

City Council Chamber, City Hall, Tuesday, August 27, 2002.

A Regular Meeting of the Houston City Council was held at 1:30 p.m. Tuesday, August 27, 2002, with Mayor Lee P. Brown presiding and with Council Members Bruce Tatro, Carol M. Galloway, Mark Goldberg, Ada Edwards, Addie Wiseman, Mark Ellis, Gabriel Vasquez, Carol Alvarado, Annise Parker, Gordon Quan, Shelly Sekula-Rodriguez, M.D., Michael Berry and Carroll Robinson; Mr. Al Haines, Chief Administrative Officer, Mayor's Office; Mr. Paul Bibler, Senior Counsel, City Attorney's Office; Mr. Richard Cantu, Director, Mayor's Citizens Assistance Office; Ms. Martha Stein, Agenda Director present. Council Member Bert Keller out of the city on personal business.

At 2:02 p.m. Mayor Brown stated they had several Council presentations with the first being Council Member Edwards. Council Members Galloway, Alvarado and Robinson absent.

Council Member Edwards stated that as they all knew they were in a fight for their communities regarding the challenge of HIV and AIDS, especially in the African American community and especially among African American or Black women and since the declaration of the State of Emergency she had the opportunity prior to the declaration, but since the declaration to work with two amazing and phenomenal women who were challenged with the HIV virus and the power that they bring to their movement and advocacy was that they stood and talked with young women about the challenge and how they could overcome it and that it was not the end of life, that it spoke more to the quality of life as opposed to it being a death sentence, and invited Ms. Barbara Joseph and Ms. Deana Gray to the podium, that Ms. Joseph was a mother, a worker in the community and currently worked with Families Under Urban and Social Attack, FUUSA, which was a community outreach group in the Third Ward area and she was an outreach worker, but more so than the classification of a job or an outreach worker Barbara was a friend to the community who was honest with the young people, especially the young women and went out of her way to talk with them and challenge them to make better choices in their life and presented Ms. Joseph with a certificate from City Council District D, Council Member Edwards stated that Ms. Gray was a very special young lady, she was a mother and had worked with a number of community organizations including the Urban League and as know worked in the community as Educating Advocacy Director for People with AIDS Coalition and as she said Ms. Gray was always standing up with young women and telling them ways of making better choices, not judging their behavior, but how do they make better choices in their life, to get tested to know what their status was, because they were saying that it was better to know than to find out, if they could make that distinction, and presented Ms. Gray with a certificate from City Council District D, that she thought that even more than the certificates the people who had come down with them, their fellow workers who were present to once again to say to them that they appreciated them and wanted them to keep holding the light. Council Member Alvarado absent.

Ms. Gray stated that on behalf of her and Barbara she wanted to say thank you for their generous recognition of their efforts of the HIV prevention and care, that they graciously accept the honor and welcomed the opportunity to share it with those people in the community who gave their time and talent to the struggle, that they wanted to say thank you to Council Member Edwards whom they had known for many years in different capacities, that the recognition celebrated community effort and recognizes the impact that shared collaboration between government and its citizens could have, as two HIV positive African American women, she and Barbara had witnessed the changing epidemic and been able to respond and work within the impacted communities, that the recognition today validated their efforts, however to please be mindful that efforts must continue for them, for today and for tomorrow, that they were two of many thousands of people whose voices could not be heard because they were no longer with them, that thousands of people who did speak out yet who were often not recognized and

thousands of people who simply could not speak, they proudly represented them here today, that HIV continued to rise in the City of Houston and the struggle was not over, together they must continue in their efforts to remain firm and committed to the prevention of HIV disease, committed to education, to planning and to finding additional resources to help fight the public health crisis, they were proud to be a part of the accomplishments they shared today, but they knew that by living and working within the community daily, that more needed to be done, the recognition signified all of their efforts and commitment to eradicating the disease.

Council Member Edwards stated that she also wanted to acknowledge and respected the work that Dr. Kendric and Ms. Glenda Garner with the Health Department had made in the reinvigoration of the HIV and AIDS Task Force and of course Mayor Brown for his leadership.

Mayor Brown stated that the next presentation would be from Council Member Galloway.

Council Member Galloway stated that she would like to recognize one of their community activists and no stranger to the City, a young lady who had worked tirelessly in their community and invited Ms. Nellye Joyce Punch to the podium, that Ms. Punch was recognized nationally for the community work that she had been involved with for so many years, that it was by the Neighborhood Reinvestment Cooperation and was the founder of the Neighbors Work Network and was from cities all over American and Ms. Punch was one of the national finalists and presented her with a proclamation that proclaimed that Lee P. Brown, Mayor of the City of Houston, hereby proclaimed Tuesday, August 27, 2002 as Ms. Nelley Joyce Punch Day in Houston, Texas.

At 2:14 p.m. Mayor Brown called to order the meeting of the City Council and Council Member Quan led everyone in prayer and the pledge of allegiance.

Mayor Brown requested the City Secretary to call the roll. Council Member Keller out of the city on personal business.

Council Members Robinson and Vasquez moved that the minutes of the previous meeting be adopted. All voting aye. Nays none. Council Member Keller out of the city on personal business.

Mayor Brown requested the City Secretary to call the list of speakers.

Council Member Edwards moved to suspend the rules to hear Mr. John Florez after Mr. Ben Dover, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Galloway absent. MOTION 2002-0997 ADOPTED.

Council Member Alvarado moved to suspend the rules to hear Mr. Marvin Peck after Mr. John Florez, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Galloway absent. MOTION 2002-0998 ADOPTED.

Mr. Dave Pickrell, Post Office Box 5472, Katy, Texas 77491 (281-347-8780) appeared and stated that he was the President and founder of Smokers Fighting Discrimination, that it was a not for profit smokers rights group from Katy, that he was present about the proposed expansion of the City of Houston Smoking Ordinance to restrictions in office buildings and also having to stand several feet away from entrances, that he wished to address most of what he had to say to the Members of Council that would vote for the further restrictions, that if the proposal now being forwarded to the City Council was approved then it would cost Houston building owners

millions in renovation costs if they chose to allow smoking in their buildings, most likely they would not do it because the cost was too high and the end result would mean the smoking would be banned, that if a landlord allows individual tenants to smoke in their offices this law would strip the landlords and the tenants of that right in favor of an area where smoking was allowed, that no landlord at their expense would offer to redo ventilation to an individual office so smoking could be continued there and the end result was that smoking would be banned, that very few office buildings, at their expense would partially redo ventilation for the indoor comfort of smokers, that most would consider it an expense they could live without, the productivity of smoking employees would suffer by City mandate and would make them less desirable employees, was this not clever, the City of Houston would not be banning smoking in the work place they would just be changing the ventilation laws and the end result was that smoking would be banned, that the so called harms of passive smoking, which was why all of this was taking place, do not exist, that they challenge anyone from a government bureaucracy, a member of the media, someone from the public health community, a politician, an average citizen or a doctor to find one death certificate that states "death due to passive smoking exposure from a tobacco product", was any member of the Council ready to show proof of the harms of passive smoking in terms of the real world. Council Member Galloway absent.

Council Member Ellis stated that it was true that they wanted to change the ventilation laws, because he personally did not believe that someone who worked in a building should be subjected to secondary smoke if they did not want to be subjected to secondary smoke, and he thought that was where the conflict lay, that Mr. Pickrell thought he had a God given right to smoke and have that go through the ventilation system and into other offices that may not have anything to do with his business, and Mr. Pickrell stated that ventilation systems from the very beginning were designed to handle that and the only objection most people had to smoking was the odor, that he was a smoker, and Council Member Ellis stated that they heard a number of different complaints and primarily the owners of the business properties, called BOMA, Building Owner Maintenance Association, were the ones who were bringing it forth to impose the restrictions on themselves, which he thought was admirable at least, and he disagreed with Mr. Pickrell and would do some research on whether or not people had any type of health problems from secondary smoke, that it was his understanding that there had not and Mr. Pickrell stated that there was nothing that could be proved, that it was a very complex issue. Council Member Galloway absent.

Council Member Sekula-Gibbs stated that she too wanted to register her disbelief that Mr. Pickrell was present to say there had not been any proof because there had been 50 years of data generated that Cancer as well as numerous other conditions were related to tobacco use and not just primary tobacco use but secondary tobacco use, that the estimates were that about 3,000 people die a year from secondary smoke, and Mr. Pickrell stated that was from the EPA and they knew that a federal judge had annulled that, and Council Member Sekula-Gibbs stated that not only did they die from Cancer but they got emphysema, asthma, bronchitis, heart disease, stroke and high blood pressure. Council Member Galloway absent.

Council Member Robinson stated that he wanted to thank Mr. Pickrell for being present and standing up for the right to smoke, that he was going to vote for the ordinance and if he had his way and the ability he would ban tobacco outright in the Country. Council Member Galloway absent.

Council Member Berry moved to suspend the rules to add Mr. Doug Pittman to the speakers list after Mr. Miller, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Keller absent on personal business. Council Member Galloway absent. MOTION 2002-0999 ADOPTED.

Ms. Judy Terry, 7715 Braes Meadow Dr., Houston, Texas 77071 (713-772-6419) appeared and stated that she wanted to thank the City Council Members for their interest in making entrances and exits to the buildings more accessible for those who had breathing problems, that she was an example of a person with asthma, she also was also an example of a person who was diagnosed two years ago with emphysema due to exposure to second hand smoke, that she had never smoked or worked in any environment where there was any risk of emphysema, that she did speak to the City Council last February about her experience with having asthma when leaving an event at the George R. Brown Convention Center and displayed an inhaler that she used everyday to prevent from having asthma, that when she left the convention center she literally had to spread her way among the smokers, along the sidewalk, to get to her car, that when she got back to her car she could barely breathe, that her peak flow meter did register the fact that she was not breathing adequately and she also had to use her rescue inhaler after she got back to her car because of the second hand smoke that she breathed on the sidewalk outside of the convention center, that she just wanted to tell them that she was so impressed with the City Council for looking at the ability to change the ordinance so that those of them who had breathing problems would not have to carry their rescue inhalers when they go to events, that she was looking forward to attending events at the George R. Brown Convention Center after it is changed so that she could breathe and not have asthma.

Council Member Parker stated that she hoped they could address a little bit of the difficulty Ms. Terry had in attending public events, that they were not banning smoking on public sidewalks, but hoped to move them away from the door so that they could attend and still breathe when she comes and goes.

Council Member Sekula-Gibbs stated that Ms. Terry brought up a good point and thought it would be appropriate for building owners, including the City, to indicate on their plaza's and concrete areas in front of the building where the smoke free zones were, because then they would have right of way.

Council Member Berry stated that he wanted to say to Mr. Pickerell and the few individuals who had come forward and he had heard from people by phone call and email, who were concerned about it and who were smokers and wanted to express their displeasure, that he had sat in on the committee meeting of Council Member Parker's committee, that heard this, and they had talked to BOMA and a number of different organizations to get their thoughts, that this was not done lightly, so for those individuals who were concerned that City Council yanked away their supposed smoking rights, it was not done lightly, that there were a lot of discussions and a thorough analysis and at the end of the day it was determined it was a legal thing to do and it was the right thing to do and he wanted to make that clear to those individuals out there who did smoke.

Mr. Bob Mahan, 6910 La Puente, Houston, Texas 77083 (281-561-8065) appeared and stated that he was Executive Director of Smoking and Tobacco Education Campaign and had been working on the issue since 1986 with his good friend, Eleanor Tinsley and was a speaker at a national conference on environmental tobacco smoking in Washington, D. C., that he thought it was a great step and the reason that hopefully they were looking at the issue was because second smoke was very harmful, in fact it was deadly and many studies had indicated how many people even die from it, 60,000, that it was a public health issue, even though the change was not brought forth by the public health community, that people got sick from second hand smoke and the State of California had prohibited smoking in work places, bars and restaurants, the State of Delaware just did the same thing, and their sister City, El Paso, Texas, the fourth largest City in the State of Texas had prohibited smoking in every restaurant, work place and bar, and so the citizens in those communities currently enjoyed safer air inside than the good people in Houston, so he would encourage them to vote for it and just think about the future and what

they were going to do to protect the people in Houston that worked and had to shop and eat in places. Council Member Sekula-Gibbs absent.

Mr. Kevin O'Flaherty, 6301 Richmond, Houston, Texas 77057 (713-706-5466) appeared and stated that he was the Director of Government Relations for the American Cancer Society in Houston, that he wanted to echo a little bit of Mr. Mahans comments, that while he respected what everyone's opinions were today, the folks who were wanting to look at some of the positive health aspects of this potential Legislation, he wanted to speak on behalf of the American Cancer Society and other groups that they worked with in the public health community, that this was not a public health ordinance amendment, it was not something that any public health group came to Council or Council Members about, it was something that BOMA and IRM and the local hotel and restaurant association came in, that if they wanted to have a public health debate he would love to debate Mr. Pickerell on some of the death certificates and the causes of death and the numbers that were out there, that he thought it would be a very active and healthy debate and thought that was one that the City would probably have in the coming years, but that was not what they were doing today, that it was a business organization that had come forward and said they needed some help in regulating their climate in terms of the people they did business with, that was why the American Cancer Society had not taken a pro or opposing stance on it, they were neutral on the Legislation and thought it would have some incidental benefits for public health and they applauded them for taking the step in that direction, but it seemed clear to him that the ordinance was not designed necessarily to help public health, even though that was an ancillary benefit, he just wanted to be clear to all and hoped they were all clear on the pros and cons of this particular bill and why they were doing it. Council Member Sekula-Gibbs absent.

Mr. Ben Dover, 8003 Brockton, No. 223, Houston, Texas 77017 (713-649-5222) had reserved time to speak, but was not present when his name was called. Council Member Sekula-Gibbs absent.

Mr. John Florez, 524 Westheimer, Houston, Texas 77006 (713-522-6548) appeared and stated that he was present to ask permission from the City to move the New York City Twin Towers Memorial that had sat at 524 Westheimer since September 15, 2001, that he would like to move it to the esplanade on Montrose, that memorials to Princess Diana and Comet's player, Kim Perrot, provided a place for thousands of Houstonians and Texans from as far as Galveston to grieve in many ways, that the memorial had withstood rain, winds and storms and they had no problems with it, that he understood that the City was always concerned with damage or danger to the public, they would welcome the City to visit their property and look at the structure, that donations were being collected and they hoped that two sections of I beam, one from each tower, would become part of the permanent memorial, it would be terrific if everyone would mail them 25 cents, that with 25 cents they could erect a terrific memorial, that the memorial that they had at 524 Westheimer was 23 feet high and sat on scaffolding with wheels, they would like to move it to the landscape esplanade on Montrose, between Westheimer and California Street, that they would like to place it there on September 10<sup>th</sup> and remove it on October 31<sup>st</sup>, that the only thing they would like to have from the City was to move it from the 524 Westheimer address to the Montrose location which was about 3 blocks and all they would need was a little bit of police assistance, that they would provide the labor, the memorial had been built and he wished they could see the structure in the evening, but unfortunately he did not have time to produce a picture, but at dusk and at dawn it looked so real, that he wished he could tell them some of the stories and some of the things that had happened, that people from New York, two elderly couples had lost their way and were driving down Westheimer, that they lived a few blocks from the Trade Center and they told him when it was being built and then they fell in love with it and when it was destroyed it was like having lost a member of the family, that he hoped that there was enough love in the Council Chamber for those who lost their lives on September 11<sup>th</sup> that the only words he would hear from everyone of them was "lets roll". Council Member Vasquez

absent.

Upon questions by Council Members, Mr. Florez stated that the monument was 23 feet, that it would not impede traffic, the esplanade was quite wide and the structure was weighed with chains and cement weights, it certainly would not fall, that they brought two carpenters from Galveston to build it, that he would leave some photographs for the Mayor of how they built it so even before they come out they could see how well it was put together, that it would not obstruct people's vision while they were driving, that personally several of them drove around and looked at it, that it sat on a scaffolding. Council Member Vasquez

Mayor Brown asked Mr. Bibler if it was even legal in terms of the laws of the City, and Mr. Bibler stated that he could think about a half a dozen issues, that first of all they did not allow unattended displays to be put up by the public on City streets, that he realized that from time to time they did that but if someone came to him he would tell them they should not do it, that if the Parks Department, which would have jurisdiction over the esplanade and thought it should be there and if Mr. Florez wanted to donate it to the City and if the Municipal Arts Commission thought it was pretty enough, then it was possible it could go there but there were several steps that it would have to go through. Council Member Vasquez absent.

Upon further discussion and questions by Council Members, Mayor Brown stated that Mr. Brian Hill from the Parks Department was in the Council Chambers and would ask him to meet with Mr. Florez and work through the issues on it and see what could be resolved. Council Member Vasquez absent.

Mr. Melvin Peck, 8019 Colgate, Houston, Texas 77061 (713-643-4442) appeared and stated that he was present regarding a sewer condition in the back of his home in Glenbrook Valley and thought it was in Council Member Alvarado's District, that they had a terrible thing with a cave in behind their house and they had a sewer there, that the manhole was dug very large and was six foot from the corner of their house, that the house was actually falling into the manhole where they did pack it down when they put it in there, that it was about 5 years old now, that it was down 8 to 9 inches into the sewer, that the foundation was still in good shape, but did not understand how long that would be, that the walls were cracked real bad and evidently it was not packed deep and hard enough, that they had been involved with it for the last 5 years and so far they had not had any help at all from anybody with it and right now they had a condition where they were going to put the manhole where there was a dead end and there was no water and nothing had every been in the manhole, just the manhole was there, that he guessed it was down 8 or 9 foot deep, that they wanted to go into that manhole now and start at the manhole and go up the street with it and were going to tear up everything so he did not know what was going to happen. Council Member Vasquez absent.

Council Member Alvarado stated that they had been trying to resolve this for quite some time, her staff had actually gone out there and had been in communication with Public Works since April and prior to her arrival on Council they had the problem for several years, that they kept going back and forth with Public Works but there was no resolution to it and asked if someone was present from Public Works so they could address the issue, and Mayor Brown stated that Mr. Gary Norman was present and would work with Mr. Peck and see where they could go with it, but there were some legal issues and asked Mr. Bibler if that was right. Council Member Vasquez absent.

Mr. Bibler stated that he was advised that no claim had been filed with the Legal Department and was certainly not suggesting that they would act favorably on the thing, but they could not even consider it if it was not filed, that the other question would be if it was done by a private contractor they might have greater recourse than if it was done by the City so the other

question was if it was done from some work that the City had done in recent years they probably needed to see if it was done by City forces or under a contract, and if it was done under a contract it was possible that if the statutes of limitations had not run he would have some recourse against the contractor, and Mayor Brown stated that Mr. Norman, who was present, would meet with Mr. Peck and work with him to see if they could resolve the issue. Council Member Vasquez absent.

Mr. Bob A. Miller, 8210 Colgate, Houston, Texas 77061 (713-649-0855) had reserved time to speak, but was not present when his name was called. Council Member Vasquez absent.

Mr. Doug Pittman, appeared and stated that he was asked to come to Council and tell them what he had observed the other night whenever the Kmart raid happened, that first of all he was a tow truck driver and they knew about it a little bit before it happened and they were stationed across the street when it did happen, that a lot of people were saying, well before the raid even happened, the parking lots were completely full, people were out there spinning tires and making lots of smoke, throwing their trash everywhere, that about an hour before it happened the parking lot was cleared and then they came back, as every Saturday night, that police officers come out there every Saturday night and it had been that way for a long time, as soon as the police officers leave the people come back, that he had seen first hand what happened whenever those people get out on the street and were racing or exceeding the speed limit, over 70 or so and the two cars if they do not make it through the light before it turns red then someone else gets hit or someone gets killed, that it happened many times on Westheimer and they were all aware of that and they all had probably seen the photographs, he had seen it first hand, that on that particular night whenever the raid happened the police cars started filing in and the moment that they did people started running, just like they always did, for a long time it had been known that the Sonic was safe ground, if they were in Sonic and had something to drink they could not run them off, that at the end of the night there were only 4 cars in the Sonic parking lot, there was only 1 car towed from Sonic, but at 5:00 a.m. there were only 4 cars in the parking lot and one of those belonged to the manager of Sonic, that a lot of people were saying that a lot of people were arrested in their cars at Sonic and that was not true, the out of uniform officers were in the parking lot a long time before the other units arrived, they observed for a long time what was going on out there and they were the ones doing the directing. Council Members Vasquez and Robinson absent.

Mayor Brown stated that Mr. Pittman had indicated that he was asked to come and tell the observation, and Mr. Pittman stated that was Council Member Berry, and Mayor Brown asked if he had given a statement to the police on what he had observed and Mr. Pittman indicated that he had not, and Mayor Brown asked if he could do that once he finished at the Council meeting and tell them what he had observed there as well. Council Members Vasquez and Robinson absent.

Upon questions by Council Members, Mr. Pittman stated that they were present from 10:00 p.m. on, that they knew there was going to be a raid there that night, that it was known that they monitored police radios, that the night before when they came to work and there were 40 extra police cars in front of Westside command, 1 jail bus and 4 jail vans they knew something was going on, that anybody who had ever been out there knew that it was going to be hundreds of people, that he towed 7 cars that night, that he was there the whole time they were arresting people, that they towed cars after everyone was arrested, that no cars were towed until after the arrests were made, after all the people were gone, that Kmart had them towed off of their property, it was Kmart who requested that they tow the cars and signed the tow slips, that he did not see people who were eating at the Sonic being arrested, all he saw was when more than 30 police cars pulled up and blocked the exists, he saw people running to Sonic, the ones who could not make it to their cars would run to Sonic, that some of them ran to their cars which was

of no avail because all of the exits were blocked, that there was an officer at Kmart giving passes and telling people which way to go to leave the parking lot, that if they had a pass they received at Kmart they could get out, that there were probably 10 to 15 people who were at the Sonic who were not arrested, that they were actually legitimately there, that in his opinion the people who were arrested were going back and forth from where the racers were doing their burnouts and some of them were the racers, that no one was sitting in their cars, everyone was outside, they did not get in their cars until the police cars showed up, that he could not say what they were drinking, but everyone was drinking something, that he had no idea if there were any drug sales going on, he was sitting across the street and not in the parking lot, that he did not see if people were arrested illegally, that he called in to a radio talk show that Council Member Berry was on and Council Member Berry asked if his story had been taken and he said no and Council Member Berry asked if he would go down and speak at City Council, that he had never met Council Member Berry before today, that he showed up at the Kmart parking lot most Saturday nights because they knew there were going to be cars towed from there, that they observed that activity every Saturday night, that what he observed that night was that there were vehicles in the parking lot just to the left of Sonic, which was the front of Kmart, there was a building in between and they were doing burnouts, the kids in their cars and trucks were doing burnouts, the whole parking lot was full of smoke, that before the raid it was just like it was every Saturday night, cars started filing in and were racing up and down Westheimer and in fact there was an accident just west of there where someone could not stop fast enough because they rear ended a pickup, that they saw the unmarked police units file into the parking lot and knew they were there and were listening to them, that Kmart actually had uniformed police officers on site and they constantly try to run them out, they usually had one or two police officers there, either Houston Police or Harris County every Saturday night to try to get the people out of the parking lot, of course it did not always work, a lot of times they were outnumbered greatly and they had to call for units to come in and push the people out of the parking lot because they would not do what the officers say, that sometimes they were outnumbered 300 to 1, that the Kmart manager says to tow any of the cars that get parked on the property and they leave to go over to do the stuff they do in the front with the racers, that it was not his contention that everyone scurried to Sonic, that some people never left their cars until the officers removed them from their cars, that it was his contention that everyone present was guilty, that Council Member Berry was not there, that anyone that was on the property was trespassing, that he was not an expert in police procedures or law, that he did not hear any of the police officers ask people to disperse before they started to arrest, that for a long time they come every Saturday night, three or four times and ask them to disperse, they had to bring four Westside units to push all of the people out of the parking lot and it took them about an hour to do it, they had to block lanes of traffic to let those people out on Westheimer because there were so many there and this particular night they did not, they blocked off all exits and anyone that was participating was arrested, that he had observed the occurrence for many months, that racers were normally arrested if they were caught racing, if they were caught at high speeds on Westheimer they were normally arrested, that as to the crowd, there had been one other incidence that he saw where some of the crowd was arrested, that on other occasions they normally just tell them to disperse and leave, that normally they never even get out of their cars, they herd them like cattle out of the exits, that this was a fairly unusual circumstance from all the experiences he had, that in observing it for many months he did not think the police had been effective in the past in trying to control the crowds, that he tended to believe it was justified for the mere fact that any other time as soon as the police leave, the last patrol car goes out of the driveway, they start filing right back in, that he was in his tow truck at the location because they knew lots of cars were going to be towed, that they monitored police radios, they knew there was going to be a raid because they monitored police radios and showed up in advance, that they were out there every Saturday night and checked it three or four times on Saturday night just for the mere fact that they knew the racers would show up and would park in Kmart parking lot and would go up front, as soon as they get out of their cars the manager from Kmart would point out the cars and they would tow 25 cars at a time, that night they were asked to stay clear



of the parking lot, they were not parked in the Kmart parking lot, not only them but Westside patrol was asked to stay clear of the parking lot, that he had been a wrecker driver almost 20 years, that he had experienced some of the other teen activities on lower Westheimer, on the Richmond strip and in the Northline Mall area, that if they looked at the Richmond Strip every weekend there were at least 4 or 5 jail vans, they did not check for warrants unless they had probable cause, when they stop someone they might ask for their ID to see how old they were, of course they were going to take the juveniles out and take them to Chimney Rock center at 3:00 a.m. because there was no reason that a 13 year old should be at the Richmond Strip at 3:00 a.m., that this was not the first thing the police had done either, that for months nothing had worked, they had even put cars in the parking lot to sit, that the police use their PA system, that this was the first time an attack unit had done anything there, before it had always been patrol, that he had not given his statement to the police and Council Member Vasquez asked that he be given an opportunity to do so and that it be included with the record and that he have an opportunity to have his comments publicly included in whatever the investigation was, and Mayor Brown stated that would be his request, that Mr. Pittman go to the Internal Affairs Division at 1200 Travis and share his information with them, they were conducting an investigation and was sure it would be helpful to hear from him as an eyewitness and Mr. Pittman stated sure. Council Member Galloway absent.

Ms. Natasha Turner, 5005 Southwind, Houston, Texas 77033 (713-741-3789) had reserved time to speak, but was not present when her name was called. Council Members Galloway and Robinson absent.

Mr. Raymond Davis, 5302 Werner, Houston, Texas 77022 (713-699-1064) had reserved time to speak, but was not present when his name was called. Council Members Galloway and Robinson absent.

Ms. Mary Anne Pegelow, 1206 Stanford, Houston, Texas 77016 (713-521-0717) had reserved time to speak, but was not present when her name was called. Council Members Galloway and Robinson absent.

Ms. Paige Williams, 4229 W. Alabama, Houston, Texas 77027 (713-622-8533) appeared and stated that she was the Wesleyan Place Recycling Chair and delegate to HPD's PIP Program, that she was Houston Sierra's Coastal Issues Leader and served on the boards of Galveston Bay Foundation and Galveston Scenic I-45 Estuary, that she cared about her communities and waterways and was sick of the dog waste that was fouling them, that four years ago she wrote several Council Members asking for a dog waste ordinance, only Council Member Parker responded and advised her to enlist Mayor Brown's support the Mayor responded that the problem would be solved by the ongoing Bureau of Animal Regulation and Care's door to door education program, stressing responsible pet ownership, that in four years she had not found anyone who had experienced such education but more and more dogs were leaving their calling cards on the streets, sidewalks, driveways and lawns of Wesleyan Place, that frequent pleas and the civic association newsletter for dog owners to clean up were ignored and they were powerless, that a March 25, 2002 Chronicle headline "Dog Owners Urged to Pickup Waste" quoted the TNRCC that Buffalo Bayou, White Oak Bayou and Oyster Creek, were three Houston area waterways particularly threatened by the pet waste that washes into their storm drains with each rain, this waste flows untreated into Galveston Bay, a TNRCC commission study of Tom Lake Water Shed concluded that the dogs for a population of 254,000 humans put almost 10,000 pounds of dog waste a day into the lake, that applied to Houston's population they were putting over 100,000 pounds of dog waste with untreated fecal into their bayous and Galveston Bay each day, that it was time for the Council to respond to the TNRCC concerns, that she had information packets for each Council Member explaining why the issue was far more than a Neighborhood Protection and Quality of Life Issue, that it impacted their

environment, public health, economy and animal welfare, that she did agree that public education was desirable and TNRCC would be happy to assist the City with it, that yes Houston had more serious problems but they would not be quickly solved, this problem had a fast and easy solution, that four years ago she mailed Mayor Brown copies of the dog waste ordinances for Bellaire and West University and they were in the packets, that Bellaire reports that their ordinance was well observed because violators knew that any neighbor could file charges on them, that she had seen angry anti dog and anti dog waste signs in the districts of Council Members Keller, Vasquez and Goldberg and hoped that they would join with Council Member Parker and lead an effort to give citizens and civic association legal recourse when their pleas and signs were ignored. Council Members Galloway, Edwards, Wiseman, Alvarado, Berry and Robinson absent.

Council Member Parker stated that her understanding was that the Animal Control folks in the City had been working on some restrictions dealing with City property and at this point they did not have anything proposed for private property but an ordinance with picking up after their dogs in a City park, for example, that there had been some progress and a lot of discussion and if Ms. Williams would check back with her office they could update her on where that was, that they pulled ordinances from all around the Country and they were largely self policed, it was peer pressure that worked, it was not citations, but it seemed that having an ordinance that backed it up emboldens people to confront their neighbors who animals leave deposits in their yard, and Ms. Williams stated that it really did and it worked 20 years ago with the Dog at Large, that she asked everyday for a year to do it and when they did not do it she went down and filed in Municipal Court and suddenly they could remember to shut the gate, that she had sat there and listened to them about protecting them from second hand smoke, why not protect her from first hand poop, and Council Member Parker stated that her office had been working on at least a small change dealing with pooper scooper ordinances and if Ms. Williams would check with Cicily in the office she would be glad to let her know where they were going. Council Members Galloway, Edwards, Alvarado, Berry and Robinson absent.

Council Member Goldberg stated that he agreed with Ms. Williams and thought they should be looking at a dog waste ordinance for private property and thought they could do something like that, and in the interim he knew that some cities offered a sponsorship of those plastic bags and would have the plastic bags out in areas where there was a high concentration of dogs and knew they had a park along Allen Parkway that was frequented by a lot of dogs and there was no reason they could at least not offer a service where the plastic bags were out there, that he thought if the owners of the dogs at least had access to the bags they could carry it with them and pick it up themselves or at least they were more likely to be encouraged to do something like that with the availability, that he was glad she was present and thought that was something they should look into. Council Members Galloway, Edwards, Alvarado, Berry and Robinson absent.

Ms. Williams stated that there was more information on the park idea in her packet and if they read it they would have more information, and Mayor Brown stated that if she gave the packets to Mr. Cantu they would all take a look at it. Council Members Galloway, Edwards, Alvarado, Berry and Robinson absent.

Mr. Dwight Short, 4727 Oakshire, Houston, Texas 77027 (713-622-6939) appeared and voiced his personal opinions in opposition to the Kmart raid and that he recommended that all charges against anyone in the Kmart affair be immediately dropped, that all arrest records be immediately expunged, that any financial cost incurred on the part of those who had been arrested be reimbursed, that letters of apology from the Mayor, Chief of Police and City Council be sent to everyone arrested and after a thorough, complete and fair but expeditious investigation, all officers who were involved in this be appropriately disciplined, that included officers acting only under orders, for every police officer knew that it was wrong to arrest

someone without probable cost, even if ordered. Council Members Galloway, Edwards, Alvarado, Sekula-Gibbs, Berry and Robinson absent.

Council Member Goldberg stated that a lot of their ordinances and laws were based on the fact that they had to treat everyone equal, so if they did all of the things he suggested in this situation, should that be their policy in the future for anyone arrested illegally, and Mr. Short stated that he was not going to address all other issues, that all situations were unique, that he believed that this situation was a unique one, so he thought it called for unique action on the part of the people who supervised the police, that he did in fact believe that this particular incidence required a different way of looking at it, that it was a major operation and took a battalion of police officers going into this place, and Council Member Goldberg asked what if there was at least one legal arrest, and Mr. Short stated that it was his understanding that these were not people involved in the selling of drugs, they were not committing violent acts, that if they were legally arrested involved the notion that there was legally probable cause to arrest them and he supposed that was the purpose of what an investigation would entail, that as he saw it, it looked to him that in this case and this unique circumstance, that they did not have the element of probable cause necessary to constitute a legal arrest, that yes if they had a legal arrest then they had legal probable cause and did not think a letter of apology would be warranted in such a circumstance. Council Members Galloway, Edwards, Sekula-Gibbs, Berry and Robinson absent.

Mr. William Boyd, 2013 18<sup>th</sup> Street, Galena Park, Texas 77547 (713-675-0889) had reserved time to speak, but was not present when his name was called. Council Members Galloway, Edwards, Sekula-Gibbs, Berry and Robinson absent.

Mr. Richard Muzzy, 6166 Spindoe, Houston, Texas 77086 (281-831-8603) had reserved time to speak, but was not present when his name was called. Council Members Galloway, Edwards, Sekula-Gibbs, Berry and Robinson absent.

Ms. Alita Gail Hall, 4120 Austin, Houston, Texas 77004 (713-529-5445) appeared and stated that as she was sure they were aware the highly commendable Mark Aguirre, a 23 year Houston Police Department Veteran was surprisingly was relieved of duty from South Central Police Department under allegations of misconduct, that she was present to plead that the Mayor and City Council address procedural rules and demand a full investigation as the impartial body that they were and that it incorporate public testimony and knowledge of the character of Captain Mark Aguirre and his abilities and qualities alike, that time was of the essence that they remove the Internal Affairs Division of HPD, noting bias in an attempt to undermine proper judicial procedure and rights to a fair trial for Mark Aguirre, that she would like to demonstrate by asking others who felt the same to stand in favor of said same at this time, that she would also like to point out that if she were present at a murder she would probably go to jail, if she was present at a drug bust and in the home, she would go to jail, there was no one in the parking lot who did not know that the law was being broken, this type of conduct should not be allowed in the City of Houston and she was a little bit disturbed that it was allowed to go on as long as it did and thought that what they did was highly commendable and appropriate and doubted very seriously that Captain Aguirre would have done anything outside of something that the department did not know that he was fixing to do. Council Members Galloway, Sekula-Gibbs, Berry and Robinson absent.

Upon questions by Council Members, Ms. Hall stated that she did want them to remove Internal Affairs from the investigation, that she thought they should bypass the Houston Police Department because what they were doing appeared to her was that they were coming at Mark Aguirre because they did not like the way he conducted business, that they were about to lose a really great policeman and she thought the City had lost enough really good people, that he

consistently had worked on behalf of the people and for the people and it was just a sad day for the City of Houston for them to have asked him to step out of his office, and would state to Council Member Edwards if she could please help to make sure that the Midtown Museum Binz area did not suffer during Captain Aguirre's absence. Council Members Galloway, Wiseman, Sekula-Gibbs and Berry absent.

Reverend Herschel Smith, 3825 Rosedale, Houston, Texas 77004 (713-932-5000) appeared and stated that he was present regarding the Kmart raid, that he hoped they were not setting double standards, for a long time they had suffered tremendously in the southeast side of town with some of the similar things that they were looking at today, but yet they saw such an uproar in the media, they saw an uproar within the Council, they had been faced with these problems a long time in their community and he was glad that someone else was now feeling what they had feeling a long time, that this was a way of life that went on in their community all of the time and he would not sit back and be silent and see this kind of thing that was taking place in their community, in the Chronicle and on the news, that every time they turned around it was something about this particular raid, but this problem had been going on in their community for a long time, that he was a community activist and had been a community activist for some time and for him to sit silent and to see this behavior go on was unheard of, but he wanted to say that their children had been suffering a long time, but when it was on their side of the track it was trouble, but when it was on the other side of the track, they were just children, that when he called the John Matthews Show to try to get in to get his say in if it was anything that was controversial to what they felt then he could not get his say in, but he refused to be silent and let this kind of thing go on, that it had happened in their community a long time and had been a way of life and thought it was time for the Members of Council and for all of them to not set a double standard, to let the police do their job like they had been doing their job, that if it was wrong on this side of the track, it was wrong on that side of the track, so whatever standard that they set today he hoped that they could all live with it. Council Members Galloway, Wiseman, Vasquez, Quan, Sekula-Gibbs and Robinson absent.

Council Member Edwards stated that she had a lot of calls from her community with the same expressed remarks, that her concern was how did they move forward and she asked Mr. Smith how do they take this episode and help to move forward, what they were trying to deal with their children and children across the City in their interaction with the police, and Mr. Smith stated that whatever standard they raised from this he hoped that their voice would be heard the same way that the other people's voices were, and Council Member Edwards asked if he would be willing to help them define whatever go forward strategy they dealt with, and Mr. Smith stated that he would be more than happy to. Council Members Galloway, Goldberg, Wiseman, Vasquez, Quan, Sekula-Gibbs and Robinson absent. (NO QUORUM PRESENT)

Mr. Carl Cato, 7710 Boggess Rd., Houston, Texas 77016 (713-491-3591) had reserved time to speak, but was not present when his name was called. Council Members Galloway, Goldberg, Wiseman, Vasquez, Quan, Sekula-Gibbs and Robinson absent. (NO QUORUM PRESENT)

Mr. Derek Shumake, W. 25<sup>th</sup> Street, Houston, Texas 77009 (713-861-5569) appeared and stated that he was a director of a foundation called In Action Shelters and they had a shelter and their mission statement stated that they were committed to offering a structured living environment that provided a holistic support system for individuals regardless of age, race, color or creed, while making the transitions from an addictive life to a new life of freedom, peace and happiness, they would offer each person spiritual support, vocation skills, job training and the basic needs of survival, food, shelter and clothing, that they were dedicated to equipping every individual with the knowledge and skills necessary to return back to society as productive, independent citizens, and they shared letters of proclamation from Congresswoman Sheila

Jackson Lee, that they were present because their residency was overflowing at the structure they had now and were seeking City funds to help the homeless, to get them off of the street so if they were an eyesore they would house and clothe them and teach them if they were willing to be taught, that he was asking for help to help them have a bigger structure, and asked if their founder to come up and say a couple of words. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs and Robinson absent. (NO QUORUM PRESENT)

Council Member Tatro moved to suspend the rules to hear from the founder of In Action Shelter, seconded by Council Member Ellis. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs and Robinson absent. (NO QUORUM PRESENT) (Note: As no quorum was present, no vote was recorded)

The founder appeared and stated that they were from In Action Shelter, a faith based organization that helped dedicated their lives to help the men, women, boys and girls who had suffered from the epidemic from homelessness and drugs, that they had survived in the City for eight years with no help from City, County or State dollars, that they were in a position now where a call had come in, they had heard about what they were doing and now the calls superseded their space and they were present today to see if there was something that the City could do to assist them in directing them or doing something, that they had housed, provided food and had done their little bit during Tropical Storm Allison because everybody could not reach into all areas of the City and they just needed some help right now, that they did natural healing with drug addicts and had a great success story, that they needed some help, and Mayor Brown stated that Mr. Cantu would meet with them and see what support they could provide for their cause. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs and Robinson absent. (NO QUORUM PRESENT)

Mr. F. L. Henderson, Post Office Box 35823, Houston, Texas 77235 (713-641-0564) had reserved time to speak, but was not present when his name was called. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs and Robinson absent. (NO QUORUM PRESENT)

Ms. Shirley Jenkins, 9555 Crofton Street, Houston, Texas 77016 (713-631-8381) appeared and stated that she was a retiree, a disabled veteran, 20 years in the United States Army, that she had been home for about 15 years and she was present regarding the senior citizens and the elderly, the as to the Meals on Wheels Program that was in her neighborhood in District B she had quite a few elderly that stated they were on a waiting list from four to nine months, that she felt that it was not the best policy in reference to people that needed to eat, so she was present to see if she could get a contract for the Meals on Wheels to provide food for the elderly and the aged persons, that not only was that one agenda, but she also noticed during the summertime that some of the students and kids did not have proper facilities for them to be able to do certain fun things in their lives during the summer, that just like the incident at Kmart, maybe they might need to get them some little go carts, put them on a go cart field and take the big vehicles and build something for them to do, so she was present to say she needed help, that she had a company which was CAFA, College Assistance Financial Aid that was developed through her family, that her great great grandfather was Lieutenant Governor of New Orleans, her father was a politician in Houston, that her aunt was the educator for the Black Teachers Retirement Association, but she was present to stand on her own two feet, that she would hope and appreciate if they would give her the chance to at least try to develop to give something back to Houston and to the Community. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs and Robinson absent. (NO QUORUM PRESENT)

Council Member Quan stated that he though they were going to be going out for an RFP for the seniors program soon and knew they had people from the Health Department in the

audience who may be able to provide information to her on how to apply, that Ms. Gloria Moreno was present and could tell her about the RFP process. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs and Robinson absent. (NO QUORUM PRESENT)

Ms. Sherry Jones, 9555 Crofton Street, Houston, Texas 77016 (713-631-8381) had reserved time to speak, but was not present when her name was called. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs and Robinson absent. (NO QUORUM PRESENT)

Mr. Donald Burkhardt, 2404 Taylor Street, Pearland, Texas 77581 (713-724-6339) appeared and stated that he needed the help of the Council Members and the Mayor, that he was a senior citizen and had a lawsuit going on with the City for 11 years, that the City had in the 11 years always filed their stuff on the last day or were behind on it and then they asked for extra time, that it had now been filed through the appeals court twice, to the Supreme Court once and he had been promised to be paid two different times and it was still on the desk of Anthony Hall, that it took 90 days for stuff to sit on a desk and would not go on through, that was according to the City's attorney, and asked what did he have to do, that the only way he could collect it was through Mayor Brown and all the Council Members on the mandamus to get his money from the City, that was the process, that he did not want to do that. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs, Berry and Robinson absent. (NO QUORUM PRESENT)

Mayor Brown stated that he wanted to give him an update, that he did have the paperwork that had been prepared by the Legal Department and it was their expectations that it would be on the City Council's agenda next week to approve it, that once it was approved he should receive his payment within 30 days. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs, Berry and Robinson absent. (NO QUORUM PRESENT)

Ms. Elizabeth Burkhardt, 2404 Taylor Street, Pearland, Texas 77581 (713-724-6339) appeared and stated that in light of the Mayor's statement what she had to say was just largely moot, that Donald Burkhardt and Marjorie Burkhardt were her parents, that they had a family owned business that was put out of business as the result of the imminent domain action and it was 11 years to get justice, that as they say "justice delayed is denied", that she was hoping that next week the Council would go ahead and approve the payment of the judgment, that she was happy to hear that it was going to be on the agenda and hopefully they could then begin to put their lives back together, but unfortunately they lost that 11 years of productivity and they were senior citizens, that she did not want to have more litigation where she would wind up inheriting rather than them getting to enjoy the compensation their due. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs and Berry absent. (NO QUORUM PRESENT)

Council Member Tatro stated that just as a point of reference on Friday afternoons on the City's website the City Council agenda's were posted, so this Friday, if the paperwork was as the Mayor had said, she should see the Council agenda and she could read it down through to follow up and make sure that it was on there, and if not to feel free to call his office, and Mayor Brown stated that they would give her a call and let her know that it was on there. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs and Berry absent. (NO QUORUM PRESENT)

Mr./Coach Bobby Taylor, 3107 Sumpter, Houston, Texas 77026 (202FA34511) had reserved time to speak, but was not present when his name was called. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs and Berry absent. (NO QUORUM PRESENT)

Reverend Raphael E. White, 13139 Bendord, Houston, Texas 77099 (281-575-6859) appeared and shared a story about his Aunt being killed by a train in Dallas, Texas and stated that they needed the rail and did not want them to misunderstand what he was saying, that they needed it to be futuristic but they needed it to be safe, that it was pretty now, but in his investigations they needed more barriers, it needed to be safe, that even if they made it perfect somebody was still going to die, so he was present for those who were going to die and for their families, that they were going to have problems and may have a death, that they should not be naïve to think that there would not be any deaths concerning the rail, that they could make it to a minimum and they needed to be safe with it. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs and Berry absent. (NO QUORUM PRESENT)

Mayor Brown stated that they would make sure they did everything that was humanly possible so there would be no tragedies, injuries or deaths as a result of the rail, that they shared his concern and would make sure that the people at Metro, who were doing the planning, that they clearing understood that they shared his concern. Council Members Galloway, Goldberg, Edwards, Wiseman, Vasquez, Sekula-Gibbs and Berry absent. (NO QUORUM PRESENT)

Ms. Bobbie Do, 2380 W. Alabama, Houston, Texas 77006 (713-522-6548) appeared and stated that she was the youngest member in the Houston Vietnamese Naval Association and every year in the past they had been doing non profit charity work for the community and they also had been serving to their community by doing natural disasters and Red Cross and things like that, that this year what they were doing was remembering September 11th, they understood how the tragedy was because they knew how they felt when someone attacked their home, they knew how it felt when someone else was being hurt in their family, friends and neighbors, that they had a problem that at the last minute their event was supposed to be held on September 1, 2002, on Sunday of the Labor Day weekend, that their problem was that at the last minute the stadium was not accepting their offer any longer, they were no longer welcome to hold their event there, that the other problem was that they had a lot of sponsors involved, they had aircraft and air shows, air rides and a lot of military museums were helping them out and so they were hoping that the City would help them by relocating them to another facility, another stadium in a timely manner to continue their event for September 11<sup>th</sup>. Mayor Brown, Council Members Galloway, Goldberg, Edwards, Wiseman, Ellis, Vasquez, Sekula-Gibbs, Berry and Robinson absent. Mayor Pro Tem Quan presiding. (NO QUORUM PRESENT)

Mayor Pro Tem Quan stated that he had spoken with Dr. Do and they had a call into Rice Stadium to see if that could be a potential location, that they did allow stages to be erected and he knew that was one of the problems, that it was artificial turf, that he was still waiting for a call back and were trying to see what they could do to work with them, unfortunately they were short of time, that football season was getting close and they were trying to see if something could be arranged, that the City was planning their own celebration on September 11, 2002 at the reflection pond and also at Miller Outdoor Theater. Mayor Brown, Council Members Galloway, Goldberg, Edwards, Wiseman, Ellis, Vasquez, Alvarado, Sekula-Gibbs, Berry and Robinson absent. Mayor Pro Tem Quan presiding. (NO QUORUM PRESENT)

Mr. Don Nguyen, 2126 Lofting Wedge Dr., Houston, Texas (281-922-7737) appeared and stated that he would yield his speaking time to Mr. Dingh. Mayor Brown, Council Members Galloway, Goldberg, Edwards, Wiseman, Ellis, Vasquez, Alvarado, Sekula-Gibbs, Berry and Robinson absent. Mayor Pro Tem Quan presiding. (NO QUORUM PRESENT)

Dr. Tim Dingh, 6022 Gallant Forest, Houston, Texas 77088 (713-957-8834) appeared and stated that he was the President of the Vietnamese Navy Association in Houston and one of the largest Vietnamese American association in Houston in terms of the number of the membership

and community participation, that in the past two years they had organized and hosted a lot of activities within their communities with drew tens of thousands of people to the events, that this year they planned to open and host the commemoration for the tragic event to America on September 11, 2001, that as concerned citizens he would like to present a strong case to the City Council on a very important issue related to the organizing and hosting the celebration event which they had planned for September 1, 2002 at Delmar Stadium, which was part of HISD sports complex, that they sent out invitation letters to the Mayor and all the Council Members, Governor Perry, Congressmen and Congresswomen and the Senators and all other City officials to attend, that upon receipt of the verbal agreement with the director at Delmar Stadium, which was part of HISD, at first he was very supportive, at the first meeting he was very supportive to their event, that they provided every required information to him for his consideration and approval of the contract to use the stadium to host the event, but toward the end of the last stage he seemed to back out, that the reason was that they would not allow them to set up a stage on the stadium grounds, they were afraid that the stage might cause damage to the grass, but they tried to assure them that they would do every possible thing to prevent damage to the stadium, but he denied it, that due to the time constraints they had no choice but to put the entire program on hold, that they contacted the office of Council Member Quan and thanked Council Member Quan for helping them to initiate with the Alief Independent School District and the majority of the people preferred to move the event to Alief for the convenience and the location, that they also tried to contact Council Member Ellis because it was his district, but they had no luck at all, after talking with the principal after the meeting yesterday and the day before, they came out with a negative response, so right now they were dead in the water and were desperate to keep the event moving to another location with the City Council's help, that they only had less than two weeks to organize, that they put a lot of resources, money and effort into the event five weeks ago because they wanted to reach out to their fellow Americans, that the event was dedicated to the people to commemorate the brave men and women who sacrificed for their Country and commemorate the innocents of September 11<sup>th</sup>, the most tragic event in the American history. Mayor Brown, Council Members Galloway, Goldberg, Edwards, Wiseman, Ellis, Vasquez, Alvarado, Sekula-Gibbs, Berry and Robinson absent. Mayor Pro Tem Quan presiding. (NO QUORUM PRESENT)

Mayor Pro Tem Quan stated that they would try to work with them the best they could. Mayor Brown, Council Members Galloway, Goldberg, Edwards, Wiseman, Ellis, Vasquez, Alvarado, Sekula-Gibbs, Berry and Robinson absent. Mayor Pro Tem Quan presiding. (NO QUORUM PRESENT)

Council Member Tatro asked if they had contacted the Spring Branch ISD, and Dr. Dingh stated that they had not, that they were still in need of a facility, preferably in the Southwest area, and Council Member Tatro stated that he would contact them and maybe have them get in touch with him if there was a possibility. Mayor Brown, Council Members Galloway, Goldberg, Edwards, Wiseman, Ellis, Vasquez, Alvarado, Sekula-Gibbs, Berry and Robinson absent. Mayor Pro Tem Quan presiding. (NO QUORUM PRESENT)

Ms. Paula Harrison, 12261 Fondren, No. 303, Houston, Texas 77035 (713-988-2970) appeared and stated that her subject was the creation of a Black Historic District in the Third Ward and voiced her personal opinions regarding a historic area designated for African American and African immigrants coming to America until her time expired. Mayor Brown, Council Members Galloway, Goldberg, Edwards, Wiseman, Ellis, Vasquez, Alvarado, Sekula-Gibbs, Berry and Robinson absent. Mayor Pro Tem Quan presiding. (NO QUORUM PRESENT)

Ms. Gwendolyn Crawford, 3114 Gray, Houston, Texas 77004 (713-659-1309) had reserved time to speak, but was not present when her name was called. Mayor Brown, Council Members



Galloway, Goldberg, Edwards, Wiseman, Ellis, Vasquez, Alvarado, Sekula-Gibbs, Berry and Robinson absent. Mayor Pro Tem Quan presiding. (NO QUORUM PRESENT)

Dr. Motapa, 6425 Woodard, Houston, Texas 77021 (713-645-9598) had reserved time to speak, but was not present when his name was called. Mayor Brown, Council Members Galloway, Goldberg, Edwards, Wiseman, Ellis, Vasquez, Alvarado, Sekula-Gibbs, Berry and Robinson absent. Mayor Pro Tem Quan presiding. (NO QUORUM PRESENT)

Mr. Robert Horton, P. O. Box 21635, Houston, Texas 77226 (713-697-0958) had reserved time to speak, but was not present when his name was called. Mayor Brown, Council Members Galloway, Goldberg, Edwards, Wiseman, Ellis, Vasquez, Alvarado, Sekula-Gibbs, Berry and Robinson absent. Mayor Pro Tem Quan presiding. (NO QUORUM PRESENT)

President Joseph Charles, 8034 Antoine, No. 107, Houston, Texas 77088 (713-878-2355) appeared and voiced his personal opinions until his time expired. Mayor Brown, Council Members Galloway, Goldberg, Edwards, Wiseman, Ellis, Vasquez, Alvarado, Sekula-Gibbs, Berry and Robinson absent. Mayor Pro Tem Quan presiding. (NO QUORUM PRESENT)

At 4:09 p.m. the City Council recessed until 9:00 a.m., Wednesday, August 28, 2002. Council Member Keller out of the City on personal business. Mayor Brown, Council Members Galloway, Goldberg, Edwards, Wiseman, Ellis, Vasquez, Alvarado, Sekula-Gibbs, Berry and Robinson absent. Mayor Pro Tem Quan presiding. (NO QUORUM PRESENT)

City Council Chamber, City Hall, Wednesday, August 28, 2002.

City Council reconvened in the City Council Chamber at 9:00 a.m. Wednesday, August 28, 2002, with Mayor Lee P. Brown presiding and with Council Members Bruce Tatro, Carol M. Galloway, Mark Goldberg, Ada Edwards, Addie Wiseman, Mark Ellis, Gabriel Vasquez, Carol Alvarado, Annise Parker, Gordon Quan, Shelly Sekula-Rodriguez, M.D., Michael Berry and Carroll Robinson; Mr. Al Haines, Chief Administrative Officer, Mayor's Office; Mr. Anthony Hall, City Attorney; Ms. Martha Stein, Agenda Director present. Council Member Bert Keller out of the city on personal business.

At 8:37 a.m. the City Secretary read the descriptions or captions of items on the Agenda.

At 9:08 a.m. Mayor Brown reconvened the meeting of the City Council and stated that he wanted to use the time allotted for the Mayor's Report today to have Police Chief C. O. Bradford brief them on the incident at Kmart, that as they knew, it had received a lot of attention and Council Members had asked questions and he had been in regular contact with the Chief and knew that he was prepared to be able to respond to any questions they may have.

**MAYOR'S REPORT** - Briefing by Police Chief Bradford on incident at 8400 Westheimer

Chief Bradford stated that he appreciated the opportunity and the obligation he had to come before the City Council as well as respond to some of the concerns that had been raised by the citizens of the City to maintain the trust and support and the relationship that had been worked on very diligently for many years between the Houston Police Department and its officers and read the following statement:

- “• As you are aware, I recently ordered an inquiry into a police operation that took place on August 17, 2002 in the 8400 block of Westheimer. As a result of that inquiry, as well as at least 9 citizen complaints received by the Houston Police Department, and public concerns, I

have instructed the Internal Affairs Division to conduct a formal and thorough investigation looking into the potential violations of department policies as well as potential violations of State law.

- Because the investigation is ongoing, I cannot share a great deal of specific facts with regard to this matter, but I will attempt to provide you with some general information that may address some of the issues currently being raised.
- While I have ordered this investigation to be expedited, they must be mindful that State law must be adhered to with an example that prohibits those such as a 48 hour notice which must be given to a police officer before an inquiry, but most importantly consideration is that this investigation be thorough and accurate. I expect statements to be taken from anyone who was involved, and anyone who has information about this incident. That means that there should be several hundred statements taken. As of this point we have taken statements from 71 officers and 9 citizens and we are also asking through this forum and others, that any citizen being involved or having any witness information to please come forward and contact the Houston Police Department Internal Affairs Division, that could be done at the 1200 Travis location, that could be done by calling 713-308-8900, we need anyone with information concerning this incident to please come forward.
- I may have started some confusion myself with the use of acronyms when speaking with the Mayor and City Attorney Anthony Hall regarding the inquiry and subsequent investigation of this incident. The OIG was inadvertently referred to instead of IAG. All allegations regarding this matter had and will be investigated by the Internal Affairs Division of the Houston Police Department.
- It is my understanding that the Harris County District Attorney's Office is conducting an inquiry also.
- During the past year, and especially this summer, there have been an increased number of complaints regarding crowds involved in illegal activity of street racing. Some of the issues include:
  1. A continuing pattern of calls for service at 8400 Westheimer involving large crowds, loud music and vehicle related complaints, some included specific racing complaints.
  2. Other numerous citizen complaints have been received.
  3. A review of the calls for service activity and complaints indicated that the 8400 Westheimer location was being used as "staging area" for street racing events.
- In response to these complaints and incidents, the police department began various operations to address the problem of illegal street racing. As an example of the department's street racing initiatives, between February 9 and April 20, 2002 (on Friday and Saturday nights) a total of 381 citations were issued by officers assigned to the Westside Patrol Division. There were 10 people arrested on various offenses including driving while intoxicated and outstanding warrants. A total of 5 vehicles were towed at the owner's expense.
- Other department approved street racing initiatives have included:
  1. Surveillance
    - Via under-cover operations
    - Video-taping of criminal activity
  2. Obtaining "to-be" criminal arrest warrants from the District Attorney's Office for reckless driving and other related offenses observed during surveillance.

3. Increased patrol of area streets and retail parking lots where street racing and staging events occur and large crowds gather.
  4. We've issued citations for all and any traffic offenses and Class C violations that are observed. There had been a lot of discussion about zero tolerance, Zero tolerance refers to "**enforcement**" of all laws by writing citations for all minor offenses - not "*arrests and incarceration*" for all minor offenses. Zero tolerance does not override the **need for probable** cause to issue citations **or** to make arrests; **nor** does it mean arresting everyone in sight.
  5. We have also used the distribution of free passes to a private racing facilities in the Houston area to encourage individuals to attend and participate in legal racing events as an alternative to illegal street racing.
- Surveillance was conducted in May and June, this year, along the Westheimer Corridor and another location, 7100 Business Park Drive, by police department personnel.
  - During the surveillance, officers witnessed numerous illegal street races and related illegal activities. During this surveillance, officers were able to collect sufficient evidence to obtain arrests warrants from the Harris County District Attorney's Office for 28 suspects for the offense of Reckless Driving.
  - As a result of calls for service, complaints and surveillance, joint operations by Westside Patrol, Northwest Patrol, Auto Theft, Major Offenders, Juvenile and Narcotics Divisions were conducted on June 15 and 22, 2002.

The June 15, 2002 operation was carried out at 7100 Business Park, there were a total of 49 citations issues, 10 arrests and 25 juveniles were detained for parental pickup.

The June 22, 2002, on the Westheimer Corridor resulted in 65 citations being issued and 6 arrests.

#### Initial Inquiry into August 17, 2002 Incident

On the Monday following the 8400 Westheimer operation, my office had not received an After-Action-Report or a Significant Event Notification as required after such an operation. General Order 200-10 requires such a report after a mass arrest, which is defined by the Houston Police Department General Order, as seven or more being arrested. For this reason, having not received any type of Significant Event or being notified that the event had occurred with mass arrests, I ordered an inquiry to determine issues such as:

1. Who was in charge?
  2. How many arrests were made?
  3. What the charges were that had been filed?
- The inquiry was conducted by Executive Assistant Chief M. W. Thaler
  - The inquiry found a total of 273 persons were arrested (231 adults and 42 juveniles)
  - There was no documentation found in the inquiry to indicate that any citations were issued, even for traffic violations.

#### Current Status

- Currently, a squad of eight investigators assigned to the Internal Affairs Division is working on obtaining statements from complainants, witnesses and other citizens along with officers involved. This investigation includes a review of the decisions made and the conduct of

officers prior to, during and after the operation in question.

- Since information from this investigation may have an impact on the prosecution of the charges that resulted from the police operation, the Police Department will share its findings with the Courts and the Prosecutorial Authorities so any actions they may deem appropriate can be taken.
- In response to several questions concerning the reasons for Captain Mark Aguirre's relief of duty on Saturday, August 24, 2002, police officers presented voluntary sworn statements late Friday evening, August 23, 2002. In their statements, officers alleged criminal misconduct regarding Captain Aguirre's using his official authority, that evening, to coerce and influence their statements relative to the ongoing investigation into recent incidents on Westheimer.
- Based upon evidence that has been provided to the Internal Affairs Division at this initial stage in the investigation, as Chief of Police I have authorized the relief of duty of a total of 13 police supervisors. The breakdown of ranks is as follows: 2 captains, 2 Lieutenants and 9 Sergeants.
- Typically, an officer is relieved of duty when an allegation of criminal or serious administrative misconduct is alleged and the department's preliminary investigation indicates that a particular officer may have been involved in that misconduct. An officer being relieved of duty is not a sign of guilt, but it is done to protect the officer and citizens, as well as to maintain the integrity of the investigation.
- The police department has a policy directing officers on what they should do if they believe they have been given an unlawful order. Officers are taught beginning in the Police Academy that they are not to follow an unlawful order. The police department's General Order 200-08 specifically states:

*"No employee will obey an order contrary to law. Employees receiving such orders will notify the supervisor issuing the order that compliance with the order, as issued, is unlawful. Supervisors will contact their immediate superior and request their presence at the scene. Employees receiving an unlawful order will report the incident in writing to the Chief of Police through their chain of command"*

The Internal Affairs Division will obviously look into exactly what orders were given regarding the police action taken on Westheimer, and what the response or responses were to those orders.

- To my knowledge, no officer in the Houston Police Department has ever been cited with insubordination, or any other offense, for their refusal to obey an unlawful order, nor will they on my watch.
- In closing, let me take a moment to address the police department's long standing use of the "Order of No Contact" issued to officers who are involved in Internal Affairs Division Investigations. Officers allowed to speak publicly during the investigation may intimidate or discourage other complainants or witnesses from coming forward. Additionally officers who may have information or are required to give a statement may be influenced by what they have heard. Therefore, to protect the integrity of the investigation, I firmly support the Houston Police Department's long practice of issuing "Orders of No Contact". This practice is consistent and in accordance with State law."

Chief Bradford was questioned at length by Members of Council and an audio tape is available in the office of the City Secretary for review.

**APPROXIMATELY 10:30 A. M.**

At 11:14 a.m. Mayor Brown stated they would move to the Agenda and asked the City Controller to come forward for Item No. 1.

Mayor Brown recognized Council Member Berry for a point of personal privilege.

Council Member Berry stated that on Friday, August 23, 2002, Houston lost a real hero, Dr. Marni Rose, and asked Dr. Rose's family, who were present in the audience, to stand and be recognized, that for those who had seen Houston Medical, a very inspiring television show, they knew that the show opened with Dr. Rose, a pediatrician, and the last episode for the summer was with patient, Dr. Rose, and asked for a moment of silence for Dr. Rose and her family.

Mayor Brown stated that he wanted to offer their condolences and prayers to the Rose family.

1. Announcement by City Controller of the results of the electronic auction-style bidding for the sale of \$12,400,000.00 City of Houston, Texas Tax and Revenue Certificates of Obligation, Series 2002A - was presented. Council Members Tatro and Galloway absent.

Ms. Sylvia Garcia, Controller, stated that the best bid submitted was by UBS Paine Webber at 4.4468%, that a complete tabulation of all the bids had been distributed, that it was the first time they had done it by internet auction and was certainly a good interest rate and recommended that it be accepted.. Council Members Tatro and Galloway absent.

- 1a. ORDINANCE authorizing the issuance of City of Houston, Texas, Tax and Revenue Certificates of Obligation, Series 2002A; prescribing the terms and conditions thereof; providing for the payment of principal and interest thereon; authorizing execution of Paying Agent/Registrar Agreement; ratifying a Preliminary Official Statement and authorizing an Official Statement relating to the certificates; approving a Co-bond Counsel Agreement; making other provisions and findings related to such certificates - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Members Tatro, Galloway and Berry absent. ORDINANCE 2002-0786 ADOPTED.

**CONSENT AGENDA NUMBERS 2 through 51**

**MISCELLANEOUS** - NUMBERS 2 through 10A

2. REQUEST from Mayor for confirmation of the reappointment of **MS. JUANITA ELIZONDO** to Position Three of the **CIVIL SERVICE COMMISSION FOR MUNICIPAL EMPLOYEES OF THE CITY OF HOUSTON** and the **FIREFIGHTERS AND POLICE OFFICERS CIVIL SERVICE COMMISSION**, for a term expiring June 14, 2005 - was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. MOTION 2002-1001 ADOPTED.
3. REQUEST from Mayor for confirmation of the appointment of **MR. DERRICK MITCHELL** to Position Five of the **MIDTOWN REDEVELOPMENT AUTHORITY BOARD OF DIRECTORS**, to fill an unexpired term ending December 31, 2002 - was presented,

moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. MOTION 2002-1002 ADOPTED.

5. RECOMMENDATION from Director Human Resources to approve a fifth 90 day period for pay differential for employees called to active duty status during a time of war or state of emergency - was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. MOTION 2002-1003 ADOPTED.
7. RECOMMENDATION from Director Finance & Administration for membership renewal for the National League of Cities - \$33,087.00 - General Fund - was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. MOTION 2002-1004 ADOPTED.
8. RECOMMENDATION from Director Finance & Administration for membership renewal for in the United States Conference of Mayors - \$27,449.00 - General Fund - was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. MOTION 2002-1005 ADOPTED.
9. RECOMMENDATION from Fire Chief to approve the donation of Outdated/Surplus Firefighting Equipment to "Sister City" Guayaquil, Ecuador - was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. MOTION 2002-1006 ADOPTED.
10. ORDINANCE appropriating \$42,424.49 out of Street & Bridge Consolidated Construction Fund and \$18,838.31 out of Water & Sewer Consolidated Construction Fund and approving and authorizing an additional appropriation to a construction contract with **CONTRACTOR TECHNOLOGY, INC** for Neighborhood Street Reconstruction Project, No. 4323A-Phase I, GFS N-0364-02-3 approved by Ordinance No. 00-488 - **DISTRICTS C - GOLDBERG and I - ALVARADO** - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. ORDINANCE 2002-0787 ADOPTED.
- 10a. RECOMMENDATION from Director Department of Public Works & Engineering for approval of Change Order No. 5 in the amount of \$61,262.80 on contract with **CONTRACTOR TECHNOLOGY, INC** for Neighborhood Street Reconstruction Project, No. 4323A-Phase I, GFS N-0364-02-3 (N-0364-02) - **DISTRICTS C - GOLDBERG and I - ALVARADO** - was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. MOTION 2002-1007 ADOPTED.

**ACCEPT WORK** - NUMBERS 12 through 14

12. RECOMMENDATION from Director Department of Building Services for approval of final contract amount of \$1,321,684.68 and acceptance of work on contract with **TIMES CONSTRUCTION, INC** for Upgrade and Renovation to the Street and Storm Sewer Maintenance Facility, GFS N-0653-02-3 - 00.45% over the original contract amount - **DISTRICT H - VASQUEZ** - was presented, moved by Council Member Quan, seconded

by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. MOTION 2002-1008 ADOPTED.

13. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$2,286,168.20 and acceptance of work on contract with **T & C CONSTRUCTION, INC** for White Oak WWTP Lift Station Replacement, GFS R-0267-42-3 (4275-31) 01.79% over the original contract amount - **DISTRICT A - TATRO** - was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. MOTION 2002-1009 ADOPTED.
14. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$1,285,777.66 and acceptance of work on contract with **LEM CONSTRUCTION COMPANY, INC** for Bissonnet No. 4 Lift Station Rehabilitation, GFS R-0267-64-3 (4276-22) - 04.51% over the original contract amount - **DISTRICT F - ELLIS** - was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. MOTION 2002-1010 ADOPTED.

**PURCHASING AND TABULATION OF BIDS** - NUMBERS 17 through 19

18. **AMEND MOTION #99-1925, 11/3/99, TO EXTEND** expiration date for an additional twelve months from November 3, 2002 to November 3, 2003, for Automotive, Universal Joints and Drive Shafts for Various Department, awarded to **NORTHWEST DRIVE TRAIN SERVICE** - was presented, moved by Council Member Quan, seconded by Council Member Edwards. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. MOTION 2002-1011 ADOPTED.

**ORDINANCES** - NUMBERS 22 through 51

22. ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of a portion of Lula Avenue Street right of way, containing 13,320 square feet of land, more or less, being out of and a part of Snapp Gardens Subdivision, John Austin Survey, A1, Houston, Harris County, Texas, vacating and abandoning said tract of land to the Farmer's Marketing Association of Houston, Texas, Inc, the abutting owner, in consideration of owner's dedication of a fire hydrant easement containing 100 square feet of land, more or less, and payment of \$81,755.00, and other consideration to the City - **DISTRICT H - VASQUEZ** - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. ORDINANCE 2002-0788 ADOPTED.
24. ORDINANCE consenting to the addition of 217.8048 acres of land to **FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 23**, for inclusion in its district - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. ORDINANCE 2002-0789 ADOPTED.
25. ORDINANCE consenting to the addition of 10.7655 acres of land to **HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT NO. 114**, for inclusion in its district - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. ORDINANCE 2002-0790 ADOPTED.

28. ORDINANCE approving and authorizing contract between the City and **CLEAR LAKE AREA ECONOMIC DEVELOPMENT FOUNDATION** for Tourism Development and other Economic Programs; providing a maximum contract amount - \$150,000.00 - 3 years - Enterprise Fund - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. ORDINANCE 2002-0791 ADOPTED.
30. ORDINANCE approving and authorizing the submission of an application for grant assistance to the **U.S. DEPARTMENT OF INTERIOR, U. S. FISH AND WILDLIFE SERVICE (“USFWS”)**; declaring the City’s eligibility for such grant; authorizing the Mayor to act as the City’s representative in the application process; authorizing the City’s Director of 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 - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. ORDINANCE 2002-0792 ADOPTED.
31. ORDINANCE appropriating \$100,000.00 out of Park Consolidated Construction Fund No. 421 and approving and authorizing an application for grant assistance from the **U.S. DEPARTMENT OF INTERIOR-NATIONAL PARK SERVICE**, for the Rehabilitation of Settegast Park; declaring the city's eligibility for such grant; authorizing the Director of Parks and Recreation to act as the city's representative in the application process; authorizing the Director of Parks and Recreation to accept such grant funds, if awarded, and to apply for and accept all subsequent awards, if any, pertaining to the program; approving and authorizing a grant agreement between the City and the U.S. Department Of Interior-National Park Service **DISTRICT H - VASQUEZ** - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. ORDINANCE 2002-0793 ADOPTED.
35. ORDINANCE approving and authorizing an agreement for Beverage Vending Machine Concession at various locations within the Parks & Recreation Department, by and between the City of Houston and **COCA-COLA BOTTLING COMPANY** - Revenue - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. ORDINANCE 2002-0794 ADOPTED.
43. ORDINANCE appropriating \$1,644,000.00 out of Street & Bridge Consolidated Construction Fund as additional appropriation for additional construction management services under a contract, (approved by Ordinance No. 99-0661) with **ASTER, LP** had been pulled from the Agenda by the Administration, and was not considered.
44. ORDINANCE appropriating \$223,195.00 out of Water & Sewer System Consolidated Construction Fund and approving and authorizing professional services contract between the City of Houston and **OTHON, INC** for Design of a Ground Water Pumping Station for the Park Glen Subdivision, GFS S-1000-09-2 (WA10743); providing funding for contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund **DISTRICT F – ELLIS** had been pulled from the Agenda by the Administration, and was not considered.
46. ORDINANCE appropriating \$1,478,629.80 out of Water & Sewer Consolidated Construction Fund, awarding construction contract to **TROY CONSTRUCTION, LLP** Sanitary Sewer Rehabilitation by Point Repair Method, GFS R-0266-T2-3 (WW4235-19); providing funding for engineering testing services and contingencies relating to construction



of facilities financed by the Water & Sewer Consolidated Construction Fund - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. ORDINANCE 2002-0795 ADOPTED.

47. ORDINANCE appropriating \$1,232,691.50 out of Water & Sewer Consolidated Construction Fund, awarding construction contract to **HORSESHOE CONSTRUCTION, INC** Sanitary Sewer Rehabilitation by Point Repair Method, GFS R-0266-T6-3 9 (WW4235-21); providing funding for engineering testing services and contingencies relating to construction of facilities financed by the Water & Sewer Consolidated Construction Fund - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. ORDINANCE 2002-0796 ADOPTED.
48. ORDINANCE appropriating \$17,994,535.60 out of the Houston Airport System Consolidated 2001 AMT Construction Fund CIP A-0091, awarding construction contract to **CONSTRUCTION LTD** for Terminal C/E Utility Distribution Upgrades at George Bush Intercontinental Airport/Houston Project 424E; providing funding for engineering testing **DISTRICT B - GALLOWAY** - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. ORDINANCE 2002-0797 ADOPTED.
49. ORDINANCE appropriating \$39,702,689.14 out of Houston Airport System Consolidated 2001 NON-AMT Construction Fund CIP A-0304 and \$11,000,000.00 out of Houston Airport System Consolidated 2001 NON-AMT Construction Fund CIP A-0058, awarding construction contract to **CHAMPAGNE-WEBBER INC, TEXAS** and approving and authorizing professional services contracts for engineering testing services with **FUGRO SOUTH, INC** and **HTS, INC CONSULTANTS** for Construction of the 8L-26R Connector Taxiways, Bridges and Off-Site Drainage at George Bush Intercontinental Airport/Houston Project 522G - **DISTRICT B - GALLOWAY** - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. ORDINANCE 2002-0798 ADOPTED.
50. ORDINANCE appropriating \$12,110,890.00 out of Airports Improvement Fund CIP A-0304, awarding construction contract to **P. D. G. ELECTRIC COMPANY** for construction of Runway 8L-26R New Electrical Vault and Fencing at George Bush Intercontinental Airport/Houston Project 522F; providing funding for engineering testing - **DISTRICT B - GALLOWAY** - was presented. All voting aye. Nays none. Council Member Keller out of the City on personal business. Council Member Berry absent. ORDINANCE 2002-0799 ADOPTED.
51. ORDINANCE appropriating \$948,565.11 out of Reinvestment Zone Number One, City of Houston, Texas (Lamar Terrace Zone) Tax Increment Fund (Fund 228); \$3,728,568.47 out of Reinvestment Zone Number Two, City of Houston, Texas (Midtown Zone) Tax Increment Fund (Fund 910); \$2,212,861.32 out of Reinvestment Zone Number Three, City of Houston, Texas (Market Square Zone) Tax Increment Fund (Fund 906); \$1,827,944.97 out of Reinvestment Zone Number Four, City of Houston, Texas (Village Enclaves Zone) Tax Increment Fund (Fund 908); \$895,108.45 out of Reinvestment Zone Number Five, City of Houston, Texas (Memorial Heights Zone) Tax Increment Fund (Fund 911); \$1,684,766.37 out of Reinvestment Zone Number Seven, City of Houston, Texas (Old Spanish Trail/Almeda Corridors Zone) Tax Increment Fund (Fund 915); \$307,647.34 out of Reinvestment Zone Number Eight, City of Houston, Texas (Gulfgate Zone) Tax Increment Fund (Fund 907); \$208,163.49 out of Reinvestment Zone Number Nine, City of Houston, Texas (South Post Oak Zone) Tax Increment Fund (Fund 913); \$2,352,410.94 out of

Reinvestment Zone Number Ten, City of Houston, Texas (Lake Houston Zone) Tax Increment Fund (Fund 912); \$2,279,493.03 out of Reinvestment Zone Number Eleven, City of Houston, Texas (Greenspoint Zone) Tax Increment Fund (Fund 916); \$30,539.91 out of Reinvestment Zone Number Twelve (City Park Zone) Tax Increment Fund (Fund 917); \$303,631.02 out of Reinvestment Zone Number Thirteen, City of Houston, Texas (Old Sixth Ward Zone) Tax Increment Fund (Fund 918); \$629,389.78 out of Reinvestment Zone Number Fourteen, City of Houston, Texas (Fourth Ward Zone) Tax Increment Fund (Fund 920); \$2,255,642.52 out of Reinvestment Zone Number Sixteen, City of Houston, Texas (Uptown Zone) Tax Increment Fund (Fund 922); \$3,078.63 out of the Reinvestment Zone Number Eighteen (Fifth Ward Zone) Tax Increment Fund (Fund 924); and \$885,391.93 out of Reinvestment Zone Number Nineteen, City of Houston, Texas (Upper Kirby Zone) Tax Increment Fund (Fund 925) for affordable housing, administrative expenses, payment of project costs and payments to the Houston Independent School District, the Humble Independent School District, the Houston Housing Finance Corporation and certain Redevelopment Authorities had been pulled from the Agenda by the Administration, and was not considered.

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

**MISCELLANEOUS**

4. REQUEST from Mayor for confirmation of the reappointment of the following individuals to the **WESTCHASE DISTRICT MANAGEMENT BOARD OF DIRECTORS**, for terms expiring July 1, 2005:
  - Position One - **MR. PAUL MCDONALD**
  - Position Three - **MS. DONNA FLOWERS**
  - Position Four - **MR. ANDREW LEAR**
  - Position Five - **MR. TOM GARCIA**
  - Position Six - **MR. ROBERT COLVILL**
  - Position Seven - **MR. MARTIN WILTSHIRE**
  - Position Eight - **MR. JOHN HOLLAND**

- was presented. Council Member Tatro moved to adopt the recommendation, seconded by Council Member Vasquez. Council Member Berry absent.

Council Member Tatro stated that to correct a typo in Item No. 4 he would move to amend Item No. 4 to properly reflect the correct name as the "Westchase Area Management District", seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Berry absent. MOTION TO AMEND CARRIED.

A vote was called on the motion to adopt Item No. 4 as amended. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. MOTION 2002-1012 ADOPTED.

6. RECOMMENDATION from Director Finance & Administration Department that the City Council receive the 2002 Appraisal Roll Information, Certified Anticipated Collection Rate and Appointment Representatives for "Truth-In-Taxation" purposes and appoint Richard Somerville and Keith R. Phillips, to calculate and publish the City's Effective and Rollback Tax Rates - was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. MOTION 2002-1013 ADOPTED.

## **DAMAGES**

11. RECOMMENDATION from City Attorney for settlement of lawsuit styled **CLAUDIA PINEDA**, et.al vs. City of Houston, et. al.; in the United States District Court, Civil Action No. H-98-38-77 \$170,000.00 - Property and Casualty Fund - was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. MOTION 2002-1014 ADOPTED.

## **PROPERTY**

15. RECOMMENDATION from Director Department of Public Works & Engineering for condemnation of Parcel AY2-066, located at the southwest corner of Wayside Drive and Avenue W, owned by Arroyos Real Estate Limited Partnership as to an 80% interest and Vincent V. Silva as to a 20% interest, for the **CENTRAL PARK SUBDIVISION PROJECT**, CIP N-0186-CPS - **DISTRICT I - ALVARADO** - was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. MOTION 2002-1015 ADOPTED.
16. RECOMMENDATION from Director Department of Public Works & Engineering for condemnation of Parcel A99-083, located at 1626 Voss Road, owned by Billie Jean Reed, for the **SAN FELIPE STREET WIDENING PROJECT** from Voss to Fountainview, CIP N-0565-01-2 - **DISTRICT G - KELLER** - was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. MOTION 2002-1016 ADOPTED.

## **PURCHASING AND TABULATION OF BIDS**

17. **GBS ENVIRONMENTAL, INC** for Asbestos Abatement and Demolition Services for Planning & Development Department - \$88,677.00 and contingencies for an amount not to exceed \$93,110.85 - Dangerous Building Consolidated Fund - was presented, moved by Council Member Quan, seconded by Council Member Vasquez, and tagged by Council Member Goldberg. Council Member Berry absent.
19. **CORLEX INTERNATIONAL, INC** - \$1,694,839.32, **MATERA PAPER COMPANY** - \$789,715.95 **IMPCO, INC** - \$194,900.00, **GISCO, INC** - \$435,190.00 and **SECURITY SAFETY** - \$41,640.00 for Janitorial Supplies for Various Departments - \$3,156,285.27 - General and Enterprise Funds - was presented, moved by Council Member Quan, seconded by Council Member Vasquez, and tagged by Council Member Parker. Council Member Berry absent.

## **ORDINANCES**

20. ORDINANCE **AMENDING CHAPTER 21 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to smoking - was presented. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Members Tatro and Berry absent. ORDINANCE 2002-0800 ADOPTED.

Mayor Brown stated that he wanted to thank Council Member Parker for demonstrating

great leadership in taking what could be a very difficult item and working with all the concerned people, including Members of Council, and getting it resolved. Council Members Tatro and Berry absent.

Council Member Parker stated that she wanted to thank BOMA, IRUM and the Houston Restaurant Association, the Hotel Motel Association and the Legal and Health Departments for working with her on this and her colleagues for a unanimous vote. Council Members Tatro, Goldberg and Berry absent.

21. ORDINANCE relating to Safety Codes adopted for the protection of lives and property from Fire and other Perils; adopting local amendments to the International Residential Code for One and Two Family Dwellings and to the International Energy Conservation Code - was presented. Council Members Tatro, Goldberg and Berry absent.

Council Member Alvarado stated that she wanted some clarification and asked if this item had any correlation with the Fire Code, and Mayor Brown stated no, it did not. Council Members Goldberg and Berry absent.

A vote was called on Item No. 21. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Members Goldberg and Berry absent. ORDINANCE 2002-0801 ADOPTED.

23. ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of (i) a portion of Shelby Circle, formerly Yates Avenue, Street right of way containing 7,459 square feet of land, more or less Parcel SY1-067A (ii) two 10-foot-wide sanitary sewer easements, containing an aggregate of 13,019 square feet of land, more or less, Parcels SY1-067B and SY1-067F, (iii) a 10-foot-wide waterline easement containing 999 square feet of land, more or less, Parcel SY1-067C, and (iv) two 5-Foot-Wide utility easements containing an aggregate of 4,225 square feet of land, more or less, Parcels SY1-067D and SY1-067E, all six parcels being located in the BH Freeling Survey, A-270, Harris County, Texas; vacating and abandoning said parcels of land to Houston Belfort Pines Apartments, L.P., abutting owner, in consideration of the owners' dedication of two easements for sanitary sewer purposes and an easement for utility purposes containing an aggregate of 19,453 square feet of land, more or less, and payment of \$6,855.00 and other consideration to the City - **DISTRICT D - EDWARDS** - was presented, and tagged by Council Member Edwards. Council Members Goldberg and Berry absent.
26. ORDINANCE appropriating \$585,892.01 out of Low Income Housing Fund 876 and \$1,449,107.99 out of Low Income Housing Fund 162; approving and authorizing first amendment to contract with **HOUSING OPPORTUNITIES OF HOUSTON, INC** to expand the scope of services to provide increased financial assistance of up to \$35,000.00 to qualified victims of Tropical Storm Allison to purchase new or used replacement housing and to use existing funding to provide up to \$10,000.00 of subsidy assistance to disabled homebuyers - was presented. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Members Goldberg and Berry absent. ORDINANCE 2002-0802 ADOPTED.
27. ORDINANCE approving and authorizing contract between the City of Houston and **SERVICE OF THE EMERGENCY AID RESOURCE CENTER FOR THE HOMELESS, INC** providing up to \$250,000.00 in General Funds and \$65,000.00 in Community Development Block Grant Funds for the Administration and Operation of a Mobile Outreach/Multi-Service Assistance Program for Homeless Persons, which total amount

includes a limitation of additional funding in the amount of \$65,000.00 - was presented. Council Member Tatro voting no, balance voting aye. Council Member Keller out of the city on personal business. Council Members Goldberg and Berry absent. ORDINANCE 2002-0803 ADOPTED.

29. ORDINANCE approving and authorizing contract between the City of Houston and **MCCONNELL & JONES, LLP** in the amount of \$60,000.00 to perform limited scope audits of certain entities receiving federal funding through the City's Department of Housing and Community Development CDBG Funds - was presented. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. ORDINANCE 2002-0804 ADOPTED.
32. ORDINANCE approving and authorizing contract between the City and the **U.S. DEPARTMENT OF TRANSPORTATION FEDERAL HIGHWAY ADMINISTRATION** for a grant to provide Planning and Construction Activities relating to the Main Street Corridor - was presented. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. ORDINANCE 2002-0805 ADOPTED.
33. ORDINANCE issuing a permit to **717 TEXAS LIMITED PARTNERSHIP** for building, constructing, using, occupying, operating, maintaining and repairing a Plaza Area within a portion of Texas Avenue abutting Block 59, S.S.B.B.; being within public street rights-of-way of the City of Houston, Texas; containing findings and prescribing the conditions and provisions under which said permit is issued - **DISTRICT I - ALVARADO** - was presented, and tagged by Council Member Goldberg. Council Member Berry absent.
34. ORDINANCE approving and authorizing contract between the City and **HOUSTON INTERNATIONAL INITIATIVES** for Promoting Trade Missions To Latin America - 1 Year \$80,000.00 - Enterprise Fund - was presented. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. ORDINANCE 2002-0806 ADOPTED.
36. ORDINANCE approving and authorizing contract between the City of Houston and **HOLMAN & KEELING, P. C.** for Litigation Support Services - \$100,000.00 - Property and Casualty Fund - was presented, and tagged by Council Members Wiseman, Tatro, Vasquez and Sekula-Gibbs. Council Member Berry absent.
37. ORDINANCE appropriating \$175,000.00 out of Water & Sewer System Consolidated Construction Fund No. 755 and approving contract between the City of Houston and **J. C. FOY, L.C.** for Litigation Support Services to assist in litigation arising out of activities financed by the fund - was presented. Council Member Tatro voting no, balance voting aye. Council Member Keller out of the city on personal business. Council Member Berry absent. ORDINANCE 2002-0807 ADOPTED.
38. ORDINANCE appropriating \$75,000.00 out of Water & Sewer System Consolidated Construction Fund No. 755 and approving contract between the City of Houston and **RIMKUS CONSULTING GROUP, INC** for Litigation Support Services to assist in litigation arising out of activities financed by the fund - was presented. Council Member Tatro voting no, balance voting aye. Council Member Keller out of the city on personal business. Council Member Berry absent. ORDINANCE 2002-0808 ADOPTED.
39. ORDINANCE approving and authorizing second amendment to services agreement between the City of Houston and **TEXAS DEPARTMENT OF INFORMATION**

**RESOURCES** adopted by Ordinance No. 01-0849 - was presented, and tagged by Council Member Tatro. Council Member Berry absent.

40. ORDINANCE amending Ordinance Number 2002-02 to replace the Interlocal Agreement between City of Houston and **TEXAS DEPARTMENT OF TRANSPORTATION (TXDOT)** for Halls Bayou Trail, CIP N-0420-31-2 with the Interlocal Agreement attached to this Ordinance **DISTRICTS B - GALLOWAY and H - VASQUEZ** - was presented, and tagged by Council Member Goldberg. Council Member Berry absent.
41. ORDINANCE appropriating \$18,000.00 out of Street & Bridge Consolidated Construction Fund and approving and authorizing an advance funding agreement between the City of Houston and the **TEXAS DEPARTMENT OF TRANSPORTATION** for Keegans Bayou Trail, GFS N-0420-25-2, providing funding for contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund - **DISTRICTS C-GOLDBERG and F- ELLIS** - was presented. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. ORDINANCE 2002-0809 ADOPTED.
42. ORDINANCE appropriating \$45,500.00 out of Street & Bridge Consolidated Construction Fund and approving and authorizing an advance funding agreement between the City of Houston and the **TEXAS DEPARTMENT OF TRANSPORTATION** for the Bikeway Projects funded under TEA-21, GFS N-0420-34-2, N-0420-35-2, N-0420-36-2 and N-0420-37-2; providing funding for contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund - **DISTRICTS A - TATRO; B - GALLOWAY; C - GOLDBERG; D - EDWARDS; F - ELLIS; G - KELLER; H - VASQUEZ and I - ALVARADO** - was presented, and tagged by Council Member Goldberg. Council Member Berry absent.
45. ORDINANCE appropriating \$6,866,782.75 out of Storm Sewer Consolidated Construction Fund, \$231,325.00 out of Water & Sewer System Consolidated Construction Fund, \$2,658,892.25 out of Street & Bridge Consolidated Construction Fund, awarding contract to **TEXAS STERLING CONSTRUCTION, LP** for construction of Kirby Drive Relief Storm Sewer, GFS M-0230-01-3; (SM5007) providing funding for engineering testing, construction management, and contingencies relating to construction of facilities financed by Storm Sewer Consolidated Construction Fund, Water & Sewer Consolidated Construction Fund and Street & Bridge Consolidated Construction Fund - **DISTRICT G - KELLER** - was presented, and tagged by Council Member Tatro. Council Member Berry absent.

#### **NON CONSENT AGENDA** - NUMBER 52

#### **MISCELLANEOUS**

52. RECEIVE nominations for Position 7 of the **PORT OF HOUSTON AUTHORITY OF HARRIS COUNTY, TEXAS**, for a two year term - was presented. Council Member Berry absent.

Council Member Vasquez stated that he wanted to nominate Mr. Vidal G. Martinez for Position 7 of the Port of Houston Authority of Harris County, Texas, that his resume was being distributed to the Council Members. Council Member Berry absent.

Council Member Quan stated that he wanted to nominate Ms. Janiece M. Longoria for Position 7 of the Port of Houston Authority of Harris County, Texas, that her resume was being

distributed to the Council Members. Council Member Berry absent.

Council Member Sekula-Gibbs moved to close nominations, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. MOTION 2002-1017 ADOPTED.

**MATTERS HELD** - NUMBERS 53 through 61

53. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$414,829.96 and acceptance of work on contract with **RESICOM, INC** for Construction of 1999 Safe Sidewalk Program, GFS N0610A-S6-3 (Group No. 3) - 07.09% under the original contract amount - **DISTRICT E - WISEMAN** - (This was Item 42 on Agenda of August 14, 2002, POSTPONED BY MOTION #2002-972) - was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. MOTION 2002-1018 ADOPTED.
54. MOTION by Council Member Keller/Seconded by Council Member Vasquez to adopt recommendation from Director Department of Public Works and Engineering for approval of final contract amount of \$5,610,317.30 and acceptance of work on contract with **TEXAS STERLING CONSTRUCTION, INC** for construction of North Wayside Paving Project from Ley Road to Tidwell Road, GFS N-0538-01-3 (N-0538-01) - 04.87% over the original contract amount **DISTRICT B - GALLOWAY** - (This was Item 5 on Agenda of August 21, 2002, TAGGED BY COUNCIL MEMBER GALLOWAY) - was presented. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. MOTION 2002-1019 ADOPTED.
55. MOTION by Council Member Keller/Seconded by Council Member Vasquez to adopt recommendation from Director Department of Public Works and Engineering for approval of final contract amount of \$2,969,448.77 and acceptance of work on contract with **TOTAL CONTRACTING LIMITED** for Parker Road Paving from I-45 to Airline Drive, GFS N-0543-01-3 (N-0543-01) - 04.39% over the original contract amount - **DISTRICT B - GALLOWAY** - (This was Item 6 on Agenda of August 21, 2002, TAGGED BY COUNCIL MEMBERS GALLOWAY and ALVARADO) - was presented. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. MOTION 2002-1020 ADOPTED.
56. MOTION by Council Member Keller/Seconded by Council Member Vasquez to adopt recommendation from Finance & Administration Department to award to **AVAYA, INC** for Telecommunications Software, Installation and Maintenance from the State of Texas General Services Commission's Contract through the State of Texas Cooperative Purchasing Program for Department of Public Works & Engineering - \$123,742.50 - Enterprise Fund - (This was Item 11 on Agenda of August 21, 2002, TAGGED BY COUNCIL MEMBER ROBINSON) - was presented. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Member Berry absent. MOTION 2002-1021 ADOPTED.
57. ORDINANCE approving and authorizing contract between the City and **JOHN HALL PUBLIC AFFAIRS, INC** for Consulting Services related to the Implementation of the Federal Clean Air Act; providing a maximum contract amount - 3 Years - \$750,000.00 - General Fund - (This was Item 27 on Agenda of August 21, 2002, TAGGED BY COUNCIL MEMBERS TATRO, VASQUEZ and WISEMAN) - was presented. All voting aye. Nays

none. Council Member Keller out of the city on personal business. Council Member Berry absent. ORDINANCE 2002-0810 ADOPTED.

58. ORDINANCE approving and authorizing amendment to untreated water supply contract between the City of Houston and **LYONDELL-CITGO REFINING L.P.** - Revenue - Through December 31, 2020 - (This was Item 29 on Agenda of August 21, 2002, TAGGED BY COUNCIL MEMBERS ALVARADO and SEKULA-GIBBS) - was presented. Council Member Berry absent.

Council Member Sekula-Gibbs stated that she had tagged the item because she had concerns that the Lyondell Refining Company, that would be receiving the untreated water, might have some issues with the City in terms of its ultimate business practices, that they were part of the Burlington Northern Sante Fe Coalition, that was called the San Jacinto Rail Limited, that her concern was that they were on the one hand selling the company water and on the other hand they were proffering an attempt to run a track right through the Southeast Water Treatment Facility, which could potentially damage the water that they were providing to 750,000 people, that she did not want it to go by without at least some serious questions about doing business with a company that could be trying in some way jeopardize the water supply to a quarter of the County, that she discussed it with representatives from Public Works, Mr. Paul Nelson and he said it was his understanding that they could not "not sell" them the water, that under State law it was probably mandated that they sell them the water, that she requested to the Mayor that they look at that ordinance and State law to make sure that there was not some way for them to leverage their water in a position that they would not continue to support people who may not have the City's best interest at heart. Council Members Wiseman and Berry absent.

Mayor Brown stated that in this case she was correct, they did not have any options, they were the only provider of water, therefore they could not refuse to sell the water, and Council Member Sekula-Gibbs asked if there was anything that the citizens should do, and Mayor Brown stated that he thought the lawyers may be the only response, and Mr. Hall stated that he thought Mayor Brown had answered appropriately, they had even advertised themselves as a regional water provider and had offered and advertised that they would treat, obviously, everybody the same, that in the sense that they would not discriminate against parties in selling untreated water, that in this instance, certainly he was sympathetic to what she was suggesting, they were two unrelated items, that if in fact they owed them on some water bill or something like that, obviously, that would be something they could take into account, but these were two unrelated matters in reality. Council Members Wiseman, Ellis, Vasquez and Berry absent.

Council Member Robinson stated that he heard everything that Council Member Sekula-Gibbs stated, but based on his experience it was a very dangerous thing for them to start talking about holding water hostage, they were already viewed in a very negative light across their region and as the owners of essentially all of the water rights in the area, it gave great concern to people, even when they say that they were willing to do a good faith deal with them, they still did not believe Houston, so he did not even think they ought to broach that, that if they went to Austin with the notion that they wanted to start holding water hostage what they essentially could end up happening was having the City's water rights not protected but impinged on, that water was a very volatile political issue and they could see themselves put in a very bad position, that as to the San Jacinto Line he thought they all agreed they had options that they had to exercise and thought the administration had shown that they were willing to use everything in their arsenal on the Legal side.

A vote was called on Item No. 58. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Members Wiseman, Ellis, Vasquez and Berry absent. ORDINANCE 2002-0811 ADOPTED.



59. ORDINANCE approving and authorizing an untreated Water Supply contract between the City of Houston and **POLYONE CORPORATION** - Revenue - Through December 31, 2020 - (This was Item 30 on Agenda of August 21, 2002, TAGGED BY COUNCIL MEMBERS ALVARADO and SEKULA-GIBBS) - All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Members Wiseman, Ellis, Vasquez and Berry absent. ORDINANCE 2002-0812 ADOPTED.
60. ORDINANCE awarding contract to **BEYER CONSTRUCTION, LLP** for construction of Water, Wastewater and Drainage Facilities to serve the Villages of Glenshire Subdivision, CIP S-0800-46-3 and R-0800-52-03; approving and authorizing assignment of the contract to **W&W ASSET MANAGEMENT, INC - DISTRICT C - GOLDBERG** - (This was Item 36 on Agenda of August 21, 2002, TAGGED BY COUNCIL MEMBER GOLDBERG) - was presented. Council Member Goldberg voting no, balance voting aye. Council Member Keller out of the city on personal business. Council Members Wiseman, Ellis, Vasquez and Berry absent. ORDINANCE 2002-0813 ADOPTED.
61. MOTION by Council Member Quan/Seconded by Council Member Sekula-Gibbs to adopt recommendation from Director Department of Public Works & Engineering for approval of final contract amount of \$3,543,450.26 and acceptance of work on contract with **TEXAS STERLING CONSTRUCTION, INC** for construction of Infrastructure Improvements in the St. George Place Subdivision, GFS N-1033-03-3 (N-1033-03) - 08.79% under the original contract amount **DISTRICT C - GOLDBERG** - (This was Item 49 on Agenda of August 21, 2002, TAGGED BY COUNCIL MEMBER GALLOWAY) - was presented. Council Members Ellis, Vasquez and Berry absent.

Council Member Goldberg stated that it had taken a year for the company to repair some of the mistakes they made in the area and had still not done it and was told that it was possible for them to accomplish it within about six weeks and moved to delay Item No. 61 for 6 weeks, seconded by Council Member Robinson. All voting aye. Nays none. MOTION 2002-1022 ADOPTED.

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

Council Member Goldberg stated that now that school had started they were seeing increased traffic on some of the streets in District C and one of the those, Beverly Hill, was a street that actually was closed off partially to one way traffic and there were a lot of people who were actually going the wrong way, that it was near Pilgrim Elementary and would like for someone to get with him and try to find a way that they could close the street off altogether, that he had met with the civic club officers and constituents in the area and they agreed that Beverly Hill near Pilgrim Elementary should be closed off totally, and Mayor Brown stated that he would have someone from Public Works meet with him. Council Members Ellis and Berry absent.

Council Member Goldberg stated that as to their failed bid for the 2012 Olympics, when he first heard the idea of Houston even hosting the Olympics he laughed at it and doubted that it could ever become a possibility and thought it would never happen, that he thought they had come a long way since then and everyone agreed, the Site Selection Committee and even the other cities agreed that technically Houston had the best bid, they really came a long way to show that Houston could host the Olympics and he hoped that there was a possibility for other events like it, such as the Pan American Games or other athletic events, that two people to be really congratulated in their efforts were Ms. Susan Bandy and Mr. George DeMontrond, that they did everything exactly correct. Council Member Berry absent.

Council Member Wiseman stated that she wanted to thank her colleagues for approving Item No. 28 authorizing their contract with the Clear Lake Area Economic Development Foundation for Tourism Development and stated that she wanted to recognize the President of CLAEDF who was present in the audience, Mr. Jim Reinhartsen and asked that he stand and be recognized.

Council Member Wiseman stated that she wanted to echo Council Member Goldberg's sentiments with respect to the Olympic bid effort and how it resulted, that they did have a tremendous amount to offer and people throughout the world recognized that, that one of the jewels that shone from the region was NASA and their lead in aerospace, that they would have a tour tomorrow at NASA and had a great number of Council Members who would be attending and wanted to thank Mr. Reinhartsen for taking the initiative to extend that opportunity to them. Council Member Berry absent.

Council Member Wiseman stated that during the City's Birthday celebration they would be honoring an astronaut, Mr. John Young. Council Member Berry absent.

Council Member Wiseman stated that in October 2002 they would have the World's Space Congress meeting in Houston, that the event occurs only once every 10 years and they would be hosting it in Houston and CLAEDF had taken a great role in that and she would appreciate the support of her colleagues in honoring the space efforts. Council Member Berry absent.

Council Member Robinson stated that he took it very hard for Mr. John Kelley yesterday, that he gave his heart and soul and it started with an idea that he envisioned for his community, that it did not end up at the goal he wanted and Houston was much better for his having the willingness and the vision to get them started in believing they could be the host city for an Olympics, that he wanted to commend Mayor Brown because when they got to Council no body believed, but he believed in Mr. Kelley and he believed in the City and were willing to come and ask the City Council to be a part of a public private partnership to try to make that run. Council Members Galloway, Ellis and Berry absent.

Council Member Robinson stated that tonight at 7:00 p.m. at Pershing Middle School, with the help of Congressman Nick Lampson, the Police Department and a number of organizations involved in the missing children issue, they were going to have a townhall meeting that the municipal channel had agreed to tape to run, that they had collected information on all of the missing kids and adults in the community and were doing a informational package for the municipal channel, that it seemed that this summer, for no reason, people had just gone on a rampage kidnapping young people around the Country and he hoped that they would continue to keep doing things, each and everyone of them in their own different ways, to keep lifting the issue up so they could keep protecting the children and people who were vulnerable in the community. Council Members Galloway, Ellis and Berry absent.

Council Member Edwards stated that she wanted to thank Council Members Parker and Goldberg, that they had a townhall meeting last night regarding U.S. 59, the transformations that were going on over there, that they had a very large attendance at Woodrow Wilson Elementary School and wanted to thank the Council Members for showing up and Mr. Vanden Bosch and all the City people and METRO, that it was very informative and thought it would give them an opportunity to develop a go forward strategy that would be successful. Council Members Galloway, Ellis and Berry absent.

Council Member Edwards stated that she wanted to commend Chief Bradford and Mayor Brown for not ducking the issue of K-Mart and appreciated Chief Bradford giving an apology to the community even before all of the information had been gathered. Council Members

Galloway, Ellis and Berry absent.

Council Member Edwards stated that she knew there was a new person that was the Youth Council administrator or leader and would like to see the Youth Council take the issue up as to where do their young people go, that she knew that kids had been hanging out as long as she had been around, but would like to hear some young people's remarks and evaluation of what happened and what possible solutions could be brought about regarding that, and Mayor Brown stated they would have the Youth Council take it up, that he thought it was an excellent idea and would follow up on it. Council Members Galloway, Ellis and Berry absent.

Council Member Edwards stated that she thought one of the lessons that they learned in the City was that the police were here to serve and the independent investigation of the situation was critical but she thought that the fact that the Chief was present and stated that he was willing to take the heat for it and that he had a discomfort with what had happened, gave her a lot of hope as to where they could move forward in the City. Council Members Galloway and Ellis absent.

Council Member Tatro stated that as to the 2012 bid, he wanted to thank Mr. DeMontrand for the sacrifice of his personal time and effort for the two year long endeavor that he took to heart and for the financial contribution that he personally made in taking time of from his business to head it up on behalf of the City. Council Members Galloway and Ellis absent.

Council Member Vasquez stated that he also wanted to echo the comments made by the other Council Members and thank the 2012 Olympic Committee for all of their hard work, Mr. DeMontrond and Ms. Bandy, that they appreciated all they had done for the City and hopefully the City could learn from this and move forward on future bids as well. Council Members Galloway and Ellis absent.

Council Member Vasquez stated that he wanted to follow up on his request to Mr. Haines to execute the emergency contracts for mosquito spraying and asked Mr. Haines where they were on that, and Mr. Haines stated that they had looked at those emergency contracts and they were no longer valid, they would have to reissue, however they did meet with the County and they had committed to a focused and intensive program and the City was in the process of finalizing a five step strategy that would get them into the neighborhoods and into a much more aggressive program of tire removal and storm drainage cleaning, that they had several departments involved and expected to have a report to him by the end of the week on how that strategy would go forward. Council Members Galloway, Goldberg and Ellis absent.

Council Member Vasquez stated that he wanted to wish everybody a happy Labor Day and encourage everyone to drive safely wherever they were going or whatever they were doing and to remember and thank the unions and all of those workers and non-union people for all that they do for the Country. Council Members Galloway, Goldberg and Ellis absent.

Council Member Quan stated that he wanted to echo some of the things that had been said by his colleagues, that they all make mistakes and he appreciated the Chief coming before them and acknowledging that there were mistakes that were made, that how they act to rectify those situations to avoid them from happening in the future, he thought, was a lesson that they all take from the situation, that he was encouraged by Mr. Halls statement that that they were all out for justice and all out to do what was right and looking at the records and seeing what could be done once a decision had been made as to what improprieties may have occurred, that this Council was committed to that seeking of justice. Council Members Galloway, Goldberg, Ellis and Vasquez absent.

Council Member Quan stated that he was still concerned about the health insurance plan, that they were at the very end of the month and several doctors were going to be going off of the plan and knew that it was going to be affecting a number of the employees of the City, that he had been touch with Mr. Haines about some of that and did not know where they stood but would certainly like an update on it, and Council Member Parker stated that it would be discussed at the Fiscal Affairs meeting on Tuesday morning. Council Members Galloway, Goldberg, Wiseman, Ellis and Vasquez absent.

Council Member Quan stated that he wanted to give a brief update on their CMC Campaign, that Council Member Berry would make mention later on that Dr. Marni Rose's foundation had been added to the charities that would be included in the campaign, but as they knew City Council had the "kiss the piggy" contest going on with their pigs on display at the City Hall Annex and they would be on display at 611 Walker for the Agency Fair on Friday. Council Members Galloway, Goldberg, Wiseman, Ellis and Vasquez absent.

Council Member Sekula-Gibbs stated that she too would like to echo her congratulations to the Clear Lake Area Economic Development Foundation for being such an outstanding representative of the Clear Lake Area and particularly to Mr. Reinhartsen for being such a great representative of the Clear Lake Economic engine that continued to provide great opportunities for employment and growth in Clear Lake. Council Members Galloway, Goldberg, Wiseman, Ellis and Vasquez absent.

Council Member Sekula-Gibbs stated that she wanted to congratulate Astronaut John Young who would be inducted into the Houston Hall of Fame. Council Members Galloway, Goldberg, Wiseman and Ellis absent.

Council Member Sekula-Gibbs stated that congratulations should still be given, even though they did not win the nod of the Olympic Committee, to Mr. DeMontrond, Mr. Kelley and Ms. Bandy. Council Members Galloway, Goldberg, Wiseman and Ellis absent.

Council Member Sekula-Gibbs stated that she wanted to inform everyone that regarding the incident where a referee collapsed at the Compaq Center on August 20, 2002, there was some discussion at the Council table last week that the response was inadequate and that people did not see the Houston Fire Department on the scene, the reason for that was that the Houston Fire Department was never called, that response was handled by a private entity called Rural Metro and they handled the whole crisis from beginning to end and did not activate the 911 System therefore the Houston firefighters were never notified. Council Members Galloway, Goldberg, Wiseman and Ellis absent.

Council Member Sekula-Gibbs stated that she wanted to wish everybody a safe Labor Day weekend. Council Members Galloway, Goldberg, Wiseman and Ellis absent.

Council Member Parker stated that there would be a Fiscal Affairs Committee meeting on Tuesday, September 3, 2002, it would be the regularly scheduled monthly meeting for Fiscal Affairs and would have the MOFAR, but would also have an update on the Health Benefits Program, and she encouraged everyone to be there. Council Members Galloway, Goldberg, Wiseman and Ellis absent.

Council Member Parker stated that she again wanted to thank those who worked on the changes to the Smoking Ordinance and personally hoped that they could expand the Smoking Ordinance into a lot of new areas, but respected the work that went into the very tailored change to the Smoking Ordinance and thought it would be very beneficial to the citizens. Council Members Tatro, Galloway, Goldberg, Wiseman and Ellis absent.

Council Member Parker stated that she wanted to comment on a Houston Business Journal article that she read last week on a plan to completely privatize the City of Houston fire fleet, that she was shocked and talked to some folks in the administration and was told that maybe it had not gotten quite as far as was implied by the Fire Department but it did raise a number of questions, that she would like to know what the exact status of the plan was, that she had a number of questions about the fire fleet and would ask them now and then submit them in writing, that she knew they had made a huge number of purchases of apparatus over the last five years and would like to know what they had purchased by company, what the percentage of down time was for those new vehicle, what the leading cause of down time was, whether it was accidents or breakdowns and whether there were any contract repair triggers based on the number of breakdowns and if any of them had been reached and finally what the current repair backlog was of fire apparatus, and Mayor Brown stated that they would get that for her. Council Members Tatro, Galloway, Goldberg, Wiseman and Ellis absent.

Council Member Parker stated that she wanted to thank Council Member Wiseman for really getting into the spirit of the City's Birthday Party, that after they had talked about the fact that they had chosen to honor NASA and the Air Space Industry she wanted to put together a tour, that she wanted to say some nice things about Mr. Reinhartsen, that he had worked very closely with the birthday celebration in planning it, that Clear Lake and NASA and the Aero Space Industry were very important to the City of Houston, that the actual City birthday was Friday, but the City's Birthday Party was a week from today and she wanted to invite everyone who was present and stated that they had some birthday cake for the City of Houston and anybody who would like a sugar rush they would be serving it in the lobby. Council Members Tatro, Galloway, Goldberg, Ellis and Vasquez absent.

Council Member Alvarado stated that she wanted to commend the Houston Police Department and the Harris County Sheriff's Department for the arrests of the individuals who were responsible for the murders in the East End, that she thought they did a very thorough job and also appreciated their participation with the townhall meeting. Council Members Tatro, Galloway, Goldberg, Ellis and Sekula-Gibbs absent.

Council Member Alvarado stated that she wanted to remind her colleagues that on September 12, 2002 they would have their next Legislative Affairs Committee meeting, that she wanted to yield some of her time to Mr. Hall because there had been some talk about what role the Council's legislative priorities would play and would ask that he please clarify that. Council Members Tatro, Galloway, Goldberg, Ellis and Sekula-Gibbs absent.

Mr. Hall stated that they had discussed at some length on a number of occasions all of the Legislative activities and what takes place and thought that probably they did not make it clear, that for the last 12 to 14 years the City administration, the Mayor, had endeavored to present to Council what was called the Legislative Principles and the Legislative Principles did not turn into pieces of legislation, they were primarily the guidance for their Austin representatives and the people who were in the Legislature for what the City's position was on general issues, most of them knew that there were some 6,000 pieces of legislation typically introduced in a Legislative session and they actually, Mr. Bibler or Ms. Taylor, one of the two of them literally reads every one of those and their lobbyists were advised of how they fit in those principles and thus how they come up, what was more critical though, was for those of them who had observed the Legislative process knew that much of what happened in the Legislature was a question of amendments and those of kinds of things that happened awfully fast and this gives guidance to their people about how they generally posture on those issues, through amendments and the amendment process and the Legislature that flows so quickly, that what the principles did not do was provide for a specific Legislative initiatives and that was where the committee came in and

that was where since the beginning of the process 12 or 14 years ago, the Legislative Committee was empowered to act on specific Legislation that either Council Members wanted them to support or in the alternative, that they specifically want them to oppose, that had gone on for some time, that he knew the Council Member Robinson last time had four or five and they had advised that they could not just present it and disassociate themselves, because if it was something that they were particularly interested in they had to get it drafted and help get a sponsor for it and be available to go and testify for it, that their people track it and those kinds of things, but that was in the province of the committee, that the committee then gives them the director for those kind of things, that was why it was so valuable to them and it was the only avenue they had used for providing that. Council Members Galloway, Goldberg, Ellis and Sekula-Gibbs absent.

Council Member Alvarado stated that her concern was that she wanted to make sure that the priorities that were submitted by the Council Members that there was something that happened with those, that they were not just put on a shelf and they did not see them again. Council Members Galloway, Goldberg, Ellis and Sekula-Gibbs absent.

There being no further business before Council, the City Council adjourned at 12:03 a.m. upon MOTION by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Keller out of the city on personal business. Council Members Galloway, Goldberg, Ellis and Sekula-Gibbs absent.

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

MINUTES READ AND APPROVED

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Anna Russell, City Secretary