

City Council Chamber, City Hall, Tuesday, January 28, 2003

A Regular Meeting of the Houston City Council was held at 1:30 p.m. Tuesday, January 28, 2003, with Mayor Lee P. Brown presiding and with Council Members Bruce Tatro, Carol M. Galloway, Mark Goldberg, Ada Edwards, Addie Wiseman, Mark Ellis, Bert Keller, Gabriel Vasquez, Carol Alvarado, Annise Parker, Gordon Quan, Shelly Sekula-Gibbs, M.D., Michael Berry and Carroll Robinson; Mr. Paul Bibler, Senior Assistant City Attorney; Mr. Richard Cantu, Director, Mayor's Citizens Assistance Office; Ms. Martha Stein, Agenda Director present.

At 2:02 p.m. Mayor Brown stated that Council would begin with the presentations. Council Members Goldberg, Ellis, Keller and Robinson absent.

Council Member Quan stated that the Asian Community was celebrating their Chinese New Year, the Year of the Ram, and invited those present with the TET Festival and Southern News Group to the podium. Representatives from the group presented the Mayor and Council Members with information and invited them to the 2003 Chinese New Year Festival, Saturday, February 1, 2003, at the Chinese Community Center located at 5855 Sovereign Drive. Council Member Quan stated that all events were free and he hoped everyone would attend. Council Members Goldberg, Keller, Ellis and Robinson absent.

Mayor Brown thanked everyone for coming and extended a happy new year to all. Council Members Goldberg, Keller, Ellis and Robinson absent.

Council Member Galloway stated that today Council was honored to have a Houstonian present and invited Mr. Elvin Bethea to the podium. Council Member Galloway stated that Mr. Bethea, an eight-time Pro Bowl player, was elected to be inducted into the NFL Hall of Fame on Saturday, January 25, 2003, and presented him a Proclamation for his many accomplishments, his numerous awards, for being inducted into the NFL Hall of Fame in the Summer of 2003 and proclaiming Tuesday, January 28, 2003 as "Elvin Bethea Day" in Houston, Texas. Mr. Bethea stated that this was a very special occasion for him; that he never thought this day would happen and he thanked the Mayor and Council, especially Council Member Galloway and the City of Houston and presented an autographed football with the Hall of Fame logo to the Mayor and Council Member Galloway. Council Members Goldberg, Keller, Ellis and Robinson absent.

Council Member Wiseman stated that it was with great honor and pleasure that she was able to introduce Rev. Hardy Norwood, a 92 year old resident of Kingwood, and invited him to the podium. Council Member Wiseman stated that Mayor Brown helped Rev. Norwood many years ago and he had a desire to eventually meet him and today he was getting that chance; that Rev. Norwood still went to nursing homes, etc., preaching and presented him with a certificate for his dedication and commitment to community service. Rev. Norwood and his wife presented Mayor Brown with home baked bread and stated that about 20 years ago he lived in the Heights and Mayor Brown, the then Police Chief, came out himself to help with a problem and it was going beyond the call of duty that he came out. Council Members Goldberg and Robinson absent.

Council Member Sekula-Gibbs stated that members with the Life Gift Organ Donation Center were present and invited them to the podium. Council Member Sekula-Gibbs stated that when someone donated their organs it not only provided life to one but up to 75 recipients and anyone wanting information could call the center at 713-523-4438; and presented them with a certificate for their strong performance in their unselfish commitment to preserving precious life. Council Members Berry and Robinson absent.

At 2:24 p.m. Mayor Brown called the meeting to order and Council Member Galloway invited Pastor Gary Baker with Point Christian Outreach Ministry to lead everyone in prayer and Council Member Galloway led everyone in pledging allegiance to the flag. Council Members Goldberg and Robinson absent.

At 2:26 p.m. the City Secretary called the roll. Council Member Robinson absent.

Council Members Keller and Vasquez moved that the minutes of the preceding meeting be adopted. All voting aye. Nays none. Council Member Robinson absent. MOTION ADOPTED.

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, Tom Brown, Ruth Terry and Karen Jacobs and Gladys House out of order at this time, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Robinson absent. MOTION 2003-0065 ADOPTED.

Mr. John Florez, 524 Westheimer, Houston, Texas 77006 (713-522-6548) appeared, presented information regarding fees in other cities and stated that he was present speaking on his behalf and the behalf of hundreds of vendors and providers regarding fees for temporary food permits; that he went to the Health Department, filled out forms and paid a fee and it usually took 20 minutes and he used to pay the city \$330.00 for a two day permit but now the same permits would cost him \$720.00; that 90% of the vendors were regular and knew the regulations and in fact the inspectors knew the vendors and spent little time at each booth; that most food vendors used liquid petroleum gas and besides the \$60.00 a day health permit a food vendor must also pay \$255.00 for a fire permit and for a two day festival the promoter would also be charged an additional \$2,500.00 to hire a private LPG gas company; that because of the increase in fees he knew six vendors who would not be doing the Rodeo this year; that it was bad enough the city lost the 2002 Olympics in part because when the city held the Texans/Cowboy football game at Reliant Stadium someone forgot you could not fit 70,000 cars in 22,000 parking spaces and someone should have made arrangements for shuttle service; that people were thinking if Houston could have such a disaster with a simple game how could they handle the Olympics. Council Members Galloway, Parker and Robinson absent.

Mayor Brown stated that Mr. Florez was wrong as the game was after the decision made regarding the Olympics, it had nothing to do with Houston not getting the games. Council Members Galloway, Parker and Robinson absent.

Mr. Tom Brown, 5439 Redstart, Houston, Texas 77096 (713-729-8648) appeared and stated that he was present along with other food vendors of the Houston Livestock Show and Rodeo regarding the exorbitant prices the Houston Health Department was charging for food vendor permits; that they were asking Mayor Brown to grant a variance for those food vendors since he had that authority. Council Members Galloway, Parker and Robinson absent.

Mayor Brown stated that first of all the Mayor did not have authority to change decisions made by the City Council; and Mr. Brown stated that it was not a change it was a variance. Council Members Galloway, Parker and Robinson absent.

Upon questions by Mayor Brown, Mr. Bibler stated that the Mayor executed the Council's legislation he did not change or wave it. Council Members Galloway, Parker and Robinson absent.

Mr. Brown stated that he wanted to relinquish the rest of his time to Ms. Wood, the executive director of vendors at the Rodeo. Council Members Galloway, Parker and Robinson absent.

Council Member Quan moved to hear Ms. Wood of the Livestock Show and Rodeo at this time, seconded by Council Member Edwards. All voting aye. Nays none. Council Members Galloway, Parker and Robinson absent. MOTION 2003-0066 ADOPTED

Ms. Wood appeared and stated that she wanted to express the Houston Livestock Show and Rodeo's support of the food vendors; that they understood everything went up, but she felt

the Council did not take into consideration a 20 day event and that the fees were geared more toward a typical event of 2.3 days average with a cost of \$1,200.00; that the Livestock Show and Rodeo would be willing to help the city by collecting the fees for them and then write one check to them; that they could collect the city's forms or do whatever they could to help them reduce the expenses on their end. Council Members Galloway, Parker and Robinson absent.

Upon questions by Council Member Alvarado, Ms. Wood stated that she was a staff member with the show and their organization was taking an official position; that she was division manager over attractions and exhibits and merchandise. Council Members Galloway, Parker and Robinson absent.

Upon questions by Council Member Quan, Ms. Wood stated that the fee was having an impact on them attracting vendors; that they had roughly 60 positions open and had received a number of cancellations; that they wondered if fees could be capped, they had done the same investigation as Mr. Florez and the City of Houston was pretty much out of line with other cities permit fees and not to say they were wrong but it was pretty out of line and they felt a cap of \$500 or \$600 would be more appropriate. Council Member Quan stated that the city was looking at shortfalls this year and they adjusted fees to meet what the actual cost had been in providing the services, but they were willing to review the situation in an equitable manner. Council Members Galloway, Parker, Sekula-Gibbs and Robinson absent.

Upon questions by Council Member Keller, Ms. Wood stated that the Rodeo charged vendors 18% of their gross sales; that they had done a benchmark study on what fairs across the country charged and the Rodeo was in the high/medium range. Council Members Galloway, Parker, Sekula-Gibbs and Robinson absent.

Upon questions by Mayor Brown, Ms. Wood stated that they would consider adjusting their fees to help vendors. Council Members Galloway, Parker, Sekula-Gibbs and Robinson absent.

Upon questions by Council Member Edwards, Ms. Wood stated that she would find what the average sales was from the average vendor and get it in writing to her; that she felt for a 2 or 3 day event the fee may be fairly reasonable, but for theirs there was only one set of paperwork to process and while they visited more often, they did know the vendors and it was a very brief visit. Council Members Galloway, Parker, Sekula-Gibbs and Robinson absent.

Upon questions by Council Member Goldberg, Ms. Wood stated that they had 14 cancellations and typically had 2 to 3 a year cancel; that they had 382 vendors in total and over 700 applicants this year as it was a sought after show with a good turnout from people spending money, it was popular with exhibitors around the country. Council Members Galloway, Ellis, Parker, Sekula-Gibbs and Robinson absent.

Council Member Tatro stated that he felt the fee was excessive and he hoped the city would cap or reduce it; and upon questions, Ms. Wood stated that their fees were 6 or 7 years old and they had a benchmark study recently which placed them as the second largest fair in North America only behind the State Fair of Texas and they were very conscious of their crowd and they may look at their own fees as they were placed in the high/medium range. Council Members Galloway, Ellis, Keller, Parker, Sekula-Gibbs and Robinson absent.

Ms. Ruth Terry, 5908 Buffalo Speedway, Houston, Texas 77005 (713-665-6690) appeared and stated that she and her husband had a food concession at the Rodeo and it was the only show they did every year; that she was health certified and knew what a service the Health Department provided but they could not pay a 300% increase in fees; that with the increase in fees the city would collect from them almost \$95,000 within a 20 day period and that seemed excessive, \$95,000 to monitor only 79 food booths just blocks from their department; that the bottom line was the fee increase would be passed along to consumers and she was asking for a variance until they could come up with an equitable fee for all; that she received a letter today

stating that they were extremely concerned with the fees and that they were representing the interest of 15 stands who sold food at the Rodeo; that they worked 20 major events in the Midwest and West Coast and there were no other events charging such an unfair amount; and the fee schedule was not balanced appropriately with the days of the event. Council Members Galloway, Ellis, Keller, Parker, Sekula-Gibbs and Robinson absent.

Upon questions by Council Member Alvarado, Ms. Terry stated that some vendors produced a great deal more sales than other vendors; that a plate of barbecue being sold at \$7.00 did not compare with someone selling candy and that should be taken into consideration; that the city's fee for a restaurant for a year was \$200.00 and their fee for 20 days was \$1,200 and that was not fair; that last year the fee was \$400.00; that when inspectors came by the booth they were there less than five minutes and she found it hard to believe that with that along with the time to do the paperwork was \$60.00 for every five minutes because that was what they were being charged; that the city also did not check on restaurants daily and it was not necessary to check them daily, maybe periodically. Council Members Galloway, Ellis, Keller, Parker, Sekula-Gibbs and Robinson absent.

Upon questions by Council Member Edwards, Ms. Terry stated that they had done the Rodeo nine years and in the first years they were charged a flat fee and then they were assessed 18% of the gross. Council Members Galloway, Goldberg, Parker, Sekula-Gibbs and Robinson absent.

Council Member Vasquez stated that Ms. Terry proposed a variance and upon questions, Mr. Bibler stated that was not legally possible at this point in time. Council Members Galloway, Goldberg, Parker, Sekula-Gibbs and Robinson absent.

Upon questions by Council Member Vasquez, Ms. Terry stated that their prices were set by contract and could not be changed and she wondered if they raised all Health Department fees. Council Members Galloway, Goldberg, Parker, Sekula-Gibbs and Robinson absent.

Mayor Brown stated that a consultant was hired and fees were increased to cover the functions; that perhaps the Rodeo could adjust their fees. Ms. Terry stated that she wondered if the Mayor thought it would cost \$95,000 to check on them for 20 days. Council Members Galloway, Goldberg, Parker, Sekula-Gibbs and Robinson absent.

Council Member Vasquez stated that what she was proposing could not be done and they were suggesting to her to go to those at the Rodeo and see if they could do something or if between them and the city they could work out something for next year; that while she did a great job of advocating her case the city could not follow-through with her suggestion. Council Members Galloway, Goldberg, Parker, Sekula-Gibbs and Robinson absent.

Ms. Karen Jacobs, 14609 South Main, Houston, Texas 77035 (713-283-5253) appeared and stated that she and her husband sold pralines and was present asking for a variance in the fees for temporary food vendor permits at the forthcoming Houston Livestock Show and Rodeo; that the vendors had not budgeted for an increase in the permit fee and did not know of the increase until a couple of weeks ago. Council Members Galloway, Goldberg, Wiseman, Parker, Sekula-Gibbs and Robinson absent.

Council Member Alvarado stated that Mr. Bibler already stated Council could not grant a variance and she wondered if Council could bring the ordinance regarding fees back and amend it specifically for this event only; and Mayor Brown stated that he did not know, but to refresh everyone's memory the City had engaged the services of a consultant to do a survey on all city fees and that was built into the city budget process. Council Members Galloway, Goldberg, Wiseman, Parker, Sekula-Gibbs and Robinson absent.

Mayor Brown asked Mr. Bibler if he could answer Council Member Alvarado's questions,

and Mr. Bibler stated that if it was just because they were nice people no they could not do it, they might as well write them a check. Council Members Galloway, Goldberg, Wiseman, Parker and Robinson absent.

Council Member Alvarado stated that someone earlier raised a point that a restaurant was being treated the same as someone selling candy; and would they have this same problem when the International Festival came up. Council Members Galloway, Goldberg, Wiseman, Parker and Robinson absent.

Council Member Alvarado yielded to Council Member Edwards and upon questions, Council Member Alvarado stated that she was looking at guidance from Legal as to what they could work with amount of days or fees. Council Members Galloway, Goldberg, Wiseman, Parker and Robinson absent.

Council Member Vasquez stated that following in on Council Member Alvarado's question what was Council's recourse; and Mr. Bibler stated that they could send the consultant back out and have them review what they did, but they went from what they were told and to make those kind of adjustments you basically ended up with restaurants subsidizing those type events or vice versa, there was a situation where you were trying to run the operation out there off of its cash register and charge everyone equitably based on the expenses they would incur on the cost of the operation. Council Members Galloway, Goldberg, Wiseman, Parker and Robinson absent.

Council Member Alvarado stated she wondered if the consultant looked at small businesses as opposed to larger restaurants and corporations; and Mayor Brown stated that he did not recall but they could get her a copy of the report. Council Members Galloway, Goldberg, Wiseman, Parker and Robinson absent.

Council Member Berry stated that the report Council was referring to was the study on what it supposedly cost the city to enforce these things; that if Council would remember when Bob Craig came to Council regarding his fees going from \$300.00 to \$1,400.00 for dry cleaners to be inspected when he had not seen an inspector in 13 years, except right after visiting Council, and now they had gone from \$400.00 for a temporary food permit to \$1,200.00 so apparently health inspection had gone up three times and yet they were still charging sexually oriented businesses \$225.00 when police were called out many times; that it appeared they were imposing a cost on people least able to pay and it was unfortunate and Council could amend or cap the fee and it could be done today; that Council could find other places to cut; that he just received the Library Department's monthly "aren't we great" news letter and they could cut out all the silly publications being mailed out every month and take the burden off the backs of the small vendors; and upon questions, Ms. Jacobs stated that she found out about the fee increase a couple of weeks ago, that it had gone into effect in July. Council Member Berry stated that she found out six months after the fact and was already under contract with the Rodeo; and Ms. Jacobs stated that was correct. Council Members Galloway, Goldberg, Wiseman, Parker, Sekula-Gibbs and Robinson absent.

Council Member Edwards stated that the fee increase was done in the budget session, and the budget was passed with the fees and whether they were correct or incorrect she felt in disingenuous to sit there and act like they never had the discussion before as a City Council; that Mr. Bibler with the Legal Department was saying Council could not lower the fees and would suggest, as someone had earlier, convening a meeting with the Houston Livestock Show and Rodeo to see if they could find some kind of way; and upon questions, Mr. Bibler stated that only when an ordinance provided for a variance could there be one and this ordinance did not provide for one. Ms. Jacobs stated that she found it hard to believe that Council and the Houston Convention and Visitor's Bureau tried to promote this great city, trying to attract people, and if the vendors dropped out or raised prices so high what good did it do, what was the need in it. Council Members Tatro, Galloway, Goldberg, Wiseman, Parker and Robinson absent.

Mayor Brown stated that he wanted to point out that the consultant wanted \$71.00 a day and Council approved \$60.00 a day. Council Members Tatro, Galloway, Goldberg, Wiseman, Parker and Robinson absent.

Council Member Vasquez stated that he understood her frustration but Council was following the law passed; that her best recourse would be to go back and talk to the Rodeo people and see if something could be worked out; that for the upcoming festivals, etc., the vendors would have to do the same thing until it was revisited by the Council; and Ms. Jacobs stated that it seemed Council could have thought of a more fair solution; that her restaurant was visited about three times a year and it seemed they could have upped that fee \$50.00 and then it would be across the board instead of just temporary vendors; that there were over 11,000 restaurants in Houston. Council Members Tatro, Galloway, Goldberg, Wiseman, Parker and Robinson absent.

Council Member Keller stated that he believed to amend the fees they would have to recall the entire budget; that perhaps it could be addressed in the upcoming budget, but to his understanding though the city had a good relationship with the Rodeo they did not give the City of Houston anything for services the city provided. Council Members Tatro, Galloway, Goldberg, Wiseman and Robinson absent.

Ms. Gladys House, 1605 Andrew, Houston, Texas 77019 (713-742-6995) appeared and stated that she was present to try and get support and clarification from Council as a body on the status of the Gregory Archival Museum Project; that they had the ground breaking and press conference nearly three years ago; that they worked hard with Ms. Kay Bailey Hutcheson and the City of Houston to get monies and they heard a committee was in place and they would serve on it but it did not happen; that the Mayor's Office said there had been a meeting but they forgot to invite them and when asked to see the minutes were told there were none; that she appreciated the Mayor's and Senator Hutcheson's support, but the school was falling in and they wanted to get the city to follow-through with its commitment as too often the city had fallen short of its commitments to the Freedmen's community; that she was trying to find out where the project was at this time and would like something in writing. Council Members Tatro, Galloway, Goldberg, Wiseman, Berry and Robinson absent.

Mayor Brown stated that he could help her; that hopefully next week, and if not then in two weeks, there should be something on the Agenda; that right now departments were signing off on it and there was a draft contract and once that was signed on they were prepared to bring it to Council; that they were moving ahead, but came to a problem as the building had the same historical significance as the Alamo and what they had planned they could not do, but it had gone back to the drawing board and they were trying to move on it as soon as possible; that once it was passed the committee's work would begin and she would be on that committee; that he would make sure she was a part of the process. Council Members Tatro, Galloway, Wiseman, Berry and Robinson absent.

Mr. Sam Holtzman, 5615 Kirby Dr., Houston, Texas 77005 (713-523-4438) appeared, presented information and stated that he was present asking today for everyone's organs; that there were 85,000 people with 1,600 right in Houston on a waiting list for organs; that last year they recovered 6,000 organs nationally with 125 in Houston and as they could see the supply had a great shortfall; that this year many would die waiting for a transplant and as leaders in this community he was asking for the Mayor and Council's support in stepping out and supporting organ donation; that Life Gift Organ Donation Center was a program sponsored by the US Health and Human Services and they were asking leaders such as them and business owners to be leaders in their own work places and support organ donation; that it was simple, but they needed them to help save lives; and stated that Mr. Justin Legros had been saved by organ donation and would speak next. Council Members Galloway, Wiseman, Berry and Robinson absent.

Mr. Justin Legros, 3011 Glen Cullen Lane, Pearland, Texas 77584 (281-485-4882) appeared and stated that he was 16 years old and when he was two weeks old his parents were told he would not live to the age of one without a liver transplant, fortunately he made it to the age of ten; that before he could even attend school they had to have an emergency plan in place with their local Life Flight and it got to the point he could not attend recess and was told not to ride his bike, run, jump or play until he had a transplant; that the morning they received a call of his transplant he was at his grandmothers and his family drove into Houston with a big suitcase they thought had their clothes but it was empty, they saw the big Houston skyline and it had a double rainbow and his mother said that was a sign from God that everything was going to turn out okay and it did; that he was always told someone did not have to die for him to live, but that some family had to make a decision to donate, at the most tragic time in their lives, and that was what would save his life; that he did not know much about his donor family, but thanked God they made a decision which saved his and many others lives; that he and his family had tried to get the word out about organ donation since he was born and would continue doing so, but needed the Mayor and Council's help; that he hoped they would help him give others a chance to live and experience life as he had. Council Members Galloway, Wiseman, Berry and Robinson absent.

Council Member Sekula-Gibbs stated that she thanked him and the others for coming and giving the news of life to the community; that she was very pleased he had survived and was able to come today and speak to Council about his family's blessing; that she had signed up to be a donor long ago when all you had to do was check a box on you drivers license, but you could no longer do that and it was important to carry your card with you, to place your donor sticker on your drivers license and to let your family know your wishes. Council Members Galloway, Wiseman, Alvarado, Quan, Berry and Robinson absent.

Council Member Parker thanked Mr. Legros for coming and stated that she also had a donor card; that it was important to emphasize that not just younger people were needed for donors, but people of all ages. Council Members Tatro, Galloway, Wiseman, Alvarado, Quan, Berry and Robinson absent.

Mr. John Langdon, 842 W. 42nd, Houston, Texas 77018 (281-536-6895) appeared and stated that he was a resident of Houston for 31 years and present in support of the petition presented last week opposing the pending war in Iraq; that he was urging the Mayor and Council Members to bring up the resolution and vote their consciences, Houston had much to gain and lose with the impending war. Council Members Tatro, Galloway, Edwards, Wiseman, Quan, Berry and Robinson absent.

Mr. Douglas Towne, 9951 Twelve Way North #201, St. Petersburg, Florida 33716 appeared, presented information and stated that he was present to speak to the Mayor and Council about and balance an issue with sweeping national importance; that they were about to choose a new telecommunications system and were the largest city so far to consider implementing voice over internet protocol citywide; that the system being considered would provide them with many attributes but there were significant problems with it; that Houston led this country to the moon and they now had the opportunity to lead them in a new direction with technology and they should make no mistake their choice would lead others across the country; that the city issued a request for participation which in a way required accessibility for people with disabilities, but it was limited and now the bidding process had come down to two vendors and both very familiar with the disability community, one vendor offered a pure VOIP system and probably told Council their system was compliant, but probably did not tell them they were compliant because VOIP was exempt; that the other system was a hybrid system and both VOIP and standard analog capable of handling both type phone calls. Mr. Towne reviewed the differences between the two systems and stated that the second system, the hybrid system, was more accessible to the disabled; and implored Council, as the fourth largest city, to be careful in what they did as they would influence the other cities across the country. Council Members Galloway, Edwards, Wiseman, Keller, Vasquez, Quan and Berry absent.

Upon questions by Council Member Tatro, Mr. Towne stated that VOIP was considered by the Federal Communications System to be an information delivery and retrieval system and not a telephone system, therefore they had refused to exert jurisdiction over that system and that was how certain vendors claimed they were compliant; that he had not spoken with Mr. Lewis but would be happy to do so; that VOIP could be fully accessible later, but at this time the technology was not and that was the issue. Council Members Galloway, Goldberg, Edwards, Wiseman, Keller, Quan and Berry absent.

Mayor Brown stated that he would follow Council Member Tatro's suggestion; that Mr. Lewis was the new Director of Information Technologies and was present in Council and once Council Members finished with their questions he would meet with him; that in addition to that there was the Mayor's Office for People with Disabilities with Ms. Kim King Director of that and he would ask her to be actively involved as well. Council Members Galloway, Goldberg, Edwards, Wiseman, Keller, Quan and Berry absent.

Upon questions by Council Member Sekula-Gibbs, Mr. Towne stated that he worked for a disability relations group, they were a for profit organization and in fact had a consulting relationship with one of the firms, but they would be happy to consult with the other firm, but the company had, to their knowledge, never sought out the disability community as the law required; that there were technology reasons why complete VOIP usage did not guarantee functionality of TTY which was the hearing disabled way of communication on the phone; that essentially you were trying to marry 45 year old technology, TTY, with the leading edge of technology; that because of the way VOIP worked it could lose information being transmitted by TTY. Council Member Sekula-Gibbs stated that she was sure Mr. Lewis would take an active interest in what could be done to adjust deficiencies. Council Members Galloway, Goldberg, Wiseman, Keller, Quan and Berry absent.

Council Member Robinson stated that he would like Mr. Towne to visit with him and Mr. Lewis all together; that his concern was if they had a technology problem with no Voice Over IP System was ADA compliant he would like to see what folks in the private sector had done to try and address the issue; and upon questions, Mr. Towne stated some companies purchased the systems and then found they had issues, they tried to resolve some issues, unfortunately the direction vendors often went was to say a separate phone line or a separate messaging system could be put in to take care of the deaf employee, but the problem with that was that conjured up separate but equal or separate but unequal; that if those with disabilities did not have access to the same systems and technologies as their counterparts did how were they expected to compete. Council Member Robinson stated that he would visit with him on the substance of the issue, but his overarching concern was, as chair of the committee, was he never heard the argument made by AVAYA until the whole process was started over and his concern was vendors were using a variety of issues one by one to say they should not do it; that he met with the AVAYA folks and they never said anything about it or about him, they never raised the issue of ADA compliance and it now bothered him that at this stage of the game they would roll that argument out; that he thought the substantive issue needed to be addressed but did not like the way they were doing it. Council Members Galloway, Goldberg, Wiseman, Keller, Quan, Sekula-Gibbs and Berry absent.

Mr. Towne stated that he had been communicating with Council Member Tatro on the subject for nearly one year; that his firm had been engaged with AVAYA on the subject of accessibility going on two years now and frankly they did not expect the issues to be ignored by other vendors; that only in the last six months they decided to make a public issue of it because it was being ignored by other vendors; that he sat in meetings and had vendors turn to people in Council's positions and tell them not to worry they would not get caught. Council Member Robinson stated that they did not even turn to him and say that and he was glad he was present, but there were 15 Council Members who would decide the issue and he should broaden his discussion further than any one Council Member. Mr. Towne stated that if he would check his E-mail he would find that he had been communicating with him since last June. Council

Members Galloway, Goldberg, Wiseman, Keller, Quan, Sekula-Gibbs and Berry absent.

Upon questions by Mayor Brown, Mr. Towne stated that he was working with Council Member Tatro because when he put out his first notice there may be an issue the Council Member, he believed, was the only one to respond. Council Members Galloway, Goldberg, Wiseman, Keller, Quan, Sekula-Gibbs and Berry absent.

Rev. Hardy F. Norwood, 2302 Mast Court, Kingwood, Texas 77339 (281-358-7713) was previously present during presentations. Council Members Galloway, Goldberg, Wiseman, Keller, Quan, Sekula-Gibbs and Berry absent.

Mr. William Boone, 4041 Corto, Houston, Texas 77016 (713-631-3445) had reserved time to speak but was not present when his name was called. Council Members Galloway, Wiseman, Keller, Quan, Sekula-Gibbs and Berry absent.

Mr. Abraham Shalom, 3512 Jackson, Houston, Texas 77004 (713-526-2671) appeared and stated that he was present trying to save many people and expressed his personal opinions regarding European Jews and Blacks being enemies as he was a part of it and would like assistance in saving people. Council Members Galloway, Wiseman, Quan, Sekula-Gibbs and Berry absent.

Mayor Brown stated that Mr. Dixon was present and with the Mayor's Citizen Assistance Office and would meet with and work with him. Council Members Galloway, Wiseman, Quan, Sekula-Gibbs and Berry absent.

Ms. Michon Benson, 2416 Arbor, Houston, Texas 77004 (713-443-5297) appeared, presented posters and stated that she was Director of Athletes for Art in Houston and was present asking for the Mayor and Council's support for their program; that the program paired the professional sports organizations with cultural arts organizations in Houston to encourage children to participate in both type activities, to establish Houston as a singular destination of both type events and many other things; that they were a team of three and she started the program this year, the year of the Texans, that major sports organizations and major athletes have joined and there was a parallel program with the Houston Parks and Recreation Department and another program with HISD along with several universities which had committed to the program as well. Council Members Galloway, Wiseman, Sekula-Gibbs, Berry and Robinson absent.

Mayor Brown thanked Ms. Benson for coming and sharing information with Council and stated that she may want to contact the host committee for the Super Bowl and get them involved as they wanted it to be an event for the entire city starting with a kick-off February 1st. Council Members Tatro, Galloway, Wiseman, Sekula-Gibbs, Berry and Robinson absent.

Mr./Coach R. J. Bobby Taylor, 3107 Sumpter, Houston Texas 77026 had reserved time to speak but was not present when his name was called. Council Members Tatro, Galloway, Wiseman, Sekula-Gibbs, Berry and Robinson absent.

Ms. Rita Ruth, 105 South 7th, Highland, Texas 77562 (281-426-4372) appeared and stated that she was with the Peoples Action Coalition; and continued expressing her personal opinions regarding the Middle East and money being spent which needed to be kept in this country for its citizens. Council Members Tatro, Wiseman, Vasquez, Sekula-Gibbs, Berry and Robinson absent.

Ms. Deborah Allen, 8630 Valley South Dr., Houston, Texas 77078 (281-458-8732) appeared and stated that she was a constituent of District B and she had seen the City of Houston leave out Houstonians in their progress, she was one of those left out; that the City of Houston disabled her as an individual, she had worked for the City of Houston approximately

three months, became disabled and she was thrown to the side and she and her family were left destitute and that was what she was seeing done to her area; 60% of those living in District B were disabled and receiving no benefits from the City; that now \$100,000 condos were being built there and they were placing \$650.00 for rent now on what was shacks and which no constituents could own as the properties were tied up with taxes; that there was no drainage and she heard the proposed budget would call for them to pay drainage fees and they could not afford it. Council Members Tatro, Wiseman, Parker, Vasquez, Sekula-Gibbs, Berry and Robinson absent.

Council Member Galloway stated that she had heard of Ms. Allen's concerns and tried to inform her of progress being made in the district; that she had heard concerns about the drainage fee and would be submitting a proposal to the Mayor so that people who did not have storm drainage would not have to pay for it and those who did have it and were low income it be on a sliding scale so that if the water bill was \$8.00 to \$20.00 they would pay \$1.50; and Ms. Allen stated that her water bill was always \$100.00 or more. Council Member Galloway stated that she could not understand that unless there were five or more people in the house and she would like to speak with her, but she would say District B did get more money for capital improvements than any other district. Council Members Tatro, Wiseman, Vasquez, Sekula-Gibbs, Berry and Robinson absent.

Mayor Brown stated that someone would be sent out to check her water meter. Council Members Tatro, Wiseman, Vasquez, Sekula-Gibbs, Berry and Robinson absent.

Mr. Lytle Seibert, Jr., 16211 Charterstone Dr., Houston, Texas 77070 (281-543-5549) appeared and stated that he was present to speak about the anti war resolution; that he heard an exchange between Council Member Berry and Ms. Farenthold and wrote him a letter. Mr. Seibert read his letter to Council Member Berry in which he expressed his opinion of this Country's participation with the war in Iraq and elected officials being held accountable. Council Members Wiseman, Vasquez, Sekula-Gibbs, Berry and Robinson absent.

Council Member Quan thanked Mr. Seibert from coming to Council and expressing his views; that several Council Members disagreed with Council Member Berry's view on the issues and it was of grave importance to this Country. Council Members Wiseman, Vasquez, Sekula-Gibbs, Berry and Robinson absent.

Council Member Edwards stated that she did agree with him all politics were local and whether or not someone agreed she felt local politicians had a role to play in how constituents lifted their voices; and thanked Mr. Seibert for coming. Council Members Wiseman, Vasquez, Sekula-Gibbs, Berry and Robinson absent.

Mayor Brown stated that if he would give a copy of his presentation to Mr. Cantu it would be transmitted to Council Member Berry on his behalf. Council Members Wiseman, Vasquez, Sekula-Gibbs, Berry and Robinson absent.

President Joseph Charles, P. O. Box 524373, Houston, Texas 77052-4373 appeared and stated that he wanted action taken on his crime victim case, he was the official U. S. President and seeking reelection; and continued with his personal opinions until his time expired. Council Members Wiseman, Vasquez, Sekula-Gibbs, Berry and Robinson absent.

Mr. William Ennols Beal, 4748 Boicewood, Houston, Texas 77016 (713-633-0126) appeared, expressed personal opinions and sang until his time expired. Council Members Wiseman, Vasquez, Sekula-Gibbs, Berry and Robinson absent.

Mr. Robert Horton, 3714 Bain, Houston, Texas 77026 (713-260-6144) appeared and stated that America was the one violating their treaties and he had received numerous surveys from people instead of their doing business with him. Council Members Wiseman, Vasquez, Quan,

Sekula-Gibbs, Berry and Robinson absent.

Mr. Nebeil Al-Oboudi, 10603 Wilcrest #50, Houston, Texas 77099 (832-496-2350) had reserved time to speak but was not present when his name was called. Council Members Wiseman, Vasquez, Quan, Sekula-Gibbs, Berry and Robinson absent.

At 4:12 p.m. upon motion by Council Member Galloway and seconded by Council Member Goldberg, City Council recessed until 9:00 a.m., Wednesday, January 29, 2003. Council Members Wiseman, Vasquez, Quan, Sekula-Gibbs, Berry and Robinson absent.

City Council Chamber, City Hall, Wednesday, January 29, 2003

A Regular Meeting of the Houston City Council was held at 9:00 a.m. Wednesday, January 29, 2003, with Mayor Lee P. Brown presiding and with Council Members Bruce Tatro, Carol M. Galloway, Mark Goldberg, Ada Edwards, Mark Ellis, Bert Keller, Gabriel Vasquez, Carol Alvarado, Annise Parker, Gordon Quan, Shelly Sekula-Gibbs, M.D., Michael Berry and Carroll Robinson; Mr. Al Haines, Chief Administrative Officer, Mayor's Office and Ms. Martha Stein, Agenda Director present. Council Member Addie Wiseman absent due to being ill.

At 8:26 a.m. the City Secretary read the descriptions or captions of items on the Agenda.

At 9:09 a.m. Mayor Brown called to order the meeting of the City Council and stated that the first order of business was a public hearing on the proposed sale of a portion of Herman Brown Park and called on Mr. Dennis Alexander, Legal Department, to roll it out for them. Council Members Tatro, Goldberg and Robinson absent.

HEARINGS

1. **PUBLIC HEARING** regarding the proposed sale of a portion of Herman Brown Park to the Texas Department of Transportation for a parcel of land to be used to widen and make other improvements to U.S. Highway 90/Wallisville Road Expansion Project - **DISTRICT I - ALVARADO - 9:00 A.M.**

Mr. Alexander stated that in May of 2000 TXDOT contacted the City with a request to buy a 158 square foot parcel of land out of Herman Brown Park at the corner of Wallisville Road and the proposed Highway 90 right of way through the park, they distributed a brochure in anticipation of the hearing, which all of the Council Members had received and directed their attention to Tab G in the brochure, which was a general area map, showing that the park was located north of I-10 and was bounded to the west by Oats Road and on the east by Maxey Road and to the north by Wallisville Road, the park was 717 acres in size but was bisected by the proposed right of way for Lake Houston Parkway, also known as Highway 90, which right of way was already owned by TXDOT, the parcel being acquired was separated from the main body of the park and if they looked on there they would see that there was a pink line showing the right of way for Highway 90, that most of the park lay south of it and a very small amount of the park, including the parcel in question lay north, the parcel being acquired was separated from the main part of the park by the TXDOT right of way, that at Tab D of the brochure it showed the parcel in question that would be used by TXDOT, it was a very small corner clip at the very edge of where Highway 90 and Wallisville Road intersected, and it would be used to create a right hand turn lane onto the new parkway to insure drivers safety, that the price being paid by TXDOT was \$1 per square foot or \$5,858.00, it was a fair market value and was supported by an internal Public Works and Engineering appraisal and a joint referral committee had also reviewed and approved the proposed sale, that the Brown Foundation had a riveter interest in the property but supported the sale to TXDOT, as evidenced by a letter from its lawyer, which was included in Tab K of the brochure, the foundation's only condition was that the money be used for park purposes, which

the park intended to do, that the hearing today was required under Chapter 26 of the Texas Parks and Wildlife Code, set out in Tab A of the brochure, the code required a public hearing before the City Council in order for the sale of parkland to be approved, in the hearing it must be shown, one, whether there was any feasible or prudent alternative to the proposed taking of the portion of the park and whether the project included all reasonable planning to minimize harm to the park resulting from the taking, to explain the details of the sale and the need for the taking they had with them today, Ms. Jeanne Javadi, the Project Manager for TXDOT on the project, and Beto Bautista, Deputy Director of the Parks Department, and asked Ms. Javadi to step forward and make her comments. Council Members Tatro, Goldberg and Sekula-Gibbs absent.

Ms. Javadi stated that the parcel of land, and referred to Exhibit C, was adjacent to Wallisville and proposed U.S. 90 and was basically a little corner clip and provided for building a right turn lane from Wallisville going southbound to the westbound frontage road on proposed U.S. 90, due to the severe skew of Wallisville Road in relation to U.S. 90 a separate right turn lane was needed to safely move the traffic southbound. Council Members Tatro, Goldberg, Sekula-Gibbs and Berry absent.

Mr. Alexander asked Mr. Bautista if he could give them some comments from the Parks Department viewpoint. Council Members Tatro, Goldberg, Sekula-Gibbs and Berry absent.

Mr. Bautista stated that they received the Herman Brown Park from the Brown Foundation in 1979 and the current master plan for the park called for everything east of the bayou to basically remain in its natural state and be used for passive purposes, the one tenth of an acre taking was insignificant in terms of the 717 acres they received from the Brown Foundation so they posed no objection to it and had the Brown Foundation's support. Council Members Tatro, Goldberg, Sekula-Gibbs and Berry absent.

Mayor Brown stated that they had a speaker and requested that the City Secretary call the speaker. Council Members Tatro, Goldberg, Sekula-Gibbs and Berry absent.

Mr. Brandt Mannchen, 5431 Carew, Houston, Texas 77096 (713-640-4313) appeared and stated that he was present representing the Houston Sierra Club, that their position was very simple, they would like for the Council not to take action at this particular time, and the reason they said it was that they talked to TXDOT Environmental Section and they were reevaluating the whole project to look at environmental impacts because they had not done that since 1977 and they could think of two reasonable and prudent alternatives, one was obviously to route it outside of the park and work closely with TXDOT and the County to do that, that the second was to route it as close to the northern boundary as possible and they would like to encourage them that those were reasonable and prudent alternatives, they had concerns that the present alignment was only within a few hundred yards of Furr High School and were concerned about the air pollution increase and also the noise increase and a variety of other environmental issues dealing with the neighborhoods, Wood Shadows, Songwood, Greens Bayou Estates, Shady Brook, Wood Bayou and Holiday Forest neighborhoods and so they would like to suggest that further discussions would be very beneficial and in addition they would like to suggest that the City contact the U.S. Fish and Wildlife Service and Texas Parks and Wildlife Department and ask them for advice and technical assistance concerning how they could minimize the impacts, and any parkland that was taken they would suggest at least a 5 to 1 ratio of parkland acquired to replace that parkland, that they were talking about important wildlife habitat, in addition to neighborhood impacts, that Wetlands, bottomland, hardwood forest, upland forest, as well as potential playground and ball field areas, and they believed it was very reasonable and prudent, that he had a copy of his statement for the Mayor and City Council, that they suggest at this time, since there was a reevaluation going on, that it was prudent to wait and interact with that reevaluation and then at that time make a decision because there may be a new realignment required due to the reevaluation. Council Members Berry and Robinson absent.

Mayor Brown stated that they were not taking any action today, it was a public hearing, but no action would be taken today. Council Members Berry and Robinson absent.

Upon questions by Council Members, Mr. Alexander stated that they were the seller of the property and typically would not do the environmental impact statements, that the environmental statement would have been done by TXDOT and they did not have copies of the statements but would ask them and understood from TXDOT that they were updating their environmental impact statements all along that corridor, that TXDOT currently owned the corridor of land that ran through the park, they never got that from the Brown Foundation back in the 1970's, and Mayor Brown asked if he could get a copy of the statement so he could share it with the City Council. Council Members Tatro, Berry and Robinson absent.

Upon further questions by Council Member Edwards, Mr. Alexander stated that when the land was deeded to the Parks back in the early 1970's it was deeded in two pieces, one on one side freeway and the other on the other side, that the corner was totally isolated from the rest of the park, that they were taking the smallest amount that they needed for the right hand turn lane, the 5,800 square feet, that TXDOT would have to do a total realignment of the freeway that had been on the planning boards for a long time, that he was not aware of any reconsideration. Council Members Tatro, Berry and Robinson absent.

Council Member Alvarado stated that the park happened to be in her district and had not been briefed on the matter and would like to ask the administration if they could look for alternatives and slow down the process, that she had concerns whether or not the community was briefed on it, that she was asking on behalf of the constituents that lived in the area to please slow down the process and give ample time for community input and also to look for other alternatives.

Council Member Ellis moved to suspend the rules to hear from Ms. Jeanne Javadi, Project Manager, TXDOT, at this time, seconded by Council Member Keller. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Members Tatro, Berry and Robinson absent.

Upon questions by Council Member Ellis, Ms. Javadi stated that by law the environmental document had to be updated and it was produced around 1978 and so TXDOT was currently in the process of hiring a firm, they selected them and were getting a contract together, that the firm would reevaluate the whole corridor for wetlands and all the environmental laws to make sure they complied, that it was part of the process of every project, and Mr. Alexander stated that once they had the public hearing they could wait until further information if they were going to be reevaluating it, if that was the wish of the Council, to present the ordinance, but there would have to be an ordinance specifically authoring the conveyance, and Council Member Ellis stated that he had some concerns that if they moved forward on it and then some information being brought to them later on saying they should not have done it, so if they were doing the evaluation and if they could expedite that and provide them with the necessary information he would appreciate it, it would allow him to make a well educated decision, and Ms. Javadi stated that the evaluation would take some time, maybe a year, that the design of U.S. 90 was ongoing, that there were two consultants who were about at the 30% design stage of designing proposed U.S. 90 and reevaluation was going to be done by another firm that specialized in that kind of work, that they were both ongoing at the same time, that they did have a letting date set somewhere around 2005, although it could move forward or backward, that they would be glad to supply them with whatever information they had. Council Member Tatro absent.

Upon questions by Council Member Quan, Ms. Javadi stated that the corridor was not being reevaluated for an alternative route, that the schematic was approved in the late 1990's, although the right of way, she thought, was bought in the 1980's, that the route had been designated for a long time, the schematic was finalized and approved, so the basic route had been approved and they were designing that route, that Wallisville was probably a two lane

highway, but U.S. 90, there was nothing there, that she did not know of any ongoing active negotiation or reevaluation about the six lane freeway maybe going a different route, that she was just helping the consultants to design the route that there was. Council Members Tatro and Keller absent.

Upon questions by Council Member Robinson, Ms. Javadi stated that to her knowledge the two proposed alternatives by the Sierra Club had not been looked at, that the process for evaluating alternative route proposals was usually done at the time the schematic was being developed and that would have been done in the 1990's, that as far as any alternative routes right now she did not know of any, it would have been done in a different department. Council Members Tatro, Keller, Vasquez and Quan absent.

Upon questions by Council Member Robinson, Mr. Alexander stated that the Highway 90 Corridor they did not have any interest in, it was never deeded to them, that he had not seen the alternatives until today, but would assume that it was an alternative for the entire route of Highway 90, that if the routing of Highway 90 through the park were to change and there was a need to take different parkland, they would have to come back and have another Chapter 26 hearing because they could not sell parkland or have parkland condemned unless there was a hearing, and Council Member Robinson asked if they could sell parkland when they had a Chapter 26 hearing and the purpose of the Chapter 26 hearing was to hear if there were alternative proposals from the public and they were presented with alternative proposals from the public, how do they evaluate them so that when and if he casts a vote he was not violating the law for failure to evaluate the alternative proposals offered at the Chapter 26 hearing, and Mr. Alexander stated that they could ask for the Chapter 26 hearing to either be continued or they could ask for more information to be furnished on what the proposals were. Council Members Tatro, Keller, Vasquez and Quan absent.

After further discussion Council Member Ellis moved to close the hearing, seconded by Council Member Galloway. Council Members Tatro, Keller, Vasquez and Quan absent.

Mayor Brown stated that there would be opportunities for them to do anything they wanted to do on the issue.

Council Member Robinson stated that he wanted to recess the hearing until they got an evaluation on the two proposals as opposed to closing the hearing, and Mayor Brown asked Mr. Alexander if it was correct that they could reopen the hearing any time they wanted, and Mr. Alexander stated yes, he believed they could and Mayor Brown stated that if it was necessary they would just reopen the hearing. Council Member Ellis absent.

After further discussion a roll call vote was called on Council Member Ellis motion to close the hearing.

ROLL CALL VOTE:

Mayor Brown voting aye	Council Member Vasquez voting no
Council Member Tatro voting no	Council Member Alvarado voting no
Council Member Galloway voting no	Council Member Parker voting no
Council Member Goldberg voting no	Council Member Quan voting aye
Council Member Edwards voting no	Council Member Sekula-Gibbs voting no
Council Member Wiseman absent due to being ill.	Council Member Berry voting no
Council Member Ellis absent	Council Member Robinson voting no
Council Member Keller absent	MOTION 2003-0068 FAILED

Council Member Robinson asked how long it would take to evaluate the two proposals, and Mr. Alexander stated that he thought the problem was that the two proposals, if he understood it correctly, were for the whole realignment of Highway 90, they had a small right hand turn lane

into a freeway and the Sierra Club was talking about relocating the whole freeway and there was no way they could evaluate what TXDOT was going to do except that Ms. Javadi had stated that they were not going to change the alignment and the fact of the matter was if they decided to build the freeway in the right of way that they had they were eventually going to need a right hand turn lane just for safety. Council Members Tatro, Keller and Parker absent.

After further discussion Council Member Robinson moved to recess the hearing for two weeks, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Members Tatro, Keller and Parker absent. MOTION 2003-0069 ADOPTED.

Mayor Brown stated that the item was put off for two weeks. Council Members Tatro, Keller and Parker absent.

At 9:41 Mayor Brown stated that he wanted to use the time for the Mayor's Report to ask Chief Oettmeier to give them an update into the investigation of the Kmart incident and expressed his thanks to Chief Oettmeier for taking over as acting chief during the absence of Chief Bradford and doing such an outstanding job. Council Member Keller absent.

MAYOR'S REPORT - Status update on the investigation of incidents at 5700 and 8400 Westheimer and briefing on Houston Police Department Crime Laboratory - Acting Chief of Police T. N. Oettmeier

Chief Oettmeier appeared and read the following:

"Good morning Mayor and City Council Members; thank-you for providing this opportunity to speak to you about what occurred on August 16-17, of last year, at the James Coney Island restaurant, the Kmart shopping center, and the Sonic restaurant located at 5700 and 8400 Westheimer respectively.

Let me begin by stating I certainly appreciate city council's patience while we diligently worked to bring this investigation to a close. I hope that we are in agreement that this investigation had to be done thoroughly and correctly as opposed to just expediently.

I will do my very best to provide you with information and be responsive to your questions. It is important to each of you and the citizens of Houston that this accounting be heard.

My comments this morning will be structured so as to answer three specific questions:

1. What is the current status of our investigation?
2. How could a police operation of this magnitude be executed so poorly?
3. What corrective steps will be taken to prevent this from happening in the future?

Status of Investigation:

Let me begin with Question #1: What is the current status of our investigation?

A total of 303 persons were arrested as a result of this operation, 25 at James Coney Island and 278 at K-Mart.

Out of the 303 persons arrested, only 42 persons submitted written sworn statements. The remaining persons either refused to provide a sworn statement or failed to provide accurate contact information.

251 people refused to provide any sworn statements.

10 people could not be located and/or contacted to provide a sworn statement.

A total of 132 members of the Houston Police Department have provided statements in connection with this investigation.

As of today, there have been over 400 sworn and administrative statements taken.

Overtime associated with this investigation through 1-27-03 has amounted to 4,587 work-hours, which equates to a cost of \$122,878.50

On December 6, 2002, a Harris County Grand Jury returned indictments against Captain Mark Aguirre and Sergeant Ken Wenzel for the offense of Official Oppression (Section 39.03 of the Penal Code, 5 counts each) for subjecting individuals to arrest without probable cause. This offense is a Class A Misdemeanor, which carries a maximum fine of \$4,000, one year in jail or both.

Obviously, since these indictments will result in criminal trials in the near future, I will not comment or speculate any further about what evidence the Grand Jury considered in returning these indictments.

As you are aware, 13 supervisors were relieved of duty early in the investigation. At that time, Chief Bradford reported to you concerns he had about the seriousness of the allegations facing these individuals. These concerns included allegations of false arrests and potential illegal orders being given to officers at the scene of the operation. This necessitated the need to conduct a criminal investigation resulting in a determination to place all supervisors involved in the operation on relief-of-duty status.

On Tuesday, December 10, 2002, based on information from previous investigative briefing sessions, I reassigned three sergeants (King, Lewis, and Maeker) back to full duty status.

On Friday, December 20, 2002, I authorized one lieutenant (Music) and one captain (Mokwa) to return to full duty status.

The Internal Affairs Division concluded their portion of the investigation on January 17, 2003.

The case was forwarded to the Administrative Disciplinary Committee (ADC) and the Citizen Review Committees (CRC) for their review and recommendation on Saturday 1-18-03 and Sunday 1-19-03.

The case was presented to me for final review and determination of corrective action on 1-21-03. I have concluded my review of the case and am currently in the process of implementing corrective action (including issuing discipline at this time). I will address this issue momentarily. However, before I do....

Execution of the Operation:

Let me move on to the second question: How could a police operation of this magnitude be executed so poorly?

Based on the facts from our investigation, I believe there are five significant factors that collectively represent the answer to this question. I will provide a brief explanation of the reasons

supporting each of these factors.

Factor #1 – The original plan of action was not followed.

The lack of a hard and fast plan of action that would not be deviated from was a significant factor in the failure of the operation to be executed in the manner it was intended and to accomplish the goal of preventing illegal street racing.

The plan of action approved by the Assistant Chief was not the plan that was executed. A separate “Game Plan” was developed and approval from the Assistant Chief or anyone else in the chain-of-command was never sought.

There was a shift in emphasis from arresting illegal street racers to arresting everyone for trespassing. However, this was never formulated in any written plan of action. The “Game Plan” document made reference to most arrests being for the offense of trespass, but this element of the operation was never outlined concerning how they were to be identified and who had the responsibility to ensure notice to depart was given.

With no detailed procedures regarding this new element of the operation, officers had no proper guidance of how to handle the associated responsibilities.

Factor #2 – Trespass Affidavits for the locations either did not exist or were not followed.

The trespass affidavit for James Coney Island (and the law for that matter) required officers to request persons that were not customers of the business to leave or face arrest. No department personnel or the property manager ever made such a request.

There were no trespass affidavits for the K-Mart or Sonic properties. However, based upon statements and information provided by the supervisors, the officers were lead to believe there was a trespass affidavit for K-Mart.

The Trespass Affidavits that were mistakenly thought to apply to K-Mart contained the same language requiring officers to request persons that were not customers of the business to leave or face arrest. Again, no department personnel or the property manager made such a request.

While “No Trespassing” signs were posted, they were not posted at all possible entrances. Additionally, the surveillance team failed to ensure that the signs were still posted and clearly visible at the time of the operation.

Factor # 3 – Key players’ knowledge of the trespass law was inaccurate and flawed.

Supervisors and the Commander of the operation confused the elements of the State law on Trespassing with the City Ordinance of Trespassing at night under suspicious circumstances (this charge was not filed). They also confused the elements of trespass by entering, and trespass by remaining.

No department personnel coordinated with the managers of the properties to determine who would be considered legitimate customers and who would be trespassers. For instance, here are a couple of examples of how that can translate into deficiencies in how the operation was drafted:

A person who ordered and ate food there at the restaurant (JCI), then after eating talked with friends in the parking lot for ten minutes; or

A person who went into K-Mart to make a purchase, but did not find anything to buy and left the store without any purchase or receipt could have been arrested.

The Field Commander disregarded department policy (circular) and well established department practice regarding the use of trespass affidavits (i.e. not supposed to rely on affidavits for open businesses among other requirements).

Factor #4 – The execution of the plan was terribly mismanaged.

The initial breakdown in execution began with the surveillance aspect. Rather than noting violations of the law and identifying persons committing those violations as has been utilized successfully in previous operations, surveillance personnel became nothing more than “spotters” of large crowds of people gathered in parking lots.

There was no establishment of probable cause for each individual arrested during the operation, meaning no officer could identify any particular person that he/she arrested, or articulate what criminal conduct any particular person was believed to be engaged in. All officers became “herders” of the large group of persons rather than assuming responsibility for individual arrests. Therefore, it would have been impossible to prove up any of the criminal cases in court.

No one was identified or arrested for illegal street racing. This is significant because the management of this operation was supposed to be in accordance with identifying and addressing illegal street racing activities.

With regard to those persons arrested for trespassing, there were inadequate measures taken to distinguish between actual customers and those persons actually trespassing. Each night of the operation, the department personnel assigned the task of handing out 3x5 cards to those legitimate customers to avoid arrest/detention arrived on the scene after persons were already being arrested.

The offense reports generated to document all aspects of this operation were completely inadequate. Documentation detailing how persons were arrested, how probable cause was established and the handling and disposition of all persons and property was unacceptable.

Factor #5 – The supervision of personnel was haphazard.

No supervisor reviewed the Trespass Affidavits that were obtained for this operation.

Some supervisors knew the Sonic property was not supposed to be a target of the operation. However, the officers working under these supervisors did not know that information.

Duties and assignments were being changed so frequently that some supervisors did not know the duties of their subordinates.

There appears to be little if any critical review during the actual operation by any supervisor to ensure that proper police procedures (establishment of probable cause, proper completion of booking blotters and complaint forms, proper processing of prisoners) were being followed.

There was no supervisory follow up after either night of the operation (such as a review of the offense reports, a review of complaints, proper handling of the tickets written for curfew violations).

To sum it up, this incident was a direct result of a combination of several issues. The intentional bad acts of a certain few were exacerbated by an ignorance of the law, ineffective management, lackadaisical supervision, and just plain sloppy police work. “Checks and balances” did not work because some people just simply didn’t do their jobs.

Corrective Action:

This leads me to the third and final question: What corrective steps will be taken to prevent this from happening in the future?

The most obvious form of corrective action associated with this debacle is discipline. While the ultimate decision-maker in handing out discipline is myself, it is important that you understand what input was considered before final decisions are rendered.

I received input from four independent sources:

First, I have spent extensive time reviewing and discussing the facts of this investigation with members of the Internal Affairs Division.

Second, I had numerous discussions with legal representatives to insure adherence with the law.

Third, I received input from members of the Citizens' Review Committee. These citizens not only examined the investigative process, but also asked questions about the manner in which the investigation was conducted, or any other questions they deemed to be relevant and important. They also made recommendations regarding discipline.

Lastly, I received input from members of the department's Administrative Disciplinary Committee. They act in a similar manner to the Citizens' Review Committee, yet they make independent recommendations on discipline as well.

I considered all of this input, along with each officer's personal culpability during this operation, before rendering my final decisions on discipline. Thirty-two officers have, would have, or will be receiving discipline for their actions during this operation.

Yesterday afternoon, I indefinitely suspended Captain Mark Aguirre for his intentional acts of misconduct. Yesterday, Sgt. Ken Wenzel exercised his right to retire; otherwise I would have indefinitely suspended him for his intentional acts of misconduct as well. These were the only two individuals found culpable by a grand jury and our administrative investigation for the offense of official oppression.

The disciplinary break-down on the remaining 30 individuals will be as follows:

One Assistant Chief – will receive a 7-day suspension.

One Captain – will receive 2 written reprimands.

One Lieutenant – will receive a demotion to the rank of sergeant

One Lieutenant – will receive 2 written reprimands

Eight Sergeants – will receive discipline

3 will each receive an 84 day suspension,

1 will receive a 49 day suspension,

1 will receive a 28 day suspension, and

3 will each receive a 7-day suspension.

Eighteen Police Officers – will receive discipline

1 will receive a 30 day suspension and a written reprimand (treatment of prisoners, respect for others, sound judgement, responsibility to know laws and procedures)

8 will receive suspensions ranging from 1 - 8 days (towing, offense report, affidavits, handling of a minor)

9 will receive written reprimands (paperwork)

The discipline for these 30 individuals will be issued this week therefore; I am not prepared to provide any further details about names or specific findings with regard to individual employees at this time.

In addition to the disciplinary action, we will begin the process of communicating and reinforcing the correct and previously established way of handling situations like this so the non-adherence to department policy is not repeated.

Concluding Comments:

I would like to close by offering a couple of personal observations.

To the many victims and their families effected by this operation, I am sorry for what you have endured. This has truly been a travesty and an embarrassment to entire department.

Mayor and members of council, I want to again, thank you for your patience as this has been a lengthy, and at times arduous undertaking. It is now incumbent upon the Houston Police Department to demonstrate a willingness to take steps to minimize the possibility of this from ever happening to our citizens again."

Chief Oettmeier was questioned at length by Members of Council, Council Member Berry asked for a copy of the Operation Eraser Plan as it was approved and Chief Oettmeier stated that he could not see why not unless he was not able to do that because of the pending criminal investigation, and Council Member Robinson asked if any officer in the history of the Houston Police Department ever questioned an order, and Chief Oettmeier stated that he did not know for a fact but would assume yes, and Council Member Robinson asked if they could find out, did they keep records, and Chief Oettmeier stated yes and Council Member Robinson asked if they could find out and Chief Oettmeier stated that they would be more than happy to do that. An audio tape is available in the office of the City Secretary for review.

Council Member Galloway moved to suspend the rules to hear from Hans Marticiuc, President of the Houston Police Officers Union, at this time, seconded by Council Member Robinson. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Members Vasquez, Quan and Sekula-Gibbs absent. MOTION 2003-0070 ADOPTED.

Upon questions by Council Member Galloway, Mr. Marticiuc stated that with all due respect to Chief Oettmeier, he realized he was in a very difficult situation sitting in for Chief Bradford in a big old mess like this, but he had to take exception with his comment regarding when officers question authority and that it was done regularly, that actually it was not done regularly, that history within the Police Department, if they questioned authority they were relieved of duty immediately until they had a hearing later on, as a matter of fact, a week before the Kmart operation took place, he received a call from an officer at one of the storefronts out at South Central who worked directly for Captain Aguirre and what was interesting was that all the players involved in that particular incident were most of the players involved at the Kmart operation, that the officer was given, what they believed was, an illegal order, that he called them and they went out there and the Lieutenant was called and did not know what to do and he passed it on to the Captain and he did not know what to do and they called Chief Assistant Montalvo, who was heading that particular investigation, and she did not know what to do, that it went to another Assistant Chief and finally to Chief Bradford, that after he had a conversation with Chief Bradford over the phone and he shut the entire thing down, that was how skewed things were within the Police Department when they questioned authority; that there were a couple of other things that he took exception with what the Chief said and it was who were the real victims, that he thought

the real victims were the officers who went out there, because of the circumstances, and followed what they believed, and he still believed, were lawful orders, that they had a department that held a planning meeting, all the officers and supervisors were ordered to be there, they were not there voluntarily, they were ordered to be there, that they were all cream of the crop, their discipline and productivity showed that they were cream of the crop, they were advised that there was a problem out on Westheimer by an Assistant Chief, an operational plan was shown to them, there was a supervisor, who was going to be one of the suspended supervisors, who asked a question regarding the legality of the operation and he was advised that the T's were crossed and the I's were dotted, the Assistant Chief in charge also said that the department fully expected complaints but that they would stand behind them, they had two operational nights going out there, the first night Council Member Berry was out there and so now it appeared that they had elected officials and the Police Department sanctioning the entire operation and then they go back to the history of the department questioning authority and insubordination, why in God's name would anyone question anyone in a situation like this, did he believe that the discipline was excessive, they did not know what the discipline was and who was getting what yet, but yes it was excessive because it was all Kmart, that was what they had been told from the beginning, that it was Kmart and was being held differently, because the media attention and the lawsuits, that to him it was the City covering its behind on the backs of good working police officers. Council Members Vasquez and Sekula-Gibbs absent.

Upon questions by Council Members, Mr. Marticiuc stated that it appeared that Council and elected officials were sanctioning the operations because of the problems out there, and they knew there were problems out there, and with all the things combined everything appeared like it was legitimate, even though it may have been somewhat out of the ordinary, that he was not going to say that the officers and the supervisors did not have any culpability, there was certainly culpability, enough culpability to go around, and without slamming the Chief of Police and the Captain, who were their members, the bottom line was the buck had to stop at the desk of the Chief of Police, that knowing the past history and the lose cannon reputation of Captain Aguirre, why in God's name were they putting that guy in charge of an operation of that magnitude; that he guessed what the real travesty was that they had six officers that he met at their legal office yesterday and they were basically given the ultimatum to either accept the discipline with no appeal or be fired, where was the due process there, but of course it was their choice, but all six of those supervisors had near 20 or over 20 years on, that nobody could afford to be fired and take the roll of the dice that they may or may not get their job back with the arbitrator down the road, that no one could afford that and with that kind of offer on the table he thought it was extremely difficult for them to make a rationale decision; that as to the morale it was a difficult question, that they knew it was a good department and the most of the officers knew it was a good department, that the City, Mayor and Council Members had done some things over the last few years to certainly lift their benefit package up and that certainly helped morale, and he guessed what they were looking for was leadership to take them out of the rut they had been in and learn a lesson, develop policies and develop some more general orders and let them go out there and do their job correctly and police the way the community wanted them to police; that State Civil Service Law allowed the Chief of Police the discretion of anything from 60 to 90 days beyond the normal 15 days of discipline and State Civil Service Law allowed the Chief to offer that and he was certainly in his right to offer that type of discipline, they did not have to accept it but it was like holding a gun to their head. Council Members Sekula-Gibbs and Robinson absent.

Upon questions by Council Members, Chief Oettmeier stated that when he looked at the entirety of the situation and looked at all of the input, ultimately he had to make a decision based on each of those officers involvement and culpability with it, that with the six Seargents that Mr. Marticiuc was referring to, it was his position that those officers warranted stiff disciplinary action in the terms of suspensions and as Mr. Marticiuc alluded to the Local Government Code allowed there to be a negotiation process between the officers and the Chief anytime the discipline could fall between the range of 60 and 90 days and it was his desire to issue the discipline up to the point where it would not result in them being fired, that by accepting the level of discipline that was offered they were in effect saying that they recognized the seriousness of the actions that

they took and recognized the seriousness of the discipline that was associated with those actions and they were either willing or not willing to accept that recommendation, and if they did not accept the recommendation, which did come with the provision that they would not appeal it, that was part of the acceptance, if they did not accept it then his only other choice with respect to discipline was obviously not to lower it, which they would think would be appropriate, but was to go the other way and that was to maximize it, and so it was under those kind of conditions that occur all the time in the department when they had discipline of this magnitude, that it was not something unique to the Kmart and James Coney Island situations, it was a practice that had been going on in the department for several years, that he thought in this instance they wanted to hold the officers accountable for the actions they performed and the actions that were in question, that Mr. Marticiuc brought up a good point, there was a fine line between asking questions about what they were being asked to do and directly disobeying an order and he did not think that either one of them could say that there was a template to guide what was the right way to handle those situations. Council Member Robinson absent.

Mayor Brown asked Chief Oettmeier to update them on the lab issue that was before them, and Chief Oettmeier offered the following:

“Several weeks ago, a local newscast suggested that improprieties were occurring within the DNA Testing Section of our crime lab. In particular, they raised questions about 7 different cases.

It was quite clear to anyone who watched the broadcast that serious doubt had been raised about the integrity of our lab’s DNA testing procedures. Even more critical was our responsibility to assure the public that people were not wrongly sent to prison based on inaccurate DNA testing or that a predator was not inadvertently eliminated as a suspect.

My initial response to this situation was to determine if these allegations had any merit. Toward that end, I announced a comprehensive four-point plan to verify the newscast’s allegations as well as identify any other problems and set a baseline for correcting these deficiencies.

Toward that end, let me briefly identify the four points and describe what has happened with each one:

Point #1 – was a department self-assessment of all the evidence associated with these 7 cases, to wit we felt there was sufficient evidence other than the DNA evidence to allow the DA’s Office to prosecute each case.

Knowing we would be accused of being self-serving and biased, I sought independent verification of these problems from non-HPD personnel.

This takes us to Point #2 – we asked the DA’s Office to conduct a review of all the evidence associated with these 7 cases, they found that the convictions were not dependent solely upon DNA testing and that other evidence supported the outcomes.

The DA’s Office took an additional step of hiring an outside firm to assess the DNA evidence used in each of these seven cases. That private forensics laboratory agreed with the HPD Lab’s finding of including and excluding the suspect and/or victim as a potential contributor to the evidentiary sample. In other words, it is my understanding that innocent people were not placed in jail nor were predators released in any of these seven cases.

Point #3 – while the DA’s Office was awaiting the results from the private forensics lab, I called for an independent audit of the DNA Testing Section of our crime lab. A team of personnel from the Department of Public Safety Crime Lab and the Tarrant County Medical Examiner’s Crime Lab conducted this audit.

They identified several areas of concern, among them were the following:

Deficiencies in on-site documentation in areas such as qualifications of analysts, formal standard operating procedures, and calibration and maintenance of equipment.

Deficiencies in the current audit and performance review systems for this section of the crime lab.

Deficiencies in written documentation contained in case files.

The physical layout of the lab and handling of evidence do not minimize the chance of contamination.

Testing procedures are not designed to maximize the opportunity to preserve portions of evidence for later testing.

Upon being told of the audit's findings, I took immediate steps to temporarily suspend the DNA testing within our crime lab. I felt this was in the best interest of justice and in maintaining public trust and confidence in the department's willingness to address its shortcomings.

Given the seriousness of the audit's findings, here is what we have done thus far to begin correcting these problems:

1. In association with the assistance from the Department of Public Safety Crime Lab personnel, we are completely revamping our standard operating procedures so we will be in complete compliance with the FBI standards for DNA testing.
2. We have made arrangements with the DA's Office and the Harris County Medical Examiner's Crime Lab to handle our current DNA testing caseload until such time it is appropriate for us to reopen the DNA Testing Section of our lab.
3. We are working with the DA's Office to establish a methodology whereby we will begin a review process of all past cases in which DNA evidence had a role in the prosecution of a criminal case.
4. I have called for an investigation by the Internal Affairs Division to determine who is directly responsible for these problems and what their level of culpability is. I expect this investigation to be completed within 60 days or less.
5. We will be asking City Council to authorize a Purchase Order to the tune of \$75,000.00 for the expressed purpose of entering into a Professional Services Contract with a private forensics laboratory. This lab will handle any DNA testing that cannot be performed by the Harris County Medical Examiner's Crime Lab or any other analysis or review that comes up before a larger contract is awarded. The \$75K will come from the department's asset forfeiture account, which is an account that can be used for any law enforcement purpose. Obviously, we always review these expenditures to ensure compliance with all laws and regulations.
6. I anticipate the department coming back to city council to request additional funds for a contract that will allow a private forensics laboratory to begin the process of reviewing past cases to determine if DNA evidence was mishandled. The outcome of these analyses will determine what action, if any needs to be taken with any particular criminal case.
7. Training is being scheduled for our analysts to ensure they are qualified to perform their duties in association with the new standard operating procedures.
8. We will begin the process of hiring a new technical leader who will oversee the operation of the DNA Testing Section.

The fourth and final point of my plan was to seek out information on what it will take to accredit the DNA Testing Section of our crime lab. Our research is still ongoing at this time.

Clearly, if the department wants to insure our DNA testing capabilities are trustworthy, it is my

opinion that accreditation is necessary.

Lastly, there is no evidence at this time to suggest that any person has been convicted of a crime based on faulty DNA evidence, but obviously we are taking steps by working with the DA's Office and the hiring of an outside lab to ensure that this has not occurred."

Upon questions by Council Members, Chief Oettmeier stated that the current employees in the DNA section were still working in the lab and taking steps in trying to institute some of the changes, that they were not doing DNA testing of evidence in criminal cases, their duties right now focused mostly on administrative tasks and responsibilities; that the chain of command consisted of himself, Executive Assistant Chief Storemski, Assistant Chief Simmons, the Crime Lab Director and then the supervisor over the DNA testing portion and the analysts that were in the lab, that they expected the investigation to be thorough and focused on the people who were responsible for the operation, that this was an expensive proposition, that as to the issue of accreditation, the Police Department was accredited, Mayor Brown was responsible for seeing that it happened and thought at the time they were the largest department in the United States that got accredited, the Crime Lab itself had not been independently accredited nor had the DNA Testing Section of the Crime Lab been accredited, that there were specific standards for those parts of the department's operation, that he thought it was safe to say at this point if the department wanted that part of their operation to become accredited it was going to cost some dollars, how much, he did not know at this point, but it was certainly going to be an issue that had to be worked out and probably would involve Members of Council; that as to the lab, steps had been taken presently to repair the roof and that was a process that was finally under way so hopefully in several months the roof would be repaired and he thought that would alleviate one of the major concerns that people had and it was certainly one that was addressed in the audit, that the physical layout of the lab, they were still going to be seeking some input from some other crime labs as to whether they had to make some changes in the layout of the floor or whether they could make some other accommodating moves, that as to the backlog of the DNA evidence, the audit did not address that, it simply looked at the administrative side of the responsibilities in that operation, the audit, conducted by the DPS and Tarrant County people, did not look at any of the DNA testing, they did not pass judgment on any of that, that was why they were going to an outside firm to begin the process of looking at that, they needed to continue processing the current work load, and they now had to go back and look at all of those cases in which DNA evidence played a significant role in the prosecution and layered on top of that was the backlog of DNA analysis associated with the rape kits; that he had been apprised that there had been some attempts to bring to people's attention the need for additional personnel and equipment in the lab, he was not privy as to what action was taken in response to those requests; that the department had an inspection division whose responsibility was to audit the different aspects of the Police Department and absent a problem being brought to the attention of the Chief or some member of the department that warranted them to go in there and actually trying to determine if those problems were true or if in fact they were adhering to the policies and procedures that existed, then it was probably left up to the Chief to make a decision as to where to direct the inspections division to look at those type of issues, that yes they did have a capacity in the department.

Mayor Brown stated that he wanted to thank the Chief for taking on the job of Acting Chief and handling two very important issues, particularly the Kmart investigation, that he had done a good job and they appreciated it very much.

Mayor Brown stated they would now move to the agenda and recognized former Council Member John Castillo who was in the Council Chamber.

Council Member Robinson moved to suspend the rules to consider Item Numbers 32, 33, 34, 9, 16, 16a and 30 out of order, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0071 ADOPTED.

32. ORDINANCE appropriating \$14,002,174.00 out of Storm Sewer Consolidated Construction Fund as an additional appropriation to professional engineering services contract between the City of Houston and **J. F. THOMPSON, INC** for Completion of the Comprehensive Drainage Study and providing project management services for the Storm Water Management Program (approved by Ordinance Nos. 01-257 and 02-273), GFS M0220-02-2 (SM5013); providing funding for contingencies relating to construction of facilities financed by the Storm Sewer Consolidated Construction Fund – was presented, and tagged by Council Members Galloway, Berry, Robinson and Tatro.

Council Member Tatro stated that he would tag the item for Council Member Wiseman, and Mayor Brown stated that Council Member Tatro tagged the item for Council Member Wiseman.

33. ORDINANCE appropriating \$50,000.00 out of Street & Bridge Consolidated Construction Fund and \$150,000.00 out of Water & Sewer System Consolidated Construction Fund and approving and authorizing professional General Environmental Consulting Services contract between the City of Houston and **TLC ENGINEERING, INC** for Right-of-Way, Water and Wastewater Projects regarding Asbestos and Lead related professional services, CIP N-NA00-11-2, R-0019-23-2 and S-0019-23-2; providing funding for contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund and the Water & Sewer System Consolidated Construction Fund – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0087 ADOPTED.
34. ORDINANCE appropriating \$200,000.00 out of Water & Sewer System Consolidated Construction Fund and approving and authorizing professional General Environmental Consulting Services contract between the City of Houston and **PARSONS INFRASTRUCTURE & TECHNOLOGIES GROUP, INC** for Right-of-Way, Water and Wastewater Projects regarding Asbestos and Lead related professional services, CIP R-0019-24-2 and S-0019-24-2; providing funding for contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0088 ADOPTED.
9. **JTB SERVICES, INC** for Asbestos Abatement, Demolition and Clean-up Services for Planning & Development Department - \$58,376.00 and contingencies for a total amount not to exceed \$61,294.80 - Dangerous Building Consolidated Fund – was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0072 ADOPTED.
16. ORDINANCE appropriating \$3,000,000.00 out of Water & Sewer System Consolidated Construction Fund for spending authority to address the Emergency Repair of the Alameda Road Cave-in for the Public Works & Engineering Department – was presented, and tagged by Council Member Goldberg.
- 16a. **GARVER CONSTRUCTION** for Spending Authority to address Emergency Repair of the Alameda Road Cave-in for Department of Public Works & Engineering - \$3,000,000.00 - Enterprise Fund – was presented, moved by Council Member Quan, seconded by Council Member Vasquez, and tagged by Council Member Goldberg.

Council Member Vasquez stated that he respected Council Member Goldberg's prerogative to tag, however because it did relate to the cave in he was wondering what his rationale for that was, and Council Member Goldberg stated that he wanted more information.

Mayor Brown asked what Council Member Goldberg needed that they could give to him

because they had a serious problem on Almeda that they were trying to take care of, and Council Member Goldberg stated that he would be glad to meet with someone if they wanted to move the items to the end of the agenda.

Council Member Goldberg stated that he would release his tag on Item Numbers 16 and 16a and moved to postpone both items to the end of the agenda, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0073 ADOPTED.

30. ORDINANCE approving and authorizing fourth contract amendment between the City of Houston and **SYNAGRO OF TEXAS-CDR, INC** for Hauling and Disposable Municipal Biosolids – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0089 ADOPTED.

CONSENT AGENDA NUMBERS 2 through 36-43

PROPERTY - NUMBER 4

4. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Jehangir K. and Avan J. Shroff, for sale of 7870 square feet (0.020 acre) of land, located in the 9900 block of Pine Lake Drive, Tract 21P, Thomas A. Hoskins Survey, A-342, Parcel SY3-006 - **STAFF APPRAISERS - DISTRICT A-TATRO** – was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0074 ADOPTED.

PURCHASING AND TABULATION OF BIDS - NUMBERS 5 through 22

11. **TUFF SHED, INC** to Furnish, Deliver and Install One Storage Building for Department of Public Works & Engineering - \$94,000.00 - Enterprise Fund – was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0075 ADOPTED.
12. **BEVCO COMPANY** for One Clarifier Drive Unit for Department of Public Works & Engineering \$40,087.00 - Enterprise Fund – was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0076 ADOPTED.
13. **AMEND MOTION #2000-180, 2/9/00, TO INCREASE** spending authority from \$2,039,539.94 to \$2,170,284.93 and **TO EXTEND** term from February 9, 2003 to August 8, 2003, for Chemicals, Aqua Ammonia and Liquid Ammonium Sulfate for Department of Public Works & Engineering, awarded to **SOUTHERN IONICS, INCORPORATED** for a total increase of \$130,744.99 Enterprise Fund – was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0077 ADOPTED.
14. **AMEND MOTION #2000-181, 2/9/00, TO EXTEND** expiration date from February 9, 2003 to February 8, 2004, for Equipment, Tiger Repair Parts for Department of Public Works & Engineering, awarded to **BROOKSIDE EQUIPMENT SALES, INC** – was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0078 ADOPTED.
15. **NORTHSIDE ELECTRIC MOTORS, INC** - \$66,122.00, **TOTAL POWER SYSTEMS,**

INC \$88,654.67, **TEXAS CITY ARMATURE WORKS, INC** - \$73,256.00 and **HAHN EQUIPMENT COMPANY, INC** - \$78,739.73 for Spending Authority to address Emergency Pump Repair for Department of Public Works & Engineering - \$306,772.40 - Enterprise Fund – was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0079 ADOPTED.

17. **IMG CORPORATION (Bid No. 1)** for Chemical Storage Tanks and Sight Gauges for Department of Public Works & Engineering - \$33,964.00 - Enterprise Fund – was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0080 ADOPTED.
19. **INTERNATIONAL TRUCKS OF HOUSTON** - \$436,268.00 and **HOUSTON FREIGHTLINER, INC** \$832,074.00 for Garbage and Rear-Steer Loader Trucks for Solid Waste Management Department - Equipment Acquisition Consolidated Fund – was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0081 ADOPTED.

ORDINANCES - NUMBERS 23 through 36-43

23. ORDINANCE approving and authorizing first amendment to Communications Equipment License between **TRANSCO TOWER LIMITED**, as licensor, and the City of Houston, Texas, as licensee, for space in the building now known as Williams Tower, for use by the Houston Police Department - **DISTRICT C - GOLDBERG** – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0090 ADOPTED.
24. ORDINANCE approving and authorizing occupancy agreement between **U. S. DREAM ACADEMY**, as occupant, and the City of Houston, Texas, as owner, for space in the Third Ward Multi-Service Center - **DISTRICT I - ALVARADO** – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0091 ADOPTED.
25. ORDINANCE approving and authorizing second amendment to contract (approved by Ordinance No. 1998-0352) between the City of Houston and the **WEST GROUP** for On-Line Research Services for the Legal Department; providing a maximum contract amount - 5 Years \$210,000.00 - General Fund had been pulled from the Agenda by the Administration, and was not considered.
26. Omitted
28. ORDINANCE approving and authorizing contract between the City of Houston and **ZUCKERT, SCOTT & RASENBERGER, L.L.P.** for Professional Litigation Support Services - \$35,000.00 Property and Casualty Fund – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0092 ADOPTED.
36. ORDINANCE Nos. 2003-16 through 43 and 2003-50 through 64, passed second reading 1/22/2003
ORDINANCES granting the right, privilege and franchise to Collect, Haul and Transport Solid Waste and Industrial Waste from Commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions, to the following: - **THIRD AND FINAL READING**

- 36-1. Alpha Waste Express, Inc – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0016 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-2. A&T Environmental Cleaning, Inc – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0017 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-3. Advanced Disposal Systems, Inc – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0018 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-4. Astro Waste, Inc – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0019 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-5. Aztec Portacans and Containers, L.P. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0020 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-6. Bay Area Waste Systems, Inc – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0021 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-7. Bayou City Environmental Services, L.P. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0022 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-8. Bayou City Waste Systems, L.P. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0023 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-9. CES Environmental Services, Inc – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0024 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-10. City Waste, L.P. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0025 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-11. Disposal Doctor, Inc – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0026 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-12. Eagle Construction & Environmental Services, L. P. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0027 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-13. Excell Disposal, Inc – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0028 ADOPTED THIRD AND FINAL READING IN FULL.

- 36-14. Gainsborough Corporation d/b/a Gainsborough Waste – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0029 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-15. G. O. Weiss, Inc – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0030 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-16. Grace Disposal Systems. L.L.C. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0031 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-17. GRM Disposal Services, Inc. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0032 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-18. Hill Sand Company, Inc d/b/a Hill Waste Services – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0033 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-19. May Environmental, Inc. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0034 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-20. Philip Reclamation Services, Houston, Inc. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0035 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-21. PRI Services, Inc. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0036 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-22. Pro Waste, Inc. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0037 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-23. Ray Smith Construction, Inc. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0038 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-24. Northside Garbage Service, Inc d/b/a Northside Waste Service – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0039 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-25. Stericycle, Inc. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0040 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-26. Specialized Waste Systems, Inc. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0041 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-27. Triple S Equipment – was presented. All voting aye. Nays none. Council Members

- Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0042 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-28. U.S. Liquids of Houston, L.L.C. – was presented. All voting aye. Nays none. Council Members Goldberg and Berry absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0043 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-29. A.C.C.P., Inc, A Texas Corporation – was presented. All voting aye. Nays none. ORDINANCE 2003-0050 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-32. Gulf Coast Vacuum Service, Inc. – was presented. All voting aye. Nays none. Council Member Vasquez absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0053 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-33. Halco Waste Container, Inc d/b/a Old Orchard Trucking and Waste Systems – was presented. All voting aye. Nays none. Council Member Vasquez absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0054 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-34. Liberty Waste Systems, Inc. – was presented. All voting aye. Nays none. Council Members Wiseman, Vasquez and Quan absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0055 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-35. LMMIG, Ltd. d/b/a Century Industries – was presented. All voting aye. Nays none. Council Members Wiseman, Vasquez and Quan absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0056 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-36. Republic Waste Services of Texas, Ltd. – was presented. All voting aye. Nays none. Council Members Vasquez and Quan absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0057 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-38. USA Waste Industrial Services, Inc. – was presented. All voting aye. Nays none. Council Members Vasquez and Quan absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0059 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-39. Waste Corporation of Texas, L.P. – was presented. All voting aye. Nays none. Council Members Vasquez and Quan absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0060 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-40. Waste Management of Texas, Inc. – was presented. All voting aye. Nays none. Council Members Vasquez and Quan absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0061 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-42. Alfred Savoy, Jr. d/b/a Dirt Works Unlimited – was presented. All voting aye. Nays none. Council Member Vasquez absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0063 ADOPTED THIRD AND FINAL READING IN FULL.
- 36-43. Chief Environmental Surveys, Inc – was presented. All voting aye. Nays none. Council Member Vasquez absent. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0064 ADOPTED THIRD AND FINAL READING IN FULL.

MATTERS REMOVED FROM THE CONSENT AGENDA WERE CONSIDERED AS FOLLOWS:

MISCELLANEOUS

2. ORDINANCE appropriating \$147,726.46 out of Parks Consolidated Construction Fund as additional appropriation for Bid Package No. 16 - Candlelight, Charlton & Proctor Plaza Parks, under construction contract with **TIMES CONSTRUCTION, INC**, approved by Ordinance No. 01-1001, GFS F-0363-16-3, F-0363-13-3 and F-0363-89-3 - **DISTRICTS A - TATRO; H - VASQUEZ and I – ALVARADO** – was presented.

Council Member Quan stated that he had been concern with the number of overruns that they had with some of the parks projects and had a chance to meet with Ollie Schiller and Issa Dadouch and thought they were trying to make an effort but some of the things seemed really basic, the designer architect did not look at the underline type of materials for the roof, again doors that did not meet ADA requirements, wage rates that were given the wrong amount, that they would continue to monitor them but they had tried to impose upon them that they were important items that they needed to watch early on, that he just wanted to let the Council Members know that they were aware that they were looking at it very carefully.

Council Member Robinson stated that a long time ago he asked if they could just go in on a random basis and take a couple of contracts and look at what amendments had cost them compared to the second lowest bidder because he still had a concern that sometimes people came in low and then they come back up through the amendments.

A vote was called on Item No. 2. All voting aye. Nays none. Council Member Wiseman absent due to being ill. ORDINANCE 2003-0093 ADOPTED.

- 2a. RECOMMENDATION from Director Building Services Department for approval of Change Order No. 6 in the amount of \$147,791.00 on contract with **TIMES CONSTRUCTION, INC** for Bid Package No. 16 - Candlelight, Charlton & Proctor Plaza Parks, GFS F-0363-16-3, F-0363-13-3 and F-0363-89-3 - **DISTRICTS A - TATRO; H - VASQUEZ and I – ALVARADO** – was presented, moved by Council Member Quan, seconded by Council Member Robinson. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0082 ADOPTED.

PROPERTY

3. ORDINANCE appropriating \$11,040.00 out of Street & Bridge Consolidated Construction Fund Number 437 to pay the amount of the Award of Special Commissioners and all costs of court in connection with the eminent domain proceeding styled City of Houston v. United Orthodox Synagogues of Houston, a Texas Non-profit Corporation, et al., to acquire Parcel Number A98-54, for the Almeda-Genoa Road Paving Project (Almeda Road - State Highway 288); GFS/CIP N-0493-01-1 - **DISTRICT D – EDWARDS** – was presented, and tagged by Council Member Goldberg.
- 3a. RECOMMENDATION from City Attorney to deposit the amount of the Award of Special Commissioners into the Registry of the Court, pay all costs of Court and not file any objections to the Award in connection with eminent domain proceedings styled City of Houston v. United Orthodox Synagogues of Houston, a Texas Non-profit Corporation, et al, Cause Number 736,674, for acquisition of Parcel A98-54; for the Almeda-Genoa Widening Project (Almeda Road - State Highway 288); GFS/CIP N-0493-01-1 - \$7,040.00 - **DISTRICT D – EDWARDS** – was presented, and tagged by Council Member Goldberg.

PURCHASING AND TABULATION OF BIDS

5. **DECLARE ALPHA 1 USA, INC** in default and hold them non-responsible for two years – was presented, moved by Council Member Quan, seconded by Council Member Tatro.

All voting aye. Nays none. MOTION 2003-0083 ADOPTED.

6. **DECLARE QUALITY AEROSPACE INTERIORS, INC** in default and hold them non-responsible for two years – was presented, moved by Council Member Quan, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0084 ADOPTED.
7. **AMEND MOTION #2000-513, 4/12/00, TO EXTEND** expiration date from April 12, 2003 to April 11, 2004, for Medical, Breast-Feeding Apparatus for Health & Human Services Department, awarded to **MEDELA, INC** – was presented, moved by Council Member Quan, seconded by Council Member Tatro, and tagged by Council Member Ellis.
8. **BECKMAN COULTER, INC** - \$342,100.00 and **BIO-RAD LABORATORIES** - \$490,040.45 for Medical Diagnostic Test Kits for Health & Human Services Department - General Fund – was presented, moved by Council Member Quan, seconded by Council Member Tatro. Council Member Wiseman absent due to being ill. MOTION 2003-0085 ADOPTED.
10. **GBS ENVIRONMENTAL, INC** for Asbestos Abatement, Demolition and Clean-up Services for Planning & Development Department - \$109,700.00 and contingencies for a total amount not to exceed \$115,185.00 - Dangerous Building Consolidated Fund – was presented.

Council Member Galloway stated that she would like the Planning Department to get with her because she was hearing some things, changes, as far as demolition and cleaning up the dangerous buildings, and what she was hearing she was not liking too much and did not want to bring it out now, and Mayor Brown stated that they would have someone meet with her.

A vote was called on Item No. 10. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. MOTION 2003-0086 ADOPTED.

18. **AGC CARPET COMPANY, INC** for New Carpet including installation from the State of Texas Building and Procurement Commission's Contract through the State of Texas Cooperative Purchasing Program for Department of Public Works & Engineering - \$27,444.15 - Enterprise Fund – was presented, moved by Council Member Quan, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. MOTION 2003-0087 ADOPTED.
20. **AMEND MOTION #2000-560, 4/26/00, TO EXTEND** expiration date from May 16, 2003 to May 15, 2004, for Equipment, Onan Generator Replacement Parts for Various Departments, awarded to **CHANNELVIEW SUPPLY COMPANY** – was presented, moved by Council Member Quan, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. MOTION 2003-0088 ADOPTED.
21. **AMEND MOTION #2000-570, 4/26/00, TO EXTEND** expiration date from May 14, 2003 to May 13, 2004, for Landscape Plants, Trees, Grass and Associated Materials for Various Departments, awarded to **LIVING EARTH TECHNOLOGY CO., INC, ANTHONY HUTCHISON EXTERIOR DESIGN, BWI SCHULENBURG** and **HOUSTON LANDSCAPING DEVELOPMENT, INC** – was presented, moved by Council Member Quan, seconded by Council Member Vasquez, and tagged by Council Members Ellis and Alvarado. Council Member Goldberg absent.

Council Member Alvarado stated that the contract began May 14, 2000 for 36 months and

was funded in the amount not exceed a little over \$2 million and as of January 17, 2003 only \$263,000 had been spent, and Mayor Brown stated that what Council approved was just the spending authority which was not needed and that was the reason it was not spent. Council Member Goldberg absent.

22. **STEWART & STEVENSON** for Allison Transmission Rebuilt and Repair Parts for Various Departments - \$919,792.85 - General, Enterprise and Fleet Management Funds – was presented, moved by Council Member Vasquez, seconded by Council Member Tatro, and tagged by Council Member Keller. Council Member Goldberg absent.

ORDINANCES

27. ORDINANCE approving and authorizing contract between the City of Houston and **HOLMAN & KEELING, P.C.** for Professional Litigation Support Services - \$100,000.00 - Enterprise Fund – was presented, and tagged by Council Member Vasquez. Council Member Goldberg absent.

Council Member Vasquez requested that someone come and visit with him on the item and Mayor Brown stated that they would have someone visit with him. Council Member Goldberg absent.

29. ORDINANCE approving and authorizing amendment to sponsorship agreement between the City and **HEATHLAKE COMMUNITY ASSOCIATION** for Garbage Collection Service for the respective civic association - 6 Months - \$108.00 - **DISTRICT C – GOLDBERG** – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. ORDINANCE 2003-0094 ADOPTED.
31. ORDINANCE amending Ordinance No. 98-241 to increase the maximum contract amount to contract between the City of Houston and **ELEVATOR MAINTENANCE COMPANY, INC** for Preventative Maintenance and Remedial Repair of Elevators and Escalators for Various Departments - \$189,070.00 - General and Enterprise Funds – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. ORDINANCE 2003-0095 ADOPTED.
35. ORDINANCE relating to the Disaster Recovery Fund; appropriating \$1,407,883.00 from the Disaster Recovery Fund for Cleanup, Recovery and Repair related to Tropical Storm Allison; appropriating \$1,794,972.00 from the Disaster Recovery Fund and authorizing a transfer of such funds to the Convention and Entertainment Revenue Fund – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. ORDINANCE 2003-0096 ADOPTED.
- 36-30. ORDINANCE No. 2003-51, passed second reading 1/22/2003
ORDINANCE granting to **ACCURATE TRANSPORTATION SERVICES, INC**, a Texas Corporation, the right, privilege and franchise to Collect, Haul and Transport Solid Waste and Industrial Waste from Commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas - **THIRD AND FINAL READING** – was presented.

Council Member Ellis moved to refer Item No. 36-30 back to the administration, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0089 ADOPTED.

- 36-31 ORDINANCE No. 2003-52, passed second reading 1/22/2003
ORDINANCE granting to **GULF COAST ENVIRONMENTAL, INC**, a Texas Corporation, the right, privilege and franchise to Collect, Haul and Transport Solid Waste and

Industrial Waste from Commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas - **THIRD AND FINAL READING** – was presented.

Council Member Ellis moved to postpone Item No. 36-31 for one week, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0090 ADOPTED.

36-37. ORDINANCE No. 2003-58, passed second reading 1/22/2003
ORDINANCE granting to **STAR DISPOSAL SYSTEMS, INC**, a Texas Corporation, the right, privilege and franchise to Collect, Haul and Transport Solid Waste and Industrial Waste from Commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas - **THIRD AND FINAL READING** – was presented.

Council Member Ellis moved to postpone Item No. 36-37 for one week, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0091 ADOPTED.

36-41. ORDINANCE No. 2003-62, passed second reading 1/22/2003
ORDINANCE granting to **WASTE PRO SERVICES, L.L.C.**, a Texas Limited Liability Corporation, the right, privilege and franchise to Collect, Haul and Transport Solid Waste and Industrial Waste from Commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas – was presented.

Council Member Ellis moved to postpone Item No. 36-41 for one week, seconded by Council Member Tatro. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0092 ADOPTED.

MATTERS HELD - NUMBERS 37 through 51

37. MOTION by Council Member Tatro/Seconded by Council Member Vasquez to adopt recommendation from Director Department of Public Works & Engineering for approval of final contract amount of \$2,013,448.52 and acceptance of work on contract with **TROY CONSTRUCTION, INC** for Construction of Water Main Replacement in Magnolia Park Subdivision, GFS S-0478-01-3 (10481) - 00.23% over the original contract amount - **DISTRICT I - ALVARADO** – **(This was Item 4 on Agenda of January 22, 2003, TAGGED BY COUNCIL MEMBER QUAN)** – was presented.

Council Member Quan stated that he had a chance to meet with Mr. Glen Crawford of Troy Construction and looked at their records, that while they recognized that they were not able to meet the goal on this project he felt that they had shown true contrition and had not actually had the problem in the past, that he was the one who tagged it and was satisfied at this time.

A vote was called on Item No. 37. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Ellis absent. MOTION 2003-0093 ADOPTED.

38. MOTION by Council Member Quan/Seconded by Council Member Vasquez to adopt recommendation from Finance & Administration Department to award to **AAA DEMOLISHING COMPANY** - \$37,145.00 and contingencies for a total amount not to exceed \$39,002.25 and **WILLIS DEMOLISHING/DISPOSAL** - \$37,695.00 and contingencies for a total amount not to exceed \$39,579.75 for Demolition and Site Clean-up Services for Planning & Development Department - Dangerous Building Consolidated Fund - **(This was Item 7 on Agenda of January 22, 2003, TAGGED BY COUNCIL MEMBER ELLIS)** – was presented. All voting aye. Nays none. Council Member

Wiseman absent due to being ill. MOTION 2003-0094 ADOPTED.

39. MOTION by Council Member Quan/Seconded by Council Member Vasquez to adopt recommendation from Finance & Administration Department to award to **HOUSTON-GALVESTON AREA COUNCIL (H-GAC)** for Network-Based Digital Recording System through the Interlocal Agreement for Cooperative Purchasing for Department of Public Works & Engineering - \$101,908.00 - Enterprise Fund – **(This was Item 8 on Agenda of January 22, 2003, TAGGED BY COUNCIL MEMBERS ROBINSON and KELLER)** – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0095 ADOPTED.
40. RESOLUTION approving the issuance and sale by Houston Housing Finance Corporation of Multifamily Housing Revenue Refunding Bonds (Concord at Palm Center Apartments) Series 2003A and Subordinate Multifamily Housing Revenue Bonds (Concord at Palm Center Apartments) Series 2003B and approving the Preliminary Official Statement with respect to such bonds - **(This was Item 10 on Agenda of January 22, 2003, TAGGED BY COUNCIL MEMBER GOLDBERG)** – was presented.

Council Member Goldberg stated that he tagged the item last week and had met with the developer and saw other projects that he was developing, that his concern at the time, and understood that this program was not part of the pilot program, so they would be ad valorem tax exempt and on top of that there was a \$430,000 grant that the City was giving them, or a performance loan, that he thought in the future the cost for a project like this would come way down, that he wanted to congratulate Mr. Parker for developing this way of building apartments, and Mayor Brown stated that had been his observation as well, that he produces a good product.

A vote was called on Item No. 40. All voting aye. Nays none. Council Member Wiseman absent due to being ill. RESOLUTION 2003-0002 ADOPTED.

41. ORDINANCE approving and authorizing occupancy agreement between **GULF COAST COMMUNITY SERVICES ASSOCIATION**, as occupant, and the City of Houston, Texas, as owner, for space in the Third Ward Multi-Service Center - **DISTRICT I - ALVARADO** – **(This was Item 14 on Agenda of January 22, 2003, TAGGED BY COUNCIL MEMBER ELLIS)** – was presented.

Council Member Ellis moved to postpone Item No. 41 for one week, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Wiseman absent due to being ill. MOTION 2003-0096 ADOPTED.

42. ORDINANCE approving and authorizing first amendment to agreement between City of Houston, Miller Theatre Advisory Board and **BROOKS AND BROOKS, INC (dba HARLON'S BAR-B-Q)** for Concession Services at Miller Outdoor Theatre - **(This was Item 18 on Agenda of January 22, 2003, TAGGED BY COUNCIL MEMBERS SEKULA-GIBBS, ALVARADO and GOLDBERG)** – was presented.

Council Member Alvarado stated that there was part of the contract that she would hope they could come back and revisit, that it was Exhibit H, that addressed the volunteers that were treated as employees and the volunteers were subject to criminal background checks and would hope that the administration could revisit it at another time and Mayor Brown stated that they would do that.

A vote was called on Item No. 42. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. ORDINANCE 2003-0097 ADOPTED.

43. ORDINANCE approving and authorizing contract between the City of Houston and

ANDREWS & KURTH, L.L.P. for Professional Legal Services relating to the appeal of a lawsuit styled Texan Land & Cattle Company v. City of Houston in the County Court of Law No. Four, Harris County, Texas; providing a maximum contract amount - \$50,000.00 - Property and Casualty Fund **DISTRICT D - EDWARDS - (This was Item 19 on Agenda of January 22, 2003, TAGGED BY COUNCIL MEMBER QUAN)** – was presented. Council Member Goldberg absent.

Council Member Quan stated that he had a chance to visit with the Legal Department on it and it was a very complicated case on the inverse condemnation and check their track record they were 0 for 5 in successfully defending them, so he thought it was worthwhile to hire outside counsel in this type of case so he was in favor of it at this time. Council Member Goldberg absent.

A vote was called on Item No. 43. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. ORDINANCE 2003-0098 ADOPTED.

44. ORDINANCE appropriating \$179,520.11 out of General Improvements Consolidated Construction Fund, (Fund), and approving and authorizing Compromise and Settlement Agreement between City of Houston and **BOVAY ENGINEERS, INC** to settle a claim arising out of activities financed by the Fund - **DISTRICT H - VASQUEZ - (This was Item 20 on Agenda of January 22, 2003, TAGGED BY COUNCIL MEMBER KELLER)** – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. ORDINANCE 2003-0099 ADOPTED.
45. ORDINANCE appropriating \$162,052.01 out of Water & Sewer System Consolidated Construction Fund and \$195,000.00 out of Affordable Housing Uptown 2002B Fund and approving and authorizing Developer Participation contract between the City of Houston and **BEAZER HOMES OF TEXAS, L.P.** for Construction of Water, Sanitary Sewer and Storm Sewer Lines to serve Tierra Glen Section 3, CIP S-0800-79-03 and R-0800-79-03 - **DISTRICT E - WISEMAN - (This was Item 23 on Agenda of January 22, 2003, TAGGED BY COUNCIL MEMBER ROBINSON)** – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. ORDINANCE 2003-0100 ADOPTED.
46. ORDINANCE appropriating \$84,929.86 out of Water & Sewer System Consolidated Construction Fund and \$119,701.81 out of Affordable Housing Uptown 2002B Fund and approving and authorizing Developer Participation contract between the City of Houston and **BEAZER HOMES OF TEXAS, L.P.** for Construction of Water, Sanitary Sewer and Storm Sewer Lines to serve Tierra Glen Section 4, CIP S-0800-80-03 and R-0800-80-03 - **DISTRICT E - WISEMAN - (This was Item 24 on Agenda of January 22, 2003, TAGGED BY COUNCIL MEMBER ROBINSON)** – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. ORDINANCE 2003-0101 ADOPTED.
47. ORDINANCE appropriating \$25,000.00 out of Water & Sewer System Consolidated Construction Fund and approving and authorizing Developer Participation contract between the City of Houston and **DE ANDA ENGINEERING, INC** for Construction of Water and Sanitary Sewer Lines to serve the Meadow Creek Gardens Subdivision, CIP S-0802-09-03 and R-0802-09-03 **DISTRICT E - WISEMAN - (This was Item 25 on Agenda of January 22, 2003, TAGGED BY COUNCIL MEMBER ROBINSON)** – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. ORDINANCE 2003-0102 ADOPTED.
48. ORDINANCE awarding contract to **FIKES OF HOUSTON, INC** for Odor Control Services for Various Departments; providing a maximum contract amount - 3 Years with two one-

year options \$643,875.00 - General, Park Special Revenue and Building Inspection Funds – **(This was Item 30 on Agenda of January 22, 2003, TAGGED BY COUNCIL MEMBER GOLDBERG)** – was presented. Council Member Goldberg absent.

Council Member Robinson asked if Mr. Haines or somebody could give them an update on how much money was still left in their Developer Participation Program account so they would know how it was doing and how many houses they had put on the ground, that he was very supportive of the effort but just wanted to get an update and see where they were and Mayor Brown stated that Mr. Haines would take care of that. Council Member Goldberg absent.

A vote was called on Item No. 48. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. ORDINANCE 2003-0103 ADOPTED.

49. MOTION by Council Member Quan/Seconded by Council Member Parker to adopt recommendation from Director Building Services Department for approval of Change Order 1 in the amount of \$88,135.00 on contract with **PYRAMID WATERPROOFING, INC** for Roof Replacement at BARC, Animal Control Center - North, GFS H-0011-04-3 - **DISTRICT G - GALLOWAY** - **(This was Item 35 on Agenda of January 22, 2003, POSTPONED BY MOTION #2003-51)** – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. MOTION 2003-0097 ADOPTED.

50. ORDINANCE appropriating \$264,901.94 out of Water & Sewer System Consolidated Construction Fund as Houston's share of the Blackhawk Regional Wastewater Treatment Plant Renovation Project (Contract No. 20513 between the City of Houston and **THE GULF COAST WASTE DISPOSAL AUTHORITY**), CIP R-0019-21-3 - **DISTRICT E - WISEMAN** - **(This was Item 40 on Agenda of January 22, 2003, POSTPONED BY MOTION #2003-54)** – was presented. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. ORDINANCE 2003-0104 ADOPTED.

51. MOTION by Council Member Quan/Seconded by Council Member Vasquez to adopt recommendation from Director Department of Public Works & Engineering for approval of final contract amount of \$594,827.51 and acceptance of work on contract with **JIMERSON UNDERGROUND, INC** for Construction of IRA Street Storm Sewer Outfall, GFS M-0126-13-3 (M-0126-13) - 00.17% over the original contract amount - **DISTRICT H - VASQUEZ** - **(This was Item 41 on Agenda of January 22, 2003, POSTPONED BY MOTION #2003-51)** – was presented. Council Member Goldberg absent.

Council Member Ellis moved to refer Item No. 51 back to the administration, seconded by Council Member Quan. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Member Goldberg absent. MOTION 2003-0098 ADOPTED.

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS

Council Member Vasquez stated that this week his office had received numerous phone calls and emails about the reduction of hours at their neighborhood community centers and the only notice that his office received from Parks was a copy of a letter to Parks and Recreation Department patrons notifying them of the changes, that he wanted to share some of the emails that they had received, one citizen called and pointed out that the students at Rusk Elementary were released at 1:00 p.m., but with the new hours they were not able to get into the Settegast Park Community Center until 2:00 p.m., so they had no where to go for one hour, that the Chairman of the Timber Grove National Little League also sent him an email pointing out that children from many different ethnic backgrounds shared a common interest in basketball at the Stude and Woodland Park Gyms, that closing the gyms on Saturday's and Sunday's would

hamper the children's development and their ability to get along with others, that another parent, upset with the closure of his neighborhood community center on Saturday's, coached a group of nine to ten year old boys who would suffer along with many other groups who were unable to use the gym and he specifically asked why punish the children because of the budget challenges and said that there must be better places to make up the deficits, that he agreed with the constituents and also asked why they were punishing the children, why were they balancing the budget on the backs of basic services that affected kids and why were they hearing about the budget cuts from the department after a policy decision had been made, that he believed that Council Members needed to be in the loop when it came to important decisions that drastically affected their constituents and would ask that Parks rescind the closing until a complete briefing could be provided to Council Members and that the Parks Department attempt to minimize the impact on children, and Mayor Brown stated that they would work on it and get back with him. Council Members Parker and Berry absent.

Council Member Keller stated that he dittoed the comments made by Council Member Vasquez, that there had to be some more sweeping cuts that were not so painful in the community, that he would like a breakdown of the savings that would be incurred by limiting the community center hours and a breakdown on the savings that would be incurred by the fee waiver policy that was also being discussed. Council Members Parker and Berry absent.

Council Member Quan stated that January was the National Volunteer Blood Donor Month and the City Employees Wellness Advisory Council would be having a blood drive on Friday and he encouraged the Council Members and other citizens to attend and to give the gift of life, that he wanted to point out that the Life Giver Award for City Departments would be given to the Houston Police Department for their efforts in giving blood to the worthy cause. Council Member Berry absent.

Council Member Quan stated that he wanted to recognize Assistant Chief Herbert Sims, that as many of them knew they had complaints from various cadets regarding dismissal from the Fire Academy and those young men who wanted to serve felt that they were wronged in what had happened to them, that the matter had been taken to the Civil Service Commission and that two had been reinstated to the Fire Academy and a large part of the credit went to Chief Sims for his efforts in standing behind the young men who wanted to serve in the Fire Department. Council Member Berry absent.

Council Member Quan stated that yesterday they had several people come forward and talk about Chinese New Year's and hoped they could make those events and participate in some of the Chinese New Year activities this weekend. Council Member Berry absent.

Council Member Sekula-Gibbs stated that she wanted to thank Jakarla Spiller for helping their department get a proclamation ready for Sandra Mossman Day, that she presented that to Dr. Mossman last night, that she was taking over as Superintendent of Clear Creek Independent School District. Council Members Keller and Berry absent.

Council Member Sekula-Gibbs stated that this was Catholic Schools Week and wanted to acknowledge the contribution that Catholic Schools provided to the community of Houston, that they served, trained and educated over 17,000 students, had 52 elementary schools and 8 high schools, and 92% of their graduates went out to advanced education, that if people in the community were interested they could find out more information at 713-741-8635. Council Members Keller and Berry absent.

Council Member Alvarado stated that she too wanted to comment regarding the closure of some community centers, that she would certainly appreciate a little more ample time as the community would in notification of centers where hours were going to be closed or facilities that were going to be closed for an entire day, that she wanted to remind her colleagues that some voted for the Fun Day Contract, which was about \$500,000, that she would much rather do

without Fun Day than have community centers in their districts closed and turning children away. Council Members Keller and Berry absent.

Council Member Alvarado stated that she wanted to remind everyone that they still had time to get their comments into the Surface Transportation Board opposing the San Jacinto Rail project. Council Members Keller and Berry absent.

Council Member Alvarado stated that she wanted to invite her colleagues and all Houstonians to come out on Saturday, that they were going to have a countdown to Super Bowl at Main Street and Prairie, that three blocks on Main Street would be closed and it was from 6:00 p.m. to 10:00 p.m., that it was a free event and the one year countdown to the Super Bowl. Council Members Keller and Berry absent.

Mayor Brown stated that there were two items that were delayed to the end of the agenda and asked the City Secretary to call those items.

16. ORDINANCE appropriating \$3,000,000.00 out of Water & Sewer System Consolidated Construction Fund for spending authority to address the Emergency Repair of the Alameda Road Cave-in for the Public Works & Engineering Department – was again before Council. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Members Keller and Berry absent. ORDINANCE 2003-0105 ADOPTED.

16a. **GARVER CONSTRUCTION** for Spending Authority to address Emergency Repair of the Alameda Road Cave-in for Department of Public Works & Engineering - \$3,000,000.00 - Enterprise Fund – was again before Council. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Members Keller and Berry absent. MOTION 2003-0099 ADOPTED.

Council Member Goldberg stated that he wanted to thank all of the department heads and other department personnel that attended their CIP meeting, it went very well, that one of the plans and ideas that the Mayor instituted, the Super Neighborhood Program and the Super Neighborhood Action Plan really worked out well in his district in respect that they let the Super Neighborhoods prioritize their CIP demands, they decided what was important to them and then they take a look at it, that it made the CIP meetings go much more faster and smoother, they submit the plan and identify who they were and who their members were and they could move on, it really made for a much shorter CIP meeting, that he wanted to thank Mr. Al Haines for his presentation regarding the drainage fee, that out of their meeting came at least three good ideas regarding the drainage fee, and one of those was the sunset provision that would end the drainage fee and basically it would end at a time when either the \$1.2 billion that they were trying to raise for drainage was reached or after a period of time to be determined by Council, that he thought they ought to look at issuing bonds versus a pay as you go, if it was a pay as you go then any new administration could end the program whenever they wanted to or change the conditions and issuing bonds would make sure that the conditions that they vote on at Council stay the same, that another idea was the amount of money that they were currently spending on their drainage CIP would stay the same, even though more money was raised. Council Members Keller, Parker and Berry absent.

Council Member Goldberg stated that he knew there had been some talk about establishing a Veterans Museum at Ellington Airport and basically leasing the land for a minimal amount, that there had been other groups and organizations that also wanted museum land or wanted land for other purposes and thought before they got into something like this and what they had not done before, was to kind of set parameters and qualifications for what types of groups could do it and what the economic benefit or the economic impact had to be and if they could set up either a committee to explore or bring it to committee, he thought that would be the best idea to develop a policy for this type of activity. Council Members Keller, Alvarado, Parker and Berry absent.

Council Member Goldberg stated that as the Director of Big Brothers and Big Sisters they had a fund raising underway and it would begin at the end of April and was called Bowl for Kids Sake, that he was going to send some literature to his colleagues, that they were always looking for celebrity bowlers to raise some money, that it was one of the big fund raising events for Big Brothers and Big Sisters, that it was very critical this year, that they already had to layoff about one third of their staff, that a lot of charitable organizations were not getting the type of revenues they were experiencing. Council Members Keller, Alvarado, Parker and Berry absent.

Council Member Quan moved to stay in session past the noon hour, seconded by Council Member Robinson. All voting aye. Nays none. Council Member Wiseman absent due to being ill. Council Members Keller, Alvarado, Parker and Berry absent. MOTION 2003-0100 ADOPTED.

Council Member Galloway stated that they had a short video that she wanted to share with her colleagues to take a tour of District B, that she wanted to talk about the proposed Storm Water and Drainage Fee currently being considered by the administration, that as they knew Tropical Storm Allison disproportionately affected the constituents of District B, and she even lost her home, and for this reason she was strongly in favor of a drainage fee in concept, but in most of the areas in District B there was currently not even the bare minimum storm water drainage infrastructure to carry the water away from their homes, that they had some storm water drainage but they were not tied in so the water could flow to the nearest bayou, yet the District B constituents for so many years had paid their taxes diligently in spite of the absence of basic service, so they could imagine the challenge she faced going to her constituents and asking them to pay yet an additional fee, almost 50% increase, for something that they should already have but do not, that she believed the residents in these particular areas should be exempt from the fee entirely until such time as a minimum storm drainage system could be installed and operable. Council Member Galloway displayed a video that showed areas in District B without storm drainage. Council Members Tatro, Keller, Alvarado, Parker and Berry absent.

Council Member Robinson stated that when this issue first came up one of the things that he talked about was there a magic number they needed to reach then sunset it or drop it down to a level that would maintain, that was a concern for him in light of his experience and their experience with the Capitol Improvement Plan, he was not yet comfortable yet if they went out and gave the City the fee what were they going to do with it that was not going to be arbitrary and every time they looked up there were projects showing up on the list and projects falling off, that his real big concern was that he did not want to give anybody any more of his money and the rest of the Houstonians money and it was going to be done, in his view, as haphazardly as they had done the CIP in a lot of instances, that he wanted to know from Public Works where was the GIS database that every time somebody walks into the door with a development project they put into their system and they model the cumulative impact. Council Members Ellis, Keller, Parker and Berry absent.

Council Member Robinson stated that he had some real questions, issues and concerns about what was going on over at the Fire Department with Chief Sims, they had a number of cadets come to Council and talk about their difficulties at the academy, they get one of the cadets reinstated and then for whatever reason they start having reassignments, that he was not going to achieve any bad motives to anybody, but he would say, as someone who had been in management, if he were the Fire Chief he certainly would not want to be transferring out of his payroll and direct supervision the people who were supposed to be essentially the hearing officers when at the end of the day he was going to be called on to review their decision and make a final determinative outcome, that he thought if nothing else from what happened with Chief Bradford, Chief Connealy ought to be trying to put those folks as far away from him as he could so that nobody would raise any question about his having any undue influence over the process and he waits until all the administrative stuff was coming in and makes a final decision,

aye or nay, but it looks funny and it makes people have questions. Council Members Tatro, Ellis, Keller, Parker and Berry absent.

Council Member Robinson stated that his hope was that they would take advantage of the opportunity of the Legislature meeting and try to make some progress and maybe some kind of regional approach, and make some progress on the various recommendations that had come from the folks with the Save Our Emergency Room Committee and the different experts that had put out proposals. Council Members Tatro, Keller, Parker and Berry absent.

Council Member Robinson stated that Mr. Haines was going to be giving them a briefing some time in the TTI Committee before their response was due and they would have that scheduled for all Council Members and would let them know what it was and there would be a preview of the official response as the City of Houston to the Surface Transportation Board. Council Members Tatro, Keller, Parker and Berry absent.

Council Member Robinson stated that there were a couple of pieces of Legislation filed in Austin relative to lowering the annual appraisal cap that they tried to get out of committee and past out of Council about two years ago and they did not get it done but some members had filed a bill on it and he hoped they would track that and lend some support in combination with efforts to expand their property tax base. Council Members Tatro, Keller, Parker and Berry absent.

Council Member Galloway stated that she wanted to express her sincere and heartfelt appreciation to the Mayor and her colleagues who sent their prayers and condolences and well wishes for the loss of her niece last week. Council Members Tatro, Keller, Parker and Berry absent.

Council Member Edwards stated that she wanted to thank her colleagues for passing Item Number 16 and 16a, and wanted to commend Marlon Mitchel who spent a lot of time during the holiday season working with the business owners out there trying to see if they could find some relief for them through loans or grants. Council Member Edwards stated that she wanted to commend the Police Department and Public Works for working with them regarding traffic mitigation and the issues of the odors and so forth out there, but primarily she wanted to commend the residents of that area for putting up with all of the madness. Council Members Tatro, Keller, Vasquez, Parker and Berry absent.

Council Member Edwards stated that regarding the CIP she wanted to thank the City employees who came to the meeting last night. Council Members Tatro, Keller, Vasquez, Parker and Berry absent.

Council Member Edwards stated that she had a real concern about the Third Ward Multi Service Center, that she had been to many events there and the sound was horrible and did not know what the problem was but it was hard to have productive meetings because they could barely understand what was being said over the microphones because of the echoes, that it was embarrassing it being a brand new building and as gorgeous as it was and they could not have a productive meeting in that particular large auditorium, and Mayor Brown stated that they would check into it and see how they could correct the problem. Council Members Tatro, Keller, Vasquez, Parker and Berry absent.

Council Member Edwards stated that her only concern about the drainage fee was that she was not convinced that they had a real working relationship with the County and their response to issues regarding flooding, that she was not sure how much their residents were going to get from the added fee, that her concern was not that she did not think they needed to do it but if they were just going to do their part and then the ditches were still flooding out how do their residents really receive any relief. Council Members Tatro, Keller, Vasquez, Parker and Berry absent.

Council Member Edwards stated that as to the parks, their office was really caught off

guard with it and was really embarrassed by what happened and the responses that they were getting from their community on the closing of the hours at the Judson Robinson Center, that in their community that was one of the most prime times that was used by that center, that 6:00 a.m. to 9:00 a.m. people used it as a real fitness center, seniors as well as constituents who were going forth to work, that she was thankful and hopeful that their conversations with the Parks and Recreation Department could mitigate that particular issue. Council Members Tatro, Keller, Vasquez, Parker and Berry absent.

There being no further business before Council, the City Council adjourned at 12:08 p.m. upon MOTION by Council Member Robinson, seconded by Council Member Quan. Council Members Tatro, Keller, Vasquez, Parker and Berry absent.

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

MINUTES READ AND APPROVED

Anna Russell, City Secretary