

City Council Chamber, City Hall, Tuesday, February 13, 2001

A Regular Meeting of the Houston City Council was held at 1:30 p. m. Tuesday, February 13, 2001, with Mayor Lee P. Brown presiding and with Council Members Bruce Tatro, Carol M. Galloway, Mark Goldberg, Mark A. Ellis, Rob Todd, Gabriel Vasquez, John E. Castillo, Annise D. Parker, Gordon Quan, Orlando Sanchez, Chris Bell and Carroll G. Robinson; Mr. Paul Bibler, Senior Counsel, City Attorney's Office, Mr. Jesse Cantu, Director, Citizens Assistance Office, Ms. Martha Stein, Agenda Director present. Council Member Jew Don Boney, Jr. absent due to being ill. Council Member Bert Keller absent on personal business.

At 1:51 p.m. Mayor Brown recognized Council Member Castillo for a presentation. Council Member Castillo stated that part of tradition for the holidays in District I was a distribution of perks to needy families and senior centers that were congregate meal sites for seniors; the distribution of toys at a party that was held before the week that school lets out and they had it at the Magnolia Service Center; that they usually had anywhere from 400-500 and one year up to 600 children that attended the party and were fed pizza, they had entertainment by Pancho Claus, characters from Warner Brothers, courtesy of Warner Cable, and then they were treated to toys that were distributed by Santa Claus; that there were so many children that they had two sessions of pizza, entertainment and toys; that throughout this festivity they gave credit to and the children acknowledge the generosity of the people that made the party possible; that this was his last year; that he had only one more party to do and that he may not be present to thank them publicly. Council Member Castillo read a list of sponsors and introduced those present. Council Member Castillo also introduced members of the Police Department who had helped at Thanksgiving to deliver turkeys and serve pizza; that all these people had helped our children in the east end to have a Christmas that they otherwise would not have had and he wanted the Council Members to join in giving them applause in appreciation. Council Members Galloway, Todd, Parker, Bell and Robinson absent.

Mayor Brown stated that he wanted to make a presentation to Mr. Raul Marquez and welcomed him out of retirement and for returning to the ring as a part of Downtown Showdown which was a professional boxing event that would be held at the Aerial Theatre; that Raul had contributed to boxing and had a very impressive record; that out of 139 amateur wins he only had 10 losses and that included a 1992 Olympics win as an amateur; that his professional record was impressive of 30 wins and only 10 losses including both the USBA and IBF Junior Middleweight Titles; that on behalf of all Houstonians he wanted to express his appreciation to Raul for representing his hometown so well in his career; that in addition he had contributed much to the community; that the Downtown Showdown would mark the debut of professional boxing in downtown Houston; that the City was pleased to salute Raul Marquez for his contributions to the community and to the world of boxing and presented a resolution and extended best wishes for continued success. Mayor Brown declared February 15, 2001 as Raul Marquez Day in Houston, Texas. Council Members Galloway, Todd, Parker, Bell and Robinson absent.

Mr. Marquez thanked Mayor Brown for the award and stated that he felt very honored and he thanked the City of Houston for supporting his boxing career way back to his amateur days, went to the Olympics, that he had retired 18 months and that he would always represent the City of Houston whether in the city level, state level, world level and

the world of boxing. Council Members Galloway, Todd, Parker, Bell and Robinson absent.

At 2:05 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, Todd, Bell and Robinson absent.

At 2:06 p.m. Mayor Brown requested the City Secretary to call the roll. Council Member Boney absent due to being ill. Council Member Keller absent on personal business. Council Members Boney, Galloway, Keller, Todd, Bell and Robinson absent.

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

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 Members Galloway, Todd, Bell and Robinson absent.

Council Member Parker moved to suspend the rules to hear from Mr. Jonathan Gerber after Ms. Betty Clark, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Boney absent due to being ill. Council Member Keller absent on personal business. Council Members Galloway, Boney, Todd, Keller, Bell and Robinson absent. MOTION 2001-143A ADOPTED.

Mr. James D. Robinson, 105 West Larkspur, Alvin, Texas (281-756-0115) had reserved time to speak, but was not present when his name was called. Mayor Brown and Council Members Galloway, Todd, Bell and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Mr. Kevin Ray Ramirez, 8234 Hansen, Houston, Texas 77075 (713-473-0068) had reserved time to speak, but was not present when his name was called. Mayor Brown and Council Members Galloway, Todd, Bell and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Mr. Jeffery Cole, 2609 Crocker, Houston, Texas 77006 (713-528-5778) appeared and stated that he was present before Council as a gay man; that he did not choose to be for certainly he would not have chosen the life of persecution; that he with an estimated one in ten Americans were born gay; that in metro Houston the gay population had been estimated at a conservative 400,000; that his partner and he had been together for seventeen years, longer than all but one of their siblings, longer than most of their straight friends; that unlike many they had stayed together for better and worse; that they owned their home and furnishings together, their cars together, and their insurance policies naming each as beneficiaries; that they were just an average couple; that he was President of the Avondale Association, Vice President of Neartown and Chairman of HPD's Positive Interaction Program for the Central Patrol Division Code 1; that as co-chair he was instrumental in moving the Westheimer Street Festival for their neighborhood; that he was just an average community Joe; that he wanted everyone to

listen to two scenarios, "you have been called into your employer's office, Mr. Sanchez we are letting you go, you see Mr. Sanchez you are Hispanic and quite frankly we find Hispanics repugnant, so you are fired, Ms. Parker we are letting you go as well, it seems Ms. Parker that you are gay and nothing personal but we find your sexual orientation distasteful and immoral so you are fired."; that the scenarios had nothing in common; that Mr. Sanchez would appeal and win and be reinstated with back wages and most likely would profit handsomely from his lawsuit against the City; that Ms. Parker would not fair as well because the City had no anti-discrimination laws, Ms. Parker had no legal recourse; that it happened, it was disgusting and it was wrong; that in trying to by-pass non-discrimination policy conservatives on Council had raised the objection that gave special treatment to gays; that he looked up the definition of equal in the dictionary and the definition read of the same, not special or different; that they were trying to deflect the issue of pro-discrimination and refused to learn or understand anything about the gay community or the level of commitment therein; that offering a workplace free from discrimination with the same benefits for all employees made sound, economic sense for both the recruitment of qualified candidates and the retention of trained employees; that it was said that 50% of the population condemn what others practiced and the other 50% practiced what they had been doing; that for those who had their share of public indiscretions and moral lapses they should leave morality out of this issues unless they wanted to drag their private lives and those of their family into this; that if you chose to support discrimination and if they made this a moral issue those in favor and backed by the fury of the additional 400,000 were prepared to discuss their morals. Members Galloway, Todd, Bell and Robinson absent.

Mr. Ed Devries, 5025 Telephone Road, Houston, Texas 77087 (713-644-4882) appeared and stated that in Leviticus 18:22 God said thou shall not lie with mankind as with womankind; that it was abomination; that the word abomination was a Hebrew word which meant to cause to make mistake; that in the 1828 dictionary, the first American dictionary written in the American colonies, Mr. Webster defined abomination as something that defiles or pollutes the nation; that God told Israel that sodomy or as it was called today homosexuality would pollute the nation that tolerated it; that we often talked about environmental problems, industrial pollution and car exhaust pollution, the pollution of unmanaged waste, but from what he had read in the newspaper and the statistics on internet, Houston's greatest environmental pollution today was the pollution of sodomy; God said that our City stinks; that whenever the Kings of Israel would clean up the nation of Israel, the first thing that did was remove the sodomites from the land; that in First Kings 15:12, First Kings 22:46; Second Kings 23:7 and other occasions in the Old Testament when the righteous King would clean the nation, he removed the sodomites from the land because the Bible said that the abomination of sodomy literally stinks; that the Bible actually called it the pollution of the land; that if this was true Houston would be the 4th most polluted city in the United States; that Romans 13:3-4 said that the rules of government such as this honorable Council had been placed in their positions by God so that they would not be a terror to good works, but to the evil; that a reventure execute wrath upon him that doeth evil; that God had placed them in their position of authority as leaders of the City of Houston so that they would protect those who do right and execute judgment on those abominable things and abominable people that would pollute our City and destroy the God ordained order of our society; that the Council had to make a decision, would it fulfill its God given purpose of judging evil or would this Council become a terror to good works; would this Council lead our City and our nation righteously or

would they make our City the next Sodom and Gomorra; that if this Council voted to grant special privileges to homosexuals they would be calling evil good and good evil; that they would be encouraging a behavior that the Bible warned would lead to the destruction of the nation; a behavior that 6,000 years of recorded history had proven would pollute any culture that embraced it to the point that all things decent would eventually be lost. Council Members Galloway, Todd, Bell and Robinson absent.

Mr. Aubrey Vaughan, 5025 Telephone Road, Houston, Texas 77087 (713-644-4882) appeared and stated that he was pastor of Grace Baptist Church and was there concerning the sodomite issue and that the sodomite was hypocritical in speaking that he loved everyone when no one loved everyone; that Jesus said they would love one and hate the other; that when they looked at the sodomite issues; that they called them the homosexuals they would be looking at the most violent perverts that they would find in a sodomite and that they literally hate; that he was there because he was interested in the children; that they recruited children; that they didn't appropriate children; that they actually recruited children or had them by arrangements stating that they were born that way when God created Adam and Eve; that he didn't create Adam and Steve; that if they were born that way God would have created them and put them together; that it was a chosen life style and quite different from the minority status; minorities were born that way and in America they are called minorities; that he did not know what they were but nonetheless they were called that; that we were talking about race, but that a sodomite was a chosen life style and he was interested in the normal future for children who may have weakness in their religion and emotional physical makeup; that he wanted us to remember that freedom of speech was not a crime when they talked about the sodomite issue. Council Members Galloway, Todd, Bell and Robinson absent.

Ms. Geneva Brooks, P. O. Box 20523, Houston, Texas 77225 (713-664-2717) had reserved time to speak, but was not present when his name was called. Council Members Galloway, Todd, Bell and Robinson absent.

Mr. Donald Buzbee, 14503 Eagle Pass, Houston, Texas 77015 (713-455-7577) appeared and stated that the Bible said that righteousness exalted the nation but sin was a reproach to many people; that when they endorsed sodomy lifestyle they would be setting standards for thousands of children that had their eyes on them; that they were saying to children that it was alright to practice sodomy; that the very people that should be setting the standard for our youth had sold them out probably for a vote or a dollar; that endorsement of this issue would be shameful. Council Members Galloway, Todd, Bell and Robinson absent.

Mr. Wayne Gresham, 1404 Missouri, Houston, Texas 77006 (713-853-1485) had reserved time to speak, but was not present when his name was called. Council Members Galloway, Todd, Bell and Robinson absent.

Mr. Clarence Burton-Bagby, 2003 Kane, Houston, Texas 77007 (713-861-8238) had reserved time to speak, but was not present when his name was called. Council Members Galloway, Todd, Bell and Robinson absent.

Mr. Bruce Ray Simpson, 122 Shady Lane, Houston, Texas 77336 (281-8238) appeared and stated that six years ago the City of Houston attacked me because my

name was Simpson; that his girlfriend had lied about it and they believed her; that his neighbor said rape; that he had three cops coming out to attack him because his name was Simpson and one cop coming out to attack him because of rape; that he went to the DA; that they had buried the evidence that would have proven his innocence; that the Judge told him that if he came the third time to prove his innocence that Judge threatened him with jail time; that he hired a lawyer who brought in no evidence; this was six years ago; that he lost the second appeal; that the second lawyer was trying to rip him off for not the \$10,000 he said, but for \$20,000; that when his mandate came through he had to visit with a probation officer; that going to a probation office with his woman and his child was like going through a death trap; that he found out that 20 years ago 96 people had an accident the same year he did; minutes after his accident the whole signal was shut down and also several times that year; that he did not know how many people out of the 96 were dead; that he had gone in June to the FBI to try to expose this; that the four agents that he went felt that because the signal was not in their area; that he wanted to tell them about another signal years ago; her name was Ms. Welch at the time, now it was Laura Bush; to be the President's wife; that at Barbara Walter's interview she lied and said that she was in the other car; the car that the guy was killed, he was 18 years old; that she was wrong, she was driving and killed an 18 year old kid; that she didn't get a ticket, she didn't have to go to court; that she didn't get nothing; that he told the cop that gave him the ticket the day of the signal; that there were four lanes going into two; that there were no road signs, no signs on the road; he wanted to know how they could call this legitimate; that the police gave him the ticket stating that he had hit her; that he had put this together for his appeal; that he won his appeal, but he thought they were wrong; that they could continue burying this but at that death trap people were getting killed; that the truth would come out and that all the people who had illegally attacked him, every judge that he had screamed and snapped "get off my back"; that everyone who had falsely accused him and he had the evidence there; he wanted to know if anyone wanted to check him on anything; that the thing was they had no idea what they had done to his life; that he was going to be a gentlemen and a nice guy because he had let those losers lock him up; that when he went back to be in Court 2 his appeal was back in the same kangaroo court that sent him down to be attacked illegally to begin with; that when he went back to Court 2 his appeal would not go through; that Council could go ahead and bury this and let the rest of them die. Council Members Galloway, Todd, Bell and Robinson absent.

Mr. Ian Gordon, 1814 Missouri, Houston, Texas 77006 (713-223-4971) appeared and stated that he as from the Cherryhurst subdivision just west of downtown; that he wanted to thank everyone for the remodeling of the Cherryhurst Civic Club; that it was beautiful; that they were so pleased with it and going to have the first meeting in the Club on Thursday for election of officers; that he was running for President and on the 27th he looked forward to seeing everyone for the official opening the building; that he again thanked everyone very much. Council Members Galloway, Todd, Bell and Robinson absent.

Ms. Yolanda Perez, 5639 Yale, Houston, Texas 77076; had reserved time to speak, but was not present when his name was called. Council Members Galloway, Todd, Bell and Robinson absent.

Rev. Mildred Henry, 4434 Oak Shadow Dr., Houston, Texas 77091 (713-688-2765) appeared and stated that she was the Founder and the CEO of Go Forward, Inc., a family

literacy program; that she was there on behalf of child advocacy; that Houston was experiencing a serious problem with youth that were leading misdirected lifestyles; that they were continuing to have problems with children that had not learned how to read adequately; that for the past 11 years they had provided literacy services in the City of Houston; that was a grass roots effort and non-partisan; that it had been without the benefit of one penny from the government; that they were housed in the Acres Homes Multi Service Center since 1994; that there had provided eight summers of youth summer enrichment camp; they had provided an after school literacy program and they had provided services for a youth community choir called the Small Change Youth Community Choir; that was a creative way of providing literacy and that it also had been a tool that helped them impede juvenile crime; that she was appealing to Council because they had met with a dilemma there; that she understood that on or about summer of the year 2000 the Acres Home Multi Service Center, located at 6719 W. Montgomery had been audited by the City of Houston Health and Human Services which conducts business there; that they owned the City Center; that in the audit it was found that there was need for more funding and that the spaces that were being utilized were not receiving funding for the space; that they used the auditorium on Tuesday from 6:30 p.m. to 8:30 p.m. the choir rehearsal; that they had been told that they had to pay a fee of \$40 per session; that on the after school program on Wednesday from 4:00 p.m. to 5:00 p.m. they provided reading development; from 5:00 p.m. to 6:00 p.m. they provided public speaking and from 6:00 p.m. to 7:00 p.m. they provided Algebra club to low income youth and their families; that now they had been told that for the after school literacy program they will have to spend \$20 per hour to house the program there in the conference room; that on or about February 5, 2001 she was called by administration and told that they had to pay all of the back fees from on or about August of last year and being paying on a week-to-week basis; that they was a hardship for an organization that worked on a grass roots level; that they didn't have the monies; that they would become 501C3 certified in May of 2001; the other problem was they would have to find someone that would write a grant and most of those people were asking them for at least \$1,000 to \$1,500 to write grants; that they were asking City Council to help them find a solution so that they could continue to provide the services at the Acres Home Multi-Service Center. Council Members Galloway, Bell and Robinson absent.

Mayor Brown asked Rev. Henry if she was aware that the Director did have the right to waive the fees for the use of the rooms there; that she should write a letter to the Director of the Health Department and that the Director had the authority to waive the fees. Rev. Henry wanted to confirm that if they needed to request that the fees be waived. Mayor Brown stated that was correct; that it was the policy of the City. Council Members Galloway and Bell absent.

Ms. Rita Ruth, 17015 Market Street, Channelview, Texas 77053 (281-452-0504) had reserved time to speak, but was not present when her name was called. Council Members Galloway, Todd and Bell absent.

Mr. Scott Tillinghast, 5005 Georgi Lane No. 88, Houston, Texas (713-686-8331) appeared and stated that he was present to speak in behalf of non-discrimination with respect to sexual orientation; that he lived in District A and he was a Harris County Democratic Executive Committee member from Precinct 505; that he first came to Houston in 1942 and had lived nearly all of his life here; that he had his roots in Houston

and definite ideas about what kind of city he wanted it to be; that he wanted a city with diversity and tolerance for diversity; that several of this nation's ten largest cities offers domestic partners benefits as well as non-discrimination policies; that Austin, Dallas and Fort Worth had non-discrimination policies; that over 200 cities across this country did; that he wanted to know about the private sector; that he made a point to use his Chevron credit card that was the first oil company to institute a domestic partners' benefit program; that there were many private employers who had; that just a few of them were Allstate Insurance, Shell, Vinson & Elkins, Compaq, Elle' and Microsoft; that there were hundreds of outfits in both private and public sector that offered both domestic partners benefits and non-discrimination policies; that they could not be called radical in the year 2001; that there were people who were opposing the proposal on the grounds that it was a moral issue; that this was a very sectarian view and it went against the part of the First Amendment about no law respecting an establishment of religion; he thanked the Council for their time. Council Members Galloway and Bell absent.

Mr. Dewayne Lark, P.O. Box 300905, Houston, Texas, had reserved time to speak, but was not present when his name was called. Council Members Galloway and Bell absent.

Mr. Benny Martinez, 1163 North US 183, Goliad, Texas 77963 (361-455-2501) appeared and stated that he was the President of the Latino Historical Association; that some of the members were present and some of the decedents of Juan Seguin were also present; that Juan Seguin fought for the justice and freedom of all Texans; that he was born October 28, 1806 and was a hero before the age of 30; that he organized a company of Tejano volunteers and joined in the Texas army fight against Mexico; that he was the first appointed Captain by Stephen F. Austin, Commander in Chief, and rose to the rank of Colonel in the Republic of Texas Army; that he was sent out of the Alamo to seek help for Colonel Fannin; that he returned to the Alamo and gave defenders a proper burial; that after the fall of the Alamo he fought under General Rusk at the Battle of San Jacinto; he was appointed Commander of San Antonio and disobeyed a military order to destroy the city; he persuaded Stephen F. Austin to rescind the order and saved San Antonio; Juan Seguin served as Senator to the Congress of the Republic twice and was elected Mayor of San Antonio in 1841; that because Seguin was Tejano in Texas under the American flag, Seguin suffered as a result of ethnic prejudice; that he fought for justice and freedom for all Texas; that his loyalty to Texas never faltered; that he declared in the beginning of the Texas Revolution that Texas would be free and independent or they would die in a glorious combat; Erasmo Seguin who was Juan's father supplied the Texas army with cattle, horses and money and helped Stephen F. Austin to come to Texas; that they had started collecting signatures along Highway 225 of what they were trying to do; that they had endorsement from LULAC; they had endorsements from the American GI Forum and they came there to ask Council for their blessings in form of the resolution; that they had some of the state representatives and senators that were working with them on this project; he believed that the State of Texas would be proud to have such a name as Juan Seguin on this beautiful street, a man who did so much for the freedom of Texas. The Seguin family wanted to make a presentation to Council. First, they thanked the Mayor and the City Council Members for the opportunity to present a portrait of their ancestor, Colonel Juan Seguin, who was a true Texas hero. Council Members Galloway and Bell absent.

Mayor Brown stated that he and Council appreciated the portrait very much and that they would make sure that it was displayed appropriately. Council Members Galloway and Bell absent.

Mr. Martinez stated that they were pressed for time and Mayor Brown asked Mr. Martinez to let him start working on his request right a way; that there were a couple of questions for Mr. Martinez. Council Members Galloway and Bell absent.

Upon questions by Council Member Todd, Mr. Martinez stated that they had spoken to some of the Council Members in Pasadena; that they were thrilled about it; that they had not talked to Mayor Isabel; that they had talked to Council Member Leon Searcy; that Mr. Searcy was Mayor Pro Tem and that Mr. Searcy stated that the Mayor was very excited about this because they wanted to get more history on the Tejano heroes and that was a start. Council Member Todd stated that he thought this was a very good idea and he would be happy to give them whatever contacts he had.

Council Member Castillo suggested that the administration prepare a resolution supporting the effort to name Highway 225 in honor of Colonel Juan Seguin and present it to the Council, and Mayor Brown stated that they would be doing that immediately. Mayor Brown thanked them for coming and stated that they had an excellent idea. Council Members Galloway, Vasquez and Bell absent.

Ms. Juana Calderon, 3711 Glenmore, Houston, Texas 77023 (713-645-0320) appeared and stated that she and her daughter were there on behalf of her husband; that her husband was hurt in 1998; that since then he had been abused by the system; that the people assigned to give them information had not given them the right information; that she had always been a housewife and the for last two years she had become a working mom; that her husband was unable to do anything at home and she had to do everything to care of her family and become the bread winner; that she had taken a day off of work and would lose one day of pay; that the people who were assigned to help the workers were not helping; that she was unable to have questions answered; that her husband worked for the City Maintenance Department; that she was present to ask who could help them or guide them in answering their questions; she wanted to know what was his right as a City worker; that they had lost their insurance; that she didn't want a hand-out that she was working to support her family; that she was only asking that husband be given what he deserved; that it was affecting her family and that she was there asking for their help. Council Members Galloway and Bell absent.

Mayor Brown stated that Mr. Lonnie Vara who was Director of Human Resources. Mayor Brown asked Mr. Vara to stand up and stated that he wanted Mr. Vara to meet with her after Council Members ask their questions. Council Member Bell absent.

Upon questions by Council Member Castillo, Ms. Calderon stated that was difficult because of the Workmen's Compensation and that was another issue she had to address in the future; that her husband had it because he was still hurt; that he had trouble at home to do anything because his neck would hurt; that he had already had neck surgery; that he still needed more surgery because it was not getting any better; that she had an appointment for him, but that he had to report every morning; that he could not leave the house between 7:30 a.m. and 3:30 p.m.; that put a burden on her



because she had to take her children to school and he was not able to leave the house; he was afraid to go outside because he liked to go by the rules; that he could not attend his daughter's graduation last year because he was afraid to lose his benefits and that she was saying "what benefits". Council Member Bell absent.

Council Member Castillo stated that it sounded like Mr. Calderon was under house arrest and suggested that Ms. Calderon get with Mr. Vara and ask Mr. Vara to handle and not to pass it off because it needs personal attention. Council Member Bell absent.

Mayor Brown stated that Mr. Vara would be working with her and they would do everything they possibly could to be of help to her.

Mr. Coach Bobby Taylor, 3107 Sumpter, Houston, Texas 77026 (202FA34511) appeared and stated that he was there regarding behavior, people, staffing, mental and physical growth, denial and citizenship; that the German Dip 1974, \$5,640,000 one hour, one year he saw her first minute of life; who or what coward, people stifle mental, physical growth, deny citizenship; local gun store, boy being shot in face, bullet coming out in neck; person being shot meaning a girl also shot in 1979 year. Mr. Taylor continued to express his own opinions until his time expired. Council Members Galloway, Vasquez and Sanchez absent.

Mr. Sean Carothers, 5900 N. Braeswood No. 251, Houston, Texas 77074 (713-779-8837) appeared and stated that he was there seeking justice, not only on his behalf but also on behalf of those who could not be there; those like him who had suffered tremendous wrongs at the hands of certain individuals within the Houston Fire Department; that he was not there to tarnish the image of the Houston Fire Department, yet he found no other way around this and he had to say; he asked if anyone had heard the terms "power corrupts" and "absolute power corrupts absolutely"; that within the walls of the Houston Fire Department there were those who willed this power, some were Captains, some were Senior Captains and even District Chiefs; that they were of the "good ole' boy" network which they upheld and supported each others beliefs; they knew the system and how to manipulate it; that in his case the goal was to get rid of certain individuals who basically were not liked; that it made no difference that he had passed every obstacle place before him; that a certain Captain by the name of Fernandez made sure that he was sent to a certain station where it was almost guaranteed that he would fail; that Captain Fernandez could not get rid of him at the Training Academy as he did others and it was not from a lack effort on his part; they lied and manipulated and tailored the documents to suit their own needs; that he was portrayed as this incompetent, lazy, unmotivated being by Captain Chavez, who was a friend of Captain Fernandez; that his portrayal of him was classical stereotype of how blacks have been viewed; that Captain Chavez was his training officer while he was on probation, while he was a probationary Fire Fighter at Station 7; that he had entered into the Houston Fire Department on November 15, 1999; that he had completed all tasks given to him by his superiors; that never wavering he gave 110% daily; that if you knew anything about the Fire Department Training Academy, then you knew it was a very rigorous course that you either passed or failed; that there was no middle ground; that upon completion of the Houston Fire Department Training Academy, he was sent to Station No. 7 under the tollage of Captain Chavez; that was obvious to him by Captain Chavez's actions and words toward him that his days were numbered in the Houston Fire Department; that they were not disgruntled

employees; that they were educated, hard working individuals with families who would fight for justice rather than lay down and be walked upon; just because a man walked into a burning building to save lives, that did not make him God; that if anything he or she had been blessed with a gift to do a job very few could do; that he wanted City Council to take action so that what had happened to him and others would not happen again. Council Members Parker and Sanchez absent.

Mayor Brown stated to that Chief Sims, Assistant Fire Chief, was present and would ask him to meet with Mr. Carothers and answer any questions he had about this personnel matter; that Mr. Carothers was on probation when he was terminated; that he would ask Chief Sims to meet with Mr. Carothers and answer any question he had. Council Members Galloway and Sanchez absent.

Upon questions by Council Member Quan, Mr. Carothers stated that he thought that racial discrimination could be a factor; that in the District he was in, he was told he was the only black at that time, but when he was terminated three weeks prior to being off probation -- ; that there were a number of charges; that he was portrayed as being lazy, unmotivated and an incompetent type of individual; that he had over 77 hours of college credit; that he was a United States Marine; that he graduated at the top of his class from Boot Camp; he felt that he was at odds and a number firefighters who he knew were at odds; that he was put in a situation where it was almost guaranteed to fail; that everyday it was something different, no matter how hard he worked and no matter what he did, it was always basically wrong; that there was very little credit but constant criticism and he saw others around him basically doing the same thing; that he was assigned to an Engine Company during probation and that he was generally the fourth person on the Engine Company; he wondered if he was such a bad employee why was he terminated 3 weeks before he had gotten off of probation.

Council Member Galloway stated that she had received letters from persons who were in the Fire Department and had written to her expressing how they were being treated and that it was on their job performance ; that she wanted to ask the Mayor if he could have someone from his staff to look into the persons that were terminated prior to becoming firemen and certified employees with the City as firemen because it was hard to find persons to go through this training and remain; that they did need fire fighters in their system; that she encouraged the Mayor to look into this because he was not the first person since she had been on Council for a year and two months that she had heard of some stories and felt not to get into personnel matters and that she wanted to explore this further and that his coming there to speak would not be in vain. Council Members Sanchez and Bell absent.

Upon questions by Council Member Tatro, Mr. Carothers stated that his termination occurred October 20, 2000; that he had been working through the system since then; that he had retained a lawyer; that he was at Station 7 a little over five months; that after getting out of the Academy there was a six months probation; that he was not a full-fledge member of the Union; that his goal was to become reinstated as a Houston Fire Fighter; that he had been offered his job back, but under the conditions that he would have to basically go through the application process all over again; that he would have to do a fast track through the Academy and do a year's probation; that this came through arbitration, Local 341 and that he was willing to do that until he was told that would be

asked to sign a waiver stating that he would not sue the City of Houston; when he heard that he said this was "no go"; that he had been treated wrong; that he had done nothing wrong; that he had done everything asked of him and more; that his family had suffered, he had suffered and he did not want to do it; that is when he chose to seek other routes; that he went through the full course and it took almost 7 months. Council Members Castillo and Sanchez absent.

Mr. Gabriel Luke, 6050 Warm Springs, Houston, Texas 77035 (713-721-4610) appeared and stated that he was also fired from the Houston Fire Department two days before graduation of the Academy; that dealing with Captain Fernandez he had also received the same treatment that Mr. Carothers had received; that he had been told by another Captain who had heard Captain Fernandez say that he would have fired him on the night of graduation if possible; that he was passing out a packet that actually showed false testimony about the times and the things that happened in his case; that they tried to fire him based on a time element during the 5th evolution which was burn simulation and that there were no documents on time requirements for this evolution; they also said that he had not completed a certain amount of air bottles which you have to complete in order to finish this evolution; that may be true, but also over half of his class had not completed those air bottles; that there was almost no way with the amount of heat and the strenuous activities that they did they could make it; that some of the people generally passed out before they did; that in the class that Mr. Carothers was most of the people in his class did not finish two air bottles, but why were they not treated the same as he was; they both were there to speak about unfair treatment in the Fire Department; he knew that the City knew they needed fire fighters; that he had graduated from Rice University in 1993 and he knew he was mentally capable of doing this job; that he had run professional track in Europe for six years, so physically he was capable of doing this job; that he taught for four years; he came to this job because he wanted help people; that it was a disgrace to him, he had disgraced himself when at Christmas he couldn't buy things that he wanted to give; that this was by no fault of his own; he worked hard; he woke up every morning at 4:-00 a.m.; he studied every day and he studied 5 hours a day on the weekends; that there were other cadets who had suffered the same indignities and were not willing to come forth; they saw that nobody would help them; that he was there to try to get their support in his endeavors. Council Members Castillo and Sanchez absent.

Mayor Brown asked Mr. Luke to also meet with Chief Sims and that he would do what Council Member Galloway had asked him to do and that was to take a look at the issue. Council Members Vasquez, Castillo and Sanchez absent.

Upon questions by Council Member Tatro, Mr. Luke stated that there was a panel review and the papers that Council Members had was an actual transcript of that review; that in the review it showed where he had made them back up on what they were saying mainly because there were discrepancies in what they were doing; that at five different times they gave in his instance; that when you have five different things on one thing something was wrong; that when he met with the panel he knew by expressions on people's faces that they knew what was being said was not true and that some of them were firefighters; that when you went through the panel you said what you had to say and they said what they had to say and then they get back to you; that it took two days, it was the day he was getting ready to take his Civil Service exam; that he had no grade problems and he had no physical problem while he was in the Academy and that he had

done his last three weeks of Academy with a partially torn ACL; that he knew he could do this job; that he was fired October 10, 2000; that he also had an attorney; that he knew other cadets who did not have attorneys and they just railroaded them; that his goal was to get his job back; he felt that the only way to fight the system was within; the "good ole' boy" days were over. Council Members Castillo and Sanchez absent.

Upon questions by Council Member Galloway, Mr. Luke stated there was more than one person who evaluated you, but Captain Fernandez was the one who wrote up the documentation, that if you had a Form 42 or any disciplinary action, then he submits that to your superiors if it warrants any further ruling on that; that he was basically the one who would say whether you were going to get in trouble or not; that he was not in class with them; that they had different instructors and they would report to Captain Fernandez if they thought someone had done something wrong; that he was the person who would carry it further. Council Members Vasquez, Castillo and Sanchez absent.

Council Member Quan thanked Mr. Luke for coming and stated that he was impressed with Mr. Luke's credentials and his sincerity; that he knew the Mayor would follow up, and that he didn't want Mr. Luke to think that was the end of the line; that Council was concerned and wanted to make sure that the system worked; that they recruited good people like Mr. Luke to work with the Fire Department and if there were obstacles that should not be there, they needed to find out how to remove them; he commended him on wanting to be a firefighter and work for the City; that he wanted Mr. Luke to keep them informed and stated that he knew the Mayor would follow through and that he had them to come back to also. Council Members Castillo and Sanchez absent.

Mr. Jonathan L. Gerber, 1031 West 43rd, Houston, Texas (713-682-3061) appeared and stated that he was there as a member of the Harris County Green Party, which was a part of the State Green Party of Texas and the Association of State Green Parties; that they had over 2 million voters in the last national election; that they had quite a voter base; that he was there to speak about civil and equal rights; they thought that the foundation of any democratic society is the guaranty that each member of society had equal rights; that respect for our Constitutional protected rights was our best defense against discrimination and the abuse of power; that we should treasure and celebrate our people's differences and diversity; they as Greens were committed to establishing relationships that honor diversity; that support the self-definition and self-determination of all people and that consciously confront the barriers of racism, sexism, homophobia, class oppression, ageism and the many ways our culture separated us from working together to define and solve our common problems; they affirmed the right to openly embrace sexual orientation in the intimate choice of who we love; that they supported the rights of gay, lesbian, bi-sexual and transgender people in housing, jobs, civil marriage and benefits, child custody and all areas of life, the right to be treated equally with other people; he felt this was about equal rights and discrimination; that they gave benefits for those who worked in the City and for those they love; if they worked then this was part of their pay; that he didn't think they should discriminate and decide who people can love. Council Members Goldberg, Ellis and Sanchez absent.

Ms. Betty Clark, 4310 Feagan, Houston, Texas 77007 (713-721-4610) appeared and stated that the streets in Houston were deplorable; that she had lived in Houston since 1951 with her family and that her husband's family had been there since 1925; that

she had seen streets big enough to drop a car in; the chuck holes were absolutely ridiculous that this was the worse they had ever been; they could go down any street in Houston and they would find pot holes that would break the axles in their car; that she had a new car and had to have work done on it; that this was just absolutely ridiculous; there was money to pay their salary and then there should be money to pave the streets. Council Members Goldberg, Ellis and Sanchez absent.

Mayor Brown asked Mr. Wes Johnson to meet with Ms. Clark and get the particulars about the area she was concerned about and that they would work on them and see what could be done. Council Members Goldberg, Ellis and Sanchez absent.

Mr. Barry Lawson, 5407 Northington, Houston, Texas 77039, had reserved time to speak, but was not present when his name was called. Council Members Goldberg, Ellis and Sanchez absent.

Ms. Gladys Yvonne-Carter, 5034 Pershing, Houston, Texas 77077, had reserved time to speak, but was not present when his name was called. Council Members Goldberg, Ellis and Sanchez absent.

Mr. James Partsch-Galvan, 1611 Holman, Houston, Texas 77004 (713-528-2607) appeared and stated that the first speaker stated that he was gay and that he was Latino and happened to be gay, but that he did not come to support a white racist dyke, Annise Parker; that he was very happy when he read the newspaper article because he didn't care how they twisted it around, it was a defeat for Mayor Brown and a defeat for Parker because it didn't matter whether they believed in benefits for homosexuals or same sex marriages; that the question was to put it on the ballot and let the people of Houston decide; that he wanted a referendum; that he wanted to vote for it. Mr. Partsch-Galvan continued to express his personal opinions until his time had expired. Council Members Goldberg, Ellis and Sanchez absent.

Mr. Steven Williams had reserved time to speak, but was not present when his name was called. Council Members Goldberg, Ellis and Sanchez absent.

Ms. Paula Harrison, 7721 A West Bellfort, P.O. Box 184, Houston, Texas 77071 appeared and stated that she wanted to address the problem with the Metro Bus Drivers; that the drivers had been discourteous to her; they had started driving before she had a chance to be seated; that they pumped the breaks constantly; that she had a heart condition and she was sure that it had worsened because of the constant pumping of the breaks for miles at a time; that about six years ago both muscles on her legs were torn because of the Metro bus driver's driving fast over holes in the road; that she had filed a lawsuit, but they dismissed it without even a hearing; that she had turned a number of bus number in to the Metro Authority. Ms. Harrison continued expressing her opinions until her time had expired. Council Members Goldberg, Ellis and Sanchez absent.

At 3:09 p.m. upon motion by Council Member Tatro and seconded by Council Member Todd, City Council recessed until 9:00 a.m. Wednesday, February 14, 2001. Council Member Boney absent due to being ill. Council Member Keller absent on personal business. Council Members Galloway, Goldberg, Todd, Ellis and Sanchez absent.

City Council Chamber, City Hall, Wednesday, February 14, 2001

City Council reconvened in the City Council Chamber at 9:00 a.m. Wednesday, February 14, 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, Gabriel Vasquez, John E. Castillo, Annise D. Parker, Gordon Quan, Orlando Sanchez, Chris Bell and Carroll G. Robinson; Mr. Anthony Hall, City Attorney, Mr. Paul Bibler, Senior Counsel, City Attorney's Office; Mr. Al Haines, Chief Administrator Officer, Mayor's Office; Ms. Martha Stein, Agenda Director present. Council Member Bert Keller absent on personal business.

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

At 9:12 a.m. Mayor Brown reconvened the meeting of the City Council. Council Members Galloway, Todd, Castillo and Robinson absent.

## **MAYOR'S REPORT**

### **CONSENT AGENDA NUMBERS 1 through 30**

#### **MISCELLANEOUS** - NUMBERS 1 and 2

1. RECOMMENDATION from Director Department of Aviation for approval of membership fees in industry organizations (ACI & AAAE) for the period January 1, 2001 through December 31, 2001 \$157,826.00 - Enterprise Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. Council Member Keller absent on personal business. Council Members Galloway, Todd, Castillo and Robinson absent. MOTION 2001-144 ADOPTED.
2. RECOMMENDATION from Director Department of Public Works & Engineering to approve refunds over \$15,000.00 for Water & Sewer Accounts for various customers - \$26,467.03 Enterprise Water & Sewer Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. Council Member Keller absent on personal business. Council Members Galloway, Todd, Castillo and Robinson absent. MOTION 2001-145 ADOPTED.

#### **PROPERTY** - NUMBER 3

3. RECOMMENDATION from the Director of the Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Frances Willison, Director of District Right of Way, Houston District, State of Texas Department of Transportation, to declare that the City of Houston does not need for road purposes a 0.047-acre (2,042-square foot) tract of land, located in Block 4, McKee Addition, more specifically described in Exhibit "A", so the State of Texas may sell the property to the abutting property owner, Herman Gordon **DISTRICT H - VASQUEZ** – was presented, moved by Council Member Boney, seconded by Council Member Vasquez.

Council Member Keller absent on personal business. Council Members Galloway, Todd, Castillo and Robinson absent. MOTION 2001-146 ADOPTED.

**PURCHASING AND TABULATION OF BIDS** - NUMBERS 6, 8 and 11

6. **NORTH FREEWAY AUTO SUPPLY** - \$98,495.00 and **LINBERRY AUTO PARTS** - \$208,381.25 for Automotive, Alternators, Generators and Starters, Part III and Part IV for Various Departments General, Enterprise & Fleet Management Funds – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. Council Member Keller absent on personal business. Council Members Galloway, Todd and Robinson absent. MOTION 2001-147 ADOPTED.
8. **KEMIRON NORTH AMERICA CORP.** for Chemical, Inorganic Metal Salt Coagulants Contract Part ??? for Department of Public Works & Engineering - \$700,000.00 - Enterprise Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. Council Member Keller absent on personal business. Council Members Galloway, Todd and Robinson absent. MOTION 2001-148 ADOPTED.
11. **FLUID CONSERVATION SYSTEMS** for Leak Detector for Department of Public Works & Engineering - Replacement - \$46,500.00 - Enterprise Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. Council Member Keller absent on personal business. Council Members Galloway, Todd and Robinson absent. MOTION 2001-149 ADOPTED.

**ORDINANCES** - NUMBERS 23, 25 and 30

23. ORDINANCE approving and authorizing contract between the City and **MS. AGNES CHRISTOPHER** for a Food and Beverage Concession at Brock Park Golf Course; and approving and authorizing contract between the City and **MR. JOSE ULABARRO** for a Food and Beverage Concession at Sharpstown Park Golf Course - 1 Year - Revenue - **DISTRICTS B - GALLOWAY and F - ELLIS** – was presented. Council Member Keller absent on personal business. Council Members Galloway, Todd and Robinson absent. ORDINANCE 2001-148 ADOPTED.
25. ORDINANCE appropriating \$107,500.00 out of Airport System Subordinate Lien Revenue Bond Fund (NON-AMT) and approving the purchase of Lots 27 and 28, Lakeview Park, an unrecorded subdivision in the J. Skorupski Survey, Abstract 720, Houston, Harris County, Texas, for the Expansion of Bush Intercontinental Airport, CIP A-0024, and approving a Purchase and Sale Agreement with **JOSEPH HENRY PICKEL, RAYMOND EARL PICKEL and WILLIAM DOUGLAS PICKEL** 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. Council Member Keller absent on personal business. Council Members Galloway, Todd and Robinson absent. ORDINANCE 2001-149 ADOPTED.

30. ORDINANCE appropriating \$1,290.00 out of Fire Consolidated Construction Fund, for Land Purchases/Condemnations, Appraisal Fees, Title Policies/Services, Recording Fees, Court Costs, and Expert Witness Fees, for and in connection with the Fire Station 21 Parking Lot Expansion Project, located at 10621 South Main Street; Parcel Numbers HYO-001 and HYO-003, CIP C-0089-00-1 - **DISTRICT C - GOLDBERG** – was presented. Council Member Keller absent on personal business. Council Members Galloway, Todd and Robinson absent. ORDINANCE 2001-150 ADOPTED.

Council Member Vasquez moved to suspend the rules to take Item No. 19 out of order, seconded by Council Member Sanchez. All voting aye. Nays none. Council Member Keller absent on personal business. Council Members Galloway, Todd and Robinson absent. MOTION 2001-150 ADOPTED.

19. ORDINANCE issuing a permit to the **SALVATION ARMY** for constructing, maintaining, using, occupying, operating and repairing two four-inch conduits for communication cables under and within Center Street and Hemphill Street, such areas being within public street rights-of-way of the City of Houston, Texas; containing findings and prescribing the conditions and provisions under which said permit is issued - **DISTRICT H – VASQUEZ** – was presented. All voting aye. Nays none. Council Member Keller absent on personal business. Council Members Galloway, Todd and Robinson absent. ORDINANCE 2001-0151 ADOPTED.

Council Member Vasquez recognized members of the Salvation Army who were present, Major Cecil Brogdon, ARC Administrator, Mr. Jim Carter, Architect, Mr. Wayne Salinger, Civil Engineer, Mr. Charles Lucien, Project Manager and Mr. Bill Slick, ARC Advisor and Council Chairman, and thanked them for their involvement and all they did for the City. Council Members Galloway and Robinson absent.

**MATTERS REMOVED FROM THE CONSENT AGENDA WERE CONSIDERED AS FOLLOWS:**

**PURCHASING AND TABULATION OF BIDS**

**LOW BIDS**

4. **BASIC INDUSTRIES, INC** for Asbestos and Lead Abatement Services for Fire Department \$54,908.00 and contingencies for a total amount not to exceed \$57,653.40 - Fire Department Revolving Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez.

Council Member Sanchez moved to suspend the rules to hear from Chief Simms, Houston Fire Department, at this time, seconded by Council Member Ellis. Council Member Keller absent on personal business. MOTION 2001-0151 ADOPTED.

Council Member Sanchez asked how many stations were now closed for remodeling, and Chief Simms stated that it was two stations, #40 and #50, and stated that Mr. Michael O'Brien, Facility Division Manager was present and could answer questions. Council Members Goldberg and Boney absent.



Mr. O'Brien stated that they had completed the renovation of Station #40 at the end of November and there was a contractor doing the civil work on that lot and Legal was currently dealing with that contractor and they were running towards their time allotment to finish that job and as of this Friday they would be out of time and Legal was dealing with that issue, that until Legal deals with the subcontractor they would not get a resolution to that problem, but the station itself was ready for occupancy, as far as the renovation, at the end of November; that Station #52 was scheduled approximately March 22, 2001 and that was a tentative date to begin scheduling for the asbestos abatement, that Station #35 would be four or five months after that, that they had done approximately 21 fire stations in the last seven years, that when they were 75% through with one they would try to shut the other one down and start on the demolition aspect of the next one. Council Members Goldberg and Boney absent.

Council Member Sanchez asked when Stations #35 and #52 closed where were the resources proposed to go, and Chief Simms stated that #35 would go to Station #46 and Station's #52 would go to Station #36, that #46, which was off of 610 Loop and Scott at Carter. Council Members Goldberg and Boney absent.

Council Member Todd stated that they had spoken about the need to inform the area about how the item may or may not affect fire service and asked Chief Simms to tell the Council what effort the Fire Department was doing to make certain that the community associations and residents were in the loop, and Chief Simms stated that they were in the process of setting appointments and going out to meet with the civic clubs involved with these particular stations and areas where the stations would be relocated, that they would share with them where exactly they would be stationed and the response times involved, apparatus and personnel that was going, and Council Member Todd asked from the aspect of the actual abatement that was going on were they going to take steps to make certain that any hazardous materials that came out of the building were contained on site, that people who lived around there would not have to worry about lead or asbestos bleaching out to their neighborhoods and Chief Simms stated that was correct, and Council Member Todd stated that they could facilitate communications with the community associations through his office to let him know. Council Member Goldberg absent.

Council Member Castillo stated that Station #40 located at Wheeler and OST served District I and they had been looking forward to the fire station being active again and hoped that they could repair the driveway which was the matter that was not complete and do it before they figured out the legal angle, and Mr. O'Brien stated that it was his belief that the contractor had until this Friday to be complete with the job and they did not think he was going to meet that time frame and it was in Legal and they had been working on it for the past month, that it was near completion as far as the legal aspect, and Council Member Castillo asked if the contractor ran out of time on Friday could he get a couple of guys to go out there and pour the driveway on Saturday or would he have to wait another four or five months, and Mr. O'Brien stated that, if he was not mistaken, the surety company would step in and finish the job, that he would have to refer to legal to answer that. Council Member Goldberg absent.

Council Member Boney stated that he wanted to commend the Fire Department for the way they had been handling the renovations of the stations; that he would appeal to his colleagues on Council that he thought they could make their work more efficient if they were aware of some questions and concerns that they had and passed those to the department prior to Wednesday morning because he would prefer that they come to Council with the answers than get a question that they could not have anticipated and then try to figure it out at the table, that it would expedite their work on Council and allow everyone to be as prepared as possible as they debate and discuss policy decisions.

A vote was called on Item No. 4. All voting aye. Nays none. Council Member Keller absent on personal business. MOTION 2001-0152 ADOPTED.

5. **CST ENVIRONMENTAL, INC** for Asbestos and Lead Abatement Services for Fire Department \$39,800.00 and contingencies for an amount not to exceed \$41,790.00 - Fire Department Revolving Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. Council Member Keller absent on personal business. MOTION 2001-0153 ADOPTED.

#### OTHER

7. **CRIMINALISTICS, INC** - \$15,750.00, **LYNN PEAVY COMPANY** - \$28,818.80, **SIRCHIE FINGER PRINT LABORATORIES, INC** - \$39,773.64 and **UNITED MEDICAL SUPPLY COMPANY** \$15,617.00 for Finger Print Supplies for Police Department - \$99,959.44 - General Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. Council Member Keller absent on personal business. MOTION 2001-0154 ADOPTED.
9. DECLARE **TIRES-R-US** in default and hold them non-responsible for one year due to failure to deliver Caustic Soda for Department of Public Works & Engineering for payment to **EQUAVOX, LLC** - \$75,075.00 and **DX DISTRIBUTORS, INC** - \$285,350.00 for Caustic Soda for Department of Public Works & Engineering - Enterprise Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. Council Member Keller absent on personal business. MOTION 2001-0155 ADOPTED.
10. RATIFY the issuance of purchase orders to **JOHN G. HOLLAND CONSTRUCTION CO., INC** \$797,203.95 and **TROY CONSTRUCTION, L.L.P.** - \$981,482.25 and approve issuance of purchase orders to **RELIANCE CONSTRUCTION SERVICES, INC** - \$717,082.95 and **GARVER CONSTRUCTION, LTD.** - \$1,041,573.00 for Emergency Sanitary Sewer Point Repairs for Department of Public Works & Engineering - Enterprise Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez.

Council Member Bell moved to suspend the rules to hear from Mr. Tom Rolen, Director, Public Works and Engineering, seconded by Council Member Vasquez. Council Member Keller absent on personal business. MOTION 2001-0156 ADOPTED.

Upon questions by Council Member Bell, Mr. Rolen stated that what they were coming to Council with today was to ask them basically to ratify the two purchase orders that they had cut and to authorize two additional purchase orders, that the reason they were doing the additional was because the amounts for all four was in excess of \$2 million, that when they put the package together they used cost from their annual service contract, their most recent ones, that their estimates were then looked at, that they estimated each job at about \$400,000 and assumed a markup of 1.25, that they had never done this before, that it was a guesstimate on their part, that they came in higher than they had planned on and in talking to the contractors and asking them why the amounts were higher they indicated that the amounts were higher or they had bid the way they did for a few reasons, that (1) requiring a minimal number of contractors, (2) requiring them to be able to work six days a week, and (3) the requirement that they complete all restorations for the repairs within three weeks, that was the reason they did what they did; that when he stated that they had never done this before, that he was aware of, was to go out for emergency bids with this type of contract, that the annual service agreements were basically agreements where they were usually one or two year contracts and they had a quantity of work and they did it in a pretty much methodic rate, that it was usually a five day a week, no minimum number of crew type work, that this was the first time that any of the staff could remember that they had gone out with this type of contract, that they were asking and putting some very stringent demands on the contracts.

Council Member Tatro asked if any work had started from what Council had approved last week, and Mr. Rolen stated yes, that two contractors were on board and had been working.

Upon questions by Council Member Robinson, Mr. Rolen stated that they did not have any annual service contracts for this type of work *per se*, that what he was trying to say, as part of those service contracts sometimes they had to do point repairs on the sewer and they used those unit item costs to try to get an idea of what the estimate might be, that they had no contracts specifically and uniquely to repair sewer lines in the time frame and under the conditions that they stated, that they had numerous renewal and replacement contracts come through as part of the CIP, and Council Member Robinson asked what was the base amount that they had in the CIP or any other budgets for water and sewer break repair for FY2001, and Mr. Rolen stated that Council had set aside \$7 million, and the number of incidents of repair activity exceeded what their resources could handle, that Council had authorized all \$7 million, that Council had not authorized any new money beyond the \$7 million, that they anticipated additional dollars with the item today, that it was new money on top of the \$7 million, that they were up to \$1.5 new and that he thought that they would need additional money past the \$1.5, that he was quantifying it now, that the money was coming from the same place that the \$7 million came from, that in the Utility Budget there was an account, #5715, a renewal and replacement account and it was basically a transfer account where money sat that eventually could be transferred down to the Renewal and Replacement Account or the Any Lawful Purpose Fund, that the motion that Council approved during the budget process directed that if they needed to use the \$7 million that was where it would come from and that was where the additional money would come from that also, that it was water and sewer fees before it made its way through the bucket system and it was

budgeted, that there was \$19.7 million budgeted this year and they spent roughly \$7 million out of it and would be looking at another \$1.5 million, so they would have around \$11 million or \$12 million, that he would let Council know how much they would have to draw down against in the very near future, that they were looking at now and would be going out to bid this week and he would like to give them an answer but the way things had gone, when he gave them an estimate, they changed, and Council Member Robinson asked when they came for the 2002 budget process, in light of the pattern they had seen here, was he going to ask that they budget additional sums in light of these contracts that he was going to negotiate or was he going to look at asking for money, specifically in the department for personnel to be on board the City operations to go out and do the repairs, and Mr. Rolan stated that right now it would be a combination of both, and Council Member Robinson stated that he would visit with him. Council Member Goldberg absent.

Upon questions by Council Member Sanchez, Mr. Rolan stated that the bids were scheduled to be taken at 10:30 a.m. last Wednesday, that they were emergency bids, that they were actual bids that were submitted.

Council Member Quan asked if they had an overall plan of how they addressed the sewer situation as far as replacement and repair on a timely basis so that they did not have to work on an emergency basis or emergency funding, and Mr. Rolan stated that he wanted to clarify something and try to be specific in answering his questions because there was a decided difference, that they had no emergency contracts like these, that other items on the agenda were part of the CIP, those were projects that were geared and intended to address the problem more permanently, that they had Montgomery Watson on board, Council approved that contract, where they were going through and systematically evaluating neighborhoods using the data that Public Works had and then determining if a line had to be worked on, then the determination was made as to what type of rehabilitation or repair was required to enhance the integrity of the line, that it may be sliplining or formed in place or in some instances it may just be a point repair, so the department had in its CIP this money which they were doing and was intended to be a long term fix, that he would love to be able to tell Council that they would get to the point where they would not have emergency sewer repairs or a repair that just happens, that it was just not going to happen, that with a system as big as theirs was they would have stoppages and line failures and they would have to make those point repairs, that they had \$7 million budgeted for emergency repairs, that in terms of what was in the CIP they were looking at \$40 million for the various types of rehabilitation, that they were putting aside \$40 million per year and they were evaluating the system as they went and if they got to the point where they determined that it was not adequate he had every intention of bring that forward to Council.

Council Member Castillo asked if they had a number that they knew eventually was the cost of rehabbing the whole system and bringing it up to meet the regulations was it possible to calculate what the outside figure would be to replace the expected portion of the infrastructure for sewer, and Mr. Rolan stated that it was possible to do that and it was going to take a significant amount of work to do that, that he had asked staff to work with the consultant to begin to develop information that would help to give them that information, that they were working on it but the thing that he needed to try to put in perspective was that the sewer system was a living and breathing thing and if they did a

study today and developed a master plan then five years from now it was going to be different.

Upon questions by Council Member Tatro, Mr. Rolan stated that yes the \$7 million that was budgeted was the \$7 million that Council passed per Council Member Bell's amendment, that they currently had 2 companies working on their emergency sewer repairs, John Holland and Troy, that those were the purchase orders they issued last week, that they had not issued any previous emergency sewer repairs, that they had done water lines, that they had 3 companies doing water leak repairs, 1 doing fire hydrant replacement, 3 doing sewer stoppage removals and 2 doing emergency sewer repairs, and Council Member Tatro stated that going out to 9 companies during this year he was concerned about the efficiency of that system and would ask the administration coming up to the budget cycle if they could not staff the Water and Sewer Department sufficiently, to handle the City's burden, that they look at privatizing a section to a single company or construction or maintenance firm. Council Member Goldberg absent.

Upon questions by Council Member Robinson, Mr. Rolan stated that a point repair was basically when they went down on a sewer line and there was a problem with the sewer line then they repair it, that sometimes it may be a connection or a joint, but it was typically a repair that they made to correct the problem, that a point repair would be a water main break or sewer break where stuff was spewing out, and Council Member Robinson asked how much of the \$40 million had been spent on point repairs, breaks and leaks, and Mr. Rolan stated that he did not have that number available because those contracts for point repairs were just a piece of those contracts, and Council Member Robinson stated that he would like to know that number, and also how much of the \$40 million did they spend on consultant fees versus point repairs. Council Members Tatro, Goldberg, Ellis and Vasquez absent.

Council Member Boney stated that in addition to the \$7 million that was already set aside they now saw that they had a greater problem and were setting aside some more and he would hope that Council would approve these contracts while they continued to let Mr. Rolan and his staff do the ongoing analysis and updated strategic plan to deal with the problem because he had some constituents tell him that six business had sewage in them. Council Members Goldberg, Ellis and Robinson absent.

After further discussion by Council, a vote was called on Item No. 10. All voting aye. Nays none. Council Member Keller absent on personal business. Council Members Todd and Ellis absent. MOTION 2001-0157 ADOPTED.

12. **HOUSTON-GALVESTON AREA COUNCIL** for Twenty Police Patrol Vehicles, Nine Utility Vehicles and One Cargo Van through the Interlocal Agreement for Cooperative Purchasing for Various Departments - \$615,350.31 - Enterprise Fund – was presented, moved by Council Member Boney, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Keller absent on personal business. MOTION 2001-0158 ADOPTED.
13. **GRAINGER INDUSTRIAL SUPPLY** for Miscellaneous Industrial Supplies from the State of Texas General Services Commission's Contract through the State of Texas Cooperative Purchasing Program for Various Departments - \$4,914,840.00 -

General, Enterprise, Fleet Management, Houston Transtar, METRO, Park Revenue Special and Building Inspection Funds – was presented, moved by Council Member Castillo, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller absent on personal business. MOTION 2001-0159 ADOPTED.

14. **BIG Z LUMBER COMPANY** - \$190,645.23 and **ACE LOCK AND SECURITY SUPPLY** \$22,041.25 for Building Materials, Part III for Various Departments - General, Enterprise, METRO and Street & Drainage Maintenance Funds – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller absent on personal business. MOTION 2001-0160 ADOPTED.

### ORDINANCES

15. ORDINANCE amending the **CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to the protection of trees; containing findings and other provisions relating to the foregoing subject. – was presented, and tagged by Council Member Todd.

Council Member Castillo stated that he had raised a question before about whether there was an appeals process for any violators, because as he read the ordinance the Legal Department was empowered by the ordinance to proceed with sanctions without coming back to Council and he had not gotten an answer back yet, and Mayor Brown stated that currently the process called for an appeal to go to the Director of Parks, that there was an appeal prior to it going to Legal.

16. ORDINANCE amending **EXHIBIT “A” OF CITY OF HOUSTON ORDINANCE NO. 2000-1114** to correct errors in the mathematical calculations; providing for severability (General Prevailing Wage Rates for building construction) – was presented. All voting aye. Nays none. Council Member Keller absent on personal business. ORDINANCE 2001-0152 ADOPTED.
17. ORDINANCE amending **ORDINANCE NO. 2000-1115**, relating to excavating in the public way; extending the effective date thereof; approving rules and regulations implementing the ordinance; containing findings and other provisions relating to the foregoing subject; providing for severability; containing a repealer – was presented, and tagged by Council Member Robinson who later removed the tag for the purpose of moving the item for consideration at the end of the agenda.

Council Member Vasquez stated that he wanted to discuss a couple of things that he was concerned about with the ordinance, that first was the date when the ordinance would go into affect and second were the rules related to the ordinance, that the rules were delivered yesterday and were very lengthy, that he would like some additional time to review the rules and regulations, however he was also aware that the ordinance was scheduled to go into affect next Wednesday, that in working with the administration he would like to make a motion that they strike Sections 1 through 5 and Section 7, that it would have the effect of delaying the implementation date of next Wednesday and give them more time to work on the rules.

Mayor Brown asked Council Member Robinson if he was prepared to remove his tag so that Council Member Vasquez could make his amendments, and Council Member Robinson stated that he would remove his tag if they could move the item to the end of the agenda.

Council Member Robinson moved to postpone Item No. 17 to end of the agenda, seconded by Council Member Todd. All voting aye. Nays none. Council Member Keller absent on personal business. MOTION 2001-0161 ADOPTED.

18. ORDINANCE amending Ordinance Number 99-1153 which issued a permit to **HARRIS COUNTY SPORTS & CONVENTION CORPORATION** for two pedestrian walkways within and over the street rights of way at the 8200 and 8300 blocks of Kirby Drive; containing findings and prescribing the conditions and provisions under which said amendment to permit is issued **DISTRICT D - BONEY** – was presented. All voting aye. Nays none. Council Member Keller absent on personal business. ORDINANCE 2001-0153 ADOPTED.

Council Member Boney asked since this was work in the City's right of way and permission was required to do that, should Council Member Todd's lawsuit prevail would it not be possible using that same principal for 500 duly qualified citizens to sign a petition and therefore call for an election on a matter like this, and Mr. Hall stated that if the ruling of the Court, on the basis that it annunciated for the ruling, were to stand they would have to change the process completely by which they did these kind of requests.

20. ORDINANCE relating to Health and Dental Benefits; approving and authorizing the restatement of the Point-of-Service Health Program contained in the Revised Plan Document, City of Houston Employee Welfare Benefit Plan; approving and authorizing two agreements between the City of Houston and **TEXAS GULF COAST HMO, INC d/b/a HMO BLUE TEXAS** (1) for Provision of Health Maintenance Organization Services and (2) for Administration of the City of Houston Point of Service Health Program and the Retirees' Hospitalization and Medical-Surgical Program; approving and authorizing a Group Dental Indemnity Agreement between the City and **SPECTERA INSURANCE COMPANY, INC**; approving and authorizing Managed Care Dental Agreement between the City and **NATIONAL PACIFIC DENTAL, INC**; authorizing certain documents to be executed and notices to be given; containing other provisions relating to the foregoing subject; providing for severability – was presented and tagged by Council Member Robinson and Tatro.

Council Member Castillo asked that in view of the fact that it took a while to do the paperwork to transfer people to a new carrier was the Human Resources Department doing any of the preliminary work to carry that out while it was pending before Council, and Mayor Brown stated that they had timed the item so that it could take a tag on it this week, and yes they were doing preliminary work.

Upon questions by Council Member Sanchez, the City Secretary stated that they had copies of the contract and she would make a copy available to him, and Mayor Brown stated that anyone who wanted a copy the City Secretary would make sure that they received a copy.

Council Member Boney moved to suspend the rules to hear from Ms. Candy Aldridge, Human Resources Department, seconded by Council Member Quan. All voting aye. Nays none. Council Member Keller absent on personal business. MOTION 2001-0162 ADOPTED.

Upon questions by Council Member Boney, Ms. Aldridge stated that they had built in a tag week, that it would certainly be more efficient if there were an approval today, but as soon as Council approved the contract they would put the final touches on the employee communications, that there was a two week lead time at the printer and there was distribution time, and then each of the departments needed to schedule meetings for all of the employees to be able to attend, that the enrollment needed to take place for a thirty day period, that there was a period of data entry after that and a period of testing the data entry to make sure that it was all correct and valid, that by April 25th they had to have the information to the vendor so they could load everybody's new elections and print identification cards and have all the communications and systems correct and up and running by May 1, 2001.

Upon questions by Council Member Boney, Mr. Haines stated that they had anticipated that the increased cost to the system for Health Benefits would be around \$35 million and they presented that during the budget time last year, and Council Member Boney asked if they had been able to work it through to approximately \$19 million increase, and Mr. Haines stated that it was only General Fund, that it was approximately \$25 million for the entire system, that they had come in approximately \$10 million lower than they anticipated the industry standards would require because the employees were willing to consider some plan design changes which would reduce some of those benefits; that the point person on the specifics of the plan itself was Ms. Candy Aldridge, and Council Member Boney asked Ms. Aldridge to make sure that she was available and responsive to any Council offices that contacted her so they not be forced to try and answer the questions at the table, and Ms. Aldridge stated that they had personally briefed everybody except one or two Council Members but would available day and night to answer their questions.

Council Member Tatro stated that he had requested information on the Chiropractic issue and had not received any, that he would like to get what the game plan was on that, that also the request by the retirees, he had not received any information on that, that those were the two points of information that he would like to get, and Mayor Brown stated that they would get that information for him. Council Member Boney absent.

Council Member Robinson stated that some people had approached him and talked about the fact that there would be some kind of additional savings from a prebate if they carved out the prescription medication separate and distinct, that Ms. Aldridge had stated that there was already a built in discount on it but he did not know what the differential would be if they carved out the item separately as opposed to what the supposed savings was from the materials being inside the plan as it stood now; that he wondered if the committee had looked at a direct contracting model at all, that he understood that Shell Oil and Dow Chemical did direct contracting with different institutions and hospitals in the Medical Center and they were seeing a 10% to 15% cost savings and wondered if they had looked at that; that he wanted to know the relationship between the City's Health Insurance Plan and the Children Health Insurance Program, and Mayor Brown stated that both he and Mr. Haines had spoken to Dr. Minerdi about the Medical Center Plan and would get him a result of their conversations. Council Member Goldberg absent.



Council Member Sanchez stated that during the Mayor and Council Member Parker's issued press releases on the Domestic Partner's Benefit issue they indicated that at some point and time the City would consider adding that benefit and the question he had was if and when that occurred would that have to be by way of an amendment to the ordinance, and Mayor Brown stated that it had to come back before City Council, that it could not be executed by executive order. Council Members Tatro, Goldberg, Todd, Vasquez and Robinson absent.

Council Member Bell asked Ms. Aldridge or Mr. Haines, if they were looking at adding Chiropractic care, that the administration had indicated that they were looking into that, if they could provide a status update and tell him where it stood and what the chances were of having it added in the future, and Ms. Aldridge stated that they did provide Chiropractic care in the Point of Service Program and they always had, that it was not the only way it would be added but at this point it was covered in the Point of Service Plan and not in the HMO at this time, that they were exploring better options; that it was a new contract but they were administering the same set of benefits that they had with those seven changes that were outlined on the RCA, that Chiropractic benefits had always been there and would be in the new contract, that she did not know exactly how much the individual would be looking at to put it in the HMO, but one of the other contractors who dropped out of the running had a Chiropractic benefit and their cost was a \$65 million increase over their current plan, that she did not attribute it all to Chiropractic care but it was a very new vogue benefit to have in HMO's, they did not generally offer it. Council Members Goldberg, Todd, Vasquez and Robinson absent.

Council Member Parker stated that she wanted to thank everybody who had worked hard on this issue, that Council Member Boney had mentioned that there was consensus on it from the employee groups that participated in oversight of the contract development, that she would agree that there was consensus and a lot of hard work put in, however to be fair there was consensus and then the administration did go a little bit deeper into changes to the plan design and did not think they should misrepresent that, that it was a change for the employees, that they would not be paying more for out of pocket in their premiums but it would be a change in the benefit and they would be paying more as they access the service, that the decision was made that it be more a user pay system and there was consensus on a lot of the changes, but one of the changes was added later on, and while she thought the employee groups had resigned themselves to that they were not totally happy, that they had to realize that it was going to have an impact on the employees and as they looked at compensation for employees next year they were going to have that in mind, that the item she mentioned was the hospitalization maximum amount. Council Member Robinson absent.

20a. ORDINANCE approving and authorizing Restatement of City of Houston Employees' Section 125 Plan; containing other provisions relating to the foregoing subject; providing for severability –was presented, and tagged by Council Members Tatro and Castillo.

Council Member Galloway moved to suspend the rules to take Item No. 31 out of order, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Keller absent on personal business. MOTION 2001-0163 ADOPTED.

**NON CONSENT AGENDA** – NUMBER 31

**MISCELLANEOUS**

31. RECEIVE nominations for Positions 4 and 6 of the Ethics Committee for terms to expire December 31, 2003 – was presented.

Council Member Galloway stated that she wanted to nominate Ms. Shirley Malonson for Position 4.

Council Member Tatro stated that he had passed out the resume and the reappointment for Ms. Ruth Burgos-Sasscer and submitted that for nomination for Position 4.

Council Member Sanchez moved to close the nominations for Position No. 4, seconded by Council Member Boney. Council Member Keller absent on personal business. Council Member Robinson absent. MOTION 2001-0164 ADOPTED.

Council Member Sanchez stated that he had submitted a re-nomination for Mr. Robert W. Claude for Position No. 6 and had done so by way of memo with an attached resume. Council Members Vasquez and Robinson absent.

Council Member Tatro moved to close the nominations for Position No. 6, seconded by Council Member Boney. Council Member Keller absent on personal business. Council Members Vasquez and Robinson absent. MOTION 2001-0165 ADOPTED.

21. ORDINANCE appropriating \$808,323.84 out of Fire Department Fund Number 48A; approving and authorizing lease agreement between **CLAIRE CHAMBERLAIN, as landlord**, and the City of Houston, Texas, as tenant, for approximately 10,000 square feet of Office Space in the building located at 1901 Milam Street; and approving and authorizing lease agreement between **DAVID LOFTUS, CHRIS WATTS, DAVID LOFTUS, Trustee and D.L.F.L. LP, as landlord**, and the City of Houston, Texas, as tenant, for approximately 24,948 square feet of land located at 815 Pierce Street; both such leased facilities to be used together as a temporary Fire Station by the Houston Fire Department - **DISTRICT I – CASTILLO** – was presented. All voting aye. Nays none. Council Member Keller absent on personal business. Council Members Vasquez and Robinson absent. ORDINANCE 2001-0154 ADOPTED.
22. ORDINANCE appropriating \$22,000.00 out of Low Income Housing Fund (Fund 872); approving and authorizing agreement between the City of Houston and **AVENUE COMMUNITY DEVELOPMENT CORPORATION** to provide a grant of \$22,000.00 to pay eligible costs in connection with the construction of the Washington Courtyard Apartments to provide housing to low-income persons - **DISTRICT H - VASQUEZ** – was presented. All voting aye. Nays none. Council Member Keller absent on personal business. Council Members Vasquez and Robinson absent. ORDINANCE 2001-0155 ADOPTED.
24. ORDINANCE approving and authorizing amendment to contract between the City of Houston and **NOVA MOLECULAR TECHNOLOGIES, INC** to increase their contract quantity (Untreated Water) – was presented. All voting aye. Nays none.

Council Member Keller absent on personal business. Council Members Vasquez and Robinson absent. ORDINANCE 2001-0156 ADOPTED.

26. ORDINANCE appropriating \$3,458,737.00 out of Water & Sewer System Consolidated Construction Fund, awarding construction contract to **P.M. CONSTRUCTION & REHAB, L.P.** on low bid of \$3,209,100.00 and approving and authorizing professional services contract for engineering testing services with **GEOSCIENCE ENGINEERING & TESTING, INC** in the amount of \$25,000.00 for Sanitary Sewer Rehabilitation by Sliplining and Pipebursting Methods, GFS R-0266-10-3 (4257-26); providing funding for contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund – was presented. All voting aye. Nays none. Council Member Keller absent on personal business. Council Members Vasquez and Robinson absent. ORDINANCE 2001-0157 ADOPTED.
27. ORDINANCE appropriating \$2,586,580.00 out of Water & Sewer System Consolidated Construction Fund, awarding construction contract to **INSITUFORM TECHNOLOGIES, INC** on low bid of \$2,394,000.00 and approving and authorizing professional services contract for engineering testing services with **LAW ENGINEERING & ENVIRONMENTAL SERVICES, INC** in the amount of \$25,000.00 for Sanitary Sewer Rehabilitation by Cured-in-Place Method, GFS R-0266-12-3 (4258-7); providing for contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund – was presented. All voting aye. Nays none. Council Member Keller absent on personal business. Council Members Vasquez and Robinson absent. ORDINANCE 2001-0158 ADOPTED.
28. ORDINANCE appropriating \$630,081.69 out of Water & Sewer System Consolidated Construction Fund, awarding construction contract to **CHIEF CONTRACTORS, INC** on low bid of \$584,188.50 and approving and authorizing professional services contract for engineering testing services with **LAW ENGINEERING & ENVIRONMENTAL SERVICES, INC** in the amount of \$5,000.00 for Sanitary Sewer Maintenance Repair Contract by Cleaning and Television with Point Repair, GFS R-0266-15-3 (4277-5); providing funding for contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund – was presented. All voting aye. Nays none. Council Member Keller absent on personal business. Council Members Vasquez and Robinson absent. ORDINANCE 2001-0159 ADOPTED.
29. ORDINANCE appropriating \$736,200.10 out of Water & Sewer System Consolidated Construction Fund, awarding construction contract to **CHIEF CONTRACTORS, INC** on low bid of \$682,430.00 and approving and authorizing professional services contract for engineering testing services with **DAE & ASSOCIATES, LTD, d/b/a GEOTECH ENGINEERING & TESTING SERVICES** in the amount of \$6,000.00 for Sanitary Sewer Maintenance Repair Contract by Cleaning and Television with Point Repair, GFS R-0266-16-3 (4277-6); providing funding for contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund – was presented. All voting aye.

Nays none. Council Member Keller absent on personal business. Council Members Vasquez and Robinson absent. ORDINANCE 2001-0160 ADOPTED.

**MATTERS HELD** - NUMBER 32

32. 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 – **(This was Item 24 on Agenda of February 7, 2001, TAGGED BY COUNCIL MEMBER TATRO)** – was presented. All voting aye. Nays none. Council Member Keller absent on personal business. Council Members Vasquez and Robinson absent. ORDINANCE 2001-0161 ADOPTED.

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

17. ORDINANCE amending **ORDINANCE NO. 2000-1115**, relating to excavating in the public way; extending the effective date thereof; approving rules and regulations implementing the ordinance; containing findings and other provisions relating to the foregoing subject; providing for severability; containing a repealer – was again presented to Council.

Council Member Vasquez stated that there was a concern about the effective date of implementation date of next Wednesday and also about the rules and regulations, that they wanted more time to review the rules and regulations and moved to amend Item No. 17 to strike Sections 1 through 5 and Section 7, seconded by Council Member Todd. Council Member Keller absent on personal business. Council Members Goldberg and Robinson absent.

Council Member Todd stated that he wanted to make a procedural motion, that he would not make it now because he was not sure that it was in order or not, that it was a motion to suspend the rules to allow for this item when it came back next week to be taggable, that from conversations he had with Mr. Hall it was questionable whether or not it was taggable next week and he wanted to make sure that they would have a chance to tag the item when it came back, that there was a question on whether it would be or not, that when it came back changed would it be a new item or would it be an old item. Council Member Goldberg absent.

Council Member Bell stated that he was going to tag the main item and then tag the amendments as they were offered, that he had questions for Legal, that they were being asked to vote on the rules and regulations today as he understood it and on December 20, 2000, Council passed an amendment that stated "the rules and regulations shall be consistent with applicable Federal and State laws, City ordinances and sound engineering practices and the City's Council Committee on Transportation, Technology and Infrastructure shall conduct a public hearing on the proposed rules and regulations not less than 10 days following the publication of notice of intent in a newspaper of general circulation", and asked if that public hearing had taken place. Council Member Goldberg absent.

Council Member Robinson stated that nothing had come from the administration asking that a hearing be set and no hearing had been held in the TTI Committee, and Council Member Bell stated that when the amendment was passed it was his understanding that Legal questioned whether the proposed rules and regulations could be approved by a majority vote of the City Council Committee on Transportation, Technology and Infrastructure prior to implementation, that the administration indicated that they would be bringing it to the full Council, that it was never his understanding that they would simply ignore the remainder of the amendment that had been passed by the majority of Council calling for the public hearing and asked why had the public hearing not taken place prior to the item being placed on today's agenda. Council Member Goldberg absent.

Mr. Hall stated that as he understood the statements that were made at the time was that it would not go to the committee for a public hearing or vote of the committee, but that the full Council itself would take up the item and consider it in any manner it chose to, that the course of the discussion indicated that the administration and the Legal Department's position was that they could not delegate the authority to make such rules to a member of the committee, that when the matter was presented to the Council, as it was today, it certainly was in their purview to do with it what they chose, that in fact one of the things that was being suggested was that the effective date be put off, that the administration indicated that it was not going to, in fact, go to the committee with this item at all, for public hearing or anything else, that they were going to bring it directly to Council for consideration, that was what he understood was the understanding at the conclusion of the debate. Council Member Goldberg absent.

Council Member Boney stated that what he was hearing Council Member Bell say was that he wanted a public hearing of some fashion to occur before the full Council made a decision about the rules and regulations and Council Member Bell stated precisely, and Council Member Boney stated that he was not sure that the administration or anybody else would not approve of the public hearing, that he presumed it was something that could get done. Council Members Galloway and Goldberg absent.

Council Member Sanchez stated that there had been a number of changes to rules and regulations or ordinances, for example the cell tower and adult entertainment industry, when it was being reviewed the committee would look at the proposed rules by the administration and hold public hearings, vote on those and make recommendations to Council and asked what was the material difference in this, and Mr. Hall stated that Council Member Sanchez had said rules, regulations and ordinances and there in lay the first distinction, and that was that Council voted on the ordinances but did not normally vote on the rules and regulations that implemented those ordinances, that this was rather unprecedented that Council would vote on those or frankly that a committee would, that the question that he raised about whether or not a committee could in fact consider, hold public hearings or debate rules and regulations, that it was certainly a legitimate one, that typically it was done before, whatever was to be done, was implemented, that here the ordinance was to be passed, the rules were to be promulgated and produced by Public Works, as was typically the case, and now they had the situation such that pursuant to the amendment Council wanted to consider those after he had in fact produced and published the rules, that was what had put them in the position they were in now, that typically all of that would have taken place before Council acted on it, that typically Council did not vote on the rules that were promulgated by departments pursuant to the passage of an ordinance. Council Member Galloway and Quan absent.

Council Member Bell stated that he would remove his tag on Council Member Vasquez's amendments and Item No. 17. Council Members Galloway and Quan absent.

Council Member Todd stated that in subsequent conversations with Mr. Hall apparently they had some confusion between them about what they were trying to do, that as he understood it if they approved the amendment as stated it would come back to them next week and would be taggable, and Mr. Hall stated that what they were concerned about was the time frame that they were moving those things, that they were trying to do a number of things at one time in compliance with the wishes of Council, that as they knew they had another amendment, that had not been discussed, that required them to bring it back within 30 days of the Attorney General's opinion, so they were trying to comply with a whole host of things at once, that the problem that was created was that the original ordinance that was passed had a date that the ordinance would be effective, that would not be appropriate to have that done, as they well knew, until the rules had been approved and put in place, that frankly what they were trying to achieve was to allow for the ordinance implementation to be postponed and then have the other schedule match the postponement so that the ordinance would not be again taggable next week if it was postponed until the next week, that was the whole point. Council Member Galloway absent.

Council Member Todd asked Council Member Vasquez what was the date that he wanted the effectiveness postponed to, and Council Member Vasquez stated that he did not have a date, but if they reviewed Section 6 of the ordinance it stated 30 days from the passage and approval of an ordinance approving the rules and regulations, that it really did not go into effect until the rules and regulations were actually passed, and was why they were leaving Section 6 in, and Mr. Bibler stated that the amendment was to essentially put the ordinance into suspense and it would not take effect until 30 days after City Council approved the rules. Council Member Galloway absent.

Mr. Hall stated that there had been an awful lot of work and discussion with all of the stake holders and the amendment made a number of changes to what was originally proposed, that in fact it created a whole other class of permit and it was important that Council realized it, that it was not just a change of the date, and Mr. Bibler stated that if they accepted the motion that had been proposed and passed, the only thing that they would effectively be doing today was placing the ordinance that was passed in December in suspense until 30 days after the rules were adopted, that they would bring Council back a new item that would consist of the rules and the ordinance amendments to accommodate the Attorney General's opinion, which was in fact the part they were striking out today, and Mr. Hall stated that there would be nothing to tag, that if the amendment passed everything else would go away and they would have to bring them back a new item. Council Member Galloway absent.

Council Member Boney asked if they would be able, before they brought it back to Council for a full vote, have some kind of public hearing so that Council Member Bell's concern could be addressed, and Mayor Brown stated that it would be his intention to hold a public hearing prior to the item being returned to Council, and Council Member Boney stated that whenever the item came back it would be a new item, therefore subject for a tag and subject for amendments at the table with eight votes, and Mayor Brown stated that he would schedule it for a public hearing on a Wednesday so all Council Members could be there and thus not calling for a special meeting. Council Member Galloway absent.

A vote was called on Council Member Vasquez's motion to amend to Item No. 17. All voting aye. Nays none. Council Member Keller absent on personal business. Council Member Galloway absent. MOTION 2001-0166 ADOPTED.

Item No. 17 was presented as amended by MOTION 2001-0166 as follows:

17. ORDINANCE amending **ORDINANCE NO. 2000-1115**, relating to excavating in the public way; extending the effective date thereof; containing findings and other provisions relating to the foregoing subject; providing for severability; containing a repealer. All voting aye. Nays none. Council Member Keller absent on personal business. Council Member Galloway absent. ORDINANCE 2001-0162 ADOPTED AS AMENDED.

Mayor Brown stated that the item would be back on the agenda, but prior to that there would be a public hearing. Council Member Galloway absent.

### **MATTERS TO BE PRESENTED BY COUNCIL MEMBERS**

Council Member Parker stated that she would concede the first part of her time to Council Member Sanchez. Council Member Galloway absent.

Council Member Sanchez moved to suspend the rules to hear from Mr. Steven Williams, Houston Fire Department, seconded by Council Member Ellis. All voting aye. Nays none. Council Member Keller absent on personal business. Council Member Galloway absent. MOTION 2001-0167 ADOPTED.

Mr. Williams and Acting Chief Connealy requested an observance of silence, as it was the anniversary of the loss of two dedicated firefighters, and Mayor Brown asked that they have a moment of silence for the two fallen firefighters. Council Member Galloway absent.

Council Member Castillo stated that a week ago Saturday his 17 year old nephew was killed by a drunk driver at the intersection of West Park and I59, that he brought it up not only to honor his memory but to point out again the dangers of drinking and driving, not only for the victims who were deceased as a result, but also the perpetrator who also ruined his life and the future of his family, that it was a poignant reminder that drinking and driving kills. Council Member Galloway absent.

Council Member Bell stated that he wanted to thank Mr. Williams and Chief Connealy for reminding them of the passing of the two firefighters, that all on Council were deeply moved by what took place, not only by the tragic nature of the two individual's deaths but also the service that followed, that they all learned a lot about the Houston Fire Department and the fact that it was really a great big family. Council Member Galloway.

Council Member Goldberg stated that Public Works was trying to find the contractor that destroyed part of a street while fixing a water leak at the corner of Parkway and South Boulevard, that they had not been able to find them and consequently there had been metal plates on the street for two months, and he requested that the administration look into that. Council Member Galloway absent.

Council Member Goldberg stated that his CIP Meeting was to be on February 20, 2001 at the Houston Community College located on West Loop South near 610. Council Member Galloway absent.

Council Member Quan stated that he was still getting a number of e-mails and calls from people regarding the bike lane situations, that he knew that the coordinator position had remained vacant since September, that he believed they were going to be reviewing resumes, but thought they needed more communication on it for the citizens, that some lanes had been taken out and some added, that they knew they had a lawsuit against the City because of this now too, that he would encourage Public Works to take action on getting that done, and Mayor Brown stated that he would get the message to Mr. Rolan and stated that they bring closure to it and hire whoever he wanted to hire for a bike coordinator, and Mr. Rolan advised that interviews would be conducted next week. Council Member Galloway absent.

Council Member Vasquez stated that District H's CIP Meeting would be held on Thursday, February 15, 2001 at Clemente Martinez Elementary School, 901 Hays, at 7:00 p.m. Council Member Galloway absent.

Council Member Castillo stated that District I's CIP Meeting would be held on Monday, February 19, 2001, from 6:30 p.m. to 8:30 p.m. at Magnolia Multi Service Center, 7201 Capitol. Council Member Galloway absent.

Mayor Brown stated that he had been attending the meetings himself and they had received a very good response from the people, that he was at Council Member Galloway's meeting last night and she had a great turnout, that it was well worthwhile for the citizens who were listening to come out and have their voices heard, that it was very good participation in helping make decisions that would impact their neighborhoods. Council Member Galloway absent.

Council Member Sanchez stated that last week he brought up the incident of the contractor who was at Woodway near 610 and that he received a memo from Public Works and Engineering that stated their records indicated that there was no active permit to block the lane on Woodway, that it further stated that the supervisor indicated that they were in no way involved in blocking the right of way, that the memo also stated that citizens should call HPD if they believed someone was blocking the right of way, that this particular incident should be on record with HPD and encouraged the department to follow up on it. Council Member Galloway absent.

Council Member Sanchez stated that in light of the continual issues of understaffing and over budgeting at the Fire Department, he thought it was high time to look at one of the primary sources of non appropriated revenue for that department, EMS revenues, that he began to look at that source last budget cycle, that in the fall he seriously began to look at their current billing contract and in November he met with concerned citizens, industry experts and with then Acting F&A Director, Sara Culbreth and still Acting Fire Chief Connealy, that both were supportive of fast tracking the request for proposals for a new contract, that Ms. Culbreth even admitted that the current provider, Lockheed-Martin thought that they could do \$9 million more in billables if they got aggressive, that his staff



estimated that the City was losing between \$13 million and \$15 million annually, Per Se Technologies, a company that handled more clients than Lockheed, of which the City of Houston was its only EMS billing client, estimated that Houston was losing about \$14 million, that if they picked any point between those two figures and they would still get enough money for new ambulances, added staff and more than wipe out the overage the department was facing this fiscal year, that in January he sent a written request to F&A asking for a follow-up on the contract quest and he still had to get a response on where they stood and asked the Mayor if they could work together on that issue, and Mayor Brown stated that they would make sure that he got a response, that he did know they were looking at a competitive bid for that process. Council Members Galloway, Vasquez and Robinson absent.

There being no further business before Council, the City Council adjourned at 10:52 a.m. upon MOTION by Council Member Castillo, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Keller absent on personal business. Council Members Galloway, Vasquez and Robinson absent. MOTION ADOPTED. COUNCIL ADJOURNED.

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

MINUTES READ AND APPROVED

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Anna Russell, City Secretary