council Member Castillo voting no, balance voting aye. Council Member Robinson absent on personal business. Council Member Bell absent. MOTION 2001-0141 ADOPTED.

39. ORDINANCE appropriating \$200,000.00 out of General Improvements Consolidated Construction Fund as an additional appropriation for Leaking Petroleum Storage Tank (LPST) Remediation under professional environmental Services contract with **ERM-SOUTHWEST, INC** approved by Ordinance No. 97-206, GFS D-0046-03-2 – **(This was Item 35 on Agenda of January 31, 2001, TAGGED BY COUNCIL MEMBER SANCHEZ)** – was presented. All voting aye. Nays none. Council Member Robinson absent on personal business. ORDINANCE 2001-0144 ADOPTED.

Items received during the meeting were considered as follows:

18. ORDINANCE approving and authorizing submission of an application for grant assistance from the **STATE CRIMINAL JUSTICE DIVISION (CJD), Office of the Governor**, to fund the Deoxyribonucleic Acid (DNA) Improvement Project Grant; declaring the City's eligibility for such grant; authorizing the Mayor to act as the City's representative in the application process; authorizing the Chief of the Police Department, or any designated Assistant Chief, to accept such grant funds, if any, and to apply for and accept all subsequent awards, if any, pertaining to the program; and authorizing four new staff positions to be funded by the grant - \$256,141.00 Grant Fund - \$85,380.00 General Fund - \$341,521.00 Total – was presented.

Council Member Quan stated that he thought it was something that they were doing in the right direction, that they had studied the issue and it was amazing how few cases they actually did DNA testing on, that there was a great need for this, that it was something that the City could really do in a big way to help other police departments in the area and a possible aid to law enforcement in general.

A vote was called on Item No. 18. All voting aye. Nays none. Council Member Robinson absent on personal business. ORDINANCE 2001-0145 ADOPTED.

Items postponed to the end of the agenda were considered as follows:

27. ORDINANCE determining that the formal taking of competitive bids is not required for the work described herein; delegating to the Purchasing Agent the authority to issue up to \$2,000,000.00 in purchase orders for Sanitary Sewer Point Repairs without further council action – was again presented to Council.

Council Member Castillo stated that he had spoken with Mr. Rolen on this yesterday and agreed that they were having a lot of work backlogged because of the number of sewer breaks which were occasioned by the weather and in many parts of town by the age of the sewer system, that he expressed to Mr. Rolen that the statute of the local government code applied to emergency purchases that were such that the municipality had to take immediate action to protect life and property, that this had been an ongoing problem so it was kind of on the border of whether it was an emergency of the nature that was contemplated in the statute, that he was willing to go along with it, but his concern was that they did not use that section of the government code to bypass the regular purchasing procedures for other things that they could just say were an emergency, and asked whether his interpretation of what an emergency was and that was an event caused by a calamity or act of God or anything else that required immediate attention for the protection of the lives and safety of the residents, and Mr. Bibler stated that really was not the issue, that the issue was whether or not bids needed to be taken on the item and because of its nature bids did not need to be taken therefore the emergency issue did not arise, and Council Member Castillo asked if it was not the emergency that was occasioning it, and Mr. Bibler stated that what was occasioning the exception was the fact that it was a health safety issue. Council Member Goldberg absent.

Mr. Hall stated that it was critically important that they understood that this issue was brought because they were under an emergency provision, that it was brought under the health and safety exception in the code which said that if it was to protect or preserve the public health or safety the process was available. Council Member Goldberg absent.

Council Member Boney moved to suspend the rules to hear from Mr. Tom Rolen, Director, Public Works and Engineering, seconded by Council Member Keller. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Member Goldberg absent. MOTION 2001-0142 ADOPTED.

Council Member Boney asked what was the urgent need that Public Works saw to have the exception to the normal process by granting authority to Purchasing to move the items a little bit faster, and second, it was his understanding that their MWBE provisions would not apply to this agenda item because of its urgent nature and did the Public Works Department foresee an opportunity or capacity to try to at least address their diversity goals while they filled the contract. Mayor Brown and Council Member Goldberg absent. Mayor Pro Tem Boney residing.

Mr. Rolen stated that they did consider it a critical issue and was why they came to Council and ask that they consider the variance, that the basic problem was that they had received sewer repairs at approximately twice the rate than they received them in January of 2000, that they had approximately 250 sewer repairs backlogged at this time

and that was unacceptable level to them, that those kind of repairs were of such a nature that they found themselves periodically going back to the houses because the sewers stop up because the repairs had not been made, that when that happened they had the opportunity for sewage to get into people's homes and yards and was a public safety issue, that they asked for the variance because they were feeling that by getting Council's approval they could basically cut a week off the process and get the contractor to work quicker thereby getting the repairs made quicker, that they were asking for twenty crews and that was a significant number of folks and if they assumed that they could make one repair a day, weather permitting, they could make quite a few repairs and start to get the backlog down and minimize the public safety issue that they had, that the problems were a combination of things, that number one was just the age of the system and number two was that they had the fourth coldest December on record and that caused grease to settle out in the sanitary sewer system and the system then developed the stoppages, that they were taking bids on four jobs that they were estimating would not exceed \$500,000 each, that they did it that way with the hope that they could get competitive bids from as many people as they could also to make them more manageable, since they were a half a million dollars that did not fall into the typical requirements in terms of the MWBE which typically the construction amount was at \$1 million, that in terms of the MWBE goals they continued to exceed them in both professional services and in construction and had every intention to meet the goals if not exceed them. Mayor Brown and Council Member Goldberg absent. Mayor Pro Tem Boney residing.

Upon questions by Council Member Bell, the problems first arose and the numbers increased during the month of January, that they made an attempt to address the increase with City crews by diverting crews that were making water and other repairs, that they hoped to handle the situation however it became clear that they could not because they were still coming in at a rate that they could not meet, that they did traditionally see more sewer problems at this time of year but the point that he was making was that the number of repairs that they were encountering were even surpassing what they would normally expect this time of year, that they did and were planning, that they came to Council with a request in December or later part of November requesting Council to authorize the awarding of the stoppage contract, that they actually requested and Council approved more stoppage crews than they had on contract last year, that they had water leak contracts that had been approved that they were working on and Council had since approved additional ones, that Council approved a fire hydrant contract which would allow the replacement of fire hydrants so that the City crews would not have to do that, that with all due respect they were doing their very best to plan to address this and posture themselves to hand what they would normally expect, however he did not think there was any way that anybody could reasonably expect that they would have doubled, not 5% or 10%, but doubled the number of stoppages and repairs that they had, that it could not be contemplated and while they made every reasonable attempt to get there they were coming to Council in this manner, that it was not his desire to do this and he had never done this in his career with the City, but by the same token he remembered very clearly last March when the Council was very concerned because there was an excess of 700 sewer repairs, that he was attempting to handle the problem as quickly as they could so that the problem did not reoccur, that the bids were going to be taken today at 10:30 a.m. and the reason he was asking for the variance was so that when they took bids today they could tabulate them and get the insurance and bonding

and it was their goal to have to crews in the field Friday or Saturday at the latest making repairs so they could immediately begin to get the backlog down.

Upon questions by Council Member Sanchez, Mr. Rolan stated that he had been acting director of Public Works and Engineering in April and became Director in September 2000, that there had been 3 directors in the Public Works and Engineering under the this administration, that he had in excess of 25 years with the City, that he held a Seal to Practice to be an engineer in the State of Texas, that there were scientific equations where if they knew the level of sulfides in the wastewater and the temperature and time of travel and all of those various situations they could approximate the corrosion rate of the sewers, but those were variable and it would take an immense program of monitoring and sampling to determine that, that the department was involved in an excess of a \$40 million a year program of rehabilitation of their sewer system.

Council Member Parker stated that the week before when they were talking about water main breaks she raised the issue of sewer line breaks and that Mr. Rolan had stated that within 16 hours was the average and within 24 hours they were out there and there was not a sense of urgency and she was concerned that two weeks ago there was not a sense of urgency and suddenly they had the emergency appropriation, that she intended to support, but it was the timing of it that bothered her and asked what had changed in those two weeks and Mr. Rolan stated that what they were talking about were the stoppages, that as of the report that they turned in to them through December 16 hours was the response time to stoppages, that one of the Council Members had asked how many sewer repairs did they have at that time and he had stated around 200 and there was really not anything else that was said, that he was being as candid and truthful as he knew how to be, that they were making every attempt they could by diverting in house crews to see if they could handle this but the rate that they were coming in did not slow down so and so they were having to do this, that he had been with the City for 25 years and the first 11 years he was responsible for the waste water system, that he had a feel as to how it breathed and he knew how it was supposed to act and seen how it worked and the way how things respond, that the way it was responding this year was not the way that it typically responded, that they had attempted to handle it in house because they were sensitive to Council's concerns about their coming back to Council for emergencies, but it did not slow down. Council Member Boney absent.

Mayor Brown stated Ms. Wiginton had worked with Mr. Rolan on this issue and asked her to explain how she had helped him and how did Council continue to have input into this process, and Ms. Wiginton stated that the way the ordinance was setup it authorized Mr. Rolan to issue up to \$2 million in emergency purchase orders as soon as the bids were open, but it did not cut Council out of the process, that it also required that Mr. Rolan come back to Council at the next available Council session to essentially have them ratified or approved by Council, that it allowed him to act right away, but it also gave Council another shot if they wanted to look at it, but the work that had been done would be paid for but Council could then cancel the purchase orders and anything that had not been done. Council Members Boney and Quan absent.

Mayor Brown stated that this process accomplishes two things, that number one it allowed Mr. Rolan to take care of the serious problem at hand expeditiously and number two it continued to give Council the oversight and approval of the monies that were being

expended, and Ms. Wiginton stated that was correct and it gave Mr. Rolan the option to get the contractors while they were available and get them locked into a pretty big purchase order. Council Members Boney and Quan absent.

Council Member Parker stated that she supported the item and would like to move forward, but she was a little disappointed, that it was great when they tried to do things in house with the attitude that they could do the job, but they also had to be able to say no they could not do the job and needed outside help as early as possible. Council Members Goldberg and Quan absent.

Council Member Castillo stated that since they knew what the pattern of sewer disruption was, that wet weather made it worse, that they could anticipate it and have contracts in place to help them take up the slack so they did not have to handle it on an emergency basis; that the Public Works Department was carrying out a massive evaluation of the sewer system, particularly on the east part of town where the sewer system was among the oldest parts of the whole system and that was a very important task, and the dedication and appropriation of monies for repair and replacement of the sewer system ought to be almost an emergency so they could get it going, and Mr. Rolan stated that he agreed and that they were prepared thanks to Council's support and had postured themselves to be able to handle a "normal winter", that if they had a normal winter he would not have come to Council with this but they did not and they had an exceptional number of sewer repairs come in which had caused them to do this. Council Members Goldberg and Quan absent.

Council Member Todd stated that at the Council table in the past they had approved emergency purchase orders where there was a water line break and the City had to immediately hire somebody to do the repairs because they could not wait for bids to go out and Council approved it on an emergency basis and when those items came up he did not recall hearing a lot of debate at the table about whether or not Public Works had the authority to do that, and asked Mr. Rolan to tell him the difference between this and what he already had, and Mr. Rolan stated that Ms. Wiginton would explain that.

Ms. Wiginton stated that she thought that the difference in what they approved in the past and in what they were doing today was that in those situations they approved the purchase order before it was issued, and in this situation they were being asked to authorize the Director of Public Works to issue those purchase orders and then come back to Council afterwards to have it approved, that there was not authority to do emergency actions and that was the problem with the Charter, that they had done them in the past but there was no authority, that obviously when an emergency arises something needed to be done to address it and in this case they had enough notice so they could set up something that authorizes the Director to issue those purchase orders and then come back.

Mr. Hall stated that this had been an issue that had been around since the beginning of time, that they had said on some several occasions in the past that a process to deal with what was an absolute emergency now, that they had actually had people go out and order the service, get it fixed and brought it to Council after the fact, that they called those emergency purchase orders but had always said there was not real authority to do that and was really in the nature of a compromising settling agreement, they ordered the

service, got the service and had to be ordered at the time, but frankly it was an expenditure without authorization and they said that.

Council Member Todd asked if they had the ability to do that already then why were they doing it this way, that the other way they really had more control over the process it seemed and the item before them almost seemed like a budget item, like they were budgeting \$2 million for those sort of repairs, and Mr. Hall stated that Mr. Rolan was telling them that they had a problem and that he could actually proceed immediately to try to address under contract with bids that they had actually received and proposed to open and that he wanted the authority to go ahead and issue against those bids, purchase orders to fix specific things out in the field, so by the time Council hears about it, its fixed, and Council Member Todd asked if the procedure that they had followed in the past to do emergency work, was that something that they could still do today, and Mr. Hall stated that they thought given the direction the Council had generally given in the past that if there was a station or pump done, that prudence would suggest that they go ahead and fix it and they had done that, that what Ms. Wiginton was telling them that if they asked to cite authority in the Charter to do that there was none, that one could argue that it did not comply with the prescribed purchase procedure.

Council Member Todd stated that he agreed with them that if it was a real emergency, something that was unforeseen and affected public health and safety then clearly he thought that would be the core definition of an emergency, that he would like to be able to have time to think about it and did not get all the backup that he wanted on the item and asked if it were to be delayed a week they would still have the ability to do repairs as they did in the past, and Mr. Rolan stated that his understanding was that if Council were not to act on this today he could not proceed forward, and Mr. Hall stated that it was a little bit different, that what they were talking about today was that they had a critical system that was literally not working, it was a single spot item, it was a pump at a station or typically something like that, that here Mr. Rolan had a whole backlog of work that was in the nature of impairment of public safety but he could see it, and Council Member Todd stated that he would tag the item.

After further discussion by Council, Mayor Brown stated that this was part of the \$7 million that was appropriated, and Mr. Rolan stated that they would be getting very close to spending all of the \$7 million with this item.

Council Member Tatro stated that he wanted to reiterate the need to address the staffing levels.

Council Member Ellis stated that as a district Council Member he was extremely concerned about his constituents who had human feces backing up into their houses and yards, that he trusted Mr. Rolan was going to do the correct thing and strongly supported the action.

Council Member Boney stated that he would urge Council Member Todd to release his tag on Item No. 27.

Council Member Todd stated that he would release his tag on Item No. 27.

Council Member Ellis moved to call the question on Item No. 27, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent on personal business. MOTION 2001-0143 ADOPTED.

A vote was called on Item No. 27, all voting aye. Nays none. Council Member Robinson absent on personal business. ORDINANCE 2001-0146 ADOPTED.

Council Member Goldberg released his tag on Item No. 21.

21. ORDINANCE appropriating \$430,000.00 out of Low Income Housing Fund (Fund 872) and approving and authorizing agreement between the City of Houston and **CONCORD AT PALM CENTER, LLC** to pay eligible costs in connection with the construction and acquisition of the Concord at Palm Center Apartments to provide housing to low-income persons - **DISTRICT D – BONEY** – was again presented to Council. All voting aye. Nays none. Council Member Robinson absent on personal business. ORDINANCE 2001-0147 ADOPTED.

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS

Council Member Sanchez stated that yesterday at the intersection of Woodway and 610 there was a contractor drilling in the City right of way and presumed they had a permit to do so, that in the process they had apparently hit a City water main and water was spewing everywhere, that it obviously had placed a burden on an already stressed Public Works and Engineering Department, that he would like for the incident to be followed closely and that they give Council assurance that the contractor would be billed for the repairs and then follow-up when the contractor issues the check, that he would like it photocopied and presented to Council, that he had asked in the past how many of those contractors they pursued and what the resolution rate was and he had not gotten that information, so he thought it was prudent and timely that the contractors that were working in the right of way reimburse the citizens of the City of Houston. Council Member Boney absent.

Council Member Sanchez stated that his second issue related to the posting of speed limits, that he knew that it was not the responsibility of the City of Houston, but it was the responsibility of the Highway Department and thought it was incumbent upon them, who represented the taxpayers of the City of Houston, to write a letter to TXDOT and urged the Mayor to do that, to expedite the changing of the posted speed limits and perhaps offer them some assistance if the State was incapable of doing it maybe they could work with some other agencies to help them complete the posting. Council Member Boney absent.

Council Member Sanchez stated that over the course of the last several months it had come to his attention that he was being investigated for an alleged wrongdoing, that when he discovered it he requested that the City Attorney furnish him with a file dealing with the matter and apprise him of what he was being investigate for, that in denying his request the City Attorney stated that he relied upon the Attorney General opinion that basically stated, as he understood it, that since he was the subject of an ongoing investigation he was not entitled to see the file, that as he now understood the investigation had been completed and upon his renewed request he was furnished some

documents but suspected not all of them, that one of the documents he was furnished had typed in that he was merely listed as a witness, although someone had handwritten the word suspect beside his name, that he still did not know who wrote the word nor did he know the basis of what the allegations were at that time or where they were now, that he brought the matter to Council's attention because he was concerned that the Mayor's office may believe that it could investigate Members of Council, under the banner of a possible criminal investigation, and not permit any of them, that may be investigated or accused, from learning of the allegations, even after the investigation was concluded, that none of them who served in a public position and who were the target of a criminal prosecutor or police body should be denied the information by the City Attorney, that he was the target of such an investigation over as petty an issue as a request to purchase a chair, that tomorrow one of his fellow Council Members could fall out of favor with the administration and be investigated, that they not permit a repeat of the callous use of power, that he again renewed his request so as to permit him and his constituents to learn of the secret investigation, that he would hope and recommend that the Mayor assist him in bringing this backroom and policy and information in cloaks into the sunshine it deserved, that open government and their government of the people deserved no less. Council Member Boney absent.

Mayor Brown stated that on the water main that he talked about on Woodway, he received the same memorandum that it was reported at 1:20 p.m., the Public Works supervisor arrived at 1:30 p.m., the valve men arrived at 1:45 p.m. to shut off at 2:00 p.m., the repair team arrived at 3:00 p.m. and the repairs were completed by 10:00 p.m., that he would submit to them that the Public Works Department had a very rapid and effective response on that.

Mayor Brown stated that he had some idea what investigation he was talking about, that Council Member Sanchez had been on Council almost six years and knew that the Mayor's office did not conduct criminal investigations, that if there were criminal investigations they were conducted by the District Attorney's office, that he thought it was irresponsible for Council Member Sanchez to tell the public that the Mayor was doing backroom investigations, that the Mayor's office did not conduct investigations and he asked Mr. Hall to respond.

Mr. Hall stated that Council Member Sanchez had asked to see a file and had characterized it as a backroom investigation and did not know why he characterized it that way, that everybody in the City was aware that there was an investigation around the purchase of chairs at City Council, that it had been written about in the media, that it was basically directed by the District Attorney, that they tried to follow the law, that they gave them the background and citations for the decisions that were made in this case, that they asked at one point that they ought to be treated differently because they had a special right of access and they were told that it did not apply in this circumstance, that he thought it was disingenuous for Council Member Sanchez to suggest that it was some kind of way secret that they had instituted some investigation of him, that they did not do that and the investigation did not center on him and he was told that, that it was about the 611 Walker problem and the issues associated with that which were very public and not directed by them, that he tried to be very open with him about what the decisions were and why, that they cited to him what the Attorney General said was the law about releasing the documents. Council Member Boney absent.

Council Member Parker stated that she was sure that some of her colleagues were a little concerned about a Wayne Dolcefino investigation that was reported in the news last night about the new Public Works facility on McCarty and looked forward to getting an update on what happened out there and who was responsible for the problem, and Mayor Brown stated they would make sure she got a report on that. Council Members Galloway and Boney absent.

Council Member Bell stated that he wanted to echo Council Member Parker's concern on the report that was aired last night and thought that everybody who saw that had the same reaction especially in the light of the fact that there had been a common refrain around Council that they did just not have enough money and the property tax cut had caused such serious problems and then there was about a five minute report that caught everyone on Council, he was sure, off guard, that they had a facility out there going to waste with millions of dollars of equipment that had never been used, it simply made no sense whatsoever and thought they were owed an explanation and hoped it would be forthcoming. Council Members Galloway and Boney absent.

Council Member Ellis stated that he had the opportunity this week, along with Council Member Robinson, to travel to Austin and attend the 2001 Texas Municipal League Legislative Briefing, that he wanted to discuss House Bill 852, which was something that he had discussed with Mr. Wells, that it would enable the use of technology in the procurement process and also allow for reverse auctions, that the private sector was already using the process and it was more efficient, that the cost savings could be up to 20% on each bid and when they started to look at the Purchasing Department and the number of items that they purchased throughout the year it could be a great cost saving to the City and he urged all the Council Members to call their State Representatives and Senators and promote House Bill 852.

Council Member Ellis stated that House Bill 1115 was brought to his attention by a number of his constituents, that it would permit the City to implement a photographic traffic control system, something that they had presently, that he thought it was a public safety issue, that they could put it at their most heavily traveled intersections and it would be a deterrent for individuals to run traffic signals, that they presently had them on the toll roads for individuals who ran through and did not pay their fees, that this would only permit the City to implement it, it did not mean that they would have to do it at every traffic signal or one or two, just the ability to have a pilot project, and he urged them on both of those issues to contact their State representatives. Council Members Galloway and Boney absent.

Council Member Goldberg stated that he wanted to thank Mayor Brown for coming out to District C and attending a couple of events the past weekend, that they opened a new community center, Marion Community Center, the largest multi use center in District C and it was very successful and wanted to congratulate Brenda Holmes who would be director of that City, that also Fiesta held a huge event with wrestling exhibitions and stated that he wanted to thank Mayor Brown for attending that event. Council Members Galloway and Boney absent.

Council Member Goldberg stated that last week they had a rather huge amount of money that was saved, that it had to do with the cellular phone contract and stated that he wanted to congratulate Calvin Wells and his department, Tina Paez, Jerry Roberts and Betti Tywater, that over the amount of money they had spent in the past they were saving the City over a million dollars per year in the contract. Council Members Galloway and Boney absent.

Council Member Todd stated that they held their first CIP meeting on Monday and stated that he wanted to thank Mayor Brown and Council Member Parker for personally coming out to the CIP meeting and the other At Large Council Members for each sending a representative to the meeting, that it was a good meeting and discussion and thought that the CIP process was a good one and encouraged the citizens watching to make certain that they attend CIP meetings or watch them on the municipal channel to see what was going on. Council Members Galloway and Boney absent.

Council Member Todd stated that he echoed what Council Member Bell had said about the Channel 13 report and stated that he would like to get a response from the Public Works Department on that issue, and Mayor Brown stated they would have a response for all the Council Members.

Council Member Todd stated that he had spoken last week about the meningitis situation in Kingwood and Montgomery County and was still concerned about it, that it was still quite a scare not only up in Kingwood, but in the southeast side of town, that he was a little bit disappointed in the Health Department for how they had handled it, that he did not think that they had really gone to the wall, that they were clearly monitoring it, but not when it came to going up there and making certain that parents realized what the risks were of meningitis, that even though there were no State supported vaccinations going on now and that did not mean that they should not have their child vaccinated; that he thought that was where Dr. Kendrick needed to get out there, and he requested that Mayor Brown meet with Dr. Kendrick again, that they needed to get her in high gear on meningitis and at least go out there and do a better job of getting the word out on the disease, and Mayor Brown stated that they were monitoring the problem and would talk to Dr. Kendrick again. Council Members Galloway and Boney absent.

Council Member Quan stated that he wanted to commend acting Chief Connealy for going around and meeting with the Council Members about the Fire Safety Plan, that he understood from Chief Connealy that he was moving forward very rapidly on the lease negotiations and hoped to have that on the Council agenda next week, that if those actions could have been done in advance they would have all been happy to be a part of the process to understand what the overall process was as opposed to being advised last week at Council.

Council Member Quan stated that he understood that Public Works was preparing a report he requested to see how they were doing on the overlays and things of that nature and looked forward to getting that report.

Council Member Quan stated that he knew that during the State of the City address Mayor Brown had stated that he wanted to take politics out of the budget process and work together with Council, that he knew it was an election year, but he was concerned

about what seemed to be an increased acrimony among Council Members and the administration and hoped that they could really show more professionalism together and more collegiately in working those issues, that there were several divisive issues before Council and would like to see the level of discussion remained at a very high level of discussion as opposed to getting down to personal issues of each other, that he hoped that they could work together and really convey to the citizens that they were working for them and not out to make a political position or stand for themselves because they were up for election, and Mayor Brown stated that he agree with him 100% and urged everyone to heed his advise and stated that he would. Council Members Galloway and Boney absent.

Council Member Tatro stated that they had been talking a little bit about Health Care, that it had been mentioned by Mr. Haines that for every 100 people added to the Heath Care Plan it was a cost of \$200,000 and stated that he wanted the administration to put down what the incremental cost of 10, 50 or 100 people was, and what the administrations projections were on people being added to the plan, that there were statements made that it would not increase the City's health care and that was not true since every addition was an addition in premium; that the Municipal Employee and Fire Pension Plan came to them and asked to consider including retirees who had dropped out at one time from the City's benefit package and were now out of health care coverage, that the request was would they consider allowing, during open enrollment, those retirees to opt back in, that it was an important issue but he would like to have an idea how many people they were talking about and the relation between the total number versus the cost, that he did not know if that would change the actuarial in the contract for either group, either the domestic group or the retirees, that he understood it would not for domestic partners but it might for retirees. Council Members Galloway and Boney absent.

Council Member Vasquez stated that he wanted to bring their attention to a supervisor and crew leader in the Public Works area, Mr. Joe Acosta, that Mr. Acosta helped solve a significant neighborhood problem in the Northside area this past week and wanted to commend him for solving the problem, that they had running raw sewage in the neighborhood and he and his crew were able to come out and solve that, that he wanted to thank Tom Rolan also. Council Members Galloway and Boney absent.

Council Member Keller stated that they would be having their District G CIP meeting tomorrow night at Frostwood Elementary, 12214 Memorial Drive, from 7:00 p.m. to 9:00 p.m..

Council Member Keller stated that he wanted to comment on the water leak that they had yesterday in his district, that the actual break was unbelievable as to how big it was, that this company did have permits and had permits on all three of the places that he inquired about to do repair, that they were subcontractors of MCI, that thankfully they had the street cut ordinance which gave them a little more muscle to actually go to war on this issue and do criminal charges if the case need be. Council Members Galloway and Vasquez absent.

Council Member Ellis stated that the District F CIP meeting would be held February 12, 2001 from 7:00 p.m. to 9:00 p.m. at the Alief Elsik High School. Council Members Galloway, Boney and Vasquez absent.

Council Member Sanchez stated that as to the construction, on Saturday the same contractor was on Woodway and he asked them for the City permit and they showed it to him, and clearly on the permit it said that they had a right to be there with a uniformed police officer and they had no uniform police officer at the time, that there was a traffic backup and congestion in that area, that he was just passing it on that even though they secured permits, often times to save money they would not hire the uniformed police officer to navigate traffic through the area, that in addition, the intersection of San Felipe and Post Oak, that intersection was reconstructed with new surface and weeks later a contractor came out and dug up the middle of the intersection and replaced it with tar, that he had asked for a report on it and had not received it from Public Works, that they should not tolerate new construction being torn up two weeks later and not replaced with an equal quality fill. Council Members Galloway, Boney and Vasquez absent.

There being no further business before Council, the City Council adjourned at 11:10 a.m. upon MOTION by Council Member Keller, seconded by Council Member Ellis. All voting aye. Nays none. Council Member Robinson absent on personal business. Council Members Galloway, Boney and Vasquez absent. MOTION ADOPTED. COUNCIL ADJOURNED.

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

MINUTES READ AND APPROVED

Anna Russell, City Secretary