

City Council Chamber, City Hall, Wednesday, September 3, 2003

A Regular Meeting of the Houston City Council was held at 9:00 a.m. Wednesday, September 3, 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, Shelley Sekula-Gibbs, M.D., Michael Berry and Carroll Robinson; Ms. Sarah Culbreth, Deputy Chief Administrative Officer, Mayor's Office; Mr. Anthony Hall, City Attorney, Mr. Paul Bibler, Assistant City Attorney; Mr. Richard Cantu, Director, Mayor's Citizens Assistance Office; and Ms. Martha Stein, Agenda Director present.

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

At 9:09 Mayor Brown called the meeting to order and Council Member Ellis invited Pastor David Lino, of the Faith Family Baptist Church, Kingwood, Texas to lead everyone in prayer and Council Member Ellis led everyone in the pledge of allegiance. Council Members Tatro, Galloway, Goldberg, Wiseman, Keller, Vasquez and Alvarado absent.

Mayor Brown requested the City Secretary to call the roll. Council Members Goldberg, Keller and Vasquez absent.

Council Members Quan and Tatro moved that the minutes of the preceding meeting be adopted. All voting aye. Nays none. Council Members Goldberg, Keller and Vasquez absent. MOTION ADOPTED.

Mayor Brown stated that the first order of business would be a public hearing.

HEARINGS

1. **PUBLIC HEARING** - Pursuant to § 42.041(b)(14) of the Texas Human Resources Code, the City Council will conduct a public hearing to consider an ordinance readopting standards of care relating to the City Parks and Recreation Department's Youth Recreation Programs. For further information, see the draft ordinance that has been posted with this Agenda. Persons who desire to make public comments may contact the City Secretary's Office at 713-247-1840 in order to sign up to speak at the hearing. Alternatively, written comments may be delivered to the City Secretary's Office before commencement of the hearing - **9:00 A.M.** - was called. Council Members Goldberg and Vasquez absent.

The City Secretary stated that no one had reserved time to appear at the hearing. Council Members Goldberg and Vasquez absent.

Council Member Parker moved to close the public hearing, seconded by Council Member Tatro. All voting aye. Nays none. Council Members Goldberg and Vasquez absent. MOTION 2003-1054 ADOPTED.

Council Member Parker moved to receive the Financial Report after consideration of Item No. 1a, seconded by Council Member Galloway. All voting aye. Nays none. Council Member Goldberg absent. MOTION 2003-1055 ADOPTED.

- 1a. **ORDINANCE READOPTING ARTICLE XII, CHAPTER 32 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, regarding standards of care relating to Houston Youth Recreation Programs; containing findings and other provisions related to the subject; containing a repealer; containing a savings clause; providing an effective date; providing for severability - was presented. All voting aye. Nays none. ORIDNANCE 2003-0793 ADOPTED.

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

Ms. Judy Gray Johnson, City Controller, stated that she was present to present the Monthly Financial Report for the month of July 2003, that it was the first month of the brand new Fiscal Year 2004, that she was sorry to say they were not really off to a very good start, that they were currently projecting a budget shortfall total of \$23.2 million, it was a bit more than the shortfall that her office projected when the budget was adopted last June, that the primary reason was that they had revised their revenue projections downward for property taxes, the certified roll that was just received recently from the Appraisal District was below the estimates that they received last May, in fact it was below the low end which was what their office used in preparing the estimate, that they had not made any other significant changes in their estimates from those that were projected last June, that they had some reason to be cautiously hopeful for the future of sales taxes, their last check for the previous fiscal year that they received in August was slightly above the previous year, but by less than 1%, they had been projecting and continued to project sales taxes below last year for the next few months, one month did not make a trend so they had not adjusted their revenues, they would be looking forward to next week's sales tax check and if that one was up as well they probably would revise their estimate upward, that consumer confidence and personal spending had increased but personal income had not risen so the overall picture on the economy was still very guarded, that their projection for the General Fund Expenditures was at budget for all categories with the exception of the Management Initiative Savings which was a credit in General Government, those savings they had not seen any actual plans on the details of implementation and as a result they had not recognized them today, that was a standard procedure for their projections that they had followed for the last few years, that she would again urge Council and the Mayor to put contingency plans in place in case the shortfall did in fact come to reality, it was very early in the Fiscal Year but not too early to make plans for what could be done if the worse did come to pass, that she would also like to follow up on something that she said yesterday and remind the committee that they had not seen a Debt Capacity Analysis that was connected with the proposed CIP, they had done some preliminary analysis and hoped to release something this week from her office showing that there indeed was significant pressure on the tax rate for Debt Service, in other words something would have to give it appeared in the next few years and she thought City Council should be well aware of what the plans were for issuing debt to pay for the CIP when they passed the CIP, so she continued to urge the Mayor and Council to look at what the Debt Capacity Analysis showed and what the administration's plans were, and that concluded her report. Council Members Ellis, Keller, Alvarado and Berry absent.

Mr. Philip Scheps, Director, Finance and Administration, stated that they had made two changes to the adopted budget projections, one was a reduction in the property tax, as Judy mentioned their certified tax roll was delivered in August with a small negative surprise, and he reported it to them in an August 12, 2003 letter and they subsequently called and mentioned another error they had found which was another negative surprise basically and they had since corrected the letter and that was mentioned in his letter, but in total they were reducing their Property Tax Revenue estimate by \$4.2 million, an infinite decimal percentage but nevertheless it was \$4.2 million, but on the other hand, as Judy mentioned, there was reason for optimism on the sales tax and they were raising their estimate, that City Council's direction and their budget methodology was to match the FY03 Sales Tax plus the net of \$5 million for limited purpose annexation, they had now done that so the total of those two made a small decrease in their overall revenue of about \$1.2 million, they did hear yesterday that Municipal Courts Revenue was under pressure and they did make changes at the last minute, as they recalled, based on some actions that needed to happen in the summer, that Ms. Sudoff reported to Fiscal Affairs yesterday that those actions were in process but were happening not quite as fast as they thought, they had not shown that reduction in revenue estimate in their report but they warned

about it and were working aggressively to try to get those changes made in Municipal Courts, the parking situation, that would allow that revenue to come in, the only other item that he would mention was in his letter, they again saw staff continuing to drop, even in July, which was the first month of the new Fiscal Year, they had fewer people hired than left and were now about 15%, 1,300 staff members, down just over the last 24 months, and projected they would not grow back in much, that he did also put in the Truth in Taxation information into the letter and overall their tax base was going to be up about \$4 billion, about 70% of that was new construction, \$2.8 billion of that was new improvements and so really the increase in existing improvements was only about \$1.2 billion, out of the \$4 billion increase that they got, that because their tax rate did not rise to the so call Notice in Hearing Rate they would not have to have a public hearing before adopting the tax rate and he expected that to be September 24, 2003, based on the schedule that they put together, and that concluded his report. Council Members Ellis, Keller and Berry absent.

Council Member Robinson stated that if they looked at the two memos they were already working with a deficit of anywhere from \$1.3 million to \$23.2 million for FY04, that was the F&A Director and the Controller's numbers, they already had as a part of that overall deficit number anywhere from \$4.2 million to \$5.7 million less than anticipated, probably tax revenue intake, that he was mostly interested in what the plan was, what kind of preparations were they in process of taking just in case the \$1.3. grew closer to the \$2.3 or even if they came to some "happy medium" in the middle, that was still a significant number, that he wanted to put a couple of items on the table that he hoped the administration and F&A would look at, that one, he got a nice nasty memo from the Parks Department folks when he asked them some questions about Brock Park, that the nice lady sent him a nasty memo that said it was not the General Fund but Brock Park was eating up \$2 million a year in the Franchise Fee account that they got from the privatized golf course, that he just did not know because it was in a Fund 2 or whatever, it was not General Fund money because it came from the privatized folks, but it was \$2 million that Brock Park was eating up that they could free up if they outsourced it and start generating some revenue so he hoped that the administration would move expeditiously at looking at outsourcing Brock, that the other thing that he would like to look at was when they looked at the budget they saw again that 47% of their revenues came from property taxes, that there were 8,000 tax delinquent properties inside the loop, that some of them were over 20 years, that they spent about \$30 million or more on weeded lot liens and dangerous building liens, they were going to spend about \$750,000 this year on weeded lot mowing and about another million dollars on dangerous buildings, that he would hope that they would take a serious look at moving beyond just the foreclosure process and moving to the business of condemnation, that they had about \$20 million in housing bond authority and about another \$4 million in available non General Fund Revenues in the Housing Department, \$24 million that they could go out and condemn the properties, take ownership and then in partnership with the private sector and CDC Community put them back on the property tax roll and that would free up and generate revenues, that he hoped that was not too big a project for them to get started and look at doing it as expeditiously as they could so they could be prepared if the numbers continued to reflect a trend that they had already seen in one month, that they were going to be short on their revenues; that it had been brought to his attention that there had been reports in the media about an HPD furlough and did not know if that was true or not, and Dr. Scheps and Ms. Johnson indicated that it was not true, and Mayor Brown stated that they would follow up on his ideas as well. Council Members Goldberg and Ellis absent.

Council Member Quan asked Ms. Johnson when she talked about analysis of their Dept Capacity was she talking in terms of the monies that were being freed by the possibility of a consolidated utility that would help fund CIP development, and Ms. Johnson stated no not primarily, that what she was calling for was the analysis that showed what debt had to be issued to pay for the projects that were proposed in the CIP, when the debt would be issued and what interest rates would be assumed and what tax rate would have to be levied to make those payments, that she had some serious concerns that even with a combined utility that may transfer funds to the General Debt Service Fund there may still be a need for an increase in the

Property Tax Revenues for Debt Service, the primary analysis that her office had been working on showed that there may indeed be a shortfall, that the administration had not presented a debt capacity analysis that connected with the proposed CIP, that her office was working on an analysis and she would have those numbers from her office this week, and Council Member Quan stated that he thought they would all like to see what she had. Council Member Goldberg absent.

Council Member Quan asked Dr. Scheps if they were proposing a CIP without looking at Debt Capacity, and Dr. Scheps stated that the budget that was adopted had a transfer to the Debt Service Fund, which by itself would only support \$100 million cash spending in the CIP, verbally they had all been told that if they did the restructuring there would be another \$8 million available, which would support the CIP, but they would work with Ms. Johnson's office and make sure they put an analysis together that showed that extra \$8 million that would support the CIP, that she was right that had not been incorporated into the model but they were working to do that, and Council Member Quan asked if the CIP that they would be voting on was based on those figures without the complete analysis, and Dr. Scheps stated that he thought Mr. Haines had made it clear that if they did not vote it in, without the restructuring, the CIP could not be afforded, it had to be modified downward, and Ms. Johnson stated that what she was saying was that it was not a forgone conclusion that it was affordable even with the combined utility, and Council Member Quan stated that he was happy to hear when he said the \$4 billion increase in property, a large portion of that was new construction, and when he was talking about existing construction were they talking about the increase that had come because of increased property values, and Dr. Scheps stated yes, but increased property values where they had not built a swimming pool or new room or they had not built a dwelling on an empty lot, so an improvement to an existing structure would be under new construction. Council Member Goldberg absent.

Council Member Tatro stated that the Controller's statement about revenues falling short and to come up with a contingency plan, he thought, was emphasized by the fact that one entire division of Public Works, maybe the Street and Right of Way Maintenance Group, was only funded for half the year so they had the problem in the General Fund of possibly falling short on the revenues, as she said, but they also took into account the fact that they had only funded one department of Public Works, under the Storm Utility Special Revenue Fund for a half a year, so he thought it compounded the real need to come up with a contingency plan; that he wanted to reiterate again two things that he requested from the administration that were absolutely tied to the budget, the pension plan costs projections for 2004, 2005 and 2006, that he had requested it over a month ago and had not received any information about those expenses into the future periods, that he also asked for an operating budget projections for 2005 and 2006 based on the footprint that was laid out in the budget and they had yet to receive that as well, that he thought before they embarked upon a new Storm Drainage Utility that they have some kind of plan or vision to what lay ahead in their operating budget so they were not burdening the taxpayers with a new fee only to have to come back in 2005 or 2006 with real substantial ad valorem issues on operating costs that were escalating; that Dr. Scheps had mentioned the tax rate would come to Council on September 24, 2003, and Dr. Scheps stated that it would not require a hearing if it was 65.5 cents, which was what the budget was based on, it would not reach the Notice in Hearing rate, which was 3% above the effective rate, and Council Member Tatro asked what was the deadline in getting the rate to the Tax Assessor and Dr. Scheps stated that he did not know that there was a deadline and thought it was the schedule that was acceptable to them. Council Members Wiseman and Quan absent.

Council Member Parker moved acceptance of the Monthly Financial Report, seconded by Council Member Tatro. All voting aye. Nays none. Council Members Wiseman and Quan absent. MOTION 2003-1056 ADOPTED.

Council Member Alvarado moved to suspend the rules to consider Item No. 2 out of order, seconded by Council Member Sekula-Gibbs. All voting aye. Nays none. Council Members

Wiseman and Quan absent. MOTION 2003-1056 ADOPTED.

2. REQUEST from Mayor for confirmation of the appointment of **MR. BA MAU NGUYEN** to Position Two of the **HARRIS COUNTY-HOUSTON SPORTS AUTHORITY BOARD OF DIRECTORS**, to complete an unexpired term ending 8/31/2004 – was presented, moved by Council Member Galloway, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Quan absent. MOTION 2003-1057 ADOPTED.

Mayor Brown stated that they had just voted on Mr. Ba Mau Nguyen's confirmation to Position Two of the Harris County-Houston Sports Authority Board of Directors and invited Mr. Nguyen to the podium to make a statement.

Mr. Nguyen stated that he wanted to thank them for giving him the opportunity to serve on the Harris County Houston Sports Authority and by extension to serve the City of Houston, that he knew that any institution was only as good as those who served on it and with that in mind he was incredibly honored and humbled by the appointment and was excited and looked forward to continue the good work of the Sports Authority and doing his part for the great City.

Mayor Brown and Council Members Goldberg, Parker, Robinson and Quan congratulated Mr. Nguyen on his confirmation to Position Two of the Harris County-Houston Sports Authority Board of Directors. Council Member Berry absent.

At 9:35 a.m. Mayor Brown requested the City Secretary to call the list speakers. Council Member Parker absent.

Council Member Sekula-Gibbs moved that the rules be suspended for the purpose of adding Ms. Marion to the list of three minute speakers on Agenda items, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Parker absent. MOTION 2003-1059 ADOPTED

Mr. Barry Klein, 1509 Everett, Houston, Texas 77009 (713-224-4144) had reserved time to speak but was not present when his name was called. Council Members Parker and Berry absent.

Ms. Sheila Savannah, 3910 Cheryl Lynne, Houston, Texas 77045 (281-726-1014) appeared and stated that she was present in support of Item 30C, bringing water, sewage and storm drainage solutions together, regional solutions were necessary but Houston should address their most pressing needs and bring solutions to the flooding problems; that the ordinance should be written to combine a fund and ensure one was an annual base line of dedicated storm drainage funding, that there was a price cap on bills and that increase was reviewed annually against progress of projects and that priority be given to construction. Council Member Parker absent.

Council Member Quan thanked Ms. Savannah for coming and commended her for studying the issue thoroughly and sharing ideas. Council Member Parker absent.

Ms. Lynn Mays, 12203 Perthshire, Houston, Texas 77024 (713-973-7781) appeared, presented information and stated that she was a professional engineer, specializing in storm waters and familiar with what Council Members were trying to do; that this was a challenging time, but when the economy was not the best was when everyone chose to do these things, it did not change the fact that they needed to do it; that during storm Allison twenty-two lives were lost and five billion in property damage; that she would pay the fees and do it willingly for her children, that was what they were paying for the future; and urged passage of Item 30C, the combined water, wastewater and drainage utility systems. Council Members Parker and Robinson absent.

Council Member Tatro stated that she mentioned the storm drainage fee and her being an engineer, but the fee was to combat local issues and not about the Harris County Flood Control efforts; that she also mentioned tropical storm Allison; and upon questions, Ms. Mays stated that what caused the flooding was we lived in a flat area and by the geography there was a lot of potential for flooding, but it was the streets, concrete, etc., which did exacerbate the problem and she believed that this program would absolutely alleviate such problems as brought about by Allison. Council Members Goldberg, Vasquez and Robinson absent.

Upon questions by Council Member Edwards, Ms. Mays stated that things would not have been as bad during Allison if the infrastructure had been better. Council Members Goldberg, Vasquez and Robinson absent.

Mr. Austen Furse, P. O. Box 56767, Houston, Texas 77005 (713-684-6444) had reserved time to speak but was not present when his name was called. Council Members Goldberg, Vasquez and Robinson absent.

Mr. Larry Lane, P. O. Box 1593, Houston, Texas 77347 had reserved time to speak but was not present when his name was called. Council Members Goldberg, Vasquez and Robinson absent.

Ms. Marion Rosen (713-222-6464) appeared with her brother, thanked Council Members for adding her to the speakers list and stated that they were both present concerning disabled parking; that she read the report Kym King's office developed with the taskforce and was very impressed and would request Council Members endorse that report; that in addition to that there was a severe problem with parking and it seemed as a band-aid measure if they eliminated the problem of free parking for disabled they would eliminate people taking advantage of the parking at least until the county clerk's office could redefine issuance of the placards and the police and public could be educated. Ms. Rosen stated that her brother would like to address the problem also. Council Members Galloway and Robinson absent.

Council Member Parker moved that the rules be suspended for the purpose of allowing Mr. Elliot Sirote to speak, seconded by Council Member Keller. All voting aye. Nays none. Council Members Galloway and Robinson absent. MOTION 2003-1060 ADOPTED

Mr. Sirote stated that people were parking in handicapped spots by using the blue placard and that was for someone very handicapped, but they were being allowed to park free; that Houston should set the example. Council Member Robinson absent.

Council Member Sekula-Gibbs thanked them for coming and stated that she appreciated their input; that Council Members did want the disabled to have the parking and did not want it abused and appreciated Mayor Brown taking a leadership role to correct the situation. Council Members Tatro and Robinson absent.

Council Member Parker stated that her initial statement was she supported the efforts by the taskforce and was familiar with the report Ms. King would present, but part of the report would have a strong enforcement component to try and deal with the illegal use of hangtags; and upon questions, Ms. Rosen stated that she did not think that would be sufficient, they needed much more because there were a lot of forged tags and revisions were needed on the part of the County Clerk's Office. Council Members Tatro and Robinson absent.

Mayor Brown thanked them for coming and stated they appreciated them bringing the issue to Council's attention. Council Members Tatro and Robinson absent.

Mr. Max Cervera, 1211 Veterans Memorial, Houston, Texas 77067 (281-583-2177) had reserved time to speak but was not present when his name was called. Council Members Tatro and Robinson absent.

Ms. Cornelia McBride, 3255 Elgin, Houston, Texas 77004 (713-751-1883) had reserved time to speak but was not present when her name was called. Council Members Tatro and Robinson absent.

Mr. Steven Williams, no address (no phone) had reserved time to speak but was not present when his name was called. Council Members Tatro and Robinson absent.

Ms. Jennifer Watson, 18551 Timber Forest Drive #H12, Houston, Texas (281-812-6933) appeared and stated that she was hired as a data entry clerk with Shell and brought up a potential environmental protection act violation to the attention of several employees and was told to follow another data entry clerk's instructions; that she was terminated the next month and told it was due to tardiness and phone time, however, other non-Black data entry clerk employees committed the same offenses she was terminated for; that she was discriminated against because of race and retaliated against in violation of Title Seven of the Civil Rights Act of 1964 as amended and violation of the Age Discrimination and Employment Act 1967 as amended; that she had concerns regarding the lawsuit, first the safety of friends and family members, secondly getting financial compensation and third obtaining legal representation; that her mediator said Shell would not negotiate. Council Members Goldberg, Edwards, Wiseman, Sekula-Gibbs and Berry absent.

Upon questions by Mayor Brown, Ms. Watson stated that she wanted press and wanted Council Members to be aware that Shell was discriminating. Mayor Brown stated that she wanted publicity for her cause and reporters were present. Council Members Goldberg, Edwards, Wiseman, Sekula-Gibbs and Berry absent.

Ms. Cecelia Lund, 8083 Wayfarer Lane, Houston, Texas 77075 (713-987-0171) had reserved time to speak but was not present when her name was called. Council Members Goldberg, Edwards, Wiseman, Keller, Sekula-Gibbs and Berry absent.

Ms. Veronica H. Leath, 197 Goodson Drive #22, Houston, Texas 77060 (281-999-5789) appeared and the City Secretary asked if she would be making allegations of misconduct against a Houston police officer; and Ms. Leath stated that she would be and was sworn in. Ms. Leath stated that she was speaking on behalf of Negro people everywhere; that police brutality was not new and her message was to Mayor Brown from God, he knew what he should do, brutality had to stop and Mayor Brown was in a position to help and had to get it stopped. Council Members Wiseman, Parker, Keller, Sekula-Gibbs and Berry absent.

Upon questions by Council Member Quan, Ms. Leath stated that there was an episode with her brother, her nephew, all her brothers everywhere; that she had no complaint against anyone specific, but wanted the beatings stopped. Council Members Keller, Parker and Sekula-Gibbs absent.

Mr. William Beal, 4718 Boicewood, Houston, Texas 77016-5103 (713-633-0126) had reserved time to speak but was not present when his name was called. Council Members Keller, Parker and Sekula-Gibbs absent.

Ms. Helen Knight, 8121 Findlay, Houston, Texas 77017 (713-645-5271) appeared, presented pictures and stated that for the last five years she asked the city to cleanup as there were snakes, rats, mosquitoes and poison ivy and the pictures would show the debris and water; that she had a little boy and it was not safe to go outside. Council Members Keller, Parker and Sekula-Gibbs absent.

Mayor Brown stated that there was a violation and it was being processed for abatement; that Ms. Matti Terrel with Planning was present and could meet with her and let her know what was going on. Council Members Keller, Parker and Sekula-Gibbs absent.

Mr. Tony Williams, 5757 Oaks, Houston, Texas 77078 (713-392-9856) appeared and stated that he was present representing BFI as their community relations consultant and Omega Psi Phi as their community action chairman and the Northeast YMCA as a board member; that all three entities put together a "Back To School Rally" for the North Forest Independent School District to help motivate children to go back to school in the right frame of mind and there were people to motivate and school supplies and uniforms given out; that today he was thanking Council Member Galloway and her office for helping them pull it off and the Police, Fire and Parks Departments who were there also. Council Members Vasquez, Sekula-Gibbs and Robinson absent.

Council Member Galloway stated that she knew they would be coming with other projects, but wanted to thank BFI for an upcoming project where they were to plant trees on Wayside; that they did like reaching out into the community; and also wanted to thank Mr. Williams for coming to thank her and her office. Council Members Vasquez, Sekula-Gibbs and Robinson absent.

Mr. Harold Routt, 8735 Burndale, Houston, Texas 77029 (713-673-2762) had reserved time to speak but was not present when his name was called. Council Members Vasquez, Sekula-Gibbs and Robinson absent.

Ms. Barbara Parrott, 5202 Timber Quail, Humble, Texas 77346 (281-812-1737) had reserved time to speak but was not present when his name was called. Council Members Vasquez, Sekula-Gibbs and Robinson absent.

Mr. Robert Lemer, 13603 Apple Tree, Houston, Texas 77079 (713-465-2004) had reserved time to speak but was not present when his name was called. Council Members Vasquez, Sekula-Gibbs and Robinson absent.

Ms. Catherine Roberts, P. O. Box 79425, Houston, Texas (77279-9425 (713-294-3338) appeared and stated that she was again present regarding the Rutherford Yates Museum and the cultural corridor they were proposing for Freedmen's Town, but primarily the historic Gregory School; that since 1996 they were a 501C3 and had a most appropriate plan and brought private funding to the project which would be available upon proper formal agreements with the City of Houston; that they had educational programs ongoing since 1996 and broad support through the community with a diverse board and diverse supporters. Council Members Vasquez and Sekula-Gibbs absent.

Council Member Quan stated that Ms. Roberts had been present several times and last week Council moved forward on the African American Museum and other projects and invited her group to participate in the Fourth Ward and Freedmen's Town areas; and upon questions, Ms. Roberts stated that they would like a formal agreement with the city that would satisfy the requirements of their funders; that currently the plan did not have the depth of programming they had and it was not broad enough; that they would like to enter into a legal partnership with the planning team with the goal of satisfying the private funders so it must meet their needs. Council Member Quan encouraged Ms. Roberts to work with Council Members Alvarado and Edwards and the group working on the project and see what they could consolidate. Ms. Roberts stated that they hoped an RFP would go out; and Council Member Quan stated that he would like to work with her and thanked her for coming. Council Members Vasquez, Sekula-Gibbs and Berry absent.

Mr. Robert Horton, 3714 Bain, Houston, Texas 77026 (713-260-6144) appeared and expressed his personal opinions until his time expired. Council Members Vasquez, Sekula-Gibbs and Berry absent.

At 10:13 a.m. Mayor Brown stated they would move back to their business session and

wanted to use the time allotted to him to ask Ms. Kym King, Director of the Mayor's Office for People with Disabilities to give them a report on the task force that was established to deal with accessible parking.

MAYOR'S REPORTS - Recommendations by the Mayor's Accessible Parking Task Force
Kym King, Mayor's Office for People with Disabilities

Ms. King appeared and reviewed the Mayor's Accessible Parking Task Force Recommendations, Accessible Parking Program, Action Plan and Legislative Action for the City Council, and was questioned at length by the Council Members. (A copy of the report is available for review in the City Secretary's Office.)

Council Member Galloway moved to suspend the rules to consider Item Numbers 33, 33a, 30, 30a, 30b and 33c, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Goldberg absent. MOTION 2003-1061 ADOPTED.

Council Member Robinson moved to consider Item Numbers 30, 30a, 30b and 30c first, seconded by Council Member Ellis. All voting aye. Nays none. Council Member Keller absent. MOTION 2003-1062 ADOPTED.

30. WRITTEN Motion by Council Member Wiseman to amend Item 30C below, to require that sewer fees be adjusted to reflect actual usage. (**TAGGED BY COUNCIL MEMBERS ROBINSON and TATRO**) – was presented.

Council Member Sekula-Gibbs stated that she did not know if Council Member Robinson had something to say about his amendment, that she had read the report from the Legal Department and did understand that they had some serious questions about the legality about the request that she had but wanted to express her intent and ask their office to work with her on fashioning a way to make that intent appropriately worded, that her intent was that if they did set up a fund that would intentionally support drainage improvements that there was some protection for the people who were paying money into that fund, that would be the citizens of Houston, that the money would be used for CIP drainage improvements, that she did not want the situation to evolve into something in the future where money came in but was used for alternate purposes, so if they could help her to fashion the proper wording to make sure if all other obligations were satisfied, and she understood from State law that the maintenance and Debt Service had to be satisfied, but assuming all obligations of the fund were satisfied that then the residual money was directed toward capital improvement.

Mayor Brown stated that they were on Item No. 30 and he took it that she was talking about Item No. 30a, and she stated that she was and had asked if it was the right time to say that, and Mayor Brown asked the Legal Department to respond to the amendments.

Mr. Anthony Hall, City Attorney, stated that he was going to make some very brief comments, and Ms. Sara Culbreath, Deputy Chief Administrative Officer and Ms. Anne Day, Legal Department, were present and they had been primarily responsible for working on it and were primary architects for analyzing all of it, that he had been asked to make a couple of general comments to say to Council if they noticed the memo was really in two parts, one was to talk about those things were there were literal legal barriers to its adoption, the other was a question or maybe a plea to suggest that they give themselves the maximum flexibility without having the Legal Department get entangled with them into a whole host of parliamentary problems because each one of the items to be addressed by the amendments had to be addressed at a later time as was explained in the ordinance, when they got that tied up with a 90 day prohibition against considering the same question and all they could see that they could get themselves tangled up quite a bit in trying to deal with the specific ordinances on the questions at a later time, that was why the memo was written as it was, that he wanted to say

that there were a couple of prohibitions and among them was a difficult problem with one Council binding another Council, as they well knew, there was a basic doctrine in the Law that suggests that when they had two ordinances, the last one passed was the one that prevailed, assuming they could get over the hurdles of the 90 day thing or if it was passed following 90 days, which was why they allowed laws to be changed so that it was very difficult to bind one Council for a later time, certainly they were happy to work with them and would in trying to express the intent, put it in the ordinance and those kinds of things, but in discharging his obligation to them he had to tell them should a substantive Council deliberately consider that item they could obviously change it, that was the reality, that he would let Ms. Day talk more precisely, the issue that was raised was that they could not force a later Council to support a certain funding level, there was a question whether or not they could get the bond ordinance approved that would do that and that was what was discussed in the memo.

Mayor Brown stated that they should focus on what was before them and that was Item No. 30, Council Member Wiseman's amendment.

Mr. Hall stated that what they would ask was that they defer consideration of the items until, as was indicated in the memo, the ordinance that addressed that subject was actually presented, and Ms. Day and Ms. Culbreth were prepared to tell them when that was.

Mr. Hall stated that he had consulted with Council Member Wiseman and she was prepared to make a motion on hers that would defer consideration.

Ms. Day stated that to the extent that Council Member Wiseman's issue dealt with rates, they would be considering a rate ordinance in the next few weeks as part of the storm drainage fees and it was more appropriate to address all issues regarding rates for the combined system together at that time.

Council Member Wiseman stated that that she did have a question on the amendment itself, that Section 6 stated that the rates and charges for the use and services of the City's water and sewer system that were in effect on the effective date of the ordinance would continue to be in effect, but later on in that same section it states that the City Council may amend any of the rates and charges for use of the combined system by future ordinance, that in essence what they were saying was the rates that they now had in place would be the rates in effect but they could change them, and Ms. Day indicated yes, and Council Member Wiseman asked what timeframe were they looking at when they would be addressing the rates themselves and Ms. Culbreth stated that the rate ordinance was proposed to come to Council on September 24, 2003.

Council Member Wiseman moved to defer Item No. 30 until the time when the rate ordinance is before City Council, seconded by Council Member Vasquez. All voting aye. Nays none. MOTION 2003-1063 ADOPTED.

Upon further discussion and questions by Council Members, Ms. Culbreth stated that the bond ordinance itself would address the total revenues, the net revenues of the system should be set sufficient to provide for certain things, the bond ordinance itself would not contain a specific rate structure, and Mr. Hall stated that Ms. Culbreth had answered the question raised by Council Member Wiseman that the water and sewer rates would stay the same, that this was the drainage rate that they were proposing would be before them, that was what was suggested by that schedule.

Mayor Brown requested that Ms. Culbreth give a clarification of what the substance was of the issue, and Ms. Culbreth stated that there were certain things that had to happen in certain orders, and there were different ordinances that were going to govern certain things, that it was correct if they changed how they calculated the rates, the basis for which those rates were determined, then certainly yes they were still going to have to generate a certain amount of

revenue for the system and that was likely to have to be made up some other place, if it was a loss in revenue, if it was simply a net change in revenue that remained zero, then there would not be a change overall, that she did not think at this point they were suggesting that anything be specific on that, that they would come back to Council, that any time they changed the rate structure that would come back before Council, this was only requesting Council to authorize the creation of a combined utility that would allow them to move forward in offering a document to sell bonds for a combined utility, to issue those refunding bonds, at the point and time they set the rates they would come back to Council with a rate ordinance, whether it was water/sewer or drainage.

Council Member Vasquez asked Council Member Parker if at an appropriate Fiscal Affairs Committee meeting if she would consider and bring to the committee meeting the idea of sewer rate averaging to see what type of policy implications there might be and that way when it came back at the proper time they would have the substance and have that information so that all Council Members could look at it as well, that he thought that was the appropriate process where they look at policy through the committees and Mayor Brown stated that it made sense and would ask that Council Member Parker consider that, and Council Member Parker stated that she had already reserved time for a special Fiscal Affairs Committee meeting, that they would not have time to deal with it if they waited until the next scheduled meeting, that she would roll it out as soon as possible.

Council Member Tatro stated that there were a number of policy issues that would drive the rate and hoped that Council Member Parker's meeting would flush those out at that time because there were some policy issues with respect to generating the rate which require an analysis on behalf of the administration to come back with those policy decisions embedded in a rate structure that they could give the thumbs up or down. Council Member Quan absent.

Council Member Wiseman stated that one thing that she had heard time and again from people who support the drainage fee was the issue of they should pay for the services that they get, if that was the case then they should not pay for services they were not receiving in the same sense. Council Member Quan absent.

30a. WRITTEN Motion by Council Member Sekula-Gibbs to amend Item 30C below, to mandate a minimum of \$50 million per year for drainage CIP from the combined Water, Sewer and Drainage Utility System. – **(TAGGED BY COUNCIL MEMBER ROBINSON)** – was presented. Council Member Quan absent.

Council Member Sekula-Gibbs moved to defer Item No. 30a for further consideration, seconded by Council Member Ellis. Council Member Quan absent.

Upon discussion by Council Members, Ms. Culbreth stated that the most appropriate time to consider that initiative was during the annual CIP process, when they would establish and determine the projects, and determining what they spend in terms of CIP projects, and Council Member Sekula-Gibbs stated that what she was hoping for was that they could have some language that would be legal under State law that would indicate that some piece of the revenue generated would be dedicated for the use of CIP drainage.

After further discussion by Council Members a vote was called on Council Member Sekula-Gibbs motion to defer Item No. 30a. All voting aye. Nays one. MOTION 2003-1064 ADOPTED.

30b. WRITTEN Motion by Council Member Robinson to amend Item 30C below as follows:
Amend Item 14 to prohibit payment of a "Franchise Fee" to the General Fund from the combined Water, Sewer & Drainage Utility System.
Amend Item 14 to prohibit automatic rate increases without a vote of Council.
Amend Item 14 to exempt from the Drainage Utility Fee religious property actually used as

a house of worship. **(TAGGED BY COUNCIL MEMBER ROBINSON)**

Council Member Robinson moved to divide the question on Item 30b for No. 1 and No. 2 and understood from the Legal Department that No. 3 was prohibited by State law would withdraw that item, seconded by Council Member Sekula-Gibbs. All voting aye. Nays none. MOTION 2003-1065 ADOPTED.

30b (1) - Amend Item 30c to prohibit payment of a "Franchise Fee" to the General Fund from the combined Water, Sewer & Drainage Utility System – was presented.

Council Member Ellis stated that if they assumed he agreed with Council Member Robinson's intent for the franchise fee, could they vote it down today and bring it back at a later date.

Mayor Brown asked the Legal Department to address that, and Mr. Hall stated that he thought Council should have a good and thorough discussion of the items and that was the quandary he was trying to keep them out of because if they voted it down today then under the rules without a suspension they could not bring it back up or vice versa they could not modify it, that he did not think they ought to put themselves in that position, it should come up when they were talking about those items.

Council Member Ellis moved to postpone Item No. 30 b(1) until the appropriate time, seconded by Council Member Vasquez. Council Member Tatro absent.

After further discussion by Council Members, Mayor Brown requested Ms. Culbreth to address the substance of the amendment, and Ms. Culbreth stated that for the issue they announced to Fiscal Affairs that some of the modifications to the bond ordinance would include the possibility for future City Council's or this City Council to consider a passing of a franchise fee ordinance, in other words to charge a franchise fee to that utility, all they were requesting or that they had considered including in the bond ordinance was to reserve the right to bring back to Council at some future date an ordinance to approve a franchise fee, because the bond ordinance needed to speak to that issue one way or the other, that their current ordinance right now did not speak to it, it did not allow it, therefore if they wanted to consider a franchise fee they would be prohibited in doing so by the bond ordinance, they were wanting to reserve the right to consider it they at least had that option, that if it was Council's will to not do that, certainly they were listening to Council with regard to the franchise fee, but they would have another opportunity to vote down a franchise fee, they would only want to be able to tell the bond holders that they had reserved the right to charge a franchise fee and that it may come up in the future, that was the request and that was what it was dealing with.

Mayor Brown requested that Council Member Ellis repeat his motion so that they would know what they were addressing.

Council Member Ellis moved to postpone Item No. 30b(1) until the bond ordinance was brought before City Council, seconded by Council Member Vasquez.

Upon further discussion Council Member Keller stated that he thought the franchise fee was a part of what they were doing today, and Mr. Hall stated that they were not giving up any of their prerogatives on that issue at all by deferring it until they brought it back later when they dealt with the fee, and Council Member Keller asked if the franchise fee was not part of the combined utility or was it part of the bond ordinance, that this was merely authorizing the process to start for the combined utility, that it could not happen without the City Council voting to do it. Council Member Alvarado absent.

Ms. Culbreth stated that the most appropriate time, in her opinion, to consider the issue was when they brought the bond ordinance to Council, if it contained language to allow them at

some point and time to request Council to approve a franchise fee, the Council could simply vote the bond ordinance down, if it did not contain language that reserved the right to charge it they could vote, and Mr. Hall stated they could amend the bond ordinance, and Ms. Culbreth stated that was the appropriate time to consider it, at the bond ordinance time and what was the contents of that bond ordinance rather than today and amend the present ordinance. Council Members Goldberg and Alvarado absent.

After discussion by Council Members, Mr. Hall stated that what he thought was creating some of the confusion, and maybe it did, the ordinances had equal footing, that they had the same status, in other words, if they passed the item and passed something different in the bond ordinance, it was the last thing that passed, that was why he was saying it did not make sense, that as he had explained earlier any Council could amend, particularly after 90 days, any ordinance they passed, if something was in the bond ordinance it was obviously then a contract, it was binding on everybody. Council Member Goldberg absent.

After further discussion, Ms. Culbreth stated that many utilities across the Country provided a provision to charge a franchise fee to a utility just as if it were privately owned, their current bond ordinance did not allow for that, there was considerable discussion among the group to determine whether they should consider it or not and if they thought that at some point and time, the current Council or a future Council may wish to charge a legitimate franchise fee to a utility system then the place they would need to speak to it was in that bond ordinance, at least reserve the right to consider it as opposed to what it was right now, there would be a cap, that she had failed to mention that and thought that was important, as opposed to an ALP, if it was considered there would be a cap on the franchise fee, but there would still have to be an ordinance come back to Council to approve charging that franchise fee, if they spoke silently to it, do not allow for it in the bond ordinance at all as currently in the bond ordinance, no future Council could ever consider it, unless they refunded those bonds, if that was the will of Council, even having reserved the right to consider it, it could still be expressly stated in the bond ordinance and not just come forward to Council, that would be the expressed will and the administration would listen to that and not bring it back or it could be voted down, this was only giving them the right to consider it, that it provided the Council a lot of flexibility with that regard. Council Member Goldberg absent.

After further discussion, Mr. Hall stated that he did not say they could not vote on the item today, that it was not correct that the administration was committed to bring back a franchise fee, that was not what they said at all, that they did not propose to do it, that they said that the most effective to deal with that issue was when the bond ordinance came.

Council Member Ellis stated that he would withdraw his motion to postpone Item No. 30b No. 1 and would move to call the question, seconded by Council Member Keller. All voting aye. Nays none. MOTION 2003-1065A ADOPTED.

A vote was called on Item No. 30b(1). Council Member Vasquez voting no, balance voting aye. MOTION 2003-1066 ADOPTED.

30b (2) - Amend Item 30c to prohibit automatic rate increases without a vote of Council – was presented.

Mayor Brown asked the Legal Department to give them an analysis of the impact of the amendment, and Mr. Hall stated that the issue was part of the fundamental structure of the fund and would ask Ms. Culbreth to speak to it.

Ms. Culbreth stated that removing the automatic rate increase provision, first of they would consider it in the bond ordinance as well, to remove that opportunity from the bond ordinance would have a serious impact on the marketability of the bonds that would be issued as part of the combined utility, that would in turn then increase their cost related to those bonds, that it

was not a good idea to do it.

Upon questions by Council Members, Ms. Culbreth stated that as to the mechanism, within the bond ordinance the rate covenant would be prepared, there would be perimeters that would be set, the rates would increase, what was being proposed was that at the end of the fiscal year there would be a report provided by the City Controller to City Council that would set out what the net revenues were and what the requirements would be for a rate increase to maintain certain bond covenants, certain debt coverage requirements, so it was not an unlimited amount of rate increase, it was just enough sufficient to insure a certain level of debt coverage. Council Member Wiseman absent.

Council Member Robinson asked Ms. Culbreth if she was saying that once the report came from the Controller, Council could stop any rate increase by voting no, and Ms. Culbreth stated that as she understood it there would be a minimum rate increase, if the formula of the net revenues from the prior year and the rate covenants and the calculations performed prescribed no rate increase, there would be no rate increase, that if the calculations performed prescribed a 1.5% rate increase, a .5% rate increase, that would be the automatic rate increase, and Council Member Robinson asked if there was nothing that a majority of Council could do if the formula came back and said that a rate increase was required, and Ms. Culbreth stated that part of what went into the calculation of that would be what bonds they were issuing, what was the CIP, that they could always control what was required in terms of a rate increase by reducing their CIP, the cost going down, that was the purpose of the rate increase, it being automatic.

After further discussion by Council Members, Council Member Ellis moved to suspend the rules to hear from Ms. Debbi Jones at this time, seconded by Council Member Vasquez. All voting aye. Nays none. MOTION 2003-1067 ADOTPED.

Upon questions by Council Member Robinson, Ms. Jones stated that Council had not voted on the specific language yet therefore they still had the ability to form what language they wanted them to put in the bond ordinance, if they wanted to have the ability for City Council to override any rate increase, that language could be put into the document, if they wanted to say to not put automatic rate increases into the language they could leave it out if that was what City Council directed them to do, and Mayor Brown asked what would be the impact of doing that, and Ms. Jones stated that the rating agencies, bond insurers and investor community were anxious to have an automatic rate increase mechanism built into the documentation, therefore if they did not have an automatic rate increase mechanism in the documentation there may be an adverse impact on ratings or the cost that an investor would require and yield on the bonds, they had to go back, obviously, and would have to discuss that further with them, but the City Council could have an automatic rate increase mechanism that had the formula that Sarah had described with the option for City Council, within a certain amount of days, to review and amend that rate increase, that their bond rating right now was A3AA+, so they were in the A category from all three rating agencies, that they had not requested a rating yet, they believed that their ratings would stay where they were with that mechanism, that there would be a possibility of it going down with what was being proposed, that she did not know how good of a chance that would be, she would have to talk to the rating agencies.

After further discussion and questions by Council Members, Ms. Culbreth stated that the rates for the water and sewer was determined in the past on what was the cost to deliver those services, the drainage fee was the amount that they discussed yesterday relative to providing revenue sufficient to cover the maintenance and operating cost, what fee was required to generate that much revenue and in that case it was around \$41 million based on the population that they would charge, and that was the impervious of all of the units of the City, that in order for the bond holders to want to issue a rate increase, if the system would not have to generate sufficient revenues to cover the maintenance and operation of the system, be it, water, sewer and drainage, the debt service of the system, it was going to require that in the interest of those

bond holders they were going to require rates to generate at least that much revenue, that the current bond holders did not have those rights with the current water and sewer rates for automatic rates to occur, that it would add an element, within certain perimeters, that there would be an automatic increase to those rates, right now what drives the rates was strictly just the debt coverage requirements that prescribed a certain amount of net revenue over annual and maximum debt service taking into considerations those O&M costs, so they were driving for a specific rate coverage, this was adding an additional element to say it would be automatic within certain perimeters and not coming back to Council.

Council Member Vasquez moved to call the question and a roll call vote was called.

ROLL CALL VOTE:

Mayor Brown voting no	Council Member Vasquez voting aye
Council Member Tatro voting no	Council Member Alvarado voting no
Council Member Galloway voting no	Council Member Parker voting no
Council Member Goldberg no	Council Member Quan voting aye
Council Member Edwards voting no	Council Member Sekula-Gibbs voting no
Council Member Wiseman voting no	Council Member Berry voting no
Council Member Ellis voting aye	Council Member Robinson voting no
Council Member Keller voting no	MOTION 2003-1068 FAILED

After a further lengthy discussion by Council Members, Ms. Culbreth stated that as far as the automatic rate increase Council could always consider changing that rate increase, as the report was presented Council would have the option to lower or increase that rate once the report was presented, that it was correct to change and maintain the rate if they wanted and see funding from other sources under these covenants, that the more attractive the bonds the better interest rate they were going to get, that ultimately there would be lower rate increases because the amount of debt service that the system was having to pay went into the calculation of any required increase in rate, the lower the rate interest costs the better rates they were going to have.

Council Member Ellis moved to call the question, seconded by Council Member Parker. All voting aye. Nays none. MOTION 2003-1069 ADOPTED.

A roll vote was called on the motion to approve Item No. 30b(2).

ROLL CALL VOTE:

Mayor Brown voting no	Council Member Vasquez voting no
Council Member Tatro voting aye	Council Member Alvarado voting no
Council Member Galloway voting no	Council Member Parker voting no
Council Member Goldberg no	Council Member Quan voting no
Council Member Edwards voting no	Council Member Sekula-Gibbs voting aye
Council Member Wiseman voting aye	Council Member Berry voting aye
Council Member Ellis voting no	Council Member Robinson voting aye
Council Member Keller voting no	MOTION 2003-1070 FAILED

Council Member Robinson asked what the basis points spread savings would be, how much money would they save on selling the bonds with an automatic rate increase compared to what they would be able to sell them for at their current bond rating with bond insurance on them, and he wanted to know what the spread was in savings and the cost differential would be over all, and Ms. Culbreth stated that once they had the information they would share it with him.

Council Member Parker moved to remain in session beyond the noon recess to continue the business of the City, seconded by Council Member Tatro. All voting aye. Nays none.

MOTION 2003-1071 ADOPTED.

Item No. 30b(3) - Amend Item 30c to exempt from the Drainage Utility Fee religious property actually used as a house of worship – was presented.

Council Member Robinson moved to table Item No. 30b(3), seconded by Council Member Vasquez. All voting aye. Nays none. MOTION 2003-1072 ADOPTED.

30c. ORDINANCE authorizing the combination of the City's Water and Sewer System and Drainage Utility System into a combined System; **AMENDING CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to the operation of the Water, Sewer and Drainage Utility Systems – **(This was Item 14 on Agenda of August 27, 2003, TAGGED BY COUNCIL MEMBER ROBINSON)** – was presented as amended.

After discussion and questions by Council Member Tatro, Mr. Hall stated that they had told them over and over again that the State law mandates that there be some fee, whatever it was, that they had to declare that they had it in there, at some point they would be presenting to City Council a series of ordinances to accomplish the entirety of what Item 30c authorizes and among them was a bond ordinance refunding basically all of the bonds, and Council Member Tatro asked if there was any legal requirement that it should be done now.

Ms. Culbreth stated that the Combined Utility Ordinance creates the combined utility for which refunded bonds would be issued, that it could not be done at the same time, that they had a 30 day requirement also that once that Combined Utility Ordinance was approved there was a 30 day window that they had to wait before they could request Council to approve the bond ordinance to actually sell the bonds and go to the market with the bonds.

After further discussion a roll call vote was called on Item No. 30c as amended.

ROLL CALL VOTE:

Mayor Brown voting aye	Council Member Vasquez voting aye
Council Member Tatro voting no	Council Member Alvarado voting aye
Council Member Galloway voting aye	Council Member Parker voting no
Council Member Goldberg aye	Council Member Quan voting aye
Council Member Edwards voting aye	Council Member Sekula-Gibbs voting aye
Council Member Wiseman voting no	Council Member Berry voting no
Council Member Ellis voting aye	Council Member Robinson voting no
Council Member Keller voting aye	ORDINANCE 2003-0794 ADOPTED

33. WRITTEN Motion by Council Member Tatro to amend Item 33A below, for Removal of the Combined Utility Fund section of proposed CIP for FY2004-2008 – **(This was Item 38B on Agenda of August 27, 2003, POSTPONED BY MOTION #2003-1037)** – was presented.

Mayor Brown requested that Mr. Hall explain the impact of Item No. 33 in light of what they just passed in Item No. 30c, and Mr. Hall stated that what they just did was authorize the creation of the combined utility, the amendment would suggest that it be removed from the CIP when a part of, as was discussed at the table, was to include part of the revenue from the fund in the CIP, it would seem to him that they would be undoing what they had just done and that was the issue he was talking about earlier, that they could not address it without 10 votes within 90 days if they had already decided the question, and thought that everybody at the Council table had said a part of what it was to do was to fund part of the CIP. Council Member Quan absent.

After further discussion a roll call vote was called on Item No. 33.

ROLL CALL VOTE:

Mayor Brown voting no	Council Member Vasquez voting no
Council Member Tatro voting aye	Council Member Alvarado voting no
Council Member Galloway voting no	Council Member Parker voting no
Council Member Goldberg no	Council Member Quan absent
Council Member Edwards voting no	Council Member Sekula-Gibbs voting no
Council Member Wiseman voting no	Council Member Berry voting no
Council Member Ellis voting no	Council Member Robinson voting no
Council Member Keller voting no	MOTION 2003-1073 FAILED

- 33a. MOTION by Council Member Quan/Seconded by Council Member Vasquez to adopt recommendation from Director Department of Finance & Administration to approve proposed Fiscal Year 2004-2008 Capital Improvement Plan as amended by Motion Nos. 2003-1035 and 2003-1040 and establish a charge of \$50.00 plus tax and postage for the approved CIP documents – **(This was Item 38E on Agenda of August 27, 2003, POSTPONED BY MOTION #2003-1041)** – was presented as amended. Council Member Tatro voting no, balance voting aye. Council Member Quan absent. MOTION 2003-1074 ADOPTED.

CONSENT AGENDA NUMBERS 2 through 27

ACCEPT WORK - NUMBER 5

5. RECOMMENDATION from Acting Director Building Services Department for approval of final contract amount of \$67,524.00 and acceptance of work on contract with **TEXAS LIQUA TECH SERVICES, INC** for Stanaker Branch Library Roof Replacement, GFS E-0038-16-3 - **DISTRICT I – ALVARADO** – was presented, moved by Council Member Vasquez, seconded by Council Member Sekula-Gibbs. All voting aye. Nays none. Council Member Quan absent. MOTION 2003-1075 ADOPTED.

PROPERTY - NUMBER 6

6. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Benny Puente, Benchmark Engineering, on behalf of Sunrise Village Apartments, L.P., (Thomas H. Scott, General Partner), for abandonment and sale of two 10-foot-wide utility easements and a 20-foot wide utility easement, out of a 5.42-acre tract, located in the E. R. Hale Survey, Abstract 374 and the C. Goodrich Survey, Abstract 306, Parcels SY3-059A, SY3-059B and SY3-059C - **STAFF APPRAISERS - DISTRICT D - EDWARDS** – was presented, moved by Council Member Vasquez, seconded by Council Member Sekula-Gibbs. All voting aye. Nays none. Council Member Quan absent. MOTION 2003-1076 ADOPTED.

PURCHASING AND TABULATION OF BIDS - NUMBERS 7 through 10

7. **AMEND MOTION #1999-2074, 12/8/99 and #2002-1227, 10/23/02, TO EXTEND** expiration date from December 8, 2003 to December 7, 2004, for Audio Control System Replacement Parts for Houston Airport System, awarded to **FORD AUDIO SYSTEMS, INC** – was presented, moved by Council Member Vasquez, seconded by Council Member Sekula-Gibbs. All voting aye. Nays none. Council Member Quan absent. MOTION 2003-1077 ADOPTED.
8. **AMEND MOTION #2000-1399, 11/1/00, TO EXTEND** expiration date from November 2, 2003 to November 1, 2004, for Waterous Pump Replacement Parts for Fire Department, awarded to **FIRE APPARATUS SPECIALIST, INC** – was presented, moved by Council Member Vasquez, seconded by Council Member Sekula-Gibbs. All voting aye. Nays none. Council Member Quan absent. MOTION 2003-1078 ADOPTED.

10. **AMEND MOTION #2000-1160, 9/20/00, TO EXTEND** expiration date from December 11, 2003 to December 10, 2004, for Butterfly Valves and Fittings Contract for Department of Public Works & Engineering, awarded to **SOUTHWEST STAINLESS, L.P. d/b/a HUGHES SUPPLY, INC (formerly HUGHES SUPPLY INC d/b/a INDUSTRIAL INTERNATIONAL, INC)** – was presented, moved by Council Member Vasquez, seconded by Council Member Sekula-Gibbs. All voting aye. Nays none. Council Member Quan absent. MOTION 2003-1079 ADOPTED.

RESOLUTIONS AND ORDINANCES - NUMBERS 14 through 21

14. ORDINANCE establishing the north and south sides of the 500, 600 and 700 blocks of Ridge Street, the north and south sides of the 600 block of Teetshorn Avenue, and the south side of the 500 block of Teetshorn Avenue, within the City of Houston as a special minimum lot size requirement area pursuant to Chapter 42 of the Code of Ordinances, Houston, Texas **DISTRICT H - VASQUEZ** – was presented. All voting aye. Nays none. Council Member Quan absent. ORDINANCE 2003-0795 ADOPTED.
19. ORDINANCE approving and authorizing interlocal agreement between the City and **HARRIS COUNTY FLOOD CONTROL DISTRICT (HCFCD)** for Development of Park Land around HCFCD's Willow Waterhole Detention Basin - \$750,000.00 - Grant Fund - **DISTRICT C - GOLDBERG** – had been pulled from the Agenda by the Administration, and was not considered. Council Member Quan absent.
20. ORDINANCE appropriating \$2,763,993.19 out of Convention & Entertainment Facilities Operating Fund; amending Ordinance Number 99-994 to increase the maximum contract amount; approving and authorizing first amendment to contract between the City and **SIEMENS BUILDING TECHNOLOGIES, INC** for Maintenance of properties managed by the Convention & Entertainment Facilities Department - **DISTRICTS D - EDWARDS and I - ALVARADO** – was presented. All voting aye. Nays none. Council Member Quan absent. ORDINANCE 2003-0796 ADOPTED.
21. ORDINANCE approving and authorizing first amendment to contract between the City of Houston and **HIGHWAY PAVEMENT SPECIALTIES, INC** for Parking Meter Pole/Pipe Installation Services for Municipal Courts Administration (as approved by Ordinance No. 00-0454) **DISTRICT I - ALVARADO** – was presented. All voting aye. Nays none. Council Member Quan absent. ORDINANCE 2003-0797 ADOPTED.

MATTERS REMOVED FROM THE CONSENT AGENDA WERE CONSIDERED AS FOLLOWS:

MISCELLANEOUS

3. RECOMMENDATION from Director Planning & Development Department to approve amendments to the 2001 Major Thoroughfare and Freeway Plan (MTFP) and authorize publication of the 2003 MTFP in map form – was presented, and tagged by Council Members Sekula-Gibbs and Goldberg. Council Member Quan absent.

ACCEPT WORK

4. RECOMMENDATION from Acting Director Building Services Department for approval of final contract amount of \$1,548,650.82 and acceptance of work on contract with **R. HASSELL BUILDERS, INC** for Renovation of Walter Branch Library, GFS E-0026-01-3 - 04.99% over the original contract amount - **DISTRICT F - ELLIS** – was presented, moved by Council Member Keller, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Quan absent. MOTION 2003-1080 ADOPTED.

PURCHASING AND TABULATION OF BIDS

9. **ACUSHNET COMPANY** for Resale Items for Golf Course Pro Shops for Parks and Recreation Department - \$70,000.00 - Park Special Revenue Fund – was presented, moved by Council Member Keller, seconded by Council Member Vasquez, and tagged by Council Member Robinson. Council Member Quan absent.
11. **AMEND MOTION #2000-1267, 10/18/00, TO EXTEND** expiration date from October 19, 2003 to October 18, 2004, for Process Instrumentation and Parts for Department of Public Works & Engineering, awarded to **ROSEMOUNT, INC** – was presented, moved by Council Member Keller, seconded by Council Member Vasquez. All voting aye. Nays none. Council Member Quan absent. MOTION 2003-1081 ADOPTED.
12. **HOUSTON-GALVESTON AREA COUNCIL (H-GAC)** for Automated Refuse Carts through the interlocal agreement for Cooperative Purchasing for Solid Waste Management Department \$299,980.44 - Equipment Acquisition Consolidated Fund – was presented, moved by Council Member Keller, seconded by Council Member Vasquez, and tagged by Council Members Robinson and Keller. Council Member Quan absent.

Council Member Robinson requested that somebody from Purchasing visit with him, that what he was interested in was if the item possibly acquirable by reverse auction and if they could not do it by reverse auction was HGAC looking into the possibility of reverse auction and could that result in some additional savings to the City and Mayor Brown stated that they would have someone visit with him on the item. Council Member Quan absent.

RESOLUTIONS AND ORDINANCES - NUMBERS 13 through 27

13. RESOLUTION expressing the intent of the City Council to order the next Special Election to consider amendments to the Charter of the City of Houston in November 2004 – was presented, and tagged by Council Member Berry. Council Member Quan absent.

Upon questions by Council Member Ellis, Mr. Hall stated that as Council Member Ellis had indicated earlier they had a number of inquiries on a broad range of issues, both from Members of Council and from external parties interested in various items, they thought it was important to try to bring some clarity to it so that for everyone's planning Council could indicate its intent now to when it would have a Charter election so that everyone could plan in that context, that it was not binding, that another Council in January could come up and reverse it, that they had some statutory dates. Council Member Quan absent.

Ms. Susan Taylor stated that the Texas Election Code had four authorized uniform election dates that were scheduled and one was in February, there was Legislation in the Local Government Code as regards specifically Charter Amendments that allowed Council to elect either the next Uniform Election Date, which would be the February 2004 date or the next Presidential or Municipal General Election which would be November 2004, so it could be either February 2004 or November 2004 at the election of the City Council, that a February election would require a call 62 days before the date in February so some time in December they would have to be calling the February election if they chose to do that, that it was a resolution of intent and was not binding, that there were four dates each year, that for a Charter Election they were required to go to the next Uniform Election Date if they had a required Charter Election and in this case that was February 2004 because the Constitution they wait 2 years before Charter elections. Council Member Quan absent.

Council Member Ellis stated that he would tag the item as well and asked for something in writing, and Ms. Taylor asked what was the question, and Council Member Ellis stated that it did not bind them and he would like to know what the requirements were, how many days prior to

holding the election that they must designate the election day and the Legal process that they had to go through, the relevant facts related to the issue. Council Member Quan absent.

Council Member Vasquez requested that they send him a copy also, and Mr. Hall stated that they would copy all of the Council Members. Council Member Quan absent.

Mayor Brown stated to keep in mind that they did not budget for another election. Council Member Quan absent.

Council Member Robinson stated that he was pretty clear, they had two choices by law they had a Charter that met the statutory requirements and they either had to hold a Charter Election in February or they had to hold it in November, they could not go past November 2004, the question was did they want to spend the money now for a February 2004 Charter Election on that item and anything else Council decides or they could start the time line running and then make sure they identify the cost of paying for the election, and Mr. Hall stated that it also let everybody else who had an interest in an amendment know when Council was planning to have the election. Council Member Quan absent.

Council Member Tatro asked what was the cost to the City if they held a Charter Election, and Mr. Hall stated that if they were talking about an election that would not involve a runoff their best estimate based on what they were paying for the one coming up was about \$2 million, and Council Member Tatro stated that having a Charter in a non City year like next November when all the polls would be open what would be the cost of the City putting additional items on the ballot then, and Mr. Hall stated that it would be minimal as compared to the \$2 million. Council Member Quan absent.

15. ORDINANCE approving and authorizing the Mayor to execute and the City Secretary to attest an amendment to the lease agreement between the City of Houston as landlord, and **GILLUM/STINSON PROPERTIES, INC d/b/a FAMILY CAFE**, as tenant, for Restaurant space on the ground floor of the building located at 1219 Milam, Houston, Harris County, Texas; **DISTRICT I – ALVARADO** – was presented. All voting aye. Nays none. Council Member Quan absent. ORDINANCE 2003-0798 ADOPTED.
16. ORDINANCE approving and authorizing the Mayor to execute and the City Secretary to attest a lease agreement between **W. P. INC, a California Corporation**, as landlord, and the City of Houston, Texas, as tenant, for space at 2931 West 12th Street, Houston, Texas, for use by the Fire Department - **DISTRICT A – TATRO** – was presented, and tagged by Council Member Sekula-Gibbs. Council Member Quan absent.
17. ORDINANCE authorizing acceptance of a grant from the **TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ)** and approving and authorizing a grant agreement between the City and the TCEQ for the purchase of Ultra Low Sulfur Diesel Fuel; declaring the City's eligibility for such grant; authorizing the Director of the Mayor's Office of Environmental Policy to act as the City's representative and to accept such grant funds and all subsequent awards, if any, pertaining to the project - \$512,140.11 - Grant Fund – was presented. All voting aye. Nays none. Council Member Quan absent. ORDINANCE 2003-0799 ADOPTED.
18. ORDINANCE approving and authorizing second amendment to contract for Concession Services between the City and **LOPEZ MANAGEMENT GROUP, INC** for Extension of the contract term at Glenbrook Golf Course - **DISTRICT I – ALVARADO** – was presented, and tagged by Council Member Goldberg. Council Member Quan absent.
22. ORDINANCE approving and authorizing contract between the City and **GRANT ROAD ANIMAL CLINIC** for Professional Canine Veterinary Services to the Houston Police Department and Fire Department; providing a maximum contract amount - 2 Years with

three one-year options \$225,000.00 - General Fund – was presented. All voting aye. Nays none. Council Member Quan absent. ORDINANCE 2003-0800 ADOPTED.

23. ORDINANCE awarding contract to **PUMPS OF HOUSTON, INC** for Pump, Submersible-Large Repair Services for Public Works & Engineering Department; providing a maximum contract amount - 3 Years with a one-year option - \$3,000,000.00 - Enterprise Fund – was presented. All voting aye. Nays none. Council Member Quan absent. ORDINANCE 2003-0801 ADOPTED.
24. ORDINANCE awarding contract to **TOTAL POWER SYSTEMS, INC** for Pump, Submersible-Large Repair Services for Public Works & Engineering Department; providing a maximum contract amount - 3 Years with a one-year option - \$4,000,000.00 - Enterprise Fund – was presented. All voting aye. Nays none. Council Member Quan absent. ORDINANCE 2003-0802 ADOPTED.
25. ORDINANCE awarding contract to **SOUTH TEXAS UTILITIES, LLC.**, for construction of Water, Sanitary Sewer and Drainage Systems for Greenpark Section 6, Phase A; approving and authorizing assignment of construction contract to **LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD**, CIP S-0800-85-03 and R-0800-85-03 - **DISTRICT D - EDWARDS** – was presented. All voting aye. Nays none. Council Member Quan absent. ORDINANCE 2003-0803 ADOPTED.
26. ORDINANCE awarding contract to **SOUTH TEXAS UTILITIES, LLC.**, for construction of Water, Sanitary Sewer and Drainage Systems for Greenpark Section 6, Phase B; approving and authorizing assignment of construction contract to **LENNAR HOMES OF TEXAS LAND AND CONSTRUCTION, LTD**, CIP S-0800-86-03 and R-0800-86-03 - **DISTRICT D - EDWARDS** – was presented. All voting aye. Nays none. Council Member Quan absent. ORDINANCE 2003-0804 ADOPTED.
27. ORDINANCE appropriating \$289,900.00 out of Water & Sewer System Consolidated Construction Fund and approving and authorizing first amendment to professional engineering services contract between the City of Houston and **BOVAY ENGINEERS, INC** for Repair/Replacement of Five Wastewater Facilities, CIP R-0268-37-2; providing funding for contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund - **DISTRICTS A - TATRO; C - GOLDBERG; H - VASQUEZ and I - ALVARADO** – was presented. All voting aye. Nays none. Council Member Quan absent. ORDINANCE 2003-0805 ADOPTED.

MATTERS HELD - NUMBERS 28 through 33A

28. MOTION by Council Member Quan/Seconded by Council Member Sekula-Gibbs to adopt recommendation from Finance & Administration Department to award to **BEASLEY TIRE SERVICE** - \$70,169.00, **GOODYEAR TIRE AND RUBBER COMPANY** \$813,233.46 and **REMINGTON TIRE DISTRIBUTORS, INC, DBA GRAY'S WHOLESALE TIRE** \$3,760,618.67 for Automotive Tires and Tubes for Various Departments - \$4,644,021.13, minus a commission fee (3% for Internet-based reverse auction services) in the amount of \$139,320.63 for a net award amount not to exceed \$4,504,700.50 - General, Enterprise and Fleet Management Funds – **(This was Item 9 on Agenda of August 27, 2003, TAGGED BY COUNCIL MEMBER TATRO)** – was presented. Council Member Tatro voting no, balance voting aye. Council Member Quan absent. MOTION 2003-1082 ADOPTED.
29. MOTION by Council Member Quan/Seconded by Council Member Sekula-Gibbs to adopt recommendation from Finance & Administration Department to award to **ENNIS PAINT, INC** for Paint, Airfield Marking for Various Departments - \$314,138.46, minus a commission fee (3% for Internet-based reverse auction services) in the amount of

\$9,424.16 for a net award amount not to exceed \$304,714.30 - General and Enterprise Funds – **(This was Item 11 on Agenda of August 27, 2003, TAGGED BY COUNCIL MEMBER TATRO)** – was presented. Council Member Tatro voting no, balance voting aye. Council Member Quan absent. MOTION 2003-1083 ADOPTED.

31. ORDINANCE awarding contract to **SKE SUPPORT SERVICES, INC** for Fleet/Vehicle & Equipment Maintenance Services for Houston Airport System; providing a maximum contract amount - 3 Years with two one-year options - \$15,455,992.65 - Enterprise Fund – **(This was Item 27 on Agenda of August 27, 2003, TAGGED BY COUNCIL MEMBER WISEMAN)** – was presented. All voting aye. Nays none. Council Member Quan absent. ORDINANCE 2003-0806 ADOPTED.
32. ORDINANCE appropriating \$11,967,442.00 out of Houston Airport System Consolidated 2001 AMT Construction Fund CIP A-0483 and \$990,770.00 out of Houston System Consolidated 2001 AMT Construction Fund CIP A-0354 and \$200,680.00 out of Houston Airports Improvement Fund CIP A-0422; awarding construction contract to **SPAWGLASS CONSTRUCTION CORPORATION** for Terminal D Remodeling and Upgrades/Vertical Circulation Upgrades in APM Stations at George Bush Intercontinental Airport/Houston (Project 500G); providing funding for engineering testing and for contingencies and the Civic Art Program relating to the construction of facilities financed by such funds - **DISTRICT B – GALLOWAY – (This was Item 28 on Agenda of August 27, 2003, TAGGED BY COUNCIL MEMBERS WISEMAN and KELLER)** – was presented, and tagged by Council Member Vasquez. Council Member Quan absent. (Note: Council Member Vasquez released his tag later in the meeting.)

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS

Council Member Keller stated that he wanted to compliment Mr. Darrell Reed, Public Works, that in the middle of the night over the Labor Day weekend they had a constituent who had a sewage backup and he called 311 and early that morning Darrell had a crew out there for 3 hours testing the lines and found out that the contractor had made an error and slip lined a line blocking the landowners sewage line into the City's line and he quickly, Tuesday morning, had a crew out there to repair the line and was at this time trying to get him the name of the contractor who had the negligent behavior, that he wanted to compliment Mr. Reed and the 311, that they answered his call on the third ring. Council Members Tatro, Quan, Berry and Robinson absent.

Council Member Ellis stated that he wanted to request from the Mayor's office, a couple of years ago they passed an ordinance that would increase the senior citizen and disabled individual's homestead exemption, it was going to be a phase in from \$34,000 per year to \$60,000 per year, when they adopt the tax rate he would request that the information be provided to all the Council Members and show exactly where they were in that phase in and make sure that they were increasing it, and Mayor Brown stated that it was incorporated in the budget and they would get that for him. Council Members Tatro, Quan and Robinson absent.

Council Member Wiseman stated that she wanted to extend thanks to Mr. Rick Grochoske from Public Works, he went out with her last week to look at some school crossing areas in the Clear Lake area and already had some of the problems resolved within 24 hours, that she thought it was exceptional and wanted to thank him very much for the hard work and effort he put into that for the safety of the kids in Clear Lake. Council Members Tatro, Quan and Robinson absent.

Council Member Vasquez stated that he wanted someone from the Health Department to brief him on the eligibility screenings in the City clinics, and Mayor Brown stated that they would make sure that happened. Council Members Quan and Robinson absent.

Council Member Vasquez stated that he would like to request a meeting with Mr. Rick Vacar, Director, Houston Airport Systems, regarding the IAH Retail RFP Evaluation Procedures, that he knew they had some difficulty with it in the past so he would like to meet with Mr. Vacar just so that he could know ahead of time what those procedures were going to look like, that he knew Mr. Vacar had put out a memo but it was somewhat confusing as well. Council Members Quan and Robinson absent.

Council Member Vasquez stated that he wanted to release his tag on Item No. 32. Council Members Quan and Robinson absent.

32. ORDINANCE appropriating \$11,967,442.00 out of Houston Airport System Consolidated 2001 AMT Construction Fund CIP A-0483 and \$990,770.00 out of Houston System Consolidated 2001 AMT Construction Fund CIP A-0354 and \$200,680.00 out of Houston Airports Improvement Fund CIP A-0422; awarding construction contract to **SPAWGLASS CONSTRUCTION CORPORATION** for Terminal D Remodeling and Upgrades/Vertical Circulation Upgrades in APM Stations at George Bush Intercontinental Airport/Houston (Project 500G); providing funding for engineering testing and for contingencies and the Civic Art Program relating to the construction of facilities financed by such funds - **DISTRICT B – GALLOWAY – (This was Item 28 on Agenda of August 27, 2003, TAGGED BY COUNCIL MEMBERS WISEMAN and KELLER)** – was again before Council. All voting aye. Nays none. Council Members Quan and Robinson absent. ORDINANCE 2003-0807 ADOPTED.

Council Member Berry stated that he wanted to join Council Member Keller with regard to Darrel Reed in Public Utility in Public Works, they had also called him late Friday night and early Saturday morning over the Labor Day weekend, that he had spent a lot of time that weekend and kept in contact with them over the cell phone, that a constituent was left very happy and with a good perception of the City as a result, that he did a great job. Council Members Quan and Robinson absent.

Council Member Berry stated that he wanted to renew his call, that for six weeks they had been wanting a Super Bowl update, that just so he was clear, his concern was to make sure that all the streets were going to be finished in time, the Convention Center Hotel was updated, basically the state of the City in their preparations for that event, and Mayor Brown stated that Council Member Berry was not interested in the Super Bowl Host Committee, he was interested in the City's part, then he was not clear. Council Members Quan and Robinson absent.

There being no further business before Council, the City Council adjourned at 12:42 p.m. upon MOTION by Council Member Galloway, seconded by Council Member Vasquez. Council Members Quan and Robinson absent. INFORMATION ON FILE IN THE OFFICE OF THE CITY SECRETARY.

MINUTES READ AND APPROVED

Anna Russell, City Secretary