

City Council Chamber, City Hall, September 5, 2001

A Regular Meeting of the Houston City Council was held at 9:00 p.m. Wednesday, September 5, 2001, with Mayor Lee P. Brown presiding and with Council Members Bruce Tatro, Mark Goldberg, Jew Don Boney, Jr., Rob Todd, Mark A. Ellis, Bert Keller, Gabriel Vasquez, John E. Castillo, Annise Parker, Gordon Quan, Orlando Sanchez, Chris Bell and Carroll Robinson; Mr. Anthony Hall, City Attorney, Mr. Paul Bibler, Assistant City Attorney; Mr. Al Haines, Chief Administrative Officer; and Ms. Martha Stein, Agenda Director present. Council Member Carol M. Galloway absent on jury duty.

At 9:10 a.m. Mayor Brown called to order the meeting of the City Council, and Council Member Robinson invited Reverend Robert Dixon, First Baptist Church of Greens Bayou, to lead everyone in prayer and Council Member Robinson led everyone in the pledge of allegiance. Council Members Boney, Todd, Vasquez, Castillo and Bell absent.

Mayor Brown requested the City Secretary to call the roll. Council Member Galloway absent on jury duty. Council Members Boney, Todd, Vasquez, Castillo and Bell absent.

Council Members Quan and Tatro moved that the minutes of the previous meeting be adopted. All voting aye. Nays none. Council Member Galloway absent on jury duty. Council Members Boney, Todd, Vasquez, Castillo and Bell absent.

MAYOR'S REPORTS

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.

Mayor Brown stated that the first item of business was the financial report by the City Controller and Finance and Administration. Council Members Boney, Todd, Vasquez, Castillo and Bell absent.

Ms. Silvia Garcia, City Controller, stated that this was for the first month of the current fiscal year and was for the period ending July 31, 2001, that as it was the first month there were no variances between any of the projections, either on the revenue side or the expenditure side between them and the Finance and Administration Department, however she did want them to make note that on page 3 of the report that they had some good news, that she was pleased to report that their estimates indicated that at the fiscal year ending 2001 the ending fund balance would be \$92.4 million, an estimated \$12 million above the 7.5% cushion of their excess reserved fund balance, that their last report had printed an estimate of an undesignated fund balance to be \$85.6 million and the new estimate of \$92.4 was \$6.8 million more than they reported last month, that these were preliminary CAFR numbers and KPMG began work yesterday on the Comprehensive Annual Financial Report and would certify that number as soon as that report was complete, that the new figure represented 8.6% rather than 7.5% and the adjustment in the estimate was the result of departmental expenditures, being at \$1,025,613 compared to \$1,032,350, that this was a decrease of \$6.7 million, that this was due to steps take by the administration and by City Council to curtail spending toward the last months, that they highly recommend that they use \$5 million of the excess dollars to be placed in the Rainy Day Fund, that they had been talking about the Rainy Day Fund for a couple of fiscal years, that they had now created the fund and it was called Fund 12R and had placed \$5 million of FY2002

dollars in that fund and it was already there and strongly urged the Council and Mayor to take another step of putting more money in the Rainy Day Fund and use \$5 million of the \$12 million in excess to build that up to \$10 million, that if they did that they would be one third of the way of the goal and recommendation that was set and given to them by the Cash Management Audit which they recently reported on, that this put them in a very good first start for the fiscal year and that concluded her report. Council Members Boney, Todd, Vasquez, Castillo and Parker absent.

Dr. Phillip Scheps, Director, Finance and Administration, stated that as he reported to the Fiscal Affairs Committee yesterday they agreed with Ms. Garcia that it was just too early in the year to begin making projections, that he did have in his letter to them certain items that were probably worthy to mention, that the property tax number was probably going to be a little bit less than what they originally projected for 2002, that the hearings were taking place now and the hearing loss assumption, which was midrange, appeared to be a little bit low, that part of the reason they were so good last year may be moved into this year as these accruals took place, that Ms. Garcia referred to the year end accounting that was going on and some decision about the property tax revenues may move it from 2001 to 2002 which would have the effect of erasing the possibility of \$2 million less in property tax revenue so he was hoping that it would end up right on the projection; that he did mention in the letter that the State Legislature approved and governor signed the bill which require the City Council to make a decision by the end of the year relative to property taxes now being assessed on leased vehicles that were being used for domestic purposes and the Mayor would have a recommendation on that before the end of the year and they would have to take action on that and that potentially was a revenue loss of some \$3 million or \$4 million as spoken in the letter; that Municipal Courts revenue, they had a presentation yesterday on the outsourcing of Municipal Courts and he had mentioned in the letter that certain trends looked like right after they approved the budget some trends began moving in the downward direction and in the more recent months they moved back up so they were sort of cautiously optimistic that it was going to come back and their revenue estimate would be met; that on the expenditure side of the ledger they did a very favorable Trans borrowing at the last few days of Fiscal 2001 and they had already budgeted what amounted to about \$2 million more in interest expense than they were going to need, that they had probably about \$2 million in the General Government Budget than they were going to need for that because of the great interest rate environment and the efficient auction that was conducted by the Controller's office at that time, that there were funds budgeted for a redistricting challenge that appeared they might not need, that after one month of the year it was very premature to talk too much about that, that they did know insurance expense would probably go above budget as they reestablished their property insurance coverage, that Ms. Garcia had mentioned the Rainy Day Fund and they had \$5 million set up and he thought the Mayor would come forth with a comprehensive recommendation on the use of any additional balances that they had and they expected to bring that to Council at some time; that they added some schedules to his letter in the report to try to make it more useful to them and they would find a complete financing schedule of the upcoming transactions, a very heavy calendar for that and they would put that in every month; that they would update the cash flow projection every month and place it as Attachment B in the letter, that Attachment C was notes to performance measure and was part of the process of moving towards a performance budgeting scheme and part of the process was making sure that his staff contemplates the performance measures rather than just report them and have a responsibility for understanding them and bringing to Council any apparent deviations under good or bad side, that Attachment D was their tax calendar, that this morning the effective rate calculation was in the newspaper and they were going to take action today, presumably to set the public hearing and set the proposed tax rate; that they had added some trend indicators at the back of the book which they may find interesting; that their Fee Study was underway; that Debt Policy was discussed in detail yesterday at the Fiscal Affairs and Council Member Castillo in particular had a bunch of changes that he wanted them to add and they were going to revise it and bring it to them at some point and time, and that concluded his report. Councils Member

Vasquez and Castillo absent.

Council Member Robinson stated that he would agree with the City Controller and hoped that the administration would consider very highly including as part of the comprehensive plan on the use of the \$12 million surplus from Fiscal Year 2001, setting aside an additional \$5 million to go into the Rainy Day Fund to drive them up from \$5 million to \$10 million, that he would be a little bit more aggressive than the Controller and hoped that they would set their targets somewhere in the neighborhood of \$50 million, that he knew that Dr. Scheps had mentioned to them yesterday that as a part of the renewal of the City's Financial Advisor's Contract he was going to ask them to come up with a plan focused on how the City could improve its bond rating and he was very supportive of that, that in that light he would also like to visit with him or someone from his office as they went over the next couple of months as they prepare the information about the useful life of the General Obligation Capital Assets, aside from equipment, so they could continue their discussion about extending the life on their Debt Service payment to see if they could do more projects over time; that the other thing he would like to work with him on was maximizing their investment income, that along with the City Controller he had some folks take a quick look at it and he did not know if all of this information was correct, but basically they had about \$1.4 billion run through the account last year, the General Fund dollars, and on average it stayed there for about 49 days on an average of \$100 million per day and that generated about \$5 million to \$7 million in interest and one of the things they pointed out was if they could double the actual time they held on to their money and the investment in their back account the more interest they could make on overnight investments and the like, so he was hoping they would take a look at doubling up from 49 days to about 98 days and if that was too aggressive a goal, somewhere above the 49 days so they could generate some more interest income.

Council Member Castillo moved to accept the financial reports, seconded by Council Member Parker. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0975 ADOPTED.

CONSENT AGENDA NUMBERS 1 through 31

MISCELLANEOUS - NUMBER 1

1. REQUEST from Director Finance & Administration Department to authorize and grant a waiver of certain requirements under the City of Houston Ordinance No. 97-416 with respect to the terms and conditions of certain refunding bonds to be issued by **NORTHWEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 19** – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0976 ADOPTED.

ACCEPT WORK - NUMBERS 5 and 8

5. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$469,423.71 and acceptance of work on contract with **INDUSTRIAL TX CORP., INC** for Plum Creek Lift Station Replacement, GFS R-0267-63-3 (4276-23) 01.39% over the original contract amount - Enterprise Fund - **DISTRICT I - CASTILLO** – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0977 ADOPTED.
8. RECOMMENDATION from Director Department of Public Works & Engineering for

approval of final contract amount of \$209,575.69 and acceptance of work by **RANGER INSURANCE COMPANY the surety for L. Smith Contractors, L.C.** for Construction of 1998 Major Thoroughfare Sidewalk Project 38-3, GFS N-0610A-38-3 (38-3) - 13.48% under the original contract amount - Street and Bridge Traffic Control Fund - **DISTRICTS E - TODD and I - CASTILLO** – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0978 ADOPTED.

PROPERTY - NUMBERS 9 through 15

9. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Karen D. Riddle of Able Permits, on behalf of Fergus Marie McGinness, for abandonment and sale of a portion of a 10-foot-wide utility easement and two 5-foot-wide aerial easements in exchange for the conveyance to the City of a 5-foot-wide utility easement, all located within Lots 100 and/or 102, Block 7, Oak Estates Addition, Parcels SY1-081A through C and VY1-005 - **STAFF APPRAISERS - DISTRICT G - KELLER** – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0979 ADOPTED.
10. RECOMMENDATION from Director Department of Public Works & Engineering declaring that the City of Houston does not need for road purposes a 0.230-acre (10,030-square-foot) tract of land, being part of Lots 15 and 16, Block 1, Trenton Place, J. T. Harrell Survey, Abstract 329, so the State of Texas Department of Transportation can sell the property to the abutting property owner, Tom Brady - **DISTRICT H - VASQUEZ** – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0980 ADOPTED.
12. **AMEND MOTION #2000-0924**, which authorized abandonment and sale of a portion of Elliott Street in exchange for conveyance of easement located within the W. A. Kirby Subdivision, to provide for a change the easement to be conveyed and to grant Houston Independent School District a right of entry, Parcels SY0-071 and VY1-004 - **DISTRICT I - CASTILLO** – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0981 ADOPTED.
13. **AMEND MOTION #2000-1453**, which authorized abandonment and sale of a dead-end portion of Front Street, located in the former town of Harrisburg, to include the abandonment and sale of a portion of Frio Street, Parcels SY1-022A and SY1-022B - **DISTRICT I - CASTILLO** – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0982 ADOPTED.
15. RECOMMENDATION from Director Department of Public Works & Engineering to purchase Parcel KY0-106, located at 1055 and 1075 Sam Houston Parkway, owned by Greenbriar Holdings Houston, Ltd., a Texas limited partnership [Highfield Realty Capital, Inc, a Texas corporation, (Mark Cullins, President) general partner], for the **KATY-ADDICKS WATERLINE EASEMENTS PROJECT**, CIP S-0900-47-2 - \$27,863.00 - Enterprise Fund - **DISTRICT A - TATRO** – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0983 ADOPTED.

PURCHASING AND TABULATION OF BIDS - NUMBERS 16

16. **GBS ENVIRONMENTAL, INC** for Asbestos/Lead-Based Paint Abatement and Demolition for Parks & Recreation Department - \$39,900.00 and contingencies for an amount not to exceed \$41,895.00 - General Fund – was presented, moved by Council Member Boney, seconded by Council Member Sanchez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0984 ADOPTED.

ORDINANCES - NUMBERS 19 through 30

19. ORDINANCE consenting to the addition of 157.6404 acres of land to **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 105**, for inclusion in its district – was presented. All voting aye. Nays none. Council Member Galloway absent on jury duty. ORDINANCE 2001-0819 ADOPTED.
20. ORDINANCE consenting to the addition of 20.5845 acres of land to **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 230**, for inclusion in its district – was presented. All voting aye. Nays none. Council Member Galloway absent on jury duty. ORDINANCE 2001-0820 ADOPTED.
21. ORDINANCE consenting to the addition of 11.9224 acres of land to **NORTHWEST HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 9**, for inclusion in its district – was presented. All voting aye. Nays none. Council Member Galloway absent on jury duty. ORDINANCE 2001-0821 ADOPTED.
23. ORDINANCE issuing a permit to **EQUIVA SERVICES LLC** for building, construction, maintaining, using, occupying, operating and repairing a 4-inch conduit for communication cable under and within the street at 250 Meadowfern Drive, such area being within public street right-of-way of the City of Houston, Texas; containing findings and prescribing the conditions and provisions under which said permit is issued - **DISTRICT B - GALLOWAY** – was presented. All voting aye. Nays none. Council Member Galloway absent on jury duty. ORDINANCE 2001-0822 ADOPTED.
24. ORDINANCE approving and authorizing an application for grant assistance from the **TEXAS PARKS AND WILDLIFE DEPARTMENT** for the Development of MacGregor Park; declaring the City's eligibility for such grant; authorizing the Director of the Parks and Recreation Department to act as the City's representative in the application process; authorizing the Director of the Parks and 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. Council Member Galloway absent on jury duty. ORDINANCE 2001-0823 ADOPTED.
25. ORDINANCE approving and authorizing agreements terminating tax abatement agreements between the City of Houston, **OWEN HEALTHCARE, INC**; **OWEN HEALTHCARE BUILDING, INC**, and **BRAZOS ENCLAVE DEVELOPMENT, INC** - **DISTRICT G - KELLER** – was presented. All voting aye. Nays none. Council Member Galloway absent on jury duty. ORDINANCE 2001-0824 ADOPTED.
27. ORDINANCE approving and authorizing amendment to the Untreated Water Supply contract between the City of Houston and **OXY VINYLs, L.P.** – was presented. All voting aye. Nays none. Council Member Galloway absent on jury duty. ORDINANCE 2001-0825

ADOPTED.

28. ORDINANCE approving and authorizing compromise and settlement agreement between the City of Houston and **HUTCHISON INTERESTS, INC d/b/a HUTCHISON EXTERIOR DESIGN** to settle a claim - \$27,024.85 - Street & Bridge Consolidated Construction Fund – was presented. All voting aye. Nays none. Council Member Galloway absent on jury duty. ORDINANCE 2001-0826 ADOPTED.
30. ORDINANCE awarding contract to **REYTEC CONSTRUCTION RESOURCES, INC** and approving and authorizing professional services contract for engineering testing services with **HVJ ASSOCIATES, INC** for construction of City of Houston's National Pollution Discharge Elimination System - Storm Water Pollution Prevention Plan - 747 Evergreen, GFS M-0126-49-3 (SM-5021) - \$931,000.00 - Street & Drainage Maintenance Fund - **DISTRICT I – CASTILLO** – was presented. All voting aye. Nays none. Council Member Galloway absent on jury duty. ORDINANCE 2001-0827 ADOPTED.
31. ORDINANCE appropriating \$1,000,000.00 out of Street & Bridge Consolidated Construction Fund and approving and authorizing professional services contract between the City of Houston and **PIERCE GOODWIN ALEXANDER & LINVILLE, INC** for Street and Bridge Program Management, CIP N-0668-06-2 (SB9061) had been pull from the Agenda by the Administration and was not considered

MATTERS REMOVED FROM THE CONSENT AGENDA WERE CONSIDERED AS FOLLOWS:

MISCELLANEOUS

2. RECOMMENDATION for approval of supplemental allocation of funds on contract with **JOHN HALL PUBLIC AFFAIRS, INC** for Consulting Services related to the implementation of the Federal Clean Air Act - \$250,000.00 - General Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez, and tagged by Council Member Sanchez.

DAMAGES

3. RECOMMENDATION from City Attorney for settlement of lawsuit styled **CHARLES D. SUDER** v. City of Houston; in the 80th Judicial District Court of Harris County, Texas; Cause No. 1999-05891 - \$50,000.00 - Property and Casualty Fund – was presented, moved by Council Member Boney, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0985 ADOPTED.

ACCEPT WORK

4. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$779,260.00 and acceptance of work on contract with **BRH-GARVER, INC** for West Bellfort Improvements: Sanitary Sewer along Huntington Estates from West Bellfort to Huntington Venture Drive, GFS R-0018-WB-3 (N-0466-02) - 00.85% over the original contract amount - Enterprise Fund - **DISTRICT F - ELLIS** – was presented, moved by Council Member Boney, seconded by Council Member Sanchez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0986 ADOPTED.

6. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$1,331,207.99 and acceptance of work on contract with **T & C CONSTRUCTION, INC** for Westpark No. 1 Lift Station Expansion, GFS R-1224-16-3 (4459-3) 04.49% over the original contract amount - Enterprise Fund - **DISTRICT C - GOLDBERG** – was presented, moved by Council Member Boney, seconded by Council Member Sanchez, and tagged by Council Member Goldberg.
7. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$3,103,254.84 and acceptance of work on contract with **TEXAS STERLING CONSTRUCTION, INC** for Cook Road Improvements from Bellaire Boulevard to Alief-Clodine, GFS N-0638-01-3 (N-0638-01) - 02.07% over the original contract amount Enterprise and Street and Bridge Traffic Control Funds - **DISTRICT F - ELLIS** – was presented, moved by Council Member Boney, seconded by Council Member Sanchez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0987 ADOPTED.

PROPERTY

11. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, disclaiming, releasing and relinquishing the City's right, title, interest, claim and demand in and to an unnamed 30-foot wide north/south road and a portion of an unnamed 30-foot-wide east/west road, located near the 10700 block of Fannin Street, in connection with a request from Reid C. Wilson of Wilson, Cribbs, Goren & Flaum, on behalf of Management & Investment Services, Inc and other companies, Alan H. Mandeloff, president - **DISTRICT D- BONEY** – was presented, moved by Council Member Boney, seconded by Council Member Sanchez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0988 ADOPTED.
14. RECOMMENDATION from Director Department of Public Works & Engineering for condemnation of Parcel VY0-33, located in the 8700 block of Stella Link, owned by Woodshire Building Company, Inc., a Texas corporation, for the **WILLOW MEADOW RELIEF SEWER PROJECT**, CIP R-2011-2-1 - **DISTRICT C - GOLDBERG** – was presented, moved by Council Member Boney, seconded by Council Member Sanchez, and tagged by Council Member Goldberg.

Council Member Goldberg stated that originally the name on it was Nancy Collins, that he did not have a problem with the legal work on the real estate but he did have a problem with the project itself and asked if someone from Public Works could visit with him on it, and Mayor Brown stated they would have someone visit with him.

PURCHASING AND TABULATION OF BIDS

17. **HARLAN SPRAGUE DAWLEY, INC** for Feed, Live Mice and Rats for Parks & Recreation Department - \$69,292.05 - General Fund – was presented, moved by Council Member Boney, seconded by Council Member Sanchez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0989 ADOPTED.
18. **TEXAS TECHNICAL SERVICES, INC** - \$350,192.84, **ACE LOCK & SECURITY SUPPLY** \$114,971.42, **ACCESS VIDEO & INTEGRATION CORPORATION** - \$678,607.13 and **INSTANT PHOTOS, INC dba IPI SECURITY** - \$919,185.71 for

Communications Security Equipment and Components for Various Departments - \$2,062,975.10 - General, Enterprise and Equipment Acquisition Consolidated Funds – was presented, moved by Council Member Boney, seconded by Council Member Sanchez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0990 ADOPTED.

ORDINANCES

22. ORDINANCE amending Ordinance Number 2000-891 to change the name of the permittee and approving the transfer of all rights and obligations under the permit therein issued to **CRESCENT 5 HOUSTON CENTER, L.P.**, successor in interest to Crescent Real Estate Equities Limited Partnership - **DISTRICT I – CASTILLO** – was presented and tagged by Council Member Goldberg.
26. ORDINANCE approving and authorizing amendment to the contract between the City of Houston and the **WESTERN REGIONAL ENVIRONMENTAL EDUCATION COUNCIL, d/b/a COUNCIL FOR ENVIRONMENTAL EDUCATION, INC** for a Collaborative Water Education Program \$110,000.00 - Enterprise and Street & Drainage Maintenance Funds – was presented and tagged by Council Member Goldberg.

Council Member Goldberg asked if someone could visit with him on the item, that there was a long list of items that had questionable expenditures.

29. ORDINANCE awarding the contract to **JLH COASTAL FUMIGATORS, INC, dba END-O-PEST** for Pest Control Services for Various Departments; providing a maximum contract amount \$688,262.50 - General, Enterprise, Building Inspection and Street & Drainage Maintenance Funds – was presented and tagged by Council Members Parker and Quan.

Council Member Parker stated that they had a number of citizens come to them and talk about the appropriate use of pesticides and where and how often they used pesticides and since this was a pesticide contract she would like for someone to lay out what they were going to do with them and what they were using them for, and Mayor Brown stated they would make sure that would happen.

Council Member Quan stated that this was again an example of consolidation where he thought that small companies were losing out on opportunities and asked that his tag be added to the item.

NON CONSENT AGENDA - NUMBERS 32 through 34

MISCELLANEOUS

32. MOTION to suspend the rules to reconsider and reconsider the vote by which Ord. #2001-658 failed on 7/11/01, being an 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.** – was presented, moved by Council Member Boney, seconded by Council Member Sanchez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0991 ADOPTED.
- 32A. 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.** – was presented.

Council Member Keller stated that after numerous discovery work and meetings with partners of the economic development staff, the City Planning and Development, ABB officials and extensive discussions with the Westchase District, the Staughbach Company and Simmons Vedder, he was pleased to see that not only was this tightened and structured and clarified, but that progress had been made that when the tax abatement issue and the contract comes up in 2003 there would be a couple of language amendments that he would make that would make sure it would not happen again; that he wanted Planning and Development to show him three cases where the City had terminated a tax abatement agreement for default on terms of the agreement, that Taqeria Arandas was terminated July 2001, that SSI Matrix Marketing was terminated July 2001 and Koch Industries was terminated in June 2001, that he was pleased to report that they were monitoring it and it had been approved and that the subsequent language that he had mentioned would be included to take out the confusion on further abatement issues.

A vote was called on Item No. 32a. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0658 ADOPTED.

At 9:32 a.m. Mayor Brown stated that they would hear from the public at this time and requested the City Secretary to call the list of speakers.

Ms. Marilyn Gray, 12516 Autumn Leaf, Houston, Texas 77072 (281-879-4511) had reserved time to speak, but was not present when her name was called.

Ms. Cherrie Butler, 1351 Green Parkway, Houston, Texas 77076 (281-734-4164) had reserved time to speak, but was not present when her name was called.

Ms. Flossie Lewis, 6821 Driftwood, Houston, Texas 77021 (713-748-0332) appeared and stated that she was the President of the Foster Place Civic Club and was present to discuss the problem of the water surrounding Foster Elementary School and stated that she had some pictures to pass around to Council and a petition with 185 signatures of supporters who could not be present, that two of her supporters were present in the audience, Ms. Butler and Ms. Bowman, that she wanted to discuss the problem about the water and the only way she could discuss it was that it looked like a hog pen and it was not nice, that it was muddy, had holes in it and there was trash around the school and most of all it was messy, that the hog farmers had found out that if they made the surroundings for their hogs more pleasing that those hogs would yield them a better earning and she was saying that if they got the water problem solved around Foster Elementary School their boys and girls would produce more, that this problem had been discussed on a number of occasions but she did not know what happened, that nothing had been done, that the principal and assistant principal and PTA president worked so hard and everyone that worked at Foster Elementary School was very concerned about this problem, that they had to elevate the standards of their boys and girls by giving them a good environment, that she had been in meetings for three consecutive years with the City of Houston and with Houston Independent School District, that the City of Houston says its HISD and HISD says its the City of Houston so she had met with both of them and had not gotten any action, that HISD said that the City would not cooperate with them, that she did not know if that was a fact or not because they would not write them, that no one had written to her and she did not know what was going on, that she did know that their boys and girls were more important than the hog, that if they got the standard of living surrounding the children she guaranteed that their test scores would elevate high like Belaire students, they did not have to track in water to go to their classrooms, that she was in District D, that they told her they did not have any money, but she heard the Controller state that they had lots of money. Council Members Goldberg, Ellis, Keller, Vasquez and Castillo

absent.

Mayor Brown stated that they had been out in her district and walked the streets and understood the problem, that rather than pointing fingers he was going to ask Mr. John Girardy who was present to get with her and take care of the problem, whether it was HISD or the City of Houston, that their direction was to fix the problem, that he wanted them to report back to him about the steps that had been taken to get it taken care of, that he agreed with her that their students should go to school in a safe environment and if they had that problem they would take care of it. Council Members Goldberg, Ellis, Keller, Vasquez and Castillo absent.

Upon questions by Council Member Quan, Ms. Lewis stated that she was not home when the City of Houston called her, that she was at work, that she wanted everything in writing, that she was a working person, that she was a taxpayer and needed the problem solved. Council Members Goldberg, Ellis, Keller, Vasquez and Castillo absent.

Council Member Boney stated that as the Mayor had stated they had toured the area and seen the problem, that they really did not know if it was HISD's responsibility or the City's but they needed to put a cost on it and figure out how to pay for it even if it was jointly with HISD, that it was an atrocious situation and hoped to get it resolved before December 31, 2001, before he leaves office. Council Members Goldberg, Ellis, Keller, Vasquez and Castillo absent.

Council Member Tatro stated that in the pictures they could see how the sidewalk was depressed in that area, and asked if she knew if it was a right of way, and Ms. Lewis stated that the City said it was HISD and HISD said it was the City, that she did not know who's problem it was. Council Members Goldberg, Todd, Ellis, Keller, Vasquez and Castillo absent.

Mr. Bahman Bahrami, Econo Lodge Room 212 (until Sunday), (713-667-8200) had reserved time to speak, but was not present when his name was called. Council Members Goldberg, Todd, Ellis, Keller, Vasquez and Castillo 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 Goldberg, Todd, Ellis, Keller, Vasquez and Castillo absent.

Mr./Coach Bobby Taylor, 3107 Sumpter, Houston, Texas 77026 (202-FA3-4511) had reserved time to speak, but was not present when his name was called. Council Members Goldberg, Todd, Ellis, Keller, Vasquez and Castillo absent.

Mr. William Beal, 4718 Boicewood, Houston, Texas 77016 (713-633-0126) had reserved time to speak, but was not present when his name was called. Council Members Goldberg, Todd, Ellis, Keller, Vasquez and Castillo absent.

Ms. Geneva Kirk Brooks, P.O. Box 20523, Houston, Texas 77225 (713-664-2717) appeared and stated that she was the director of Property Rights Foundation affiliated with American Veterans in Domestic Defense, that she was present to talk to them about the foreclosure racket, but before she got into that she had one interesting question, that on the gay sex partner law she was wondering if the heterosexual men's mistresses and the heterosexual women live in lovers also get the same City coverage of health benefits, that she thought they should be fair to their heterosexual single men and women who had their own live in lovers if they were going to do it for the gay sector; that she recently contacted the Attorney General and Ed Wendt, the investigative reporter, worked with her in requesting the City records to indicate what the record showed as it regarded the activities in her community which was Knollwood Village, that they learned that the City of Houston refused to release the public records which would

expose this foreclosure record on the grounds that they were in the process of suing her because they suspected that she had rented a room in her Medical Center area home, that when she had talked to Council Member Goldberg about the foreclosure racket his response to her was if she did not like it to sell her home and get out, that if she did not like living in a community with the present management, which was CAI Chubb Management to sell her house and move out; that they had three candidates running for Mayor and one of the things they were going to be wanting to know from them was what was their stand on property rights and what did they know about the home foreclosure racket, which simply added a few helpless whites to the anti discrimination laws of 1964. Council Members Ellis, Castillo and Robinson.

Council Member Todd asked Ms. Brooks if she had done an open records request, and Ms. Brooks stated that she had and had documents that she was going to ask the Mayor to have copied by the secretary so they would all have not only the open records request that was sent in to the Attorney General but also the Attorney General's reply, that the request was sent to the City Attorney, Mr. Hall and to the President of the Board of the Knollwood Village Civic Club, that she would like for the entire document be copied and give to each Council Member so they could see what a run around the City was giving to avoid giving them the open records, and Mayor Brown stated that they would be glad to copy and distribute it for her, and Council Member Todd stated that someone from the Legal Department should meet with Ms. Brooks and explain the reasons why they did not provide the records, that they certainly wanted to make certain that any open records request was treated fairly, like any other request would be, and Ms. Brooks stated that she wanted to the records so that she could prove that there was selective enforcement, that there were no records of anybody else in that whole community was treated the way that she was treated by the City inspectors, who was called out by the president of Knollwood Village for the purpose of finding her in violation so that they could foreclose on her home. Council Members Castillo and Robinson.

Council Member Goldberg stated that he had called her about the deed restriction problems she had in Knollwood Village, which was in District C, and it was a serious problem and the civic club would like to take care of it and would like to work with her on it, that besides the deed restriction problems, he had worked with her with Neighborhood Protection and their inspections of her properties, that he thought she owned a hundred different homes and they all seemed to have some sort of problem with Neighborhood Protection, that he had tried to work with her on it. Council Member Castillo and Robinson absent.

Council Member Keller stated that he wanted to clarify that they did not have same sex benefits for City employees; and asked Ms. Brooks if she was saying that they foreclosed on her home because she rented a room, and Ms. Brooks stated that was what the City Attorney had said they were going to be suing her for, that was the reason they had given to the Attorney General for not releasing public records, because they were in the process, that they said it was eminent, that they had not foreclosed but were going to, and Council Member Keller asked what records exactly was she looking for, and Ms. Brooks stated that when they got the copy of her package it was very specific of what they wanted, that they wanted to know if any other resident in Knollwood had received the same kind of selective enforcement that she had received. Council Members Tatro, Todd and Absent.

Council Member Boney asked how was the City, in her understanding, involved in the foreclosure, and Ms. Brooks stated if he would read the information she had given them they would understand how the foreclosure racket acted and why it developed, that the City was involved by using their inspectors to generate violations, that it was those violations that the community association lawyers used to file a foreclosure against a homeowner. Council Members Tatro, Todd and Parker absent.

After further discussion by Council, Mayor Brown stated that Mr. Robert DeYoung would meet with her to see what they could do to be helpful to her. Council Members Todd and Parker absent.

Mr. Vincent Quarles, 9814 Phil Halstead, Houston, Texas 77086 (281-272-9884) appeared and stated that he was present concerning for the most part on bidding for City contracts, that he was a member of the Interchange Freedom Initiative Program, one of the pet peeves of President George Bush, that he had met with many of the City Council Members and some of their representatives while he was incarcerated, that he had only been out 30 days, that he was present because of some promises that were made during the discussions with some of the Council Members, that At Large Council Members Sanchez and Parker and representatives from Council Member Boney's office were there, that what he was asking for was just an opportunity to be able to bid on City lawn care of landscaping jobs, that he was being supported by a Christian foundation, that it was a nonprofit organization that was helping ex-offenders and substance abusers to integrate back into society to be productive taxpaying citizens, that he had been to prison three times and believed that this particular time in his life was the greatest time, that he had a lot of resources and opportunities and was asking for the Council and the City of Houston to help him and give him a chance, not with any handouts or money, that he just wanted an opportunity to work, that they were insured and bonded and the foundation had supplied an established business for ex-offenders and substance abusers, that they had also supplied a car loaning project as well as a testing center on the unit, that he was sure that many of them were familiar with the Interchange Freedom Initiative Program at the Carol S. Vance Unit, so he was reaching out to them for help in order to continue to try to build their communities and not go back to their old behaviors, that right now he was the manager of a lawn care business. Council Member Todd absent.

Mayor Brown stated that the Director of Purchasing would meet with him and he could explain to him how he would go about getting business with the City, that there was a procedure and certainly he would be eligible to compete if it was a competitive contract. Council Member Todd absent.

Council Member Quan stated that he appreciated the fact that he was trying to put his life back together and be a productive member of society, that on September 26, 2001 the City was participating in the Expo 2001 by the Minority Business Council of Houston in which they would have opportunities to meet with a number of companies, one on one, to see about marketing their services there, that he would be glad to provide more information about that as well as doing business with the City of Houston. Council Member Todd absent.

Council Member Keller stated that the Mayor did a resolution for the Carol Vance Unit and their choir came to Council and performed for them, that the first graduate of the program was employed by the City, Mr. Herbert Alfred. Council Member Todd absent.

Council Member Boney stated that Mr. Quarles ought to be commended for making the effort to establish an ex-offender program, that he should try to meet Mr. Charles X. White, that his office would try to provide that information to him, that he had some skills and experienced in putting those programs together.

Mr. Curtis M. Morton, 12910 Ticonderoga, Houston, Texas 77044 appeared and stated that he had put the City on notice about three years ago of his intention to sue the City but thanks to the Mayor he did not, that being a man of his word he called his mother twice and said that his door was always open for the citizens of the City, that he was 51 years old and had never seen a Mayor in the City as good as Mayor Brown; that he wanted to find out who was responsible for the flood, dam or control gates at Lake Houston and somebody was responsible for that spillway

when the dam reached a certain level, that he had been told by the City that it was the County and the County told him it was the City and so forth and so on, that he had lost two homes and a lot of land in the flood of June 9, 2001, that he wanted to find out who opened those gates; that he had asked to meet with the police chief and had been told that he had to do it in writing, that he wanted to know when that policy changed, that he would be happy to put it in writing, but thought that if the Mayor's door was always open then they ought to be able to make an appointment to see the police chief.

Mayor Brown stated that Chief Thaylor was present and would meet with him; that on the Lake Houston issue, Mr. Robert DeYoung was knowledgeable about that and would be glad to give him information on that.

Ms. Ruby Samuel, 6206 Paddington, Houston, Texas 77085 (713-723-4011) appeared and stated that she was a resident of Windsor Village Subdivision and was present to see if an engineer or representative of the Public Works Department would come and meet with her to help do an in depth analysis of the sewer system in Windsor Village, that they had an ongoing problem since at least 1994, that when they get the heavy rain their lines were completely blocked and could not use their facilities, that she became quite frustrated this particular time because her husband had major surgery and when she reported to the City on August 30, 2001 that their toilets could not be flushed and they could not bathe she felt that she had been given the same kind of run around that she had been given a number of years, that because it had become a health issue for her husband, on Sunday they were finally forced to move to a hotel, so her other request would be for someone to explain to her who would be interested and willing to pick up her expenses for having to move out of her home as a result of not being able to use the sewer system, that she tried with no success until this morning at 7:32 a.m., to just have an opportunity to speak directly to a supervisor or engineer or somebody who could really explain to her what was going on and how it could be addressed, that not until she got her name on the list to appear before the Council, did she get any kind of response and finally a Mr. Norton called her this morning but they missed each other, that as she said that one of the things that she discovered on Monday, when Public Works sent out a crew to try to flush the line so that the wastewater could run out and so that her line could be clear, they discovered that a company hired by the City, the Kinsel Company, was indeed laying new lines, but was told that her line was not included and she wanted to know why it was not. Council Member Keller absent.

Mayor Brown stated that Mr. Norman was present and would meet with her to work towards resolving the problem. Council Member Keller absent.

Mr. Bahman Bahrami, Econo Lodge Room 212 (until Sunday), (713-667-8200) appeared and stated that he had plastic surgery on his face at Ben Taub Hospital, one of the best hospitals in the world, that he did not have any feeling on the side of his face and on his hand, that he was going to put a levy on the City of Houston for \$10 billion, for the State \$25 billion, and federal \$100 billion, that there should be insurance for dogs, that he was a taxi cab driver and a bachelor from California, and displayed an injury to his arm where a dog took a bite out of arm, that if they had a dog they should have insurance, that every time he drove a taxi he had insurance, when he did not have insurance he got in trouble two times, that his face was numb, that he had to fight off a dog. Council Members Tatro, Keller and Sanchez absent.

Mr./Coach Bobby Taylor, 3107 Sumpter, Houston, Texas 77026 (202-FA3-4511) appeared and voiced his personal opinions until his time expired. Council Members Tatro, Keller, Castillo and Parker absent.

Mr. W. M. Morris, 6530 Linden, Houston, Texas 77087 (713-921-4500) appeared and voiced his personal opinion of Mayor Brown until his time expired. Council Members Ellis, Keller

and Castillo absent.

Mr. Trent Winters, 7967 W. Airport Blvd., Houston, Texas 77071 (713-781-2260) appeared and stated that this weekend there was a loss of somebody who both he and Council Member Boney knew, and Mr. Winters continued to voice his personal opinion of Council Member Boney until his time expired. Council Members Ellis, Keller and Castillo absent.

Mr. James Partsch-Galvan, 1611 Holman, Houston, Texas 77004 (713-528-2607) appeared and stated that he had a few comments, that number one, he thought that Geneva Kirk Brooks, 79 years old, should pay her \$500 filing fee and run for Houston City Council, that she reminded him so much of Silvia Ayers, who was going to be running for City Council, that he got a call from her daughter, Leslie Perez this morning; that the second comment he wanted to make was about Mr. Morris, that he was not running for District I but out of the five original ones, that he was one of the five who ran in 1995, he would vote for Mr. Morris because he thought it was his time, that for him he had not decided if he was going to run against Council Member Robinson and continue the Spates revolution or run for one of the empty positions, that he was leaning towards one of the those, that he just might put, in a fish bowl, all of the ones that he was qualified for and just pick it out and say okay that was the one he was going to run for, that those were all his comments today, that he had been seeing a lot of Council Member Sanchez's signs out a lot, that for those who sang happy birthday to him last week, he thanked them very much because he knew that sometimes he was mean to them. Council Members Ellis and Keller absent.

33. RECOMMENDATION from Director Department Finance & Administration to propose a tax rate of \$.655/\$100 of value for the Tax Year 2001, which is the same total tax rate that was levied by the City for the Tax Year 2000, and authorize the scheduling of a public hearing on the proposal **SUGGESTED HEARING DATE - 9:00 A.M. - WEDNESDAY - SEPTEMBER 19, 2001** – was presented.

Council Member Tatro stated that the way the item was posted he would like some clarification and asked if it was a statement that the Council by accepting this was recommending a tax rate of \$.655/\$100 or was it just posting \$.655/\$100 as the mark of which they were then going to have the hearing on and debate that. Council Member Keller absent.

Mayor Brown stated that what they were doing was stating that they would propose a \$.655 even though his copy stated \$.665, and they were stating a date and that was what the debate would be over and they were suggesting a hearing date.

Council Member Tatro stated that was one of his concerns because he did not think they had the final appraisal numbers come in from the Tax Assessor Collector, that he knew they set the budget on a tentative rate with certain valuations, that he wanted to talk to the Tax Assessor Collector to see if the rate, even keeping the same revenues that they passed in the budget, was not something they could move, that he knew they would be voting on that and asked when the rate had to be set, and Mr. Haines stated that it had to be by the first week in October.

Council Member Tatro moved to suspend the rules to hear from Mr. Jim Gill, Finance and Administration, at this time, seconded by Council Member Ellis. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0992 ADOPTED.

Mr. Gill stated that it was sixty days from when they received the certified roll, and that was August 14, 2001, so roughly it would be October 13, 2001, the 60th day following receipt of that roll, that they would have to set the rate, and Council Member Tatro stated that he knew they passed the budget with the \$.655 adoption, but as they moved closer to that October deadline,

and Mr. Gill stated that they were into the Truth in Taxation part of the State Law and this was just a requirement of that and once they went over the threshold that the effective tax rate, 103%, their \$.655 would exceed that, thus they were required to have a hearing and that was what they were doing today, and Council Member Tatro stated that obviously they needed to have the hearing, but he just wanted to put on the table the opportunity to have that rate debated on those tax assessor and evaluation numbers as they become more firm up towards the October deadline.

Council Member Sanchez stated that the agenda copy he had also list the same tax rate that the Mayor sounded off, and Mayor Brown stated that he would as the City Secretary to explain what happened.

The City Secretary stated that there was a typographical error on the agenda and was found before the agendas were distributed, that her staff told her that they had substituted all of the pages with the correct page, but undoubtedly the ones that were distributed to Council today was in a stack that did not get changed, that it was posted as the \$.655/\$100.

Council Member Sanchez asked to what extend did the City Agenda constitute a posting, because there were some inconsistencies, that the document that some of the Council Members and the Mayor had was inconsistent with the posting and some citizens may have walked away with one of them and from a legal perspective did that present a conflict, and Mr. Hall stated that he did not think so, that the City Secretary stated that the posting actually occurred 72 hours before the meeting started, that it was posted correctly and she indicated that they caught the mistake before they posted it and that they distributed to Council Members, and everybody else, correct agendas that showed it correctly stated, that as he understood it, this morning as an additional courtesy to Council Members they put an agenda copy on the Council table, that those were the only ones that were not correct.

Council Member Sanchez stated that he thought there was disparity in the projections that the City of Houston had on property tax revenues for Fiscal Year 2002 as compared to some of the projections that he heard the Harris County Tax Assessor Collector made and asked Mr. Gill if he arrived at the estimation for tax revenue for 2002 based on an independent study of prior years based on his assumption of increased property valuations independent of the Harris County Appraisal District, that he guessed they had not certified the appraisals or tax rolls yet, and Mr. Gill stated that they had certified, that they should understand that when they certified they did not have all of the values certified, just a percentage, that the certification was for the tax year 2001, and Council Member Sanchez asked if by approving the item today were they simply just agreeing to a posting of a public hearing because they triggered the mechanical aspects of the statute on fair taxation or was it clearly the intention of Council to adopt \$.655/\$100 tax rate today and was there an opportunity to offer up a reduced tax rate, and Mr. Hall stated that the answer to both of those questions was yes, that as had been explained because they went over the effective tax rate with this proposed budget it was requirement that there be a public hearing before the vote was taken, that they had announced their intention to set the tax rate at the amount that was posted and that was what the hearing was on, and Council Member Sanchez asked if this was the proper opportunity to offer up a motion for a lower tax rate, and Mr. Hall stated that following the hearing would be more appropriate. Council Member Todd absent.

Council Member Ellis asked Mr. Gill when they did the calculations for the Truth in Taxation were there three or two things that they excluded, and Mr. Gill stated that there were two this year, which would be included next year, that State law did change that, that there were two categories, one called "Problem Tracking", those that they just had not decided what they could do with, and there was another category called "Other", that some of those two categories were included in their estimate of their proposed revenue, that last year it turned out that the estimate

or projection were below those amounts, that they had excluded them in their calculation, but included them in their budget proposal, that in the Truth in Taxation they did not include those two category's by State Law, but next year they would have to be included, that they did not include the taxes that would be drained off by the TIRZ's, and Council Member Ellis asked that based on their calculations presently, how much were they going to exceed the 3% and Mr. Gill stated that it was actually 3.9%, with those three property values excluded. Council Member Todd absent.

After further discussion by Council a vote was taken on Item No. 33. All voting aye. Nays none. Council Member Galloway absent on jury duty. Council Member Todd absent. MOTION 2001-0993 ADOPTED.

PROPERTY

34. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Art Martinez of Texas Engineering and Mapping, on behalf of Gowan Investment Company (Clinton O. Gowan, Jr., general partner), for abandonment and sale of a portion of North Capitol Avenue and a portion of Linwood Street, in exchange for three storm sewer easements and a fire hydrant easement, all located within the Young Mens Addition, Parcels SY1-089, SY2-002, SY2-003, LY2-021, LY2-022, LY2-023 and KY2-021 - **APPRAISERS - DISTRICT I – CASTILLO** - was presented.

Council Member Castillo named Mr. Frank D. Flores and Mr. Thomas A. Bazan as the appraisers and moved approval of the recommendation, seconded by Council Member Tatro. All voting aye. Nays none. Council Members Galloway absent on jury duty. MOTION 2001-0994 ADOPTED.

MATTERS HELD - NUMBERS 35 through 42A

35. MOTION by Council Member Boney/Seconded by Council Member Sanchez to confirm the appointment of **MS. ARGENTINA M. JAMES** to Position 17 of the **MIDTOWN MANAGEMENT DISTRICT BOARD OF DIRECTORS** for a term to expire June 1, 2005 – **(This was a portion of Item 1 on Agenda of August 29, 2001, POSTPONED BY MOTION 2001-0971)** – was presented. All voting aye. Nays none. Council Members Galloway absent on jury duty. MOTION 2001-0995 ADOPTED.
36. ORDINANCE approving and authorizing second contract amendments between the City and **AAR INCORPORATED; DIAMONDHEAD INTERNATIONAL SALES CO.; ORTHO CONSTRUCTION/RENOVATION; R & A BUILDING SPECIALIST; ROBERT C. PEARSALL;** and **WATSON CONSOLIDATED** for the City's Lead-Based Paint Hazard Reduction Control Program - Not to exceed \$600,000.00 – **(This was Item 19 on Agenda of August 29, 2001, TAGGED BY COUNCIL MEMBER GOLDBERG)** – was presented.

Council Member Goldberg stated that he intended to support the item and wanted to thank Ms. Gloria Moreno for visiting with him on this, that he was surprised to learn that a lot of the alterations to some of the homes with lead base paint in them were actually for individual private owners and landlords, however the fact that they only did alterations to the home if there was a child proven to have lead based poisoning in their system, so he thought that it was a very worthwhile program.

A vote was called on Item No. 36. All voting aye. Nays none. Council Member Galloway absent on jury duty. ORDINANCE 2001-0828 ADOPTED.

37. ORDINANCE approving and authorizing contract between City of Houston and **TRIDATA CORPORATION** for Professional Services relating to the Implementation of Emergency Medical Services Planning and Redesign of the EMS System for Fire Department; providing a maximum contract amount - \$100,000.00 - General Fund – (This was Item 23 on Agenda of August 29, 2001, TAGGED BY COUNCIL MEMBERS QUAN and TATRO) – was presented.

Council Member Tatro asked if there was someone present to talk about the item because the way the agenda item was listed on the RCA it was substantially vague and they had some questions, i.e., they were paying additional consulting services for the fire department and EMS billing issues and he was not sure what the billing issue was, that he thought it was a collection issue they were talking about, that also that there was an EMS System redesign and he was not sure exactly what that was, that obviously TriData had a lot of recommendations and was not sure what direction EMS System redesign was taking, and also the in depth study of cost analysis of the proposed shift redesign.

Council Member Castillo moved to suspend the rules to hear from Assistant Chief Simms, at this time, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-0996 ADOPTED.

Upon questions by Council Member Tatro, Chief Simms stated that what they were looking at were different types of billing, that as they knew some departments across the nation did their own billing but their contract was with Lockheed at this point, that they were looking at doing something in house, that in the EMS redesign what they were looking to do was to inter phase their billing system and EMS system into their present CADD or their new PRC System as they go into the new consolidated center, that what that allowed them to do was to transfer that information to their laptop and in conjunction with certain information that the hospital might need as well as EMS and fire department personnel, that interface would come through the consulting advise that they might get from TriData, that the proposed shift change design dealt with possibly looking at different types of shifts, that as they knew staffing was certainly a priority in the Houston Fire Department and they were looking at different avenues in reaching that personnel desire, that they were looking at all of it and what was best in terms of service at the fire department and were looking at what was best for the citizens; that as to modifications to the blueprints he was sure they were talking in reference to the interface, that as they knew they were branched to interface one system to another and was sure it was dealing with CADD or the technical and systems end to billing as well as interfacing to the laptops they would be carrying on their EMS as well as some of the fire trucks, and Council Member Tatro stated that his concern with TriData was the wide ranging list of recommendations and they were sitting eight months after the study and they did not seem to have a direction, that he did not see this as specifically tailored enough to come out with a viable work product at this time, especially when he saw one that said technical advisor support to the Mayor's staff and fire department and asked who they had in house and who was giving advise to the administration, that he was concerned that after a lot of studies what the actual product was, and Mayor Brown stated that this was not a study, that it was an implementation, an action product. Council Member Goldberg absent.

Council Member Quan stated that he had a chance to visit with the union and also briefly with Mr. Hollingsworth and Mr. Piper and thought that there was sufficient confusion as expressed by Council Member Tatro.

Council Member Quan moved to postpone Item No. 37 for one week. All voting aye. Nays

none. Council Member Galloway absent on jury duty. Council Member Goldberg absent. MOTION 2001-0997 ADOPTED.

Upon questions by Council Member Sanchez, Chief Simms stated that this particular consulting or desire to implement from TriData on this particular item did not have anything to do with privatizing EMS, that to his knowledge the department had no intention to privatize any aspect of EMS; that he was aware that there had been some problems with the Lockheed product. Council Member Todd absent.

Council Member Tatro stated that he would like to see if there was a letter of contract that had been prepared for the consultant as a contract for the work to be implemented and if there was he would like to see that. Council Member Todd absent.

38. ORDINANCE approving and authorizing contract between the City of Houston and **ALTERNATIVE WORK ENVIRONMENTS, INC** for a Strategic Information Plan for the Library Department; providing a maximum contract amount - \$239,500.00 - General and Grant Funds – (This was Item 26 on Agenda of August 29, 2001, TAGGED BY COUNCIL MEMBERS KELLER, GOLDBERG and VASQUEZ) – was presented.

Council Member Vasquez moved to postpone Item No. 38 for two weeks, seconded by Council Member Keller. All voting aye. Nays none. Council Member Galloway absent on jury duty. Council Member Todd absent. MOTION 2001-0998 ADOPTED.

Council Member Vasquez stated that at this time the Library Department could complete and present to Council a final report on the results of their public hearings that were held this spring, and Council Member Parker stated that both the Library and Parks Departments were going to be at the Neighborhood Protection Quality of Life Committee Meeting on Monday morning to layout their master plans for formal acceptance by Council, and Council Member Vasquez if it would include the adjustments made from the public hearings, and Council Member Parker stated that if they were smart it would, but she did not know at this point, that it was going to be up to the administration to bring the master plans forward, and Council Member Vasquez asked if it would include any additional information regarding the upcoming bond election in the fall, and Mayor Brown stated that it would. Council Member Todd absent.

39. ORDINANCE awarding contract to **LANE EQUIPMENT COMPANY** for Ice Machine Rental Services for Various Departments; providing a maximum contract amount - \$1,088,362.50 General, Enterprise, Building Inspection and Fleet Management Funds – (This was Item 26 on Agenda of August 29, 2001, TAGGED BY COUNCIL MEMBER GOLDBERG) – was presented. All voting aye. Nays none. Council Member Galloway absent on jury duty. Council Member Todd absent. ORDINANCE 2001-0829 ADOPTED.
40. ORDINANCE appropriating \$275,000.00 out of Street and Bridge Consolidated Construction Fund and approving and authorizing professional services contract between the City of Houston and **CIVILTECH ENGINEERING, INC** for the Traffic Signal and Incident Management System CIP N-0650-03-2 (SB9050); providing funding for contingencies relating to construction of facilities financed by the Street and Bridge Consolidated Construction Fund – (This was Item 30 on Agenda of August 29, 2001, TAGGED BY COUNCIL MEMBER QUAN) – was presented. All voting aye. Nays none. Council Member Galloway absent on jury duty. Council Member Todd absent. ORDINANCE 2001-0830 ADOPTED.
41. ORDINANCE appropriating \$366,300.00 out of Public Health Consolidated Construction

Fund and awarding construction contract to **LETSOS COMPANY** for Construction of Cooling Tower Replacement, CIP H-0046-01-3; providing funding for contingencies relating to construction of facilities financed by Public Health Consolidated Construction Fund - **DISTRICT D – BONEY – (This was Item 30 on Agenda of August 29, 2001, TAGGED BY COUNCIL MEMBER TODD)** – was presented. All voting aye. Nays none. Council Member Galloway absent on jury duty. Council Member Todd absent. ORDINANCE 2001-0831 ADOPTED.

42. MOTION by Council Member Tatro/Seconded by Council Member Robinson to amend Item 42A below to delete Subsection (f) from Section 3-2 – (**TAGGED BY COUNCIL MEMBER ROBINSON**) – was presented.

Council Member Castillo stated that he would move to adopt the amendments that were drafted by the Legal Department which were consistent with the negotiations with the Catholic Diocese, which he distributed to Council, seconded by Council Member Parker. Council Member Todd absent.

The amendments were distributed as follows:

I move to amend Agenda Item 42a by amending proposed Subsection (f) of Houston City Code § 3-2 to read as follows:

"(f) The provisions of subsection (a) shall not apply to the operation of a restaurant and/or bar that is associated with a hotel, subject to each of the following criteria:

- (1) The hotel must be situated within the 'central business district,' as defined in section 3-3 of this Code;
- (2) The hotel must have a total project cost per room of \$100,000, or more, and must continuously meet each of the following criteria:
 - a. Have 80 or more separately rentable guest sleeping accommodations;
 - b. Have breakfast, lunch, and dinner meal service available to the public on the premises during normal meal periods; ~~<and>~~
 - c. Have ~~<a daily>~~ an average daily room rental rate of ~~<\$75>~~ \$100 or more; and
 - d. Have 15 hours or more of on premises room service on a daily basis.
- (3) The restaurant and/or bar must be operated within the same structure that principally houses the guest sleeping accommodations of the hotel and must be an integral part of the hotel's operations; ~~<provided that the restaurant or bar may be operated by the hotel owner or>~~ this requirement shall not be construed to preclude the operation of a restaurant by another person acting under a license or business agreement with the ~~<hotel owner>~~ hotel's owner or operator, but a bar must be operated by the hotel's owner or, if the hotel is not operated by the owner, then by the person primarily responsible for the overall operation and management of the hotel; and
- (4) The restaurant or bar shall:
 - a. Take access from the lobby or interior corridors of the hotel; a restaurant may in addition to the lobby or interior access have direct public access to the exterior of the hotel structure but a bar may have no direct exterior access, except for 'exit only' emergency egress doors if required for compliance with building and fire codes;

- b. Have no signage that is placed upon or visible from the exterior of the hotel that references or suggests the existence of a bar or advertises or suggests the availability of alcoholic beverages within a bar or restaurant;
- c. Not have any alcohol bottles, beer taps, alcohol service equipment, bars of the type typically associated with the service of alcohol by a bartender, alcohol related signage, or any other indicia of the sale or service of alcohol that may be viewed from the exterior of the hotel through windows, doorways, or other openings; however, this provision shall not preclude the service of alcohol in unmarked or covered containers or barware at patrons' tables in response to customer service orders; and
- d. Not have any outside seating or service areas; this requirement shall not be construed to preclude an interior courtyard restaurant or bar that is completely surrounded by the hotel and is not visible in any manner from the exterior of the hotel.

For purposes of the application of this subsection, the term 'restaurant' shall be limited to a premises operating under a food and beverage certificate issued by the Texas Alcoholic Beverage Commission, and any other type of premises that offers alcohol service shall be referred to as a 'bar.' 'Average daily room rental' equals each day's gross receipts from rental of guest sleeping accommodations, less taxes, fees, and service charges, divided by the number of room rentals during that day. 'Total project cost per room' equals the total project cost for the hotel, including all real estate, design, construction, financing, legal, and other soft costs, divided by the number of separately rentable guest sleeping accommodations. Operation of a hotel bar or restaurant under the provisions of this subsection shall require written approval of the director of planning and development, which shall be granted upon demonstration of compliance with the foregoing requirements. Application for an approval shall be made by the applicant for alcohol license or permit for the premises, who shall additionally be joined by the owner of the hotel and the owner of the land upon which the hotel will be situated if they are not the same persons who will hold the alcohol licenses or permits. The approval shall be in the form of a covenant enforceable by the city that shall run with the land upon which the hotel will be situated and shall be conditioned upon full and continuing compliance with all requirements of this subsection for the duration of the alcohol licenses or permits. The covenant shall be executed by the applicant and duly recorded in the real property records of Harris County at the expense of the applicant. The director of ~~Planning~~ planning and development may issue rules that are consistent with the requirements of this subsection for the administration of its provisions. No certification that may be required from the city by the Texas Alcoholic Beverage Commission or any other authority for the issuance of any alcohol permit or license shall be provided until all requirements of this subsection have been completed."

Council Member Tatro asked if there was not already a motion on the floor, and Mayor Brown stated that Council Member Castillo had a substitute amendment, and Council Member Tatro stated that it was his amendment and did not know that they could substitute for his amendment and Mayor Brown stated that he could, that he may not agree with it, but he could, and Council Member Tatro stated that he would tag the amendment.

Council Member Boney asked Council Member Tatro what his amendment was, and Council Member Tatro stated that he proposed last week a deletion of subsection f in the original proposal, which dealt with the exemption for the Central Business District, that it was removing the exemptions for the CBD and hotels, that from the opinion of the Legal Department it basically

states that they could do variances and that was his goal rather than create exemptions, and Mr. Hall's opinion stated that State Law authorized such variances in virtually unfettered basis for any wide variety of non specific reasons, and Council Member Boney stated that as he understood Council Member Tatro's amendment would do was that they would take up or have the opportunity to take up each individual variance one at a time, and as he understood Council Member Castillo's proposed substitute amendment to do was they would basically handle this at one time and be done with it and hopefully would have clarified and reached a balance with all of the stake holders and constituents and basically that was the discussion they were in now.

Council Member Boney asked Mr. Tollett if the substitute amendment proposed by Council Member Castillo have all of the stake holders involved, were all of the churches, schools, etc., now aware of this, and Mr. Tollett stated that through a series of meetings with the stake holders, mainly Annunciation Church, they were acceptable to the amendment that Council Member Castillo had put forward and that was a request by a number of Council Members, to please go work it out so the stake holders did not have a problem with it and for the last three weeks that was exactly what they had done in good faith and were more than willing to agree to those amendments which raised the level of the kind of structure that would be built there, and Council Member Boney asked if they had anything in writing or were any of them present in Chambers to affirm their support, and Mr. Tollett stated that he did not know if there was anyone present from the church, that all he had was the letter from the Bishop that was sent to the Mayor and they forwarded it to all of the Council Members via the Agenda Director, which basically said that if they added these to the ordinance they could live with it.

Council Member Boney asked Council Member Tatro if he had received a letter from Bishop Fiorenza and Council Member Tatro stated that he had and his letter was based on an assumption that they could not do variances and that was an incorrect assumption, that they could do variances and he did not know what the slate of variance may be, if there would be 5 or 20, but clearly the City Attorney's letter states, Council, upon articulated certainties, could grant variances, if it was the desire of the Council to grant variances only in the CBD, it appeared it would be legitimate if it was stated and known, and so the variance request was open, that it was his understanding that Bishop Fiorenza made his decision based on the fact that he believed variances, and he was told that variances would not be acceptable, that he thought that substantially changed the ground rules for variances, and the ground rules for creating an ordinance. Council Member Bell absent.

Mayor Brown asked Mr. Hall to verify the issue that Council Member Tatro had raised, and Mr. Hall stated that at great risk he could try, that he thought that Council Member Tatro was only reading the last sentence and leaving out everything else that was written in the three page document, that they had consistently advised Council that variances of this nature could not be granted if there were not a set of standards by which the request would be measured, that this was a very contentious area as they all knew, that generally speaking it had been for years and years, that it was their advise to Council that Council not be in the position of being challenged on the grants because they pick and chose who gets the variances and the law does not permit that, that it does not permit them to delegate that to anybody other than this body, that it had been suggested to them that maybe there would be a form that churches could fill out indicating whether or not they opposed one of these establishments or not, that the law does not permit that, that was an illegal delegation, that secondly it involved violations of First Amendment if they do that, that there was at least one case that says they could not do that even on a defacto basis, meaning that even if they did not have the rules they could not grant the variance to everybody who did not have opposition spoken and not grant it to people where there was opposition spoken, that they tried to explain those issues in the memo, that anybody who was similarly situated would have to be treated the same. Council Member Vasquez absent.

Council Member Ellis stated that it seemed to him that by passing this amendment to the ordinance they were granting exceptions to certain pieces of property and that would be the downtown district, that it was an exception and or a variance, and Council Member Ellis asked if they granted a variance could somebody come back and sue them for granting a variance or could somebody come and sue them if they pass the ordinance, and Mr. Hall stated that they could or could not, that the law allowed them to treat people who were similarly situated based on rational distinctions differently, that in other words the CBD was treated differently in a number of their ordinances than say areas outside the CBD and that was permissible under the law, that also they could treat people inside the CBD based on the circumstances that were particular to the CBD differently than they treated people outside of the Central Business District. Council Member Vasquez absent.

Council Member Robinson stated that he hoped they would just go on and vote on Item No. 42, that he intended to vote against the amendment, that the simple comfort that he had was that this was a variance and the objective standards for the variance and instead of coming back to Council on the standards they were just going to do a blanket variance within the Central Business District and if the City Attorney was correct and they could make a distinction between the Central Business District and the rest of the City then they had just taken themselves out of voting time and time again for anybody who met the objective standards, that he did not see what the problem was in pursuing the route in terms of the amendment that Council Member Castillo was offering. Council Member Vasquez absent.

Council Member Todd asked how did the ordinance relate to the County Judges authority to grant appeals on liquor licenses, and Mr. Bibler stated that the first step in obtaining a license was to apply to the Alcoholic Beverage Commission and they refer those applications over to the City for the measurement, vis-à-vis, schools, churches and public hospitals, and if they do not meet the test then the application does not go forward unless someone wanted to challenge the measurement method. Council Member Vasquez absent.

After a further lengthy discussion by Council, Council Member Robinson moved to call the question on Item No. 42. Council Members Sanchez and Tatro voting no, balance voting aye. Council Member Galloway absent on jury duty. MOTION 2001-0999 ADOPTED.

A roll call vote was called on Item No. 42.

ROLL CALL VOTE:

Mayor Brown voting no Council Member Vasquez voting no

Council Member Tatro voting aye Council Member Castillo voting no

Council Member Galloway absent Council Member Parker voting no

on jury duty

Council Member Goldberg voting no Council Member Quan voting no

Council Member Boney voting no Council Member Sanchez voting no

Council Member Todd voting no Council Member Bell voting no

Council Member Ellis voting aye Council Member Robinson voting no

Council Member Keller voting aye MOTION 2001-1000 FAILED

42a. ORDINANCE amending **CHAPTER 3 OF THE CODE OF ORDINANCES; HOUSTON, TEXAS**, relating to the Sale of Alcohol within the City; containing findings and other provisions relating to the foregoing subject; providing for severability - **DISTRICT I – CASTILLO - (This was Item 41 on Agenda of August 29, 2001, TAGGED BY COUNCIL MEMBER QUAN)** – was presented.

Council Member Sanchez stated that this was an ordinance that had been on the books for as long as 70 years and asked if the Legal Department had any idea how long the ordinance had

been on the books that separates the distance between an alcohol serving establishment and a church in the City, and Mr. Bibler stated that the basic 300 foot ordinance arose after prohibition and his impression was that the City did not adopt it until sometime in the 1940's.

After further discussion by Council, Council Member Robinson moved to postpone Item No. 42a for one week, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Galloway absent on jury duty. MOTION 2001-1001 ADOPTED.

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS

Council Member Sanchez stated that he wanted to remind the Director of Public Works and Engineering that he would still like to get a briefing on the condition of Stella Link Road, which they paid \$37 million for the reconstruction, that months had gone by and it was cut up and there were barrels and black topping, so he wanted to get a final resolution and date certain as to when the utilities were going to rehabilitate that street back to its original condition. Council Member Castillo and Robinson absent.

Council Member Sanchez stated that he had been sipping a little wine with Mario Andretti, who had been instrumental in the Houston Grand Prix, and he said that he had never seen such a courteous yet stern police department, that they got everything accomplished that they needed to do and did it with a high level of courtesy and he wanted to make sure that the compliment was passed on. Council Member Boney, Castillo and Robinson absent.

Council Member Quan stated that he thought some of the discussion today, regarding the TriData Report, did warrant some mentioning, that the Red Ribbon Panel, which the Mayor appointed last year, was to make a report to Council on the implementation of a lot of those items so he encouraged the Mayor to get the report to them, and Mayor Brown stated that he had been told that it was in the mail. Council Member Boney, Todd, Castillo and Robinson absent.

Council Member Quan stated that he appreciated the administration looking into how they operated their municipal channel, that they looked at proposals yesterday before Fiscal Affairs and would be having an ad hoc committee meeting tomorrow regarding the downtown facilities, so if any Council Member was interested in how the parking garages were operating on temporary permits, what they were doing about the travertine that fell down from Jones Hall and also what the operation of the municipal channel would be in the future, was welcome to attend that meeting. Council Member Boney, Todd, Castillo and Robinson absent.

Council Member Vasquez stated that he would like to point out to small business owners that there was going to be a forum on contracting opportunities with the multi purpose arena, September 19, 2001 at 2:00 p.m. at the George R. Brown, Room 310, that it was an excellent opportunity to find out what types of projects were available for small businesses and encouraged small businesses to attend. Council Member Boney, Todd, Ellis, Castillo and Robinson absent.

Council Member Vasquez stated that they had been working on the Northside Economic Revitalization Plan and were narrowing their project and actually coming toward completion and on Saturday, September 8, 2001, 8:00 a.m. to 12:00 p.m. they would be having one of their final two public meetings in which they were going to present the drafts of the concepts at the meetings, and invited the Mayor and any of the Council Members who were interested to attend and see some of the work they had been doing and planning on revitalizing the near northside, that it would culminate on October 13, 2001 with a community wide townhall session, that they had excellent consensus and lots of participation. Council Member Boney, Todd, Ellis, Castillo and Robinson absent.

Council Member Keller stated that he wanted to wish his chief aide, Ms. Janet Carr, a happy birthday. Council Member Boney, Todd, Ellis, Castillo and Robinson absent.

There being no further business before Council, the City Council adjourned at 11:27 a.m. upon MOTION by Council Member Vasquez, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Galloway absent on jury duty. Council Member Boney, Todd, Ellis, Castillo and Robinson absent.

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

MINUTES READ AND APPROVED

Anna Russell, City Secretary