

City Council Chamber, City Hall, Tuesday, July 10, 2001

A Regular Meeting of the Houston City Council was held at 1:30 p.m. Tuesday, July 10, 2001, with Mayor Pro Tem Jew Don Boney, Jr. presiding and with Council Members Bruce Tatro, Carol M. Galloway, Mark Goldberg, Rob Todd, Mark A. Ellis, Bert Keller, Gabriel Vasquez, John E. Castillo, Annise Parker, Gordon Quan, Orlando Sanchez and Chris Bell; Mr. Paul Bibler, Assistant City Attorney; Mr. Richard Cantu, Director, Citizens Assistance Office; Ms. Martha Stein, Agenda Director present. Mayor Lee P. Brown absent on vacation. Council Member Carroll Robinson absent on personal business.

At 2:19 p.m. Vice Mayor Pro Tem Castillo convened the meeting of the City Council and Council Member Parker led everyone in prayer and the pledge of allegiance. Mayor Pro Tem Boney absent. Vice Mayor Pro Tem Castillo presiding.

Vice Mayor Pro Tem Castillo requested the City Secretary to call the roll. Mayor Brown absent on vacation. Council Member Robinson absent on personal business. Mayor Pro Tem Boney absent. Vice Mayor Pro Tem Castillo presiding.

Council Members Tatro and Quan moved that the minutes of the previous meeting be adopted. All voting aye. Nays none. Mayor Brown absent on vacation. Council Member Robinson absent on personal business. Mayor Pro Tem Boney absent. Vice Mayor Pro Tem Castillo presiding.

Council Members Vasquez moved to suspend the rules to hear Ms. Nicole Cantu and Mr. Christopher Cato out of order, seconded by Council Member Tatro. All voting aye. Nays none. Mayor Brown absent on vacation. Council Member Robinson absent on personal business. Mayor Pro Tem Boney absent. Vice Mayor Pro Tem Castillo presiding. MOTION 2001-0768 ADOPTED.

Ms. Nicole Cantu, 3201 Allen Parkway, Houston, Texas 77019 (281-759-8343) appeared and stated that she was with Kids on the Bayou and was eight years old and would be in the 3rd grade at Crocket School next year, that she lived in the Sixth Ward near the bayou, that they did not get water in their house but were worried about floods that would happen when they grew up, that they were learning this week at the Bayou City Youth Convocation that the bayous in Houston needed room to spread out when there was a flood so that the water would not go too fast, that if people built houses too close to the bayous then they would get flooded, that they needed space along the sides of the bayous then they could plant trees and build parks for kids to play, that parks would always give animals a place to live, that if they protect the bayous from pollution then the water would be clear and they would have more fish and other animals and tourists would want to visit Houston to see its beautiful bayous and would spend money to help pay for the project, that all of this would cost a lot of money but then maybe they would not have people drown or have to pay so much money to fix up people's houses when there was a flood. Mayor Pro Tem Boney absent. Vice Mayor Pro Tem Castillo presiding.

Mr. Wayne Olsen, 3201 Allen Parkway, Houston, Texas 77019 (281-759-8343) appeared and stated that he was Ms. Cantu's teacher and thought that she had said everything that they wanted to say, that the kids from the Bayou City Youth Convocation were all present in the audience and the Kids on the Bayou was sponsored by the Bayou Preservation Association, and Council Member Vasquez requested that they stand and be recognized. Mayor Pro Tem Boney absent. Vice Mayor Pro Tem Castillo presiding.

Ms. Cheryl Bean, (713-622-2048) appeared and stated that she had a handout for the Council Members, that she stood before them today a citizen of the U.S. and a long time

Houston resident, that she was also a victim of what appeared to be deeply entrenched and ruthless actions, also known as a legal eviction, that how could it happen to a person who paid their rent and had a binding lease, that it did, that her rent was paid through June 6, 2001, which Beverly Kaufman had received and signed for via certified mail yet the constables stole her furniture and had the gall to send her an invoice for \$625 for placing her property in storage, that several days after her possessions were unlawfully removed she learned from a neighbor that some of her possession were out in front of her former address, that as soon as she could she saw her couch, mattress and several large bags which were crammed full of her personal belongings, that all of these things should have been placed in storage and not left in the elements, that her passport had been stolen and her car title pilfered. Mayor Pro Tem Boney, Council Members Galloway, Todd, Parker and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Council Member Goldberg asked Ms. Bean if she was living at 8007 Lori Drive in a home that was owned by Ms. Geneva Brooks, and she kicked her out because she went to the civic association and complained about her, and Ms. Bean stated that according to the eviction it was because she had not paid her rent, but her rent had been paid and she had proof of it, and Council Member Goldberg asked what was the incident involving the civic association and asked if she had seen some City of Houston inspectors and what were they inspecting when they went over there, and Ms. Bean stated that they were inspecting the sub standard living conditions that she was living in, that no one was supposed to be living behind Ms. Brooks, that it was single unit dwellings, that she did not know that Ms. Brooks was deed restricted from having people such as herself living there, but she found out later, that there were four people living in a dwelling behind the house. Mayor Pro Tem Boney, Council Members Galloway, Todd, Sanchez and Robinson absent. Vice Mayor Pro Tem Castillo presiding.

Ms. Cynthia Horton, 6575 Ashcroft No. 1107, Houston, Texas 77081 (713-778-1522) had reserved time to speak, but was not present when her name was called. Mayor Pro Tem Boney, Council Members Galloway, Todd and Parker absent. Vice Mayor Pro Tem Castillo presiding.

Ms. Ruth Webb, 14250 Kimberly, Houston, Texas 77079 (281-870-1996) had reserved time to speak, but was not present when her name was called. Mayor Pro Tem Boney, Council Members Galloway, Todd and Parker absent. Vice Mayor Pro Tem Castillo presiding.

Mr. Osoris, 6407 Peerles, Houston, Texas 77021 (713-842-2645) appeared and stated that he was present to complain about some work that was being done in his neighborhood, that the work was not being done correctly, that when the City planning came to his neighborhood they did not do a good job of planning to repair the neighborhood, that they were doing overlays and replacing curbs and gutters and there were places where the curbs were sitting in a V instead of an L where the street had been overlaid, that this was not right, that too much bad work going on in the neighborhood and as a taxpayer he sure did not feel good to see the kind of work being done in his neighborhood, that the neighborhood he was living in was located between Scott, OST, Hwy 288 and McGregor, that someone came out to speak to him and he showed them part of the problem, but there were so many problems in the neighborhood, that he did not think that any of the Council Members would allow that type of work to go on in their neighborhoods. Council Members Galloway, Todd and Sanchez absent.

Mayor Pro Tem Boney stated that he had talked with another constituent yesterday about the same problem, that the job was not finished as of yet and the contractor had not been paid so the things that were identified in the contract were his responsibility and would be done before the work was finally completed and before the contractor was finally paid, that he mentioned when he spoke with the administration staff that he felt the streets should have been reconstructed, that it cost about 5 to 10 times more to have the street reconstructed rather than

overlayed and they would end up waiting years and years to have the street reconstructed as opposed to having it overlayed which was at least some improvement to the current condition, that the bottom line of the question that he raised was, (1) the work was still in progress and not complete, (2) that the inspectors would insure that the contractor doing the work completes it all according to the contract up to standards or they would not be paid, and (3) if the neighborhood wanted to move toward reconstruction, Mr. Norman, Public Works, would explain that to him. Council Members Galloway, Todd and Sanchez absent.

Ms. Debra Ford, 1 Hermann Circle Dr., Houston, Texas 77030 (713-639-4696) appeared and stated that she was the Marketing Director for the Houston Museum of Natural Science, that she hoped that they all had the opportunity to visit their Butterfly Center, Planitarium, IMAX and Exhibition Hall at some point and if they had not she certainly extended that invitation to them, that as one of the leading attractions in the City, more than 2 million people visited them each year, their museum was dedicated to showcasing exhibitions which were both culturally enriching and of which the City could be proud, so she was very excited to be announcing that the vickings were coming, that they were getting ready to open up this weekend the Vicking Exhibition, Vikings the North Atlantic Saga, and it opened to the public on Saturday, July 14, 2001, that it was a particularly important exhibition and was a landmark exhibition organized by the Smithsonian Institution and commemorated the landing of the vickings in North America some 500 years before Columbus, that they were the only regional venue, the only Southwest venue that would be showcasing this exhibition, that what was particularly important about it was that it showcased 300 objects which had been collected from the collections of 5 Nordic Countries, that they had never traveled before and this would be the only chance to see them, and they would be returning to their countries never to come out again, that what also made the exhibition important was that it told the story of the vickings as they really were, that they did not wear horned helmets, instead they were master craftsman, storytellers, explorers, artists and farmers and that was really what this exhibition was going to showcase, that the exhibition had already opened in Washington, D.C. and in New York and they had great success with this exhibition and they were excited to have it in Houston and were hopeful that it would be equally successful here so she would like to extend the invitation to each of them to join them, that they had passed out invitations to each Council Member and the press preview and the VIP opening would be this Friday and again it opened to the public on Saturday. Council Members Galloway and Todd absent.

Upon questions by Council, Ms. Ford stated that it would close October 14, 2001, that the cost was \$10 for adults and when they paid for their ticket it also included their museum admission, that for children it was \$3, that there were special tickets for groups and if they needed any help with anything she had given her card to Ms. Russell. Council Members Galloway and Todd absent.

Ms. Arlene Walker, 1806 Green Star Dr., Missouri City, Texas 77489 (281-403-9637) had reserved time to speak, but was not present when her name was called. Council Members Galloway and Todd absent.

Mr. Christopher Cato, 7710 Boggess Rd., Houston, Texas 77016 (713-633-3200) had reserved time to speak, but was not present when his name was called. Council Members Galloway and Todd absent.

Ms. Yvonne Silva, 4906 Old Brick House, Houston, Texas (713-896-4068) appeared and stated that she had appeared before Council previously, that liberty and justice for all was correct but did not think it happened in Harris County, that she had contacted Council Member Tatro several times and Council Members at Large, that Council Member Bell had labeled her a chronic complainer and she would continue to be one until she got answers, that she to was

very concerned about issues in her neighborhood, that flooding since her neighborhood was replatted without proper votes, traffic since she could not make a left hand turn signal from Clay without wondering if she was going to get a head on collision, and all kinds of other issues, that Council Member Tatro along with other Council Member's at Large were very well aware of it, that when she called the City Attorney's office to speak with Mr. Hall, Ms. Pope told her that she was not going to take a message and when she called the OIG's office about Mr. Robert Litke not addressing her concerns and she faxed her information to Ms. Sharon Mallet and all of a sudden she was gone, that she would like to know what it would take for a person who lived in the City to get some accountability because everybody wanted accountability and so did she, that there were two want to be mayors and she had called their offices and tried to be nice and ugly, that how many times did she have to call to get answers in the City of Houston because it was not happening, that she had lived in her neighborhood long enough to know what was going on, that securities fraud was going on and it effected everybody here, that when they can take the money, steal her money, foreclose on her home and renters had more rights than homeowners there was a serious problem, that she wanted to know who was in Austin pushing Ms. Jessica Farrar, that the City needed to implement deed restrictions, because that did not help people who were low income or people who could not have attorney's by their side 24 hours per day, and asked who could she go to. Council Members Galloway and Todd absent.

Mayor Pro Tem Boney asked Ms. Silva who's district did she live in, and Ms. Silva stated that she lived in Council Member Tatro's district who had told her to pay her HOA fees, and that had nothing to do with what she was talking about. Council Members Galloway and Todd absent.

Council Member Bell stated that he found it interesting that all of the offices she listed had kind of the same reaction after a while, and he asked her when did he label her a chronic complainer, and Ms. Silva stated that it was one time that he called when she was waiting for an answer from his office, that he had told her she liked to complain, and Council Member Bell stated that just so it would be clear to the public he did think when someone had a pager and they made it very clear that the pager was to be used in case of an emergency and he personally informed her of that and when it was not an emergency she should not have used the pager, that his office had tried to deal with her and after a while it did seem that she did not really want the answers they were giving her and they could not change the information with which they were told by various people in the administration to provide to her, that he thought that she just wanted them to wave a magic wand and make it all different and they were not in a position to do that. Council Members Galloway and Todd absent.

Council Member Tatro stated that Shadowdale was now complete across Clay Road and they did need to have a traffic study done there, that her subdivision entered to the north on Shadowdale and it was now completed to the south which would promote a lot more through traffic since it was being developed, that they notified Planning and Development many times about the extension of the road to the back of her subdivision, that if that road was to be put through and if the company that was out there developing had plans to either close it permanently or put it through she would be notified, that they had markers in the file to notify her, that they had made changes to the property but not to the road itself. Council Members Galloway and Todd absent.

Ms. Nettie Simon, 4927 Yellowstone, Houston, Texas 77024 (713-741-5290) appeared and stated that she had a handout to pass out to the Council Members about what happened at the Metropolitan Transit Authority, that after 18 years of service at METRO she was wrongfully discharged because someone had lied about her, that she wished that Mayor Brown was present so that he could hear what happened, that she had tried to talk to him concerning Ms. Shirley DeLibrio because she said that anything that METRO had broken she would fix it, and

she would like for someone to look into her situation to see what could be done, that they could all read for themselves, that she could not get another job and could not draw unemployment or anything because of the lies, that she would like something to be done. Council Members Galloway and Todd absent.

Upon questions by Council Member Castillo, Ms. Simon stated that she worked for METRO for 18 years as a bus driver, that as a driver she belonged to the Transport Workers Union and she did try to handle her complaint through the grievance procedure and did not get any results, that the lady who accused her never showed up at a hearing, that Ms. DeLibrio told her there was nothing she could do, that she did not meet with employees on a one to one. Council Members Galloway and Todd absent.

Council Member Castillo stated that he believed and had stated before that the Metropolitan Transit Authority did not have a grievance procedure for employees to follow, that if they got disciplined, fired or something was done to their status they went to their supervisor and if their supervisor stopped it they did not have anywhere else to go, they did not have a graduated appeals process, they could never speak to the board or speak to a committee of peers to look at the complaint, that they did not have a Civil Service Commission and that was for all the employees, that for the bus drivers in particular they had a truncated grievance system, that they could only go so far in their Transport Workers Union procedure and then it stopped, they could not go beyond that, that there was an unstopable as far as proceeding with their grievance after they got past their union steward, that he thought that the Council Members really needed to look at that because that was an agency that was taxpayer supported and not to abide by the labor procedures that were called forward in federal contracting. Council Members Galloway and Todd absent.

Upon further questions by Council, Ms. Simon stated that she had stopped to pickup a bus driver but after METRO got to him he did not see or hear anything and did not know anything, that the lady hit her three times, that her supervisor did not discharge her, that the assistant supervisor discharged her, that if they made a mistake they were not going to correct their mistake, that she went to work every day and never had a problem on her job and was never disciplined for anything, that she never used drugs or anything like that, that they had drug addicts and alcoholics and everybody else there, that they had been through rehab, that they were driving the buses after they had been through rehab, that if they were in the click they could get away with it, that she had spoken before the Metropolitan Transit Authority Board and Ms. DeLibrio told her she needed to get an attorney, that she was a member of the union but the union could not do anything, that once the arbitrator ruled the NAACP nor the EEOC could not get involved, that once there was arbitration she did not have grounds to go to court. Council Members Galloway and Todd absent.

Ms. Mary Floyd Hawkins, 7730 Arrowhead Ln., Houston, Texas (832-545-5859) appeared and stated that she was accompanied by Mr. Everett Hawkins, of Weldon Records, and Mr. Montenez Bobo of Multi Media Extreme Duplications, that her presentation was not one of complaint but of one that would lend support in the efforts of helping the victims of Allison to recover from this historical tropical storm, that she was now a two year citizen of Houston, Texas and a nationally acclaimed gospel recording artist as well as a song writer and a poet, that in her efforts of conveying her reason for this presentation today she would get straight to the point, that on June 6, 2001 which was really the first day of Allison's efforts coming into the City, she was affected by the storm, that she was caught on her way home from her place of employment and just two blocks from her home where her car was flooded, that it was not cut off but she was affected by it, that she was led to write a song entitled "Allison You Caused Us So Much Pain", that since that time she had gone on to record the song and they were present today because they were in the process of putting the song out on cassettes, CD, VHS and the

enhanced CD video with a slide presentation with video footage, that 50% of the proceeds from the sales of the items would go into community churches who were already in place with the efforts of helping Allison victims recover, that the 50% would go among these churches. Ms. Hawkins read a piece that she had written regarding the storm, and stated that they were present as independents to bring into the City some type of support. Council Members Galloway, Todd, Vasquez and Castillo absent.

Mayor Pro Tem Boney requested that she provide all of her information to Mr. Richard Cantu, Citizens Assistance and he would follow up with her to see what was appropriate for them to do. Council Members Galloway, Todd, Vasquez and Castillo absent.

Mr. Joseph Moss, 8901 Bissonet, Houston, Texas 77074 (713-981-7004) appeared and stated that he had filed a police report and was trying to find out the status of the report, that he had not been contacted, that he would like to know what avenues to take from this point on. Council Members Galloway, Todd, Vasquez and Castillo absent.

Mayor Pro Tem Boney stated that Chief McClelland was present and would meet with him to see if he could provide a way for Mr. Moss to get the answers and information that he was looking for. Council Members Galloway, Todd, Vasquez and Castillo absent.

Mr./Coach Bobby Taylor, 3107 Sumpter, Houston, Texas 77026 (202FA34511) appeared and voiced his personal opinions and experiences until his time expired. Council Members Galloway, Todd, Vasquez and Castillo absent.

Mr. James Partsch-Galvan, 1611 Holman, Houston, Texas 77004 (713-528-2607) appeared and stated that his website address was www.galvan.org, that somebody made a comment that the Vikings are coming, well the galvanists were coming, that somebody else made a comment that there were two want to be mayors well there were actually three, four or five want to be mayors, that he was not going to run for mayor but was going to run for at large position, that somebody who voted for him was not only voting for him but voting for his platform galvanism which was re-legalizing, legalizing prostitution, no zoning, having Elizabeth Spates Park, bringing the Westheimer Street Festival back to Westheimer, etc., that yesterday he walked to Moody Park to go swimming and it was closed, that he thought it was ridiculous, that right after he leaves Council chambers it was from 3:00 p.m. to 6:00 p.m., they were open for open swimming, that it was not enough time, it should be more time to swim in the public swimming pools. Council Members Galloway, Todd, Vasquez and Castillo absent.

Mr. Donald Buzbee, 14503 Eagle Pass, Houston, Texas 77015 (713-455-7577) appeared and voiced his personal religious opinions until his time expired. Council Members Galloway, Todd, Vasquez and Castillo absent.

Mr. Joseph Omo Omuari, 15 Charleston Park, No. 1107, Houston, Texas 77025 (713-664-8256) appeared and stated that he had the business grant proposal and wanted to give a letter to all the Council Members to address that issue, that he just wanted a confirmation or a letter of determination that states what was their opinion about it, that he really thought the Lakewood Church Compaq deal would be bad for the City of Houston. Council Members Galloway, Todd, Ellis, Vasquez and Castillo absent.

Mr. Aubrey Vaughn, 5025 Telephone Rd., Houston, Texas 77087 (713-644-4882) had reserved time to speak, but was not present when his name was called. Council Members Galloway, Todd, Ellis, Vasquez and Castillo absent.

At 3:06 p.m. upon motion by Council Member Bell and seconded by Council Member Goldberg, City Council recessed until 9:00 a.m., Wednesday, July 11, 2001.

City Council Chamber, City Hall, Wednesday, July 11, 2001

City Council reconvened in the City Council Chamber at 9:00 a.m. Wednesday, July 11, 2001, with Mayor Pro Tem Jew Don Boney, Jr. presiding and with Council Members Bruce Tatro, Carol M. Galloway, Mark Goldberg, Rob Todd, Mark A. Ellis, Bert Keller, Gabriel Vasquez, John E. Castillo, Annise Parker, Gordon Quan, Orlando Sanchez, Chris Bell and Carroll Robinson; Mr. Al Haines, Chief Financial Officer, Mr. Anthony Hall, City Attorney, Mr. Paul Bibler, Assistant City Attorney; Ms. Martha Stein, Agenda Director present. Mayor Lee P. Brown absent on vacation.

At 8:23 a.m. the City Secretary read the descriptions or captions of items on the Agenda.

MAYOR'S REPORT

9:00 A.M. - **REPORT FROM CITY CONTROLLER AND THE CITY ADMINISTRATION REGARDING THE CURRENT FINANCIAL STATUS OF THE CITY** including but not limited to, a revenue, expenditure and encumbrance report for the General Fund, all special revenue funds and all enterprise funds, and a report on the status of bond funds

At 9:14 a.m. Mayor Pro Tem Boney reconvened the meeting of the City Council and stated that the first order of business was a report from the City Controller and the administration regarding the financial status. Council Members Galloway, Goldberg, Vasquez, Quan and Robinson absent.

Ms. Silvia Garcia stated that she was pleased to present the monthly financial report for the period ending May 31, 2001, that with regard to the General Fund she was pleased to report that the General Fund Revenue projections had increased slightly from those reported in the two previous monthly Financial Operations Reports, that they had revised projections for several of the revenue categories with a net Affect of an upward adjustment of \$1.9 Million therefore projected revenues now stood at \$1.276 billion, as to the General Fund there were no significant changes and no variances of a million dollars or more therefore they were projecting their expenditures to be at budget; that cost associated with Storm Allison were being funded from a special disaster recovery fund and no General Fund expenditures were anticipated at this time, the projected fund balance at June 30, 2001 reflected an increase of \$1.7 million, that the ending projected fund balance was at 6.7% of projected expenditures minus debt service and operating transfers, that this was \$8.6 million short of the required 7.5% excess Reserve Fund balance, and that concluded her report. Ms. Garcia introduced her summer intern from Rice who had been spending some time with them, and stated that Ms. Mandy Legal had been with them all summer and was beginning her senior year at Rice in Political Science. Council Members Galloway, Goldberg, Vasquez, Quan and Robinson absent.

Dr. Phillip Scheps stated that at 11 months F&A's current revenue projection for the General Fund was \$1.282 billion or about \$20 million above their original projection and was up about \$1.4 million from last month, a collection of ups and downs, that the biggest ups were in gas franchise and interest earnings, that as he had mentioned in his letter he was not sure that he was pleased with even a positive increase of about 10%, that it seemed that they ought to be in a better position to predict that than have a surprise, even if it was a positive surprise in the eleventh month, that they were going to go back and review their interest projection technique, that it should not have changed that much, that they should have been able to project that earlier,

that the biggest downs were just telephone and other franchises that were based on projections, that their biggest estimate difference with the Controller was in the area of electric franchise and it was overall about \$6.1 million difference from the Controller's projection and over \$4 million was in the electric franchise, that they continued to talk about that constantly and what they were trying to do was predict that August check because they do business on an accrual basis and they both still thought they were right, that they did not know, that they just had different technique in predicting that August check, that they were more conservative about what they thought that August check ought to be; that their expenses were about the same as last month about \$11.6 million over the original budget, that they had very small revisions in the eleventh month data so they were now showing a projected ending balance of \$79.1 million and as they recalled at Council's direction they were going to designate \$5 million of that as the Rainy Day Fund so when they saw the next report they would see that designation of the \$5 million, that his letter included just an update on some of the other items they were working on, that the Cash Management Study was being fully managed by the Controller and they were going to talk about that in the August meeting, that he believed there was some additional bench marking information being gathered so they were going to be prepared to talk about that next meeting, that it was essentially complete; that the Fee Study was on their agenda today and they had talked about it in the Fiscal Affairs meeting yesterday and was hoping that everybody was satisfied on the Fee Study and they could get started on that; that there was some key competitive bidding managed competition dates coming up in the near future and they were going to gain the proposals for the managed competition on August 2, 2001 so they would see something about 30 days after that; that they postponed the Debt Policy one more time from Fiscal Affairs because of all of the press of the huge amount of financings that were going on, that the same people that would be presenting it to Council were involved in the refundings and the Trans borrowing and so forth; that the Management Audit, again they had postponed that even though it was essentially done and Mr. Bowers was completing one extra item there on behalf of Mr. Haines and they would have that at the next meeting; that they probably already knew that they did not need to borrow from the ALP at the end of the year, they had a positive cash balance at the end of the year and that was due to a very concerted effort and wanted to thank the Controller's office and the Public Works Department, that the last few days of the year they made a bunch of transfers that involved some bookkeeping work and accelerating some incoming payments and so forth; that he put a list in the report of the action items that they got out of the budget workshop so if anybody had any comments on that or saw something that they talked about that did not make that list, he of course was interested in making it a complete list, and stated that concluded his report. Council Member Goldberg absent.

Upon questions by Council Member Bell, Dr. Scheps stated that the money used to balance the General Fund Budget had already been certified by the City Controller and was already there and was existing ALP money, so that going forward there was no deficit of any kind, that the question would be if there would be more ALP money in the future, that of course they had tied up \$25 million of it for the temporary storm relief and presumably they would get a bunch of that money back and it would be Council's decision of where it would go, but presumably some of that money would go back to the ALP, that the larger question was a good one and that was had they used conservative revenue projections in the budget because they had some dry summers in the past with high revenues and that question was asked earlier this year and they had water and wastewater go back and their financial advisors go back and the answer was yes, they were using appropriately conservative revenue estimates, that he thought there was a question as to whether they would have more ALP money to spend, that if they did not have a drought and water usage stayed low he did not think there would be any impact, that the question was when would they know when they had additional money to spend in the ALP, that he also mentioned that they would be getting money back and believed the question may be when would that come true and he believed they could look to 30 to 45 days to begin getting their first FEMA reimbursement presumably for Mr. Buchanan's contracts, those would be the first

dollars to come back, so he thought they could see some positive impact, and maybe he was not understanding Council Member Bell's question, but he did not think there would be any impact other than the fact that they would not have additional money to spend. Council Member Todd absent.

Council Member Quan stated that during the budget workshop they had discussions regarding Public Works efforts to recoup monies from busted water mains that was caused by contractors and that he had promised a follow up to him at that time on what efforts had been made and what they were doing in that area and asked if he had anything, and Dr. Scheps stated that he did not, that he did remember the discussion, but would redouble his efforts to make sure they would get something to him in the very near future. Council Member Todd absent.

Council Member Robinson asked if Dr. Scheps was involved in the ongoing negotiations relative to the Compaq Center in terms of what would be the ultimate disposition of any revenue generated by the project, and Dr. Scheps stated that he was not involved in the negotiations, that he had asked him the question about the ongoing disposition of the revenues and he had asked their financial advisors to talk about the legalities of that, but that was the extent of his involvement in that, that somebody was looking at that to see if those funds would be available to them. Council Member Todd absent.

Council Member Castillo moved to accept the financial reports, seconded by Council Member Quan. All voting aye. Nays none. Mayor Brown absent on vacation. Council Member Todd absent. MOTION 2001-0769 ADOPTED.

Council Member Parker moved to suspend the rules to consider Item No. 30 out of order, seconded by Council Member Castillo. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0770 ADOPTED.

Mayor Pro Tem Boney stated that Item No. 30 was not in right now, but they would call the consent agenda until the item came in.

Council Member Keller moved to suspend the rules to consider Item No. 48 out of order, seconded by Council Member Ellis. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0771 ADOPTED.

48. ORDINANCE consenting to the assumption of the Tax Abatement Agreement between the City of Houston, **ABB, INC, SIMMONS, VEDDER II LIMITED PARTNERSHIP** and **SV WESTCHASE AB LIMITED PARTNERSHIP**, by **3150 BRIARPARK L.P. - DISTRICT G – KELLER – (This was Item 45 on Agenda of July 3, 2001, POSTPONED BY MOTION #2001-764)**

Council Member Keller stated that this was an item that he had tagged and then delayed and wanted to check into, that there were some technicalities in this, that this was a tax abatement for a company in his district and he was against giving the tax abatement, that he thought voting for giving them a tax abatement was basically voting against the City of Houston's tax base and certainly the revenue stream.

Mayor Pro Tem Boney stated that there may be some legal implications and asked Mr. Hall to speak on those, and Mr. Hall stated that Ms. Debra McAbee was present but it was important to understand that this was not a vote to grant a tax abatement, that had already been done, that this was a request to assign the rights under that tax abatement and their agreement says that it could not be unreasonably withheld, was not the question of the merits of the tax abatement itself already been done.

Council Member Quan moved to suspend the rules to hear from Ms. Debra McAbee at this time, seconded by Council Member Robinson. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0770 ADOPTED.

Ms. McAbee stated that Section 44-137 of the Code of Ordinance which was in the Article of the Code that governs tax abatements provides that no company that was the recipient of a tax abatement could assign that abatement without the consent of the City Council, but it went on to say "which consent shall not be unreasonably withheld", that what was happening here was that a company that was the recipient of a tax abatement, through a restructuring and a conveyance of property, now had desire to transfer the benefits of the abatements and the obligations to perform the job creation and investment responsibilities of the original company under the tax abatement to another company, that the second company steps into the shoes of the original recipient and the abatement continues and that was called an assignment and that was the nature of what was happening here, that the second company steps into the shoes of the original recipient and had to perform the obligations to create jobs and investment or they would not continue to receive the benefit of the abatement. Council Members Todd and Ellis absent.

Mr. Hall stated that they do subject themselves to potential liability, that they were not allowed to unreasonably withhold approval of the assignment, that if they had good and legitimate reasons they obviously could withhold it, if not they would be liable for any claim against them for not reasonably withholding the assignment, that the opinion of the Legal Department was that they could be subjecting themselves to litigation. Council Members Todd and Ellis absent.

Upon questions by Council Member Quan, Ms. McAbee stated that the original abatement was for a 10 year period and she would ask Mr. Calderon to respond to the facts of the abatement itself.

Council Member Quan moved to suspend the rules to hear from Mr. Bill Calderon at this time, seconded by Council Member Vasquez. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0770 ADOPTED.

Upon questions by Council, Mr. Calderon stated that he was reading from the monthly report that they put on the MOFAR, that when ABB came to them there were 1,004 jobs that they had at that time in Houston, and when the application was filed they proposed to retain all of those jobs and create an additional 225 jobs, that there was also a provision in the agreement that would require them to retain some 300 contract jobs that they also had at the time of the application, so the total job impact of the abatement agreement to the City of Houston was actually worth 1,632 jobs, that as of the last filing with the appraisal district, where the companies notify the City and appraisal district relative to their compliance with the agreement, ABB had 1,465 jobs and they had an additional 18 months from today effectively to create the remainder of those jobs that they were intent on creating, so they effectively were in compliance with the agreement, that the agreement was approved by City Council on June 24, 1998, that from their perspective this assignment was considered rather routine, that they had brought numerous assignments to City Council over the last 4 to 5 years, and in the case of this particular applicant they were put on notice, at the time of application, that upon completion of construction of the building that Simmons Vedder, the original owner, would in fact divest, and so they were notified even before the agreement was approved that an assignment would be forthcoming, that the investment value of this project was estimated at the time of application at \$58,360,000 of which \$53,360,000 would be subject to abatement, that it was an abatement on the real property, on the actual building itself, that Simmons Vedder and ABB jointly applied for the tax abatement agreement and in the files when the application was filed they received evidence from ABB that

they would enter into a triple net lease with Simmons Vedder which effectively would pass through the obligation for all taxes on the building once it was constructed, that ABB, who was getting the building, was a petrochemical engineering company and they do engineering work all over the world, that at the time the tax abatement agreement was approved part of what they had as an obligation to test the applicant against was the issue of competitive sites and at the time the application was filed with the City of Houston, ABB indicated to them that they had alternative sites for this investment, two sites in Montgomery County, one in Fort Bend County and one in Denver, so there was the possibility that should Council not approve the abatement agreement that they would lose the capital investment and the job creation associated with the same.

Upon questions by Council Member Vasquez, Ms. McAbee stated that they could not unreasonably withhold consent to the assignment of the previously granted abatement agreement, that it was in the code and also a term in the contract, that the definition of unreasonably withhold was whatever a court ultimately determines it to be; that Mr. Hall had said that it was not a precise standard and she would certainly agree with that, that the standards they had used in the past were unreasonably withheld, that in her experience, when a department had recommended an assignment of the tax abatement agreement the City Council had approved the assignment, so the question in the context of the assignment of the tax abatement agreement had not arisen prior to this time, that it was a standard for the City Council in its decision making, it was not a standard that governed the department in analyzing and making a recommendation for the assignment.

Mr. Hall stated that often they were faced with evaluating the reasonableness of a proposition before Council, that generally speaking the law required that consideration of all the attendant circumstances was what a rational person could conclude having considered all of those circumstances, that was what reasonableness was generally so it was not a one, two, three and they could check off, they had to evaluate all the attendant circumstances to determine whether in the context of a particular decision it was rational and based on fact and on a conclusion that reasonable people could agree that one could reach. Council Members Quan and Robinson absent.

Mayor Pro Tem Boney asked Mr. Calderon what might be, if there was litigation, the potential liability of the City, would it be \$53 million or some percentage or multiple of that, and Mr. Calderon stated that he was not sure he could answer that question, that he knew that they had estimated a certain value that the company would likely receive, that at that time assuming that the \$56 million abateable value they were estimating \$1.98 million of actual benefit to the company over the 10 year period.

Council Member Castillo stated that if a company had a reasonable expectation that there was going to be an abatement and they take that into their economic considerations then it seemed like they would be renegeing on the commitment by the City to provide that abatement and it would be then unreasonable to withhold it after the deal was done.

Council Member Tatro stated that his concern was the statement that they could face legal action, that Council passed an agreement with Simmons Vedder, that any contract to go forward would be subject to Council authorization and the contract was with Simmons and not with ABB, although there may have been an understanding, and Ms. McAbee stated that the original tax abatement agreement was between ABB Inc., Simmons Vedder II Limited Partnership and SV Westchase AB Limited Partnership, so there were three entities that were involved in the tax abatement agreement, the owner, the lessor and the lessee of the property, so every entity that had an interest in the real property was a party to the original tax abatement, that these entities had restructured and as part of their restructuring had transferred the real property, and Council Member Tatro stated that when the contract was signed with the three parties and the City of

Houston and now they were asking to change it, was always pursuant to Council authority when they were restructuring the deal. Council Members Galloway, Goldberg and Vasquez absent.

Mr. Hall stated that clearly they were subject to litigation and nobody had ever suggested that they could not be, that the issue in what he said was that they may be subject to liability and that was a different question, that the issue here was one that was not uncommon in commercial contracts when there was contemplated action after the fact there was generally a standard that was applied for the decision to be made, that the standard of not unreasonably withholding approval for some later action was very regular in commercial contracts and was something that was construed very regular and was intended to assure that there not be arbitrary decision making after the fact, that was what it was about, it was not the original granting and not changing the deal, but was to let somebody else have the rights, and did not change the basis of the deal, that one party had for another. Council Members Galloway, Goldberg and Vasquez absent.

Council Member Sanchez asked if in the original agreement with the three parties that the City approved in 1998, in that document did it address the issue of transferability, and Ms. McAbee stated that it had the language that they had in their agreements with respect to assignment that the agreement could not be assigned without the consent of City Council, but the consent would not be unreasonably withheld. Council Members Galloway, Goldberg and Vasquez absent.

Council Member Parker stated that Council Member Keller had postponed the item by motion at the last meeting with the request that he receive information about the deal and asked if the administration met with him or provided the information requested, and Council Member Keller stated that he did get a memo from the administration and they did try to meet with him, but the answer was no, that he had ascertained enough information on his own to determine what he thought was the best thing for the City of Houston was. Council Members Galloway, Goldberg and Vasquez absent.

Council Member Todd asked if there were any representatives from ABB, Inc. present and Mr. Calderon stated that he did not believe there were, and Council Member Todd asked if there was anything in the item that would interfere with the basis of Council Member Keller's objections if they did a three week delay so that they could have a chance to talk to the company, and Mayor Pro Tem Boney stated that a motion to delay would not in any way automatically result in the ability not to proceed and Mr. Calderon stated that there would not be any harm done by a motion to delay if that was Council's will.

Council Member Todd moved to postpone Item No. 48 for three weeks, seconded by Council Member Bell. Council Members Galloway and Sanchez absent.

Council Member Keller stated that he would vote against a delay, that he had talked to Simmons Vedder and they did not care, that it took a year and a half to get to Council so he did not think anybody was really dying, that in fact ABB, Inc. did not even have anybody present so it could not be that important to them, that they did have a representative at the table, Council Member Quan, and he did not know if that was a conflict for him to vote, and Council Member Quan stated that he did not plan to vote, that he had represented ABB in unlimited capacities, and Mayor Pro Tem Boney asked Council Member Quan if he had an interest in this, and Council Member Quan stated that he owned no interest in the firm, but his firm had represented them in unlimited capacities in immigration matters.

After further discussion by Council, a roll call vote was called on the motion to delay Item No. 48 for three weeks.

ROLL CALL VOTE:

Mayor Brown absent on vacation
Mayor Pro Tem Boney voting aye
Council Member Tatro voting no
Council Member Galloway absent
Council Member Goldberg voting no
Council Member Todd voting aye
Council Member Ellis voting no
Council Member Keller voting no

Council Member Vasquez voting no
Council Member Castillo voting aye
Council Member Parker voting aye
Council Member Quan voting aye
Council Member Sanchez voting no
Council Member Bell voting aye
Council Member Robinson voting no
MOTION 2001-0774 FAILED

Council Member Castillo moved to recess for 5 minutes so that Council Member Quan could discuss his situation with the Legal Department, seconded by Council Member Vasquez. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Galloway, Quan, Sanchez and Bell absent. MOTION 2001-0775 ADOPTED.

At 10:13 a.m. the City Council reconvened and Mayor Pro Tem Boney called the meeting back to order.

Council Member Todd asked Mr. Hall if in a situation like this where a Council Member had done legal business that was unrelated to the matter at hand and on the agenda and where there was no continuing relationship did that qualify as a matter within the meaning of Chapter 171 of the Texas Local Government Code, and Mr. Hall stated absolutely not, that he had talked to Council Member Quan about this specific circumstance and knew that there had been some aspersions cast on it for conflict of interest, but conflict of interest was very precisely defined here, that he was a licensed attorney who had represented one of the entities involved in the past on some very specific matters which were totally unrelated to the issues that were before Council today, that they all knew that Council Member Quan was a very accomplished immigration lawyer and had represented that company in immigration matters which had nothing to do with this, that it did not amount nearly the threshold 10% of his income last year so it could not be classified as a substantial matter, that it was an error to suggest that he had a conflict of interest, that he had none and could vote on this matter just like anybody else.

Mayor Pro Tem Boney asked Council Member Keller if he wanted to state what was the rationale for withholding the assignment, and Council Member Keller stated that he was not listening and stated that he would call the question so they could vote.

Council Member Keller moved to call the question on Item No. 48, seconded by Council Member Robinson. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0776 ADOPTED.

Council Member Quan stated that he would like to excuse himself anyway even though he agreed with the City Attorney's opinion, that he did not want anyone in the public to feel that in anyway there was any influence on him.

A roll call vote was called on Item No. 48.

ROLL CALL VOTE:

Mayor Brown absent on vacation	Council Member Vasquez voting no
Mayor Pro Tem Boney voting aye	Council Member Castillo voting aye
Council Member Tatro voting no	Council Member Parker voting aye
Council Member Galloway voting aye	Council Member Quan absent
Council Member Goldberg voting no	Council Member Sanchez voting no
Council Member Todd voting aye	Council Member Bell voting aye
Council Member Ellis voting no	Council Member Robinson voting no
Council Member Keller voting no	ORDINANCE 2001-0658 FAILED

Council Member Parker moved to suspend the rules to consider Item Numbers 30, 20 and 26 out of order, seconded by Council Member Robinson. All voting aye. Nays none. Mayor Brown absent on vacation. Council Member Quan absent. MOTION 2001-0777 ADOPTED.

30. ORDINANCE relating to Disaster Recovery Services; approving and authorizing contract between the City of Houston and **LEGACEE ENVIRONMENTAL, INC** for Hazardous, Toxic and Radioactive Waste Collection, Characterization, Packaging, Transportation and Disposal; amending Ordinance No. 2001-534 for the purpose of authorizing the aforesaid contract to be funded from the Disaster Recovery Fund - was presented.

Council Member Bell stated that he wanted to bring this up at this time and wanted to ask his colleagues support as they went forward, that since the lobbyist registration ordinance had been passed he thought it had been very successful because of the voluntary compliance among those in the lobbying community as far as registering when there were items, that he was bringing it up on this particular item and he almost brought it up last week and now it became a developing trend and they had two items over the last three weeks involving millions of dollars and there had been people clearly, by perception at the very least, hired to lobby these items and in checking the registration they had not done so and not complied to the City ordinance and the only way that the ordinance was going to work was if they joined in the enforcement effort and began to check registration when people came to visit with them on the various items and start driving home the importance of registration, that they voted two years ago and decided this was a good thing if they were going to have transparency in government they needed to know who was affecting legislation down here, that he was not going to name names because the people who were involved knew who they were and were folks who were experienced with City Hall and really did not have any excuse for not complying with the Lobbyist Registration Ordinance, that it happened on this item and happened on the Compaq Center item that they voted on last week, so he would leave it at that and ask for people to really begin checking it, that it was his intent, and they found this in the past, to start reporting to the City Attorney's office and begin the process to take legal action against these folks, that they had not had to do that but if that was the only course of action left to them then so be it.

Mayor Pro Tem Boney asked Council Member Bell if he would be willing, privately, to share that with the City Attorney so that the persons could be advised that they were not in compliance, and Council Member Bell nodded yes.

Council Member Tatro stated that he did not attend the agenda briefing but understood that there were some statement made at the briefing about this item because they had received very little information in writing about some of the statements, for instance they heard that FEMA would not reimburse the City for some of the costs that DRC was incurring on this and DRC did this all over the Country, that he had a number of questions that he would like to have explained

about this contract and the significance of moving forward and also that statement that was made.

Council Member Tatro moved to suspend the rules to hear from Mr. Buck Buchanan, Director, Solid Waste, relative to Item No. 30, seconded by Council Member Vasquez. All voting aye. Nays none. Mayor Brown absent on vacation. Council Member Robinson absent. MOTION 2001-0778 ADOPTED.

Council Member Tatro stated that a statement was made that if they did not pass this today people would have to bring their waste to the waste disposal facilities and that simply was not the case, that if they failed to act they would but there was no reason to fail to act because they had other contracts available to them, and stated that Mr. Buchanan had mentioned that there was a possibility that FEMA would not reimburse the City for some of the costs for DRC, and asked Mr. Buchanan about the statement that FEMA might not reimburse the City for the costs. Council Members Todd, Vasquez and Robinson absent.

Upon questions by Council Member Tatro, Mr. Buchanan stated that in the first place the RFP was about 18 months ago and DRC and a company called Tetrattech responded and Tetrattech was the low bidder, that about the middle of May 2001 the principle at Tetrattech changed and they refused to sign a contract with the City's indemnification clause, that before the flood they started discussions with DRC concerning whether they would be willing to take on the contract; that he made the FEMA statement to them based on a conversation they had with FEMA's debris removal coordinator who questioned in very strong terms the amount that DRC was charging and indicated that it would definitely be an item of interest in the audit and the charges to be to her to be unreasonable, that they did not have any of this in writing and they would probably not get it in writing until such time as an audit was conducted of the City's claim at sometime in the future, Council Member Tatro asked if the FEMA reimbursement required that a contractor put up a performance bond for a payment in performance bond, and Mr. Buchanan stated that he did not believe that the FEMA reimbursement cared at all; that to his knowledge the FEMA regulations require that it be a sanctioned procurement and competitive bidding was but one of many ways, that the one with DRC was not competitively bid in the first place, it was a negotiated RFP, that preliminary prices were submitted but the award was based on the proposal, about 20% of the evaluation had to do with pricing. Council Members Todd, Vasquez and Robinson absent.

Council Member Tatro stated that his concern was the way this had come to Council, that he had an opportunity to talk to the DRC representatives yesterday and they were told to basically stop work, that they could mobilize tomorrow and continue on, that the Council had seen nothing in writing about the pricing performance and they had received it at the table today and it was his understanding that contracts like this should be bid out and the assignment of this contract and the speed of the assignment of this contract caused him concern, and asked if it was true that they could tell DRC tomorrow to commence work again, and Mr. Buchanan stated provided there were funds for the contract, yes, that when he spoke with Council Member Tatro about if the contract were delayed he had indicated that he intended to tag the item, and when he spoke to him about the issue they had probably about two weeks and about three fourths of the City to finish and if they tag the item it would be heard again two weeks from today and the debris removal contractors would be out for about two thirds of the City, and Council Member Tatro stated that he would recommend that they tag the item and act responsibly to continue picking up the hazardous waste by reactivating the contract that was already in place. Council Members Todd, Vasquez and Robinson absent.

Council Member Castillo stated that in light of the fact that this was an emergency contract and the work almost had to be carried out in synchronically with the other contracts that they

reduce the term of the assignment to one year and immediately go out for bids for the rest of the contingent period, seconded by Council Member Parker.

Council Member Sanchez asked Council Member Castillo if his motion was to continue with the current provider until such time as the administration could go out for bids. Council Members Todd and Vasquez absent.

Council Member Castillo stated that his motion was to “approve the second contingent contract, but limit the term to one year from the beginning of the original contract and immediately go out for bids and have a standby contract available for any future emergency”. Council Members Todd and Vasquez absent.

Council Member Sanchez asked how that remedied the problem, and Council Member Castillo stated that it remedied the problem in that it allowed somebody to keep working and also allowed for once this emergency was over hopefully the new RFP's would be in and they would know who would have been the most efficient, that he was asking the administration to actively solicit RFP's now. Council Members Todd and Vasquez absent.

Council Member Sanchez asked how would they cure the initial problem that they selected a contractor that was charging too much which would preclude the City from recovering funds from FEMA, and Mr. Buchanan stated that the pricing for the contract with DRC was not finalized until after the flood, and that was the only available vendor at that point, because the recommended vendor refused to sign the contract, that they would be most happy to put it back on the street and most likely as an RFP because the pricing for environmental cleanups was a little bit difficult to pin down in detail, and Council Member Sanchez asked Mr. Buchanan if it was his opinion that the last available contractor engaged in fair pricing, in other words was this a typical price they would charge any other municipality or entity, and Mr. Buchanan stated that he did not have a means of comparing that and was the question he asked the FEMA disaster coordinator. Council Members Todd, Keller and Vasquez absent.

Council Member Sanchez asked if the State statute covered municipalities in terms of price gouging and had the Legal Department looked into that, in other words did this contractor inflate its price to the City of Houston because of an emergency, and Mr. Hall stated that he did know but would be happy to find out, and Mr. Buchanan stated that it was something that the Solid Waste Department would be interested in looking into, that he had not contacted the Legal Department but would certainly contact the City Attorney today. Council Members Todd, Keller and Vasquez absent.

Council Member Galloway asked if the contract they had on the table today cover a certain geographical area that they were serving, and Mr. Buchanan stated that the geographical area would be those areas that had not yet had hazardous waste collection, that while there was still hazardous waste coming out, although a pass had been completed, additional passes needed to be completed in northeast Houston and the northwest portion of the City that was flooded and had not had a pass yet. Council Members Todd, Keller and Vasquez absent.

Council Member Tatro asked Mr. Buchanan when they found out that DRC was a little high did they have an option to use MSE Environmental which had an HGHC contract and they had agreements with them in the past, and Mr. Buchanan stated that he was unaware of that company, that they did not respond to their procurement nor had they contacted them since then, that Legacee had not responded to the procurement but they did contact him, that they were a subcontractor to DRC, and Council Member Tatro stated that he would make a recommendation, and he did plan to tag the item, that the administration bring DRC back and if DRC was not Mr. Buchanan's choice he thought they should look into MSE Environmental who

was an approved HGHC vendor and also did this nationwide because this was a very significant issue, and stated that he would also tag the amendment that was on the table. Council Members Todd and Vasquez absent.

Mayor Pro Tem Boney stated that he hoped that all the Council Members at the table received Exhibit G which was passed out by the Solid Waste Department this morning, that the cost differential between DRC and Legacee was substantial, that it was almost half price, and thought that the issue of saving money for the taxpayers while they tried to hurry up and cleanup the environmental debris was one that was somewhat obvious. Council Members Todd and Vasquez absent.

Council Member Parker stated that was one of the points she was going to make, that the contract, while she had some questions about how it arrived at the table, offered a huge savings for the taxpayers and allowed Council Member Galloway's district, which had the most remaining debris to continue to be picked up and Council Member Castillo's amendment promoted fairness by saying this was an emergency situation and they would give them a one year contract but would go out immediately for a full RFP to establish a long term contract to deal with this and a tag was not just for a week, it was for two weeks, because next week was a break week and again there were hazardous wastes sitting out in several Council districts but particularly in the northwest side of Houston that needed to be picked up, that she thought that it would be irresponsible to delay it. Council Member Vasquez absent.

Council Member Castillo asked Council Member Tatro, in light of the remarks that had been made, if he would consider removing his tag, otherwise he would move to override the tag. Council Members Todd and Vasquez absent.

After further discussion by Council, Council Member Tatro removed his tag on Item No. 30 and the proposed amendment to Item No. 30. Council Member Vasquez absent.

Council Member Robinson moved to call the question on Item No. 30 and the proposed amendment to Item No. 30, seconded by Council Member Galloway. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Keller and Vasquez absent. MOTION 2001-0779 ADOPTED.

A vote was called on the motion to amend Item No. 30. Council Member Sanchez voting no, balance voting aye. Mayor Brown absent on vacation. Council Members Keller and Vasquez absent. MOTION 2001-0780 ADOPTED.

Council Member Quan stated that Mayor Brown had setup a committee to look at some of the expenses during the emergency situation and he would like to have this as one contract that they would look at through their committee on how they were spending monies because of Tropical Storm Allison.

Upon questions by Council Member Sanchez, Mr. Buchanan stated that the individuals handling hazardous materials were required to be trained in the use of appropriate protective equipment and were certified by the EPA, and believed through the TNRCC but was not certain of that, but they were EPA certified as having had appropriate training and possessing the necessary skills to handle and transport the hazardous material, that they had submitted such certification to the City and he had reviewed that as part of DRC's certification, that the corporation had a Houston address and he presumed it was a Houston corporation, and Ms. Wiginton stated that Legacee Environmental was a Texas corporation registered with the Secretary of State and had a Houston address, which she would provide his office.

Upon additional questions by Council Member Sanchez, Mr. Buchanan stated that his experience with this company was as a subcontractor in the DRC engagement, and Council Member Sanchez asked how many projects of this magnitude had this company performed in the past, and Mr. Buchanan stated that they performed environmental cleanup just as most environmental companies had, but they had not cleaned up after a disaster, that environmental projects that they had participated in were cleaning up arsenic contamination in Paris, Texas, removing and disposing of lead contamination in PCP contaminated oils in Port Arthur, Texas, emergency response services for oil and paint spills in Beaumont, Texas, contaminated drilling pipe in Cincinnati, Ohio, repackaging and over packaging and otherwise handling waste for the Texas Department of Criminal Justice, transporting and disposing of various waste streams such as paint related materials, sodium hydroxide, extraction solvents, gasoline aggregates, oil filters and so forth in Brownwood, Texas for the Texas Department of Transportation, that they provided similar services for the entire Fort Bend Independent School District, that they performed site assessments at Whitley High School for HISD and several other sites. Council Member Todd absent.

A vote was called on Item No. 30 as amended. Council Members Tatro and Sanchez voting no, balance voting aye. Mayor Brown absent on vacation. Council Member Todd absent. ORDINANCE 2001-0659 ADOPTED.

20. ORDINANCE amending Exhibit "A" of City of Houston Ordinance No. 2001-329 by adding Thirty-two (32) Engineer/Operator Positions and Four (4) Captain Positions; substituting the amended exhibit as part of the current Fire Department Classified Personnel Ordinance; providing for severability – was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Member Todd absent. ORDINANCE 2001-0660 ADOPTED.
26. ORDINANCE awarding contract with **ARAMARK FACILITY SERVICES, INC** for Special Events Cleaning for Convention & Entertainment Facilities and Parks & Recreation Departments; providing a maximum contract amount - 3 Years with two one-year options - \$15,457,439.06 General and Enterprise Funds - **DISTRICTS D - BONEY and I - CASTILLO** - was presented, and tagged by Council Member Quan. Council Members Todd, Vasquez and Castillo absent.

CONSENT AGENDA NUMBERS 1 through 39

PURCHASING AND TABULATION OF BIDS - NUMBERS 8 through 12

8. **DAKTRONICS, INC** to Furnish and Install Electronic Message Signs for Convention & Entertainment Facilities Department - \$77,500.00 - Enterprise Fund - was presented, moved by Council Member Sanchez, seconded by Council Member Quan. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Vasquez and Castillo absent. MOTION 2001-0781 ADOPTED.
10. **AMEND MOTION #2001-320, 3/28/01, TO INCREASE** quantity to purchase 16 additional Serologic Test Kits for Health & Human Services Department, awarded to **BIO-RAD LABORATORIES, INC** for a total increase of \$38,319.60 - Grant Fund - was presented, moved by Council Member Sanchez, seconded by Council Member Quan. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Vasquez and Castillo absent. MOTION 2001-0782 ADOPTED.
11. ORDINANCE appropriating \$32,400.00 out of Park Capital Project Fund (Fund 465) to

purchase Sixty Thermoplastic Polycarbonate Sheets for Parks & Recreation Department - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Vasquez and Castillo absent. ORDINANCE 2001-0661 ADOPTED.

- 11a. **GE POLYMERSHAPES** for Purchase of Sixty Thermoplastic Polycarbonate Sheets for Parks & Recreation Department - was presented, moved by Council Member Sanchez, seconded by Council Member Quan. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Vasquez and Castillo absent. MOTION 2001-0783 ADOPTED.
12. **HOUSTON-GALVESTON AREA COUNCIL** for Traffic Signal Preemption Replacement Parts through the Interlocal Agreement for Cooperative Purchasing for the Department of Public Works & Engineering - \$84,980.28 - General Fund - was presented, moved by Council Member Sanchez, seconded by Council Member Quan. Mayor Brown absent on vacation. Council Members Todd, Vasquez and Castillo absent. MOTION 2001-0784 ADOPTED.

ORDINANCES - NUMBERS 18 through 37

18. ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of two portions of West Tidwell Road Street right of way, containing 2,462 square feet of land each, more or less (Parcels S99-027 and SY0-027), both parcels being out of Block 35, Third Subdivision of Fairbanks Suburban Townsite, Harris County, Texas; vacating and abandoning (i) Parcel S99-027 to Karl A. Smith, abutting owner, and (ii) Parcel SYO-027 to Billy D. Green, Sr., abutting owner, in consideration of the payment by each of \$4,924.00 and other consideration to the City - **DISTRICT A - TATRO** - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Vasquez and Castillo absent. ORDINANCE 2001-0662 ADOPTED.
21. ORDINANCE releasing certain territory in **WALLER COUNTY** in the vicinity of the City of Waller, Texas, from the Extraterritorial Jurisdiction of the City of Houston; containing findings and other provisions relating to the foregoing subject; providing for severability - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Vasquez and Castillo absent. ORDINANCE 2001-0663 ADOPTED.
29. ORDINANCE appropriating \$32,937.00 out of Water & Sewer System Consolidated Construction Fund for, and approving and authorizing the purchase from Harris County of a Sanitary Sewer Siphon Easement, for and in connection with the **BUFFALO BAYOU SIPHON PROJECT** located on the north side of Buffalo Bayou between Fannin and Baker Streets; being 4,543 square feet of land, more or less, out of the John Austin Survey, A-1, Harris County, Texas; Parcel DYO-5; CIP R-0018-34-1 - **DISTRICT H - VASQUEZ** - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Vasquez and Castillo absent. ORDINANCE 2001-0664 ADOPTED.
32. ORDINANCE awarding contract to **VARIAN, INC** for Repair and Preventive Maintenance Services for Analytical Instruments for Various Departments; providing a maximum contract amount - 3 Years with two one-year options - \$250,395.00 - General and Enterprise Funds **DISTRICTS D - BONEY; H - VASQUEZ and I - CASTILLO** - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Vasquez and Castillo absent. ORDINANCE 2001-0665 ADOPTED.

37. Omitted

MATTERS REMOVED FROM THE CONSENT AGENDA WERE CONSIDERED AS FOLLOWS:

MISCELLANEOUS

1. RECOMMENDATION from Chief of Police for approval of Law Enforcement Agreement between **HARRIS COUNTY** and **CCIP SECURITY ASSOCIATION, INC** for Law Enforcement Services of 1Lieutenant, 1Sergeant and 8 Deputies from Harris County Constable Precinct 6 - **DISTRICT I - CASTILLO** - was presented, moved by Council Member Sanchez, seconded by Council Member Quan. All voting aye. Nays none. Mayor Brown absent on vacation. Council Member Castillo absent. MOTION 2001-0785 ADOPTED.

ACCEPT WORK

2. ORDINANCE appropriating \$950,000.00 out of Water and Sewer Consolidated Construction Fund, and approving and authorizing compromise and settlement agreement between the City of Houston and **CONSTRUCTORS & ASSOCIATES, INC** to settle a claim arising out of activities financed by the fund - was presented, and tagged by Council Member Keller. Council Member Bell absent.
- 2a. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$38,439,751.11 and acceptance of work on contract with **CONSTRUCTORS & ASSOCIATES, INC** for 611 Walker-Shell, Core and Tenant Improvements, 08.93% over the original contract amount - Enterprise Fund - was presented, moved by Council Member Sanchez, seconded by Council Member Quan and tagged by Council Member Keller. Council Member Bell absent.
3. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$224,260.40 and acceptance of work on contract with the surety, **RANGER INSURANCE COMPANY** for Construction of 1998 Major Thoroughfare Sidewalk Project 26-3, GFS N-0610A-26-3 (26-3) - 06.11% under the original contract amount - Street, Bridge & Traffic Control Fund - **DISTRICT B - GALLOWAY** - was presented, moved by Council Member Sanchez, seconded by Council Member Keller. All voting aye. Nays none. Mayor Brown absent on vacation. Council Member Bell absent. MOTION 2001-0786 ADOPTED.
4. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$292,109.84 and acceptance of work on contract with **JFT CONSTRUCTION, INC** for Construction of 1999 Safe Sidewalk Program, GFS N-0610A-S5-3 (Group 2) - 02.60% over the original contract amount - Street & Bridge Consolidated Construction Fund - **DISTRICT I - CASTILLO** - was presented, moved by Council Member Sanchez, seconded by Council Member Robinson and tagged by Council Member Castillo. Council Member Bell absent.
5. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$369,408.07 and acceptance of work on contract with **PEDKO PAVING, INC** for Construction of the Neighborhoods to Standard Tier VI, Cottage Grove Overlay Project, GFS Q-1145-01-3 (245-98) - 03.48% over the original contract amount - Street & Bridge Construction Fund - **DISTRICT H - VASQUEZ** - was presented,

moved by Council Member Sanchez, seconded by Council Member Parker. All voting aye. Nays none. Mayor Brown absent on vacation. Council Member Bell absent. MOTION 2001-0787 ADOPTED.

PROPERTY

6. RECOMMENDATION from Director Department of Public Works & Engineering for payment of appraisal fees for the **MARKET STREET PAVING PROJECT from North Wayside to Loop 610**, CIP N0611A-34-1 - \$23,000.00 - Street & Bridge Consolidated Construction Fund - **DISTRICT B- GALLOWAY and I - CASTILLO** - was presented, moved by Council Member Sanchez, seconded by Council Member Parker.

Council Member Castillo stated that he had been in conversation with the Director of Public Works and this item begins the process of the pavement of Market Street between North Wayside and Loop 610, that the area was not built up and not developed and was mostly open fields, but it was a direct connection between the heavy truck terminal on McCarty Drive and Wayside, on the other hand Market Street from North Wayside to Lockwood traverses the built up population in Denver Harbor, and he for one could not believe that for all the years that the Market Street Paving Project had been mentioned and discussed in civic clubs has meant the portion from Wayside to Loop 610 where there were no people, that everybody that Mr. Rolan had talked to had said that was what their intent had been all along, however there was some anecdotal data that someone remembered in a civic club conversation a portion of Market Street that traverses Denver Harbor was indeed the subject of discussion, that he would request the administration to really look at whether they were going to spend at least a couple of million dollars to develop a street that was not a major transit street, except for the heavy trucks that were trying to bypass the signals at Wayside and I-10 and the signals at North McCarty and I-10, that Mr. Rolan had said that perhaps the paving of Market Street where it traverses Denver Harbor could be a candidate project, but that obviously was not going to be during his tenure, although he had a lot of faith in Mr. Rolan, but did not have as much faith in the rest of the operation, that he really believed that they were going down an area that had not been well thought through, that he was told that it was part of the ISTEPA projects that TXDOT had approved, and as a member of the Transportation Policy Council of HGHC he knew that projects were plugged into the plan and removed from the plan with equalize, that he intended to vote against the project simply because he thought it was addressing the wrong end of the problem and he hoped that the administration would consider how it was that they were going to justify not paving the part of Market Street that was populated, that if they looked at the CIP book, Project N0611A, it said that project provides for rehabilitation of collector or higher classified streets to be included in TXDOT construction or Dixie, which was a heavily populated neighborhood street, Lyons which was a heavily populated neighborhood street, Shepherd and Market, and of all of these Market was the only one which was not going to go to any populated areas so he thought it was best in error and at worst bad planning.

Council Member Castillo moved to refer Item No. 6 back to the administration, seconded by Council Member Keller.

Council Member Galloway stated that this was a very highly populated street, not just for trucks, that she had been faced with this ever since she had been elected to Council and her constituents that lived in the Pleasantville Community had wheels out of line and out of balance going down Market Street to get to their residence because this was the main thoroughfare to enter into their residence and they had brought this before and that was when TXDOT came in, that every time they had a town hall meeting this was the first question they asked and it was about this particular street and when was it going to be fixed.

After further discussion by Council, a vote was called on Council Member Castillo's motion to refer Item No. 6 back to the administration. Council Member Galloway voting no, balance voting aye. Mayor Brown absent on vacation. MOTION 2001-0788 ADOPTED.

Mayor Pro Tem Boney stated that they would meet with Council Member Galloway and see if they could resolve all of the concerns and bring it back very soon.

7. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Karen Riddle, Able Permits, on behalf of Nancy Nelms Maxwell, for abandonment and sale of a 10-foot wide utility easement and two 5-foot wide aerial easements, all located within Lots 2 and 3, Block 8, Lynn Park Subdivision, Parcels SY1-073A, SY1-073B and SY1-073C - **STAFF APPRAISERS - DISTRICT G - KELLER** - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0789 ADOPTED.

PURCHASING AND TABULATION OF BIDS

9. ORDINANCE appropriating \$282,817.50 out of Fire Consolidated Construction Fund for Enlargement of Overhead Doors, Construction of a Building Addition and Concrete Work for the Fire Department, CIP C-0142 - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. ORDINANCE 2001-0666 ADOPTED.
- 9a. **AAA ASPHALT PAVING, INC** for Construction Work at Fire Station No. 50 for Fire Department \$297,817.00 and contingencies for a total amount not to exceed \$312,707.85 - was presented, moved by Council Member Sanchez, seconded by Council Member Parker.

Upon questions by Council Member Keller, Mr. Haines stated that Building Services was overseeing this, that this was part of the fire departments in-house renovation program but oversight was by the Building Services Department.

Council Member Sanchez stated that when they closed Fire Station Number 1 they had to relocate the personnel, equipment and arson division and asked if they had entered into leases with the property owners for the relocation of those individuals, the arson investigators plus the relocation of the firefighters and equipment, and Mr. Haines stated that he did not know that answer right away but would get that to him.

A vote was called on Item No. 9a. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0790 ADOPTED.

13. **HOUSTON-GALVESTON AREA COUNCIL** for Two Street Sweepers through the Interlocal Agreement for Cooperative Purchasing for the Department of Public Works & Engineering \$171,427.46 - Equipment Acquisition Consolidated Fund - was presented, moved by Council Member Sanchez, seconded by Council Member Quan. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0791 ADOPTED.
14. **HOGAN'S GOLD LABEL, INC** for Beverage, Electrolyte Replenishment for Various Departments \$287,181.88 - General, Enterprise and Fleet Management Funds - was presented, moved by Council Member Sanchez, seconded by Council Member Parker. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0792 ADOPTED.
15. **AMEND MOTION #98-1785, 11/10/98, TO INCREASE** spending authority on award to

EMERGENCY AND SAFETY PRODUCTS by \$189,937.50 from \$759,750.00 to \$949,687.50 for Whelen Light Bars for Various Departments - General and Equipment Acquisition Funds - was presented, moved by Council Member Sanchez, seconded by Council Member Parker. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0793 ADOPTED.

16. **AMEND MOTION #98-1718, 10/28/98** and **MOTION #99-871, 5/19/99, TO EXTEND EXPIRATION** date for five months from October 2, 2001 to March 1, 2002, for Medical, Dental, First Aid Supplies Part I and II for Various Departments, awarded to various vendors - was presented, moved by Council Member Sanchez, seconded by Council Member Parker. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0794 ADOPTED.

ORDINANCES

17. ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of (i) two portions of the Crawford Street right of way containing an aggregate of 66,405 square feet of land, more or less, Parcels SY1-090A and SY1-091; and (ii) two portions of the Clay Avenue Street right of way containing an aggregate of 40,001 square feet of land, more or less, Parcels SY1-090B and SY1-090C; all Parcels located within South Side Buffalo Bayou, an unrecorded subdivision in Houston, Harris County, Texas; vacating and abandoning Parcels SY1090A, SY1-090B and SY1-090C to the City of Houston, as abutting owner; vacating and abandoning Parcel SY1-091 to Harris County-Houston Sports Authority, as abutting owner, in consideration of its agreement to construct and operate a Downtown Multipurpose Arena and Parking Garage - **DISTRICT I - CASTILLO** - was presented, and tagged by Council Members Todd and Castillo.

Council Member Castillo stated that this item began the impact of downtown construction on the east end of town and hoped that they had alternate detour routes properly setup and signed so that travelers who were obstructed on the west part of town would not be blocked in not knowing which way to get around on the east side of town because it seemed like they were blocking all of the sides of town all at the same time and this obstruction was going to be up at least for two years, that given the track record that they had for coordinating their closures he really had a concern whether they had done any good traffic management control plans and would like to know that, that secondly, although it was an item only tangential to this item was the fact that he was advised that construction packages had started to be let out for bids by the Sports Authority and although it was only involving clearing and grubbing and beginning to do demolition and excavation that so far the MWBE participation had been fairly light and would like to know more about what plans there were in place by the Sports Authority to meet those requirements early on and not try to make it up tail end when it was harder to do, that he noted that in correspondence to the Council, somebody requested Mr. John DeLeon with Affirmative Action to let them know what arrangements had been made by the Sports Authority to meet this goals and whether they would be coordinated with their Affirmative Action Division and thought Mr. DeLeon noted in his response that they had not yet been notified just what their role would be in their Affirmative Action policy and implementation, that for all those reasons he thought they needed to know that information, and stated that he intended to tag the item.

Council Member Robinson stated that he hoped they were coordinating all the closures and the like with the Downtown Management District and TranStar and that all of this information was going on the base GIS map that they said they were going to develop as a City so that anybody who wanted access to this information at least they knew there was one place where there was a repository at TranStar on the internet and these sites were all supposed to be linked and if someone could follow up and get back to him to confirm that all of that information was going up

on a timely basis so that the public had access to it, and he thought they needed to do a better job of promoting those sites so folks would know they had access to that information, not only on the net; that he also had the same concerns about minority involvement in the Sports Authority and in fact he clipped an article out of the Dallas morning news last week where they had a front page story on the success of extraordinary level of participation of minority firms in the construction of their arena and the reason he sent it was he wanted to make sure people could not keep using the argument that they could not find qualified people. Council Member Tatro absent.

Mayor Pro Tem Boney stated that he hoped that MTA was also involved with this, that they had a lot of people doing construction in the City and he would agree that they ought to at least do a better job of letting the citizens know what streets were blocked off so they could anticipate alternative routes and directions so they would pass that along. Council Member Tatro absent.

Council Member Sanchez asked who was absorbing the cost of the relocation of the utilities, and Mr. Lewis stated that Reliant thought that the City should pay and the City thinks that Reliant should pay, so they entered into an agreement whereby they were going to relocate them for now and would resolve the payment issue at a later time, that the total estimate cost was approximately \$2 million and thought the cost would be absorbed for the arena and garage by the Sports Authority rather than the City itself, that there were some relocation issues also involving the George R. Brown Convention Center that they did the same thing on which would be something the City would be responsible for. Council Member Todd and Vasquez absent.

Mayor Pro Tem Boney stated that the bottom line was the \$20 million that the City of Houston committed to the Sports Authority for any infrastructure was capped at that amount and anything that exceeded that amount would be absorbed by the Sports Authority so there was no impact, regardless of what the outcome was between Reliant, the Sports Authority and the City, on the General Fund, and Mr. Lewis stated that was correct, that the \$20 million was to cover land acquisition and infrastructure and once they expended the \$20 million they could divide it up any way they wanted. Council Members Todd and Vasquez.

19. ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of a surplus portion of Main Street Loop Road Street right of way, containing 19,143.9 square feet of land, more or less, located in the B.B.B. & C.R.R. Company Survey, A1029, Harris County, Texas; vacating and abandoning said tract of land to Brochsteins, Inc., abutting owner, in consideration of owner's payment of \$23,930.00 and other consideration to the City - **DISTRICT C - GOLDBERG** - was presented, and tagged by Council Member Godlberg.
22. ORDINANCE releasing certain territory in **HARRIS COUNTY** in the vicinity of the City of Tomball, Texas, from the Extraterritorial Jurisdiction of the City of Houston; containing findings and other provisions relating to the foregoing subject; providing for severability - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. ORDINANCE 2001-0667 ADOPTED.
23. ORDINANCE approving and authorizing amendment No. 3 to lease agreement between **FRAYDUN ENTERPRISES**, as landlord, and the City of Houston, Texas, as tenant, for space at 3838 North Sam Houston Parkway East, Houston, Texas, for use by the Houston Airport System **DISTRICT B - GALLOWAY** - was presented.

Council Member Keller stated that he wanted to compliment both entities that negotiated the leases, the Airport System and Building Services, that the RCA's were very thorough and concise.

A vote was called on Item No. 23. All voting aye. Nays none. Mayor Brown absent on vacation. ORDINANCE 2001-0668 ADOPTED.

24. ORDINANCE approving and authorizing lease agreement between **PINEMONT GPI, LTD**, as landlord, and the City of Houston, Texas, as tenant, for space at 4501 S. Pinemont Drive, Houston, Texas, for use by the Finance & Administration Department - **DISTRICT A - TATRO** - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. ORDINANCE 2001-0669 ADOPTED.
25. ORDINANCE approving and authorizing application for grant assistance from the Texas Parks and Wildlife Department for the Development of E. R. and Ann Taylor Park; declaring the City's eligibility for such grant; authorizing the Director of the Parks & Recreation Department to act as the City's representative in the application process; authorizing the Director of the Parks & Recreation Department to accept such grant funds, if awarded, and to apply for and accept all subsequent awards, if any, pertaining to the program - **DISTRICT D - BONEY** - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. ORDINANCE 2001-0670 ADOPTED.
27. ORDINANCE appropriating \$499,181.46 out of Reinvestment Zone Number Four, City of Houston, Texas (Village Enclaves Zone) Tax Increment Fund (Fund 908) for payment to **ENCLAVE PARTNERS, LTD** for Reimbursement of costs associated with Public Improvements in the Village Enclaves Zone pursuant to the Public Improvements Development Agreement between the City, the **VILLAGE ENCLAVES ZONE** and **ENCLAVE PARTNERS, LTD. DISTRICT G – KELLER** - was presented, and tagged by Council Member Keller.

Council Member Robinson stated that he wanted some information or clarification on Item No. 25, that he had been informed by a couple of people that there was a past master plan submitted to the Texas Department of Parks and Wildlife and he did not know if that was true or not and wanted to find out if someone had ever submitted something.

Council Member Keller stated that on Item No. 27 he would like a breakdown of the \$1.6 million, which was the submission that that developer made for the developers cost, and would like to know a list of the board members of the TIRZ, just so they would know that it represented a cross section of the community.

- 27a. ORDINANCE approving and authorizing Public Improvement Development Agreement between the City of Houston, **REINVESTMENT ZONE NUMBER FOUR, CITY OF HOUSTON, TEXAS (VILLAGE ENCLAVES ZONE)**, and **ENCLAVE PARTNERS, LTD.**, for the Design, Construction and acquisition of certain Public Improvements and for certain other project costs in the Village Enclaves Zone; providing for the reimbursement of previously expended or committed project costs - **DISTRICT G – KELLER** – was presented, and tagged by Council Member Keller.

Council Member Parker moved to consider Item Numbers 46 and 46a out of order, seconded by Council Member Robinson. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0795 ADOPTED.

46. WRITTEN Motion by Council Member Tatro to amend the first paragraph and Section 2-451 of Item 46A below - **TAGGED BY COUNCIL MEMBER TODD** – was presented as follows:

The first paragraph of the Ordinance shall be amended to read:

“Whereas, the City of Houston seeks to provide an environment that is free of any type of discrimination by the City; and”

Section 2-451 shall be amended to read:

Sec. 2-451. Definitions

“As used in this article, the following words and terms shall have the meanings ascribed to them in this section, unless the context of their usage clearly indicates another meaning:

City employment and employment opportunities shall include City job application procedures, recruitment, referrals for employment, selection and hiring, placements, compensation, promotions, demotions, transfers, layoffs, recalls, training, educational opportunities and all forms of discipline, including indefinite suspensions/terminations.

Discriminate, discriminates, discrimination shall mean to distinguish differentiate, separate or segregate to either the advantage or disadvantage of any person, except as required by federal or state law or court order.”

Council Member Parker stated that she had an amendment to the main ordinance, Item No. 46a, which had been distributed on her letterhead, that it removes or strikes the words “or any other status” from the preamble and again under the definition of *discriminate*, *discriminates*, *discrimination* in the proposed ordinance, that she did not know why that wording was included in the original ordinance and some questions were raised to her and she discussed it with the Legal Department and felt that it added some vagueness to what they were trying to achieve and since they seemed to feel that it was not necessary to the ordinance she was asking that the phrase, both times that it occurred, be removed, that there was also an interoffice memo from Mr. Paul Bibler to the City Attorney that had been distributed at the table and addressed Council Member Tatro’s motion which in brief strips the list of protected persons from the proposed ordinance and she would like for Council Members to have a chance to look over this memo before they address Council Member Tatro’s motion, that she would move her amendment at the proper time.

Council Member Robinson stated that he had a chance to look over Mr. Bibler’s memo and was in agreement with the thrust of his memo, and would like to ask Council Member Tatro if he would accept a friendly amendment to his alteration in the definition of *discriminate*, *discriminates*, *discrimination* in Section 2-451, that on the second page of Mr. Bibler’s memo it read in the last paragraph second sentence, “Council Member Tatro’s amendment would presumably retain the underlying proposal’s intended protection on the basis of race, sex, color, sexual orientation and other statuses, but it would disallow legitimate types of discrimination on the basis of other factors that are an accepted part of the City’s employment, business and service delivery practices.”, so he asked Council Member Tatro if he would accept as a friendly amendment to *discriminate*, *discriminates*, *discrimination*, remove the period after court order and insert “or legitimate types of discrimination on the basis of other factors that are an accepted part of the City’s employment, business and service delivery practices.”, that essentially transporting Mr. Bibler’s language into his amendment.

Council Member Tatro stated that because of some parliamentary issues working forward he would second his amendment and accept the amendment but not as a friendly amendment to the body of his, that he would second the amendment to stand by itself, to make the

amendment actually on his, but as a separate amendment.

Council Member Parker stated that if he was placing an amendment she was going to tag the amendment, and Mayor Pro Tem Boney stated that they had plenty of time to tag the amendments and lets make sure that they understood what all they were talking about, and Council Member Robinson stated that he was just in the position where Council Member Parker was, that he was not opposed to the tag, but he just wanted to be clear that they first had to deal with Council Member Tatro's amendment on Item No. 46, then Council Member Parker had an amendment that would follow, and then he had an amendment that would follow hers, and Mayor Pro Tem Boney stated that they would get everything out on the table and not preclude that happening, that they were not making any amendments just yet.

Council Member Todd asked Council Member Robinson if in his amendment today, for the purposes of legislative intent, he was not seeking to change any of the at will employment rules for executive level employees, that was not the intent, that his intent was elsewhere, and Council Member Robinson stated that his intent was to be consistent with the City Attorney's memo and he was reading his memo as saying that consistent with all the prevailing rules and regulations relative to employment he did not want Council Member Tatro's as it now stood to tie the administration's hands or future administrations hands in those areas in terms of at will and that was why he used the language "legitimate types of discrimination on the basis of other factors that are an accepted part of the City's employment, business and service delivery practices", so he was correct that this amendment would not change those practices but would make clear, for legislative intent, that those practices could continue to exist in the City.

Council Member Todd stated that for the purposes of the legislative intent he would like to request that that question and answer period be specifically put in the record for today's minutes, and asked Mr. Hall, again on legislative intent grounds, that memo that went from Mr. Bibler to him, since it discusses some of Council Member Tatro's language, there was one section here that stated that presumably it would retain the underlying proposals intended protection, if he was silent on the memo that did not mean that he agreed with it, and Mr. Hall stated that he asked Mr. Bibler to research some of these issues, at the request of several Council Members, to try to explain the impact of the amendment that Council Member Tatro was offering, that obviously as he read this he understood that they could not answer some of the questions about his intent, that was why he said presumably, and Council Member Todd stated that he understood, but he thought the point was that if their presumption was not addressed or reputed at the Council table it did not mean that they were agreeing with their presumption and he did not think that anybody else around here was agreeing with it either, and Mr. Hall stated that his assumption was that the matter would be discussed when Council Member Tatro gets to discuss his amendment, and Council Member Todd stated that was his assumption to, but if it was not discussed he did not want, for the purpose of the record, for it to appear that he was agreeing with anything in the memo or disagreeing with anything, that he was neutral on it, and Council Member Todd stated with regards to the actual memo and would ask the same questions that he asked Council Member Robinson, that the affect of the agenda item itself, currently with City employees they had Civil Service and then they had executive level non civil servant employees and asked if that was correct, and Mr. Hall stated among those yes they did, and Council Member Todd asked that for the executive level employees here, those employees were all subject to at will employment law, and Mr. Hall stated that as the rules for public employees would apply, yes, and Council Member Todd asked if it was still a different standard than they would have for civil servants, and Mr. Hall stated yes, that civil service employees were governed by a specific set of rules that had been adopted by the Civil Service Commission, and Council Member Todd asked with the exception of the items that had been forth in the agenda item and the amendments then, with the exception of those items, could he think of any other changes to the at will employment doctrine that would exist for executive level employees, and Mr. Hall stated that he was not sure

he understood the question, and Council Member Todd stated that currently for at will they could basically fire somebody for any reason they wanted as long as it was not an immutable characteristic essentially, would this item change that at all for executive level employees, and Mayor Pro Tem Boney asked if the memorandum from Mr. Bibler or any of the ordinances or amendments that were contemplated change the status of how at will employees, executive level employees were handled by the City, and Mr. Hall stated that only to the extent, if he understood the question, only to the extent that the prohibited list of causes would be added to by this provision, and Council Member Todd stated that they he thought they were on the same page, and again for the purposes of the record he would like to request that that question and that answer to the extent it could be interpreted be put in the minutes specifically, that he thought it was a real important point to be in the record regardless of where this item went, and Mayor Pro Tem Boney stated that it was so.

Council Member Bell stated that he took it from reading the memo that part of the problem was that the ordinance had to be specific as to who they were preventing discrimination against, and Mr. Hall stated that he would have Mr. Bibler make some comments, but he would make his first, that this area was a very precise area in the law and they had tried to assure that they did not offend any of the litigated collateral issues related to this, that there were deep concerns they had that if they phrased it in the way that Council Member Tatro had addressed it that they discriminated even in pay to City employees, that it could be construed and suggested that they could not discriminate even in pay, that they obviously had all kinds of areas that could be described as discrimination in that they treat people differently, that it made all of them very uncomfortable because it would have them doing something that they law had not defined, that Mr. Bibler could answer with some more detail but that was the nature of the concern about an amendment such as this, that none of them knew what it would do or what the impact might be.

Council Member Bell asked if they were to add the language that Council Member Robinson requested, basically they would add the last sentence to allow for that type of discrimination, and Council Member Robinson asked if he meant differentiation, in terms of the pay scale, and Council Member Bell stated that on the basis of other factors that were an accepted part of the City's employment and business, and would that be the substance of his amendment, and Council Member Robinson stated yes, and Council Member Bell asked Mr. Hall or Mr. Bibler, would that not, if their goal was specificity, just in looking at that for the first it seemed that it would be fairly broad in and of itself, if they said that they could discriminate against people on the basis of other factors that were an accepted part of the City's employment, business and service deliver practice did they get into a specificity problem again or did that cure the problem, and Mr. Bibler stated that this was a kind of grand experiment that they were embarking upon and thought they would be much more comfortable if following traditional practices and concepts in saying what they wanted to do rather than in a very vague way saying what they did not want to do, but they would deal with that if it happened but not to be surprised if there was some unintended consequences that those of them sitting at the table here today could not think of, and Council Member Bell stated that he pointed out in his memo that "The City discriminates in many non protective status aspects of its practices with respect to employment, contract and service delivery", so there were many instances where there were going to be certain factors and he articulated some of those, and Mr. Hall stated yes, that the problem was that the list was not exhausted and the area of concern was not exhausted, that because this was so non classic in the way that it addresses the issue it was difficult to know what the impact was, that this area, as he knew, had been litigated extensively, which was why they chose to go the legitimate route in doing that so they would know what the meaning was, and Council Member Bell stated that he trusted that in drafting the ordinance a great deal of research did go into it to make sure that it would be upheld in court, and Mr. Hall stated that for the intent that the ordinance stated.

Council Member Castillo asked if Council Member Robinson's intended language could be flushed out and included in an amendment either by him or the Legal Department so that they would know exactly what they were voting for and at what place, and Mr. Hall stated that it kind of begged the question, that the problem was that he approaches the intent from a totally different direction and perspective that was non traditional, that nobody that they knew of had ever done before, that if the intent was to add this as an area for which the City would not discriminate they thought that they ought to do that directly as they had done before, that approach had been tested and had legal history and was understandable in a legal context, that it was impossible to truly understand, and Mr. Bibler had described it as a grand experiment, to know what the precise result was, approaching it from the other direction, and Council Member Castillo stated that he guessed that Council Member Tatro was the only one who could answer that, whether he could put it in an affirmative language as opposed to the way he had done it now, so they could consider it and know what they were voting on, that he really could not put his mind around what it was that he was trying, and Mr. Hall stated that was part of the challenge for them because some of the questions he had been asked were what did he intend, and he did not know what he intended, that he had to tell them what he intended.

Council Member Sanchez stated that the question he had was what was the history associated with the current Council action, and that was statistically how many causes of action had been brought against the City for discrimination under the proposed amended language, and Mr. Hall stated that obviously the proposed amended language did not exist right now so one could not have brought a complaint, and Council Member Sanchez asked the original ordinance then, and Mr. Hall and Mayor Pro Tem Boney stated that there was no ordinance now that prohibited discrimination, that this was a new ordinance, and Council Member Sanchez stated that the question was then how many cases had been brought against the City that had brought this item to the floor on the agenda, and Mr. Hall stated that how many complaints based on discrimination, because of sexual orientation, and was that what he was asking, and Council Member Sanchez asked how many lawsuits did he know of that the City had been engaged in because of discrimination for sexual orientation or gender identification, and Mr. Hall stated that in his recollection none, and he needed to explain, because now there was nothing in the City ordinance that prohibited it, so one could not argue that they had violated any of their rules, civil service or otherwise, and Council Member Sanchez asked as to complaints, did they have any data that suggested that they had X number of people that had complained because they had not been hired because of the following, and Mr. Hall stated that it was all anecdotal because part it, least the argument of those who were deeply concerned about this, was that one risked being terminated or adversely impacted if they raised such an issue and that was part of the problem, and there was no prohibition against it right now, that there was no statistical data that would be reliable for any of them, that it was all anecdotal, and Council Member Sanchez asked how did this come to the forefront, and Mr. Hall stated that the administrations position had been made very clear, that the administration had said that it did not believe that the City ought to discriminate on the basis that in any way related to sexual orientation and issued an executive order to do that, as they were aware, and that was challenged in court and that challenge was not successful, that the Mayor had indicated publicly that he was concerned and that it ought to be such a fundamental position of City government that it ought to be in the City Code as a City ordinance so that it would not be subject to the whim of Mayors, that this Council ought to vote on and endorse such a policy, that was what brought this to Council. Council Member Castillo absent.

Council Member Quan asked if it was correct that sexual orientation was not a protected class under federal law, and unless it was spelled out, just to say they were not going to discriminate and follow federal law that did not provide any protection, and Mr. Hall stated absolutely not, and they had tried not to say this and he and Mr. Bibler had been discussing it, but right now if there were an employee of any one of the Council Members, who for instance, first

time revealed that they were Gay or Lesbian and that Council Member would say they were going to fire them there was no legitimate basis now to have that overturned, and Council Member Quan stated that even though Council Member Tatro's proposal seemed more inclusive and universal, "they would not discriminate against anybody for any reason and if it violated a law then they would abide by that", it really did not protect people, and Mr. Hall stated that they did not think it did much of anything other than create colossal confusion but he did not want to put it that way, and Council Member Quan stated that he was confused but wanted to make sure that was how he was reading it too, that even assuming they adopted Council Member Robinson's amendment to Council Member Tatro's proposal where it talked about "legitimate types of discrimination on the basis of other factors that were accepted as part of the City employment practice", that again did not address the issue because it was not something that they recognized as a protected class as it was, and Mr. Hall stated that the problem was, he thought, very direct, that this proposed ordinance had a preamble with a specific purpose that was stated and that was "to assure that the City of Houston would not allow persons to be discriminated on for sexual orientation and related issues", that was what it was all about, and Council Member Quan stated that was how he saw it, whether they wanted to sugar coat it or say it was something else, that was basically what they were talking about today, and he thought while it seemed they enlarged the scope of protection they were in fact diminishing it, and Mr. Hall stated because they did not recognize that today in anything, and Council Member Quan stated that the courts would not enforce a law that was not specific, in his opinion, and Mr. Hall stated that he was exactly correct, but would merely say that the Mayor had issued an executive order but that was controlling only to the extent that he could enforce it through his administration, that it was not a law, that if Council Member Parker's proposed amendment was adopted, he thought it would make it crystal clear, because it would remove any of the subterfuge discussion about what other status they were talking about.

Council Member Vasquez stated that Mr. Hall had talked about Council Member Tatro's intent and asked how it was germane to the actual ordinance itself, and Mr. Hall stated that the way that Council Member Tatro had approached this was not a way that had been addressed in law, that he was aware of, before, so that the issue of what it was intended by this body and the author then became a very relevant issue for trying to cut new ground, that he could not speak to what Council Member Tatro was trying to do and was obviously one of the issues that would later be determined and that was what Council Member Todd was attempting to get into the record so that it would be there; that this proposed to add from the City government perspective a specific list of status that they could not be discriminated against in the way they administered their employment system and the way that they administer their contracting, that it had to be very specific because it would form the basis of a legal right that people could indeed go to court on if it were transgressed, that clearly if they passed the proposed amendment as it was introduced it would form the basis of a right that people had not to be discriminated against based on sexual orientation and related issues, that there was no precedent for the way that Council Member Tatro proposed to approach this issue so nobody could say with great precision how it would work, which was why his intent became important. Council Member Goldberg absent.

After further discussion Council Member Keller stated that he really thought this Council was making a great attempt to not discriminate against any person for any reason and moved to call the question, seconded by Council Member Ellis. Council Member Goldberg absent.

Council Member Todd asked for a point of order and stated that he believed that the proper rule was that although Council Member Tatro made the motion and certainly his explanation of intent was important, actually it was the intent of anyone who voted for his proposal, and they had several people around the table who were probably going to vote for it and had not spoken on the issue, that he had already explained what his intent was on it clearly and asked to have it put on the record, so as a point of order he wanted to point out that he may not have spoken on it

directly but there had been proponents on it who had spoken and indicated where they were coming from.

Council Member Castillo asked for a point of information, that the question had been called for, which meant that Council Member Tatro's amendment was up and asked if that meant that they were going to vote it up or down, because they had agreed previously when the discussion began that they would lay out all the amendments before they took action on any of them, and Council Member Robinson stated that was not his understanding, that he thought they were going to vote on and dispose of Council Member Tatro's amendment and then Council Member Parker would lay out her amendment and it would be disposed of, and then he would lay his amendment and it would be disposed of, and Council Member Keller stated that he withdrew his motion to call the question.

Council Member Galloway moved to call the question, seconded by Council Member Ellis. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0796 ADOPTED.

A roll call vote was called on Item No. 46.

ROLL CALL VOTE:

Mayor Brown absent on vacation	Council Member Vasquez voting no
Mayor Pro Tem Boney voting no	Council Member Castillo voting no
Council Member Tatro voting aye	Council Member Parker voting no
Council Member Galloway voting no	Council Member Quan voting no
Council Member Goldberg voting aye	Council Member Sanchez voting aye
Council Member Todd voting aye	Council Member Bell voting no
Council Member Ellis voting aye	Council Member Robinson voting aye
Council Member Keller voting aye	MOTION 2001-0797 FAILED

Council Member Robinson stated that in light of the failure he did not have any amendment to place on the table and hoped they would move to Council Member Parker's amendment.

46a. ORDINANCE amending **CHAPTER 2 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, by adding a new article prohibiting discrimination by the City in employment, contracting opportunities, facilities use, and services delivery; containing findings and other provisions relating to the foregoing subject; providing for severability – **(This was Item 26 on Agenda of July 3, 2001, TAGGED BY COUNCIL MEMBERS TODD and TATRO)**

Council Member Parker stated that she wanted to move her amendment, that it was actually a follow up to the discussion of Council Member Tatro's amendment which was that it was too broad, that she was actually endeavoring to narrow the ordinance that was before them by removing the phrase "or any other status", and would urge a yes vote, and presented the following amendment to Agenda Item No. 46a

"I move to amend Agenda Item 46 a by striking the words "or any other status" from the first paragraph of the preamble and from the definition of the term discriminate, discriminates, discrimination, as set forth in the proposed City Code Section 2-451."

Mayor Pro Tem Boney stated that the amendment by Council Member Parker would remove four words from the ordinance, " or any other status", that would not be part of the ordinance and other than that the ordinance would remain the same, and Council Members Ellis and Tatro tagged the amendment.

Council Member Robinson stated that he did not want to play lawyer at the table, but

thought they clearly had a basic misunderstanding about statutory law and statutory interpretation and thought they ought to vote in support of Council Member Parker's amendment, that this was a civil statute for purposes of application of the ordinance.

Council Member Castillo moved to stay in session past the noon hour to complete the agenda, seconded by Council Member Quan. All voting aye. Nays none. Mayor Brown absent on vacation. MOTION 2001-0798 ADOPTED.

Mayor Pro Tem Boney stated that by passing the ordinance that the administration was offering, that specifically speaks to non discrimination against persons based upon their sexual orientation, the Council would not be bound in the matter of domestic partner benefits, that was a separate matter that would have to be taken up by a separate ordinance, that this really governs the issue of employment, termination and discipline and that was really what the fundamental area was, how would they do that most directly, clearly and publicly or not.

Council Member Sanchez moved to amend Item No. 46 to provide that not only can the City not discriminate against anyone but would treat everyone the same, seconded by Council Member Todd, and after further discussion the proposed amendment was tagged by Council Member Castillo.

Item No. 46 was again before Council and tagged by Council Members Ellis and Vasquez.

Council Member Robinson stated that he intended to vote for the main item, that if this was such an important issue to some of the people who were now hurling stones at trying to be clear and make sure they all understood, his fundamental belief was that this item could have passed in 1998 when they were first sworn in and had the old Council by a majority vote, that this was now 2001 and why now did it become such a magical issue, that the same way the Mayor signed an executive order he could have brought an ordinance to Council and it could have been supported by the full Council, that they may disagree that they had a majority vote but he still thought they had eight votes on the old Council that would have supported this ordinance back in 1998, that he had been on the record against non discrimination. Council Member Todd absent.

Mayor Pro Tem Boney stated that his remarks were simply to make sure that people did understand that the two issues of domestic partnership and non-discrimination were not linked, that they would require two separate actions by Council and that this action would not automatically grant domestic partner status without speaking to whether Members of Council should or should not or do or do not favor such a proposal. Council Member Todd absent.

Council Member Parker stated that she appreciated all the rhetoric around the table and appreciated the discussion, that it had been interesting and informative to her, but this was an issue that she lived with and dealt with everyday and was an issue that she had been living with for about 30 years and to have a colleague imply that there was something sinister about it when it came up, yes, she thought they could have passed this in 1998 but did not know whether they could have had more votes in 1998 and unfortunately she thought there was going to be some votes against it this time, and she thought that her colleagues should be ashamed to look her in the eye if they vote against this ordinance in two weeks when it comes back up, but the reason that this issue had been delayed was strictly and solely because of a lawsuit by a colleague, that again she hesitated to use the word colleague, but by a Council Member who said it was litigated because he did not believe the Mayor had the authority and it had nothing to do with the underlying issue, that she did not believe him now and did not believe him then, that this issue came forward immediately after that lawsuit had traveled its course, that she would have been happy to bring this item forward in 1998, 1999 or 2000, that now was the appropriate time to bring it forward and finish it and establish henceforth that the City did not discriminate in addition

to the other basis on which it did not discriminate on the basis of sexual orientation and gender identity, that yes at the appropriate time she thought this Council should also vote on domestic partners benefits, and here she and Council Member Robinson disagree very fundamentally on who those benefits should be available to and how they should be structured, but that was a different debate for a different date and had nothing to do with what they were doing here, that she looked forward to taking this issue up again in two weeks, and trusted that whether or not they had a unanimous vote they would have a strong vote that would establish finally and unequivocally that this City did not discriminate on the basis of sexual orientation or gender identity and that the only criteria for a job in the City of Houston should be the ability to do that job for the City of Houston. Council Member Todd absent.

Council Member Robinson stated that he was not accusing Council Member Parker or anybody of being sinister, that he was just simply making a point that there should have been more confidence in Council Members back in 1998, and just so it was clear he knew that she said she would have brought it up, but the truth of the matter was that she like he did not have the authority unless they called a special session to bring it up, and he knew that Council Member Todd had sued, but they were also called on by this administration as Members of Council to vote in support of Main Street Rail even though there was a pending lawsuit, and that was his only point. Council Member Todd absent.

Mayor Pro Tem Boney stated that the Item had been tagged. Council Member Todd absent.

28. ORDINANCE approving and authorizing compromise and settlement agreement between the City of Houston and **YVONNE SPIVEY-PARKER** to settle a lawsuit - \$50,000.00 - Property and Casualty Fund - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd and Parker absent. ORDINANCE 2001-0671 ADOPTED.

31. ORDINANCE appropriating \$990,000.00 out of Water & Sewer Consolidated Construction Fund and approving and authorizing contract between the City of Houston, Texas and **SOUTHEAST KELLER CORPORATION** for Plastic Meter Box and Cover Installation for the Public Works and Engineering Department, CIP S-0960-02-5; providing a maximum contract amount - 1 Year with two one-year options - \$3,831,375.00 – was presented.

Council Member Castillo stated that he was going to tag the item and the reason was that the backup stated that they were replacing current meter boxes with plastic meter boxes and his experience was that most of the meter boxes in the City were cast iron or some other type of metal and he did not know why they were replacing metal boxes with plastic meter boxes and exactly whether they were replacing them all over town, and he wanted to know what the reason was, and Mayor Pro Tem Boney stated that they would get that information to him. Council Member Todd and Parker absent.

Council Member Goldberg moved to suspend the rules to hear Ms. Karen Philipi, Water Department, relative to Item No. 31, seconded by Council Member Robinson. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd and Parker absent. MOTION 2001-0779 ADOPTED.

Council Member Goldberg stated that he had the same question as Council Member Castillo and he found out that what they were replacing was the automatic meter reading system, the computerized meter reading system, that he wanted to compliment the administration for going ahead and moving this forward and spending the money because the AMR's (automatic meter readers) saved the City so much money and thought that they needed

to move forward and have as many of the meters in the City automated as soon as possible, and Council Member Castillo stated that he agreed with him and supported the automated meter that could be read remotely and if that was the case then the RCA was misleading because it said they were replacing the plastic meter box. Council Member Todd, Vasquez, Parker and Sanchez absent.

Ms. Philipi stated that she thought the RCA may be misleading, that the purpose for the item before Council was to install the meter boxes that they use, that they were not in a campaign to replace the meter boxes that were functioning properly, that they were leaving the cast iron or concrete boxes that were in good condition, but when they went to an installation to install the automatic meter reading they were making sure that the box they left was up to standard, at grade, at level, that the lid fit tightly and so forth, that in many cases they could use the new plastic boxes instead of the cast iron boxes, that they had done extensive testing and actually had concrete, cast iron, fiberglass and plastic boxes and they use them depending on the application and where they were going to be, that obviously they wanted a durable box that was going to stay there for 20 to 25 years and in a lot of cases a plastic box did a very good job for them, that the iron shell, in some cases, inhibited the ability of the meter box to transmit, that sometimes they were able to put the antenna on the top of the box and in that case it did not interfere with the transmission, that they do not change the iron box just for the sake of the AMR, they can use the iron box with the AMR, but when they go out there and find that the box was not in the condition then they were changing it out and frequently they were changing it with a plastic box, because the plastic and fiberglass boxes were holding up very well. Council Member Todd, Vasquez, Keller, Parker, Sanchez and Robinson absent.

Council Member Castillo stated that he removed his tag because he supported the automatic reading program and they needed an RCA writing program.

A vote was called on Item No. 31. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Keller, Vasquez, Parker, Sanchez and Robinson absent. ORDINANCE 2001-0672 ADOPTED.

33. ORDINANCE appropriating \$35,197.39 out of Water & Sewers System Consolidated Construction Fund and approving and authorizing Developer Participation Contract between the City of Houston and **PROTERRA-PCP PORTFOLIO I, L.P.**, for construction of Water & Sewer lines along Okenella Street, CIP S-08000-33-03 and R-0800-39-03 - **DISTRICT A - TATRO** - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Keller, Vasquez, Parker, Sanchez and Robinson absent. ORDINANCE 2001-0673 ADOPTED.
34. ORDINANCE approving and authorizing amendment to Water Supply Contract between the City of Houston and **NOLTEX, L.L.C.** - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Vasquez, Parker, Sanchez and Robinson absent. ORDINANCE 2001-0674 ADOPTED.
35. ORDINANCE approving and authorizing amendment to Water Supply Contract between the City of Houston and the **CITY OF PEARLAND** - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Vasquez, Parker, Sanchez and Robinson absent. ORDINANCE 2001-0675 ADOPTED.
36. ORDINANCE appropriating \$346,000.00 out of Street & Bridge Consolidated Construction Fund and approving and authorizing amendment to professional services contract (approved by Ord. 99-0004) between the City of Houston and **WALTER P. MOORE & ASSOCIATES, INC** for the Design of Little York Road Paving from Airline Drive to Hardy

Toll Road, CIP N0531-01; providing funding for contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund - was presented, and tagged by Council Member Keller. Council Members Todd, Vasquez, Parker and Sanchez absent.

38. ORDINANCE appropriating \$2,250,820.00 out of Water and Sewer System Consolidated Construction Fund, awarding contract to **KINSEL INDUSTRIES, INC** on low bid of \$1,973,710.00 and approving and authorizing professional services contract for engineering testing services with **HBC ENGINEERING, INC** in the amount of \$60,000.00 for Relief Sewer Project; Drexel Drive, Pelham Drive, South Shepherd Drive and Woodbine Street, GFS R-2011-22-3 (WW4763-02); providing funding for contingencies relating to construction of facilities financed by the Water and Sewer System Consolidated Construction Fund - **DISTRICTS C - GOLDBERG; D - BONEY; E- TODD; and G - KELLER** - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Vasquez, Parker and Sanchez absent. ORDINANCE 2001-0676 ADOPTED.
39. ORDINANCE appropriating \$4,002,828.28 out of Water and Sewer System Consolidated Construction Fund, awarding construction contract to **KINSEL INDUSTRIES, INC** on low bid of \$3,393,764.00 and approving and authorizing professional services contract for engineering testing services with **ATSER, L.P.** in the amount of \$100,000.00 for Sanitary Sewer Rehabilitation by Sliplining and Pipe Bursting Methods, GFS R-0266-23-3 (4257-29); providing funding for contingencies relating to construction of facilities financed by the Water and Sewer System Consolidated Construction Fund- was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Parker and Sanchez absent. ORDINANCE 2001-0677 ADOPTED.

NON CONSENT AGENDA - NUMBERS 40 and 41

MISCELLANEOUS

40. RECEIVE nominations for Position Three on the **PORT OF HOUSTON AUTHORITY OF HARRIS COUNTY** for a term to expire two years from date of appointment - was presented. Council Members Todd, Parker and Sanchez absent.

Mayor Pro Tem Boney stated that he passed out to Members of the Council a memorandum and resume of Mr. Kase Lawal who was the current appointee to the Post of Houston Authority and also served as the vice chair and respectfully asked for support for his reconfirmation. Council Members Todd, Parker and Sanchez absent.

Council Member Ellis moved to close nominations, seconded by Council Member Tatro. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Parker and Sanchez absent. MOTION 2001-0800 ADOPTED.

PROPERTY

41. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Mark S. Brown of Prejean & Co., Inc., on behalf of the Foundation for DePelchin Children's Center, a Texas non-profit foundation (Gary L. Duke, president), for abandonment and sale of a 15-foot wide utility easement, from Sandman Street to be previously abandoned Bethje Street, adjacent to Lots 1 through 10, Block 5-B, Brunner Addition, Parcel SY1-078 - **APPRAISERS - DISTRICT H -**

VASQUEZ - was presented. Council Members Todd, Parker and Sanchez absent.

Council Member Vasquez named Mr. Frank D. Flores and Cushman & Wakefield as appraisers and moved adoption of the recommendation and appointment, seconded by Council Member Tatro. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Parker and Sanchez absent. MOTION 2001-0801 ADOPTED.

MATTERS HELD - NUMBERS 42 through 48

42. MOTION by Council Member Boney/Seconded by Council Member Sanchez to adopt recommendation from Finance & Administration Department to award **ENTEX FUELS, INC** for Compressed Natural Gas (CNG) from the State of Texas General Services Commission's Contract for Various Departments - \$25,000.00 – (**This was Item 13 on Agenda of July 3, 2001, TAGGED BY COUNCIL MEMBER QUAN**) - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Parker and Sanchez absent. MOTION 2001-0802 ADOPTED.
43. ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of a portion of Fountainview Drive right-of-way containing approximately 9,843 square feet of fee owned land in Parcel S97-082 and 10,358 square feet of fee owned land in Parcel S97-083, being out of Glenhaven Estates, Section 2 Subdivision, Harris County, Texas; vacating, abandoning and authorizing a Special Warranty Deed conveying said tracts of land to Kim Angel Iglesia, Miriam Iglesia and Gregory Iglesia, and the Iglesia Family Trust, the abutting owners, in consideration of owners' payment of \$118,116.00 for Parcel S97-082 and \$124,296.00 for Parcel S97-083 and other consideration to the City - **DISTRICT C - GOLDBERG** – (**This was Item 19 on Agenda of July 3, 2001, TAGGED BY COUNCIL MEMBER GOLDBERG**) - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Parker and Sanchez absent. ORDINANCE 2001-0678 ADOPTED.
44. ORDINANCE amending **CHAPTER 47 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to Water Emergencies; containing findings and other provisions relating to the foregoing subject; providing for severability – (**This was Item 24 on Agenda of July 3, 2001, TAGGED BY COUNCIL MEMBERS CASTILLO, TATRO, KELLER and TODD**) - was presented. Council Members Todd, Parker and Sanchez absent.

Council Member Tatro stated that this was the Water Conservation Ordinance amending Chapter 47 and his concern was as before, that he appreciated the administration moving forward with the changes, that it deleted a lot of the problems that they ran into before and he was submitting an amendment to the ordinance as it was written, that his concern with the ordinance as it was now was when the penalty phase kicks in, that they do pass notification onto residents by obviously coverage in the media, although that was not codified, but many people simply did not understand, number one the ordinance itself and number two often times did not even know the ordinance and the levels were in effect, so the entire thrust of his amendment was notification to constituents and rate payers of the City of Houston to make sure that they knew that the ordinance was in effect, because the first violation was \$150 penalty and it could be simply that their sprinkler system was on, and he thought they needed to work with the residents to notify them, that he thought the City had an obligation for proper notification and that was not in the ordinance, and he was offering the following written amendment:

Motion to amend Section 47-242 (Penalties) - Amending the sentence for (1) only:
Sec. 47-242. Penalties.

- (1) If city personnel have previously notified the violator, and the violator has not previously been convicted of violating any provision of this article:

Council Member Tatro stated that what he was trying to accomplish was notification to the constituent before they dropped a \$150 fine on them and asked for Council Members support.

Council Member Tatro moved to suspend the rules to hear from Mr. Carl Lowery, Water Department, at this time, seconded by Council Member Robinson. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Parker and Sanchez absent. MOTION 2001-0803 ADOPTED.

Mr. Lowery stated that the department did have some reservations about Council Member Tatro's amendment and one of the primary changes as they were proposing it was a heavy duty notification process in what was now proposed to be Stage 1 and that stage had no fine provision in it, that it was a heavy public information and education notification process and they intended to incorporate in that stage things such as inserts and bills and making sure that they give out literature at Council District meetings or any other gatherings and just making sure that the public was well aware of what the appropriate and desired behavior was if they were put into a drought situation, that the other concerns that they would have were if they went into a stage of drought, which was the point in which the penalties would become activated that people were aware of the seriousness that they held this in, that what they did not want to do was give the people a sense that they had effectively two bites at the apple, that if they were caught then and only then at the second time would they have to be concerned about some sort of fine, that they felt also that it might serve to undermine their cooperative community effort which was to say that if people in a given block or a given neighborhood were attempting to conform with the City's desires and they see a particular neighbor who was not then there was a sense of "why should I do it if they were not doing it". Council Members Todd, Keller and Parker absent.

Council Member Quan stated that he thought Council Member Tatro was on the right track, and he was concerned about the vagueness of the word notified because just as was pointed out there was an extensive notification process and legally notification could be done by mail or publication in the newspaper, and would propose an amendment to Council Member Tatro's amendment to say "previously received a written warning", so they would have some evidence and proof that the person had in fact been cited, not necessarily to having to pay a fine, but at least had received a warning so that the next time they would be charged with the violation. Council Members Todd, Keller and Parker absent.

Council Member Tatro stated that was a very good point and he was looking for absolute notification and would accept that as a friendly amendment which would basically read "previously received a written warning", that effectively the inspector or person from the Water Department would come up and write out a citation so the first one would be a warning and for the second one they would have a record of that warning and then they could proceed with the penalty, so for them to take out the word "notified" and substitute "previously received a written warning". Council Members Todd, Keller and Parker absent.

Council Member Robinson stated that they had a matter with the clarification on the amendment, that he guessed they had two views going on, one was the two bites theory and the other one was the absolute notification theory, that his question was what was going to be the effort at community education, because he would assume that they would start educating people now about the new ordinance and give them some kind of summary to get the community up to snuff so when they have to issue for the first time a warning they would understand what the warning was, that his free advise was to stamp it on the front or back of the envelope, and Mr. Lowry stated that the revised ordinance suggested four stages and the first stage was called

mild and in that stage that was strictly voluntary compliance, that what they were looking for there in terms of notification would be, as an example, inserts in the bill, that there would also be information PSA's on the radio, press releases and a lot of public effort going, going out to community meetings and getting the word as broadly dispersed as they could to the people of the fact that they were in the mild stage and at that point they were requesting voluntary compliance, that there were no penalties in stage one, but they would make people aware at that point what the consequences would be should they go into a latter stage, *vis-à-vis* stage two, and what the penalties might be if someone's behavior were deviant, that again they wanted to emphasize that this did not have to do with excess usage, but rather behavior that was deviant from what they were requesting in terms of complying with their desire to get usage down to an acceptable level, that was the broad brush sort of approach that they would use, that they would use all available mediums to notify and keep the public informed of what the consequences were. Council Members Todd, Keller and Parker absent.

Mayor Pro Tem Boney stated that Council Member Tatro had modified and distributed his proposed amendment as follows:

- (1) "If city personnel have previously provided a written warning to the violator, and the violator has not previously been convicted of violating any provision of this article."

Council Member Castillo stated that he could see that the amendment would have a debilitating affect on the enforcement of the ordinance and it seemed to him that the gradual nature of the ordinance that first there was a voluntary program and then it had a punitive part to it, that it meant that the people were going to take it seriously, and not only that but there was going to be a warning in the form of publication and other types of notification, that the problem was that if they provided for a warning then, (1) they were going to overload the Municipal Court system of people who were going to go to court over their ticket, and (2) they were going to have to setup a whole bureaucracy to provide the notification process and he thought they needed to double the fees so they could pay for it, so he would speak against the motion. Council Members Todd, Keller and Parker absent.

Council Member Goldberg stated that any type of regulations regarding the use of water fell under TNRCC guidelines and asked Mr. Bibler if they had to get some sort of approval under TNRCC to pass an ordinance such as this, and Mr. Bibler stated that they were required to have a drought plan and they presently had one and it was the one that people thought was disagreeable last year that had both penalties and surcharges and they had established with TNRCC that they could have either or both, that either one was sufficient, and so they were trying to follow their guidelines in establishing an ordinance that would meet State requirements, and their manual read, "Typically, most water suppliers will provide a grace period of a day or two after mandatory measure are imposed and will issue warnings for a first offense.", that he did not know if they meant it was only okay to issue warnings during the first day or two or whether as this proposal would have it they could be in stage five, the most dire circumstances, and under Council Member Tatro's amendment they would still have to issue a warning on the first offense, so he did not know whether TNRCC would consider this to be a compliant amendment or not. Council Members Todd, Keller, Parker and Robinson absent.

Council Member Goldberg moved to postpone Item No. 44 and the amendment for 3 weeks until they could get clarification from TNRCC, seconded by Council Member Ellis.

Council Member Goldberg stated that he did not know what the ramifications were if they did not approve it, and in light of the fact that he did not think that they would have a drought within the next three weeks, and Council Member Castillo stated that he would also like to know what it would take to set up the bureaucracy to provide the notification and the cost if they did do it, and Mr. Lowry stated they would put something together on that. Council Members Todd,

Keller, Parker and Robinson absent.

After further discussion by Council a vote was called on the motion to postpone Item No. 44 and the proposed amendment for 3 weeks. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Keller, Parker and Robinson absent. MOTION 2001-0804 ADOPTED.

45. WRITTEN Motion by Council Member Bell to amend Item 45A below to amend Section 4 of Item 45A to take effect on the 30th day following date of passage - **TAGGED BY COUNCIL MEMBER GALLOWAY** - was presented. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Keller, Parker and Robinson absent. MOTION 2001-0805 ADOPTED.

45a. ORDINANCE amending **CHAPTER 2 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to Travel by Salaried and Non-Salaried City Employees and Elected Officials; containing findings and other provisions relating to the foregoing subject; providing for severability – **(This was Item 25 on Agenda of July 3, 2001, TAGGED BY COUNCIL MEMBER GALLOWAY)** - was presented.

Council Member Bell stated that he had passed out an additional amendment which would clear up some confusion that people talked to him about regarding the use of the word coterie, that the language was recommended at the committee level by Council Member Castillo and they had discussed it and there was nothing magical attached to the work coterie and actually it would be much clearer if they took it out, so as they would see on the written amendment it would now read as follows:

Motion to amend Section 2-30 to read as follows:

"Section 2-30. If other travelers accompany a salaried or non-salaried employee or elected official of the city during city business travel, ~~as part of a trade or economic mission and the co-travelers are part of the city coterie~~, then the names of such co-travelers shall be disclosed in the travel expenses report and travel-related log in a separate exhibit entitled, "Accompanying Travelers," which shall be filed in accordance with the applicable administrative procedure requirements for filing expense reports and travel-related log."

Council Member Bell stated that way they would not have any argument in the future about who was part of a City coterie and worry about defining a term that was not a legal term and a word that was not commonly used by anyone but Council Member Castillo, that it would be clear and basically it would say now that they would disclose the people that were traveling with them on City business travel and asked for support of the amendment. Council Members Todd, Keller and Robinson absent.

Council Member Sanchez asked what was the appropriate definition, according to the Legal Department, of people traveling with them and did they have to list every member on the aircraft that was manifested, and Mr. Hall stated that was what they were just discussing, and Council Member Sanchez stated that was a arduous task if they were flying a triple seven to Africa, that there were 450 manifested passengers and how would they do that, and Mr. Hall stated that they might ask Council Member Bell what he intended. Council Members Todd, Keller and Parker absent.

Council Member Bell stated that they could certainly clear it up if there was really confusion about it, and certainly if he had taken trips with a group he knew who was in his group, that obviously like most of these ordinances having to do with ethics depended somewhat on the honesty of the individuals filing the report, but he did not think there was any question really as to

who was in a travel group, and asked if they had ever been confused about who was traveling with them, as far as accompanying them on City business travel. Council Members Todd, Keller and Parker absent.

Council Member Sanchez stated that his question was to the Legal Department because once this passed they were going to have to comport to the language of the law and the language said that they had to list everyone traveling with you, but maybe they could read it and advise him if he had to list the entire manifest, because first of all he could not get that from the airlines, and Mr. Hall stated that in spite of the characterization made by the Council Member earlier he did not know what the answer was in regard to that, that he thought it was possible to clarify it though and that was what they were trying to do, that he thought clearly what he intended were people who were "accompanying travelers", meaning accompanying him and his mission, that was what he thought he intended, and Mayor Pro Tem Boney stated that people who were on the same City related business mission and not just on the same airplane that were going together in the group on City business, actually, that he thought that probably was defining enough, because everybody on that plane was not going on City business or going with taxpayer funds, and he presumed any trips that people took privately with their own private funds and whoever they went with he would not want to know, and Council Member Sanchez stated that then the question was, because Council Member Goldberg and himself and other Members of Council had been on trade missions on behalf of Eastern International Initiatives, those individuals were participating on their behalf and not on City business and so did they have to list them, and how about under the scenario when a family member traveled with them, and Mr. Hall stated that was covered under the proceeding section, and the answer was yes, not related to this, that they were still trying to see how they could make this more clear, because he thought it was true that the intent of the amendment was to cover the people who were in his party, and the ordinance so that it was real clear, was if they were on City business and were accompanied by somebody then they had to list those, and Council Member Bell stated that the intent of the amendment was to avoid exactly the types of arguments that were being raised at the table, for someone to be able to come back and say that they were not really part of the mission, that they were traveling with them and were on the trip and everything, but was there for their own purposes and the Council Member was there for his purposes and that was what they were trying to avoid, that he was certainly open to language that would make it more clear. Council Members Todd, Ellis, Keller, Parker and Quan absent.

Council Member Robinson stated that he understood what he was saying but that did really happen, in fact for instance, if they were going to the NFBPA National Forum of Black Public Administrators and it just so happens that a bunch of people got on the plane at the same time, that he was going to be a speaker on the panel and they were traveling to that event on City related business, because they were also speakers and he did not invite them and was not with them, but they were all going and his expense was being picked up because this did not apply if he was flying at City expense, but NFBPA was paying him to come down and make a presentation, and the Director of Purchasing and his wife gets on the plane, because they just so happen to be on the same flight, he would have to list them, because if he comes back and there was a newspaper article that said the director of X was in wherever the conference was and Council Member Robinson was at the conference and they pull his ticket and he was on the same flight then somebody was going to say that he was obligated or responsible and why did he not report it. Council Members Todd, Ellis, Keller, Parker and Quan absent.

Council Member Vasquez stated that he was going to tag the amendment and the main item and give them some time to work on it and hopefully they could move onto other agenda items. Council Members Todd, Ellis, Keller, Parker and Quan absent.

Council Member Goldberg stated that he understood what the intent of the amendment

was, but it did not exactly accomplish the intent because it says during City business travel and that covered everything and was wide open, that he could be on City business and anyone else gets on the plane and it was during City business travel so he did think they needed to clarify that, and probably the suggested language would be the entire trip, the plane trip, staying at the same hotel, staying there everyday and the return trip, that was pretty clear. Council Members Todd, Ellis, Keller and Parker absent.

Mayor Pro Tem Boney asked what was it that they were really trying to get to because he could tell them quite frankly and he had no problem supporting the amendment, but if someone went and did business for the City and somebody else goes with them on their own money he really did not care, that all he wanted to know was that the person going on City business did City business. Council Members Todd, Ellis, Keller and Parker absent.

Council Member Robinson stated that his other concern was on their personal financial disclosure question 6 required them to list any person, business entity or other organization from whom they received a gift of any money or other thing of value in excess of \$250 and that would seem to him to be redundant of Section 2-29, that if somebody was paying their way on a trip by itself in most instances they were going to cross the \$250 threshold on just the airline ticket, forget about any kind of hotel, meals or lodging, so he just wanted to be clear, that he was looking at doing the same thing in two different places, at least under Section 2-29, which was different from Section 2-30, that was a whole different issue, but he already had a legal obligation, not an administrative obligation, to report any gift \$250 or any series of gifts that come to \$250 in value now on their personal financial disclosure form, so he did not know what the difference was between question 6 and Section 2-29 was other than they do this periodically and then they do this once a year, that he and Council Member Bell had spoken and his position was that it led more credence to people coming down to look at it because they were doing it as they went instead of once a year, that there may be some merit to that, but they were giving him two obligations under this deal, that his other concern was that in here Council Member Bell had an amendment to make it effective within 30 days, and as far as he knew they had no administrative procedures and none of the documentation to start filing the reports, and he did not know if the City Secretary was going to be charged with developing those procedures because it only said she was the repository of that information in the ordinance and thought that needed to be clarified. Council Members Todd, Ellis, Keller and Parker absent.

Council Member Tatro stated that he thought the original intent of this ordinance and amendment was to pertain to either campaign funds being used, City funds being used or donated funds being used and not private funds being used so he would agree with Mayor Pro Tem Boney that private time and when somebody else takes private money that they pay seemed to be outside, that he was all for the clarification of honing it in to donated, City or campaign funds, and Council Member Castillo stated that the whole impetus for the ordinance arose because, he thought, when the Mayor made his trip it was alleged that other people had accompanied the party to the trip but nobody knew who they were or who was paying for what, that those type of scenarios was what the ordinance was aimed at, who was paying for what and who went, and Council Member Goldberg stated that then a point of clarification might be to just state a certain number of party, like five or more or ten or more, that maybe that was where they wanted to draw the line. Council Members Todd, Ellis, Keller and Parker absent.

Council Member Bell stated that they should go back to the original intent, that he had no problem with the delay and they could come up with a definition of what would constitute a co-traveler or accompanying traveler so that would be clear as to who needed to be listed, but he did think they needed to go back to the original intent and what some of the discussions were at the committee level and he thought that they all knew that a lot of these trips were taken and nobody was saying that they should not be taken, and by many reports they had been extremely

successful for not only the Members of Council and perhaps the Mayor who had gotten to go on the trips but also for those who accompanied the elected officials, that he thought a very strong argument could be made that if people were getting to go on those trips and accompany the elected official, and this was the feeling of the Ethics Committee, that they do have an increased level of access and that the elected official should be willing to disclose that information and who was getting to take those trips and who was that access being made available to and nobody was saying that anything was wrong with that and if there was nothing wrong with that then nobody should have a problem with reporting it, but when they talk about these various trade missions and when people have come to defend those trade missions often times what they say about them was that they had been hugely successful for the companies that had gotten to go on the trips and talked to some of the officials and representatives in the foreign countries and had created a lot of business opportunities down the line and that was fine and good for the economy but they should be willing to share that information with the public, that as far as reporting it in a timely manner as to who was paying for it certainly when they look for this type of public reporting the reason they had set times throughout a campaign to report how much money had been raised and expended it was put so that it could be done in a timely fashion, that he would be glad to clear up the language and was sure they would come up with something so everybody would be able to say who they were traveling with. Council Members Todd, Ellis, Keller and Parker absent.

Mr. Hall stated that he wanted to make it clear that on the Financial Disclosure form if the person who accompanied them was not their relative then that was not reported, but it would be here and he wanted Council to understand that was what they were doing, they were adding people to that list. Council Members Todd, Ellis, Keller and Parker absent.

Council Member Vasquez asked for a point of order and stated that the item had been tagged and there was a lot of good discussion and it was clear that there had to be some clarification on any number of issues and thought that Legal had taken note of that and thought that Council Member Bell had taken of that and thought that people did want transparency in government. Council Members Todd, Ellis, Keller and Parker absent.

Council Member Robinson stated that he would like to know who was going to draft the administrative procedures that they would have to follow if the ordinance passed and what the forms were going to look like and some idea of how long it would take and could it be done within 30 days because Council Member Bell had another amendment on the table to make the ordinance effective within 30 days of passage, that his second point was that Section 2-29 was separate and distinct from Section 2-30 and in Section 2-29 "if any or all of the cost of city business travel or travel related expenses of salaried and non-salaried employees", that the first point was to let's be clear so they knew that this did not have to do with any non city related business and he wanted to know what city related business meant, that he clearly knew that if his wife and son traveled with him and they paid for it he did not have to list them even if it was city related business, and Mr. Hall stated that it needed to be made clear that in these provisions they were doing their job in providing what the committee asked for, that they did not initiate it or craft it, that was part of the problem in his saying that he wanted to know, that the committee had to answer those questions about what they intended and they would write it however they intended it, and Council Member Robinson stated that he was asking Council Member Bell and the members of the committee because these were things that he was trying to make sure were clear, and Mr. Hall stated that the point he was trying to make for all Council Members was that he would not have to report it though for instance if it was their significant other who was not their spouse and he wanted Council Members to understand that it included now anybody else who went with them who would not be subject to reporting on the Financial Disclosure form. Council Members Todd, Ellis, Keller and Parker absent.

47. ORDINANCE approving and authorizing contract between the City and **DMG-MAXIMUS, INC** for Cost Allocation Evaluation and Fee Study for Various Departments - \$115,115.00 - General Fund – **(This was Item 34 on Agenda of July 3, 2001, TAGGED BY COUNCIL MEMBERS QUAN and TATRO)** - was presented.

Council Member Tatro stated that he did not understand why they needed to bring in an outside consultant to tell them what their fee structure needed to be and to identify new areas where they needed to charge fees, that they either did nor did not have these people at the City to do that, that he did think they could accomplish this without spending any General Funds, that he thought it was an unneeded expense and would not be supporting the item and would have hoped that the administration would have utilized the Controller's office and F&A a little more precisely to do something that he thought was a very simple accounting task.

After further discussion Council Member Castillo moved to call the question on Item No. 47, seconded by Council Member Vasquez. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Todd, Ellis, Keller and Parker absent. MOTION 2001-0806 ADOPTED.

A vote was called on Item No. 47. Council Members Tatro and Goldberg voting no, balance voting aye. Mayor Brown absent on vacation. Council Members Todd, Ellis, Keller and Parker absent. ORDINANCE 2001-0679 ADOPTED.

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS

Council Member Robinson stated that he received a complaint from some folks about a site in a residential neighborhood where building material was being dumped, that somebody from the City's Neighborhood Protection Division went out and it turned out that they could dump cinder block house materials and the like even in a residential area so long as there was not hazardous material there was no problem, at least that was how they understood it, and he hoped that somebody from the Legal Department could look into that because he was surprised that essentially they could have a neighborhood non permitted quasi landfill for lack of a better description, that he passed some information onto the Public Works and Engineering Department also on that. Council Members Todd, Ellis, Keller, Vasquez, Castillo and Parker absent.

Council Member Robinson stated that he would be interested in some kind of update from the Aviation Department on what was going on relative to Waller County's effort as it concerned the west side property, and the purpose of his inquiry was not to relive the west side issue but he wanted to make sure they were clear on where they stood as a City, that several months he made an inquiry about what would happen if they ended up in some kind of litigation with Waller County over their efforts to condemn the property, what kind of impact would it have on going forward on the new runway at Bush Intercontinental Airport and that was still his concern, that there was an article in the newspaper the other day that the folks out in Waller County were going to make an offer on the west side property and he was not necessarily in support of the amount they wanted to offer, but once they started the process it seemed to him they were starting to take the necessary steps to ultimately try to make a case for condemnation and if they were to go there would that stop, slow down or cause any disruption in the City's ongoing effort at Bush Intercontinental Airport and if somebody could send him something in writing on that he would appreciate it. Council Members Galloway, Todd, Ellis, Keller, Vasquez, Castillo and Parker absent. (NO QUORUM PRESENT)

Council Member Bell stated that they had been getting a lot of calls in their office requesting flood information and he wanted to make some of that available because there seemed to be a

consistency in the number of questions and he would really like to urge the administration to try to send out, if they had not done so, packets of information to tell people where they were supposed to call, that it was there understanding that there were seven satellite offices in addition to the 3300 Main location where individuals could go to get flood repair permits if the permits were less than \$10,000, but then some of the problems in the questions they were getting was when the repairs were over \$10,000 or in situations where the damage to the homes values over 50% of the value of the home and what those people were supposed to do and what they were being told was that they had to bring the structure back into its pre-flood condition and they were being given a couple of options on what to do, but to find out if people needed information the number to call at the City was 713-535-7979 and the City would take a look at it and see what the options were, that there was also a buyout option and that number was 713-684-4035. Council Members Tatro, Galloway, Todd, Ellis, Keller, Vasquez, Parker, Quan and Sanchez absent. (NO QUORUM PRESENT)

Council Member Bell stated that one other thing also related to the flood, apparently there had been a very generous offer made by the City to allow people to donate some of their vacation hours to other City employees who may have affected by the flood and needed additional time off in order to get their lives back in order, that the only thing he was concerned about were the procedures for an employee to try to qualify to receive some of the donated vacation hours, that if a director wanted to they could require all of the documentation requested and really put a person to jump through incredible hoops before they could qualify for the donated hours and obviously that was not the intent of the City and he would just like for someone to look at all of the information and simplify it as much as possible so that the people who had been affected and worked for the City could go ahead and qualify and not be faced with a ridiculous amount of red tape to get there. Council Members Tatro, Galloway, Todd, Ellis, Keller, Vasquez, Parker, Quan and Sanchez absent. (NO QUORUM PRESENT)

Council Member Bell stated that they would push the Ethics Committee Meeting to 2:30 p.m. today and he would have a staff member there to tell people that it had been delayed so they would remain in compliance with the posting requirement. Council Members Tatro, Galloway, Todd, Ellis, Keller, Vasquez, Parker, Quan and Sanchez absent. (NO QUORUM PRESENT)

Council Member Castillo stated that he had mentioned the wrecker drivers who had gouged citizens during the flood at the last Council meeting and understood that Finance & Administration was communicating with the County Attorney's office and with the Office of the State Attorney General and added to that list the Office of the Better Business Bureau who he understood was also getting a lot of those complaints, to find out who and which of those wrecker drivers were permitted by the City so that they could consider taking sanctions against them and urged the F&A Department to move expeditiously on it. Council Members Tatro, Galloway, Todd, Ellis, Keller, Vasquez, Parker, Quan and Sanchez absent. (NO QUORUM PRESENT)

Council Member Castillo stated that last week there was an article in the Community section of the Houston Chronicle which talked about the flood delays and the opening of the Denver Harbor Community Multi Service Center and the thing that struck him was that water did enter the building and the person representing the City on the site said that rain had damaged a carpet in the center and that it was being shampooed and sanitized before being replaced, that this was a brand new multi service center that they were paying \$8.3 million for and hoped that they were not taking flood damaged carpeting and putting it in the center, that he hoped they would not do that. Council Members Tatro, Galloway, Todd, Ellis, Keller, Vasquez, Parker, Quan and Sanchez absent. (NO QUORUM PRESENT)

Council Member Goldberg stated that upcoming July 27th and 28th would be the Houston Bar Association all attorney musical called Night Court, that they could come to his office for tickets, that beside himself there would be a few judges in it and the City Controller would also be in it, that it was a worthwhile cause and supported the Houston Bar Foundation which provided literacy programs, legal outreach and cleanup around Houston, that it would be at Rice University, Hammon Hall, July 27-28, 2001. Council Members Tatro, Galloway, Todd, Ellis, Keller, Vasquez, Parker, Quan, Sanchez and Robinson absent. (NO QUORUM PRESENT)

Council Member Goldberg stated that he would urge the Council Members to attend some of the Houston 2012 functions, that they were having the United States Olympic Site Selection Committee come to Houston to look at the venues and the different stadiums and arenas to decide whether or not Houston should get the Olympics and they would like to have some of the elected officials present at some of the meetings, that it was going to be July 16, 2001 from 3:00 p.m. to 4:00 p.m. at City Hall, July 18, 2001 a private party and reception at the directors house at 5:00 p.m. to 7:30 p.m. and on July 19, 2001 at 11:00 a.m. there would be a reception at the George R. Brown Convention Center, that they really needed to put on a good show for the committee members and let them know that Houston was right up there with the other cities that were competing for the 2012 bid and that they were really interesting in it. Council Members Tatro, Galloway, Todd, Ellis, Keller, Vasquez, Parker, Quan, Sanchez and Robinson absent. (NO QUORUM PRESENT)

Council Member Goldberg stated that they were getting a lot of calls from constituents and would like for someone to visit him on this, that the City was not issuing permits to rebuild or remodel a flood damaged home if the cost was more than 50% and he would like to find out what the policy was regarding the permits and information regarding the buyout program, that they were not able to rebuild and had no place to live except in this home that was damaged and could not move forward even though they had already received the money from the insurance company, and Mayor Pro Tem Boney stated that they would try to get that information to him. Council Members Tatro, Galloway, Todd, Ellis, Keller, Vasquez, Parker, Quan, Sanchez and Robinson absent. (NO QUORUM PRESENT)

There being no further business before Council, the City Council adjourned at 1:24 p.m. upon MOTION by Council Member Goldberg, seconded by Council Member Bell. All voting aye. Nays none. Mayor Brown absent on vacation. Council Members Tatro, Galloway, Todd, Ellis, Keller, Vasquez, Parker, Quan, Sanchez and Robinson absent. (NO QUORUM PRESENT) MOTION ADOPTED. COUNCIL ADJOURNED.

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

MINUTES READ AND APPROVED

Anna Russell, City Secretary