



## Austin City Council MINUTES

For FEBRUARY 21, 1985 - 1:00 P.M.

Council Chambers, 307 West Second Street, Austin, Texas

### City Council

Ron Mullen  
Mayor

John Treviño, Jr.  
Mayor Pro Tem

Council Members  
Mark Rose  
Roger Duncan  
Sally Shipman  
Mark E. Spaeth  
Charles E. Urdy

Jorge Carrasco  
City Manager

Elden Aldridge  
City Clerk

### Memorandum To:

Mayor Mullen called to order the meeting of the Council, noting the presence of all Councilmembers.

### MINUTES APPROVED

The Council, on Councilmember Shipman's motion, Mayor Mullen's second, approved the Minutes for Regular Meetings of February 7 & 14, 1985. (4-0 Vote, Councilmembers Rose, Spaeth and Urdy were out of the room)

### CONSENT RESOLUTIONS

The Council, on Mayor Pro Tem Trevino's motion, Mayor Mullen's second, adopted the following resolutions in one consent motion: (6-0 Vote, Councilmember Urdy out of the room.)

### Joint Cooperative Contracts

Approved Joint Cooperative Contract Agreement with State Department of Highways and Public Transportation for right-of-way acquisition along U.S. 290 West from Woodward Street westerly to Brodie Lane.

-----  
Approved Joint Cooperative Contract Agreement with State Department of Highways and Public Transportation for right-of-way acquisition along U.S. 183 from U.S. 290 East to F.M. 620.

Release of Easements

Authorized release of the following easements:

- a. A portion of the Sanitary Sewer Easement No. 1 as recorded in Volume 4575, Page 1094 of the Travis County Real Property Records and located on The Crossing Phase I amended. (Request submitted by Espey, Huston & Associates, Inc.)
- b. A portion of a Blanket Electric Easement recorded in Volume 659, Page 354 of the Travis County Real Property Records insofar as it affects Lots 1 thru 4, Palmer Square Subdivision. (Request submitted by Espey, Huston & Associates, Inc.)
- c. 2.0' of a 12.0' Public Utility Easement on Lot 1, Block B, Northwest Hills "9-J", 7010 Village Center Drive. (Request submitted by Mr. William J. Martin)

Capital Improvements Program

Approved acquisition of the following:

- a. A tract of land for the Spicewood Springs Road/Mesa to 1,800 feet West Project. (Corporate Property Investors) CAPITAL IMPROVEMENTS PROGRAM No. 78/62-31.
- b. A tract of land for the Spicewood Springs Road/Mesa to 1800' West Project. (Mesa Village Condominiums) CAPITAL IMPROVEMENTS PROGRAM No. 78/62-31.
- c. A tract of land for the Spicewood Springs Road/Mesa to 1,800 feet West Project. (Bluebonnet Development Corp.) CAPITAL IMPROVEMENTS PROGRAM No. 78/62-31.
- d. Right-of-way for the Brodie Lane/William Cannon-Paisano Improvements Project. (Walter Eskew Jr. et ux, Hazel Eskew, owners) CAPITAL IMPROVEMENTS PROGRAM No. 79/62-14.
- e. Right-of-way for the Brodie Lane/William Cannon-Paisano Improvement Project. (Joe W. McDaniel et ux, Ruth McDaniel, owners) CAPITAL IMPROVEMENTS PROGRAM No. 79/62-14
- f. An 11.5564 acre site and five (5) adjoining easements for the Northwest "A" Pressure Zone, Reservoir Project, Martin Hill Reservoir. (Austin White Lime Company) CAPITAL IMPROVEMENTS PROGRAM No. 76/22-27.

-----

Approved a Supplemental Amendment No. 1A to the Professional Services Agreement between City of Austin and Espey, Huston & Associates for Hydrologic and Hydraulic Studies for the Flood Early Warning System in the amount of \$83,500.00. C.I.P. No. 82/83-03

Contracts Approved

Approved the following contracts:

- |  |  |
|--|--|
| a. POWER ENTERPRISES, INC.<br>2407 Engineers Road<br>Belle Chase, Louisiana                      | - CAPITAL IMPROVEMENTS PROGRAM -<br>Galvanized Steel Transmission<br>Line and Substation Structures,<br>Electric Utility Department -<br>\$199,415.00 C.I.P. Nos. 85/16-04,<br>85/16-07, 85/16-13, 82/16-06,<br>85/16-06, 83/16-03, 81/16-02 &<br>85/16-09 |
| b. WESTINGHOUSE ELECTRIC CORPORATION<br>201 N. St. Mary's Street, Ste. 512<br>San Antonio, Texas | - Voltage Regulator for Holly<br>Power Plant, Electric Utility<br>Department<br>Total \$68,045.00 85-0100-MB   |
| c. PURE MILK COMPANY<br>1819 Rutland<br>Austin, Texas  | - Milk and Milk Products,<br>Brackenridge Hospital<br>Twelve (12) Month Supply Agreement<br>Items 1-10 - \$63,691.75 BS5-1073  |
| d. BARD UROLOGICAL DIVISION<br>C.R. Bard, Inc.<br>Murray Hill, New Jersey                        | - Urologicals, Brackenridge<br>Hospital<br>Total \$98,640.00 BS5-1076  |
| e. WM. T. STOVER<br>P. O. Box 19259<br>Austin, Texas   | - Gloves, Brackenridge Hospital,<br>Item 1 - \$29,297.34 BS5-1052  |
| f. A-TEC, INC.<br>9425 FM 1346<br>San Antonio, Texas   | - Truck-mounted Aerial Towers<br>and Bodies, Vehicle and<br>Equipment Services Department<br>Total \$211,944.00 85-0019-MB   |
| g. KOETTER FIRE PROTECTION SERVICE<br>2666 Myrtle Springs<br>Dallas, Texas                       | - Air Paks (mask, cylinder bottles<br>and case included), Fire<br>Department<br>Items 1 & 2 - \$137,846.34<br>85-0111-AV   |
| h. VALLEN CORPORATION<br>3913 Todd Lane, Suite 509<br>Austin, Texas                              | - Air Bottles, Straps, Nose Cup<br>Adhesive, Fire Department<br>Items 1-4 - \$55,506.75 85-0110-AV   |

License Agreements

Entered into the following License Agreements:

- a. To allow the aerial encroachment of walkways over the public utility and drainage easements on Lots 1, 2 and 3, The Registry Office Park Subdivision. (Request submitted by Mr. Jack Chisholm on behalf of Mr. Ken Huddleston)
- b. To allow the encroachment of landscaping into the West 5th Street right-of-way 1700 block, West 6th Street right-of-way 1700 block and the Campbell Street right-of-way 500 block. (Request submitted by Mr. Kyle Harris on behalf of Secame Associates)
- c. To allow the encroachment of a canopy into the West 9th Street right-of-way, 100 block. (Request submitted by Mr. William Vidaud of First City Centre)

Edwards Aquifer

Approved entering into an agreement between the United States Geological Survey of the Department of the Interior and the City of Austin for the investigation of pollutants entering the Edwards Aquifer during storm events.

Bonds

Approved the issuance of \$3,350,000 in district bonds for North Austin Growth Corridor Municipal Utility District Number 1. (5-1-0 Vote, Councilmember Duncan voted No, Councilmember Urdu out of the room.)

Item Postponed

During the motion, Council postponed until February 28, 1985 consideration of granting waivers from compliance with the Northwest Land Use Guidance Plan pursuant to Ordinance No. 841220-FF to certain development projects reviewed by the City Manager.

Public Hearings Set

Set public hearings on the following:

- (a) The East Riverside Drive/IH 35 to Newning Project:  
March 14, 1985 at 4 p.m.
- (b) To review site plan RZ-84-086: March 7, 1985 at 3:30 p.m.

**CONSENT ORDINANCES**

The Council, on Councilmember Shipman's motion, Mayor Pro Tem Trevino's second, waived the requirement for three readings and finally passed the following ordinances in one consent motion: (6-0 Vote, Councilmember Urdy out of the room.)

**Operating Budget Amendment**

Amended the FY 84-85 Operating Budget by:

Appropriating \$104,685.00 to the Urban Transportation Department to extend the Barton-Ascham Associates, Inc. contract for consulting services to June 30, 1985.

**Ordinance Amendment**

Approved an ordinance amending Chapter 9-10 Code of the City of Austin, 1981, by adding subsection (c) to Section 9-10-3; changing Section 9-10-5 to read "Swimming in Lakes", and adding subsection (b); changing Section 9-10-7 to read "Certain activities on bridges prohibited," adding subsection (b), and changing existing subsection (b) to subsection (c) and adding an additional sentence; adding Section 9-10-25; changing Section 9-10-27.

**Zoning Ordinances**

Amended Chapter 13-2 of the Austin City Code (Zoning Ordinance) to cover the following changes:

M & R ENTERPRISES By Robert W. Jackson C14-84-258	Rear of 11634-1140 Jollyville Road, also bounded by Taylor Draper.	From Interim "SF-2" to "MF-2"
1325 WELLS BRANCH JOINT VENTURE C14r-84-141	3203-3503 Howard Lane 13000-13903 Burnet Road	From Interim "SF-2" to "GR"
GIBRALTER SAVINGS ASSOCIATION By Sherman Hart C14-83-224	5613-5631 Rain Creek Parkway, 5601-5801 Lost Horizon Drive	From "SF-2" to "SF-6"
HILLTOWN PUD By The Prewitt Company C814-84-028	West End of Valburn Drive	From Interim "SF-2" to "PUD"
CITY OF AUSTIN OFFICE OF LAND DEVELOPMENT SERVICES C14-83-302 (part)	10404-10408 & 10303- 10307 Morado Cove	From Interim "SF-2" to "MF-2"

## EXECUTIVE SESSION

Mayor Mullen announced Council would go into Executive Session pursuant to Article 6252-17, Texas Revised Civil Statutes Annotated, to discuss the following matters and action, if any on the matters, will be taken during the public meeting after the conclusion of the Executive Session.

## Pending Litigation

Contemplated litigation involving fuel supply contract - Paragraph 2, Section e.

RECESS - Council recessed for executive session from 1:37 p.m. to 2:15 p.m.

## LITIGATION AGAINST DECKER COAL

Mayor Mullen announced, "We have been in Executive Session discussing an extremely important item for the City of Austin to the ratepayers. Approximately 14 years ago we re-negotiated a contract with Valero for gas and our gas prices were lowered. At that time I asked the City staff to see if there was any way we could re-negotiate a contract that was signed in 1974 with Decker Coal Company. That contract called for coal to be approximately \$7.00 a ton plus transportation to be about the same. Since 1974 that has escalated to approximately \$30.00 a ton and transportation is also \$30.00 a ton. At the current time the market price for coal is back down to about \$5.00 to \$8.00 and the citizens of Austin are paying an enormous amount of money for a contract that is ten years old and in my opinion needs to be cancelled. We have been discussing cancellation of that contract. We are in this with LCRA and LCRA, we understand, is also discussing the contract, so today we are going to take action and Mrs. Shipman will read the motion."

Motion

Councilmember Shipman moved that the City of Austin file a civil action suit in Federal District Court, in Austin, asking that the coal supply agreement with Decker Coal Company be declared void and seeking damages for prior overcharges under the contract. Mayor Mullen seconded the motion. Motion passed by 7-0 Vote.

Mayor Mullen stated, "This could result in some \$22-\$25 million dollars a year savings to our ratepayers. If and when this finalizes this could directly affect electric rates substantially. It is one of the goals and objectives this Council set out. The Valero contract helped to lower electric rates slightly. This would help to lower electric rates significantly. We think it is a very important item. It is not something that is brand new. This kind of action has been taken by other utilities and we think we have an excellent chance of being successful in this contract cancellation."

## BOARD &amp; COMMISSION APPOINTMENTS

Motion

The Council, on Councilmember Duncan's motion, Councilmember Urdy's second, appointed Tommy Mason to the Water and Wastewater Commission. (7-0 Vote)

Motion

The Council, on Councilmember Spaeth's motion, Mayor Pro Tem Trevino's second, appointed Cathy Bonner to the Water and Wastewater Commission. (7-0 Vote)

## ITEM POSTPONED

The Council postponed, until February 28, 1985, consideration of adoption of an office/R&D allocation mechanism for the Northwest Land Use Guidance Plan.

## ZONING ORDINANCE

The Council, on Councilmember Shipman's motion, Councilmember Duncan's second, waived the requirement for three readings and finally passed an ordinance amending Chapter 13-2 of the Austin City Code (Zoning Ordinance) to cover the following changes: (5-2 Vote, Mayor Mullen and Mayor Pro Tem Trevino voted No.)

LANCE, INC.  
C14-77-018 (part)

4704 Burleson Road

From Interim "SF-2"  
to "LI"

## ITEM POSTPONED

Council postponed, until February 28, 1985, consideration of a resolution approving a request for out-of-district service by the River Place MUD.

## CITY MANAGER REPORTS

Glen Bell presented the Budget Performance Report to Council. Report is on file in the City Clerk's office.

Allan Brecher, Director of Urban Transportation, presented the Transition to Capital Metro. His report is on file in the City Clerk's office.

## CITY MANAGER REPORTS - (Continued)

Chief of Police Jim Everett presented a report on Crime Prevention Programs, which is on file in the City Clerk's office. He said there has been a 10% increase in rape, 15½% increase in robbery and and 18% increase in auto theft in the past year. Therefore, an increased public awareness program is being introduced. There will be crime prevention programs through the Neighborhood Watch and other forms of information. Mayor Mullen requested Council be updated quarterly on progress.

Andy Kovar, Water and Wastewater Treatment, reported on Water Quality. He discussed the water and wastewater treatment plants in the City by means of slides. A copy of his report is on file in the City Clerk's office.

Councilmember Duncan requested Council vote next week on a resolution listed on the agenda to consider adopting Water Quality and Operating Goals. He said there are options available on other levels and wants to discuss and vote on February 28, 1985.

## ITEM TO COME BACK

A resolution approving the staff recommendation on Brushy Creek will be considered on February 28, 1985.

## HEARING POSTPONED

The 2:30 public hearing on Amending Chapter 13-2 and 13-2A of the City Code, amending the definition and regulation of Food Sales and Grocery Stores; amending the definition and enforcement provisions of restaurants; amending the applicability provisions and site plan requirements of the compatibility standards, was postponed until February 28, 1985 at 2:45 p.m. and the amendment will be posted for action.

## ZONING HEARING

Mayor Mullen opened the zoning hearing, scheduled for 2:30 p.m. at 4:15 p.m. on the following. Council heard, closed the public hearing, and granted the zoning change as requested with amendment as listed below:

C14-84     NORTH EAST  
346     TERRITORY JOINT  
         VENTURE  
         By Paul Harris

7000-7104 Millrace  
& 5303-5605 Purple  
Sage

From "A" 1st H&A  
To "B" 1st H&A  
NOT RECOMMENDED  
RECOMMENDED "B" for 13  
lots and "A" for remaining  
lots subject to landscape agreement. Noting

ZONING - (Continued)

that lots along Durango Pass will not be subdivided subject to completion of Durango Pass.

GRANTED AS RECOMMENDED, LANDSCAPING TO BE DONE ON DUPLEXES AS WELL AS FOUR-PLEXES AND THE "B" STRIP RESTRICTED TO FOUR-PLEXES, NO APARTMENTS.

(On Councilmember Urdy's motion, Councilmember Duncan's second, 6-0 Vote, Councilmember Spaeth had left the Council Chamber for the afternoon.)

CITIZENS DID NOT APPEAR

The following had requested to appear under Citizen Communications, but were not present: Ms. Isolda Ortega, Ms. Denise Szymozak and Ms. Michelle Williams.

SALVATION ARMY SITE

Mr. Jerry McGill, resident of Sherwood Oaks, spoke in opposition to the proposed location of the Salvation Army Site. He said there are too many children in the neighborhood walking to school by the site and there are no controls imposed on the vagrants. He asked the City to reconsider the proposal.

PARKLAND

Ms. Jackie Goodman discussed lack of parkland in Zone 10 of the City of Austin. She asked that Parks and Recreation Department look into preserving some land.

LAND USE PLAN IN OAK HILL AREA

Tom O'Meara appeared before Council to discuss Land Use Plan in the Oak Hill area.

HEARING ON FERN BLUFF MUD POSTPONED

The 2:45 p.m. public hearing on Fern Bluff MUD was postponed to March 7, 1985 at 3 p.m.

CDBG HEARING

Mayor Mullen opened the public hearing, scheduled for 3:00 p.m. on the 1985-86 Community Development Block Grant Program Community Needs.

Paula Phillips discussed the Federal cuts recommended.

## CDBG - (Continued)

Sonya Zaderman, Subsidized Housing Management Association, asked for a centralized application center.

Susan Rawley, People's Community Clinic and Rape Crisis Center representative, discussed their needs of \$150,000 for a building.

John Henneberger discussed a City trust fund for low income housing. He said UDAG should be pursued.

Ron Collins, Austin Tenants Council, said there should be more funds for the rehabilitation of affordable housing.

Karen Popp, Clarksville Community Center, showed the deterioration of the building by use of slides. She said renovation is badly needed, and that access should be easier for the older and handicapped.

Marcos DeLeon, representing EACEDC, asked for money for construction of affordable housing in East Austin.

Paul Hernandez discussed an enterprise zone.

Zeke Romo, EACEDC, wants a family temporary shelter to be built. This would be for people who need housing to use until they find their own housing.

Julia Garcia, EACEDC, discussed a self-help home repair program.

Lena Stuart asked that the Clarksville Neighborhood Center be renovated with ramps for seniors.

Don Retburg spoke for the Infant/Parent Training Center for handicapped infants which will be built at 45th and Bull Creek.

Catherine Start discussed the barrier removal program for the handicapped.

Motion

The Council, on Councilmember Duncan's motion, Mayor Mullen's second, closed the public hearing. (5-0 Vote, Mayor Pro Tem Trevino out of the room, Councilmember Spaeth absent)

## PORTABLE BUILDINGS DISCUSSED

Mrs. Barbara Misle's request for a City waiver of specific building code restriction as they apply to portable buildings will be brought back for action on February 28, 1985.

**LEASE AGREEMENT DISCUSSED**

Ms. Susan Rawley discussed Council's consideration of a lease agreement involving city-owned land for a building site. She was told to discuss this with the City Manager. (Use for Rape Crisis Center and a Community Clinic.)

**PUBLIC HEARING - RATE INCREASE BY LCRA**

Mayor Mullen opened the public hearing set for 3:00 p.m. to consider the rate request by the Lower Colorado River Authority.

Carl Shahady, Assistant City Attorney, advised Council to deny as a parallel case is now before the Public Utility Commission.

**Motion**

The Council, on Councilmember Shipman's motion, Councilmember Duncan's second, closed the public hearing and upheld staff recommendation to deny a rate increase. (5-0 Vote, Councilmember Shipman out of the room, Councilmember Spaeth absent)

**BOARD & COMMISSION REPORTS**

Council did not discuss the Parks and Recreation Board amendments for lake usage.

Paul Balamus, Energy Management Commission, asked for a City sponsored site design competition this next summer. Staff is to review and put it on next week's (2/28/85) agenda, for possible action.

**PUBLIC HEARING - RESEARCH & DEVELOPMENT USE DISTRICT**

Mayor Mullen opened the public hearing set for 3:45 p.m. on amendment to Chapter 13-2 and 13-2(A) (Zoning Ordinance) to provide for a Research and Development Use District and provide definition and development regulations for the Research and Development District.

No one appeared to be heard.

**Motion**

The Council, on Councilmember Shipman's motion, Councilmember Duncan's second, closed the public hearing and waived the requirement for three readings and finally passed an ordinance to provide for a Research and Development Use District and provide a definition and development regulations for the Research and Development District. (6-0 Vote, Councilmember Spaeth absent)

**AERIAL SURVEY & MAPPING SERVICES**

The Council, on Councilmember Rose's motion, Mayor Mullen's second, adopted a resolution authorizing and approving UAM, Inc. as technical consultant for Aerial Survey and Mapping Services at a cost of \$99,100.00.

**WATSON-CASEY COMPANIES AMENITY PACKAGE**

The City Manager report on Watson-Casey Amenities Package was presented by John Ware, Assistant City Manager. He said this is a plan for a plan and will do a market survey concerning day care, post office, emergency health service and a health club in the new Municipal complex. When the building is complete, Watson-Casey will put \$250,000 into cultural arts and \$75,000 a year after to a total of \$1-million.

Councilmember Duncan expressed concern regarding a plan for a plan and a market study. If Watson-Casey comes back and says they will not proceed with their amenity package because of lack of interest found in the market survey, "then I want to know how things will be done, not if they will be done". Mr. Ware said specifics will be nailed down.

Reg Todd, representing Watson-Casey stated, "The services we committed to have, we will have and we'll do them in a business-like manner. We need to determine how much space is needed for each commitment. Doing a market feasibility study will determine where the day care will be, downtown or near the home." Councilmember Duncan said he is glad a definite commitment is being made.

**EXECUTIVE SESSION**

Mayor Mullen announced that Council will go into Executive Session pursuant to Article 6252-17, Texas Revised Civil Statutes Annotated, to discuss the following matter; and any action on the matter will be taken during the public meeting after the conclusion of the Executive Session.

Asmussen vs. City of Austin - Section 2, Paragraph e.

RECESS- Council recessed for Executive Session at 6 p.m. and resumed its recessed session at 6:40 p.m.

**PUBLIC HEARING - INNER CITY ORDINANCE AS IT PERTAINS TO HYDE PARK BAPTIST CHURCH**

Mayor Mullen opened the public hearing set for 4:00 p.m. on Inner-City Ordinance Case No. C14n-84-011 and other matters relating to the development of the Hyde Park Baptist Church.

## HEARING - (Continued)

Councilmember Rose presented a letter to Council from Mr. Isham and said he would withdraw from the hearing and would abstain on any vote. (See addendum for copy of letter)

Several members of the Hyde Park Neighborhood Association discussed Hyde Park Church by referring to past history; referring to a transcript of a hearing before City Council on March 1, 1979; and personal interpretations. They were: John Boston, Marshall Johnson, Susan Kirk, Peggy Stuart, Stanley Gizinski, Jim Barra, Ruth Reeder, Robert Hill, Laverne Johnston, Wanda Penn, Lary Gilg, Walter Richter and Dorothy Richter.

Sharon Warner, attorney for Hyde Park Baptist Church, said the neighborhood and the church may be asking Council for the same thing, to enforce what Council said in 1979, which was for Planning Commission to approve site plan. She pointed out members of the neighborhood interpret this to mean Council is to approve site plan.

The following people spoke representing Hyde Park Baptist Church: Charlie Graves, Bob Shotwell, Bill Espey, Joe Ternus, Don Tu.

Betty Phillips, Hyde Park Neighborhood Association, gave the final argument by saying they are addressing the restrictive covenant.

Sharon Warner said the church is trying to live up to old agreements.

Discussion followed and Mayor Mullen asked if there was a motion. He said if there is no motion, this case will go back to the Planning Commission. No motion was made and public hearing was closed because Mayor Mullen stated it was closed.

## STATE LEGISLATIVE MATTERS

Piet Sybesma, Intergovernment Relations Officer, reported to Council on State Legislative matters. He brought to Council's attention two issues he is asking Council's concurrence on. "The first one relates to a bill by Representative Richardson, HB 575 that I brought to your attention two weeks ago that relates to the ability of the City to tax the newly annexed area prior to pre-clearance by the Justice Department. Recommendation is that the Council go on record supporting this bill with the understanding the support is based on some technical changes to the language relating to pre-clearance rather than approval by the Justice Department.

"The second issue relates to Capitol view corridors. Since the Council took its final action last week, we would recommend the

LEGISLATIVE MATTERS - (Continued)

Council be on record supporting any bill that incorporates the Capitol view corridor concept as already adopted by this Council."

Motion

The Council, on Mayor Pro Tem Trevino's motion, Mayor Mullen's second, approved the two actions as outlined by the Intergovernmental Relations Officer. (4-0 Vote, Councilmembers Urdy, Spaeth and Rose absent.)

ADJOURNMENT

Council adjourned its meeting at 8:10 p.m.

2/21/85

H6  
2-21

## MEMORANDUM

TO: Councilmember Mark Rose  
FROM: Paul C. Isham, City Attorney  
DATE: February 19, 1985  
SUBJECT: Conflict of Interest - Hyde Park Baptist Church

You have requested my opinion as to whether you have a conflict of interest that would prevent you from participating and voting in a matter involving the Hyde Park Baptist Church. It is my understanding that you are a member of that church and a Deacon in the church, but that you do not presently hold an administrative or policy making position which is separate and apart from any other church member.

Section 2-3-42(c) of the City Code states that:

"(c) If any city official or employee has a personal pecuniary interest, direct or indirect, in any decision pending before such official or employee, or the body of which the official or employee is a member, the official or employee shall not vote, discuss or otherwise participate in the consideration of the matter, but shall publicly disclose the nature and extent of such interest in the official records of the body prior to any determination of the matter."

Pecuniary is defined as monetary or financial. Texas cases involving conflict questions have dealt with the question of financial interests and have interpreted the state conflict of interest statutes as requiring that the prohibited interest by the city official be a "personal pecuniary interest." This test, of course, is the same that is presently contained in our Ethics Ordinance.

The Utah Supreme Court has held that the mere fact that a majority of the city commissioners were members of a particular church did not void a contract between the city and that church. The Court said there was no conflict because the officials did not have a "personal and pecuniary interest."

On the other hand, some states such as Minnesota, Wisconsin, Illinois and California have held that the potential of

Council Memo Addendum

16

2/21/85

Psychological influences cannot be ignored so that interests other than financial must be considered when determining the existence of a conflict. However, Texas courts have not recognized these factors in addressing conflict questions.

It is my opinion that there is no legal conflict of interest under Texas law which would prevent you from voting and participating in the Hyde Park Baptist Church matter, but there may be personal, psychological factors that might affect your ability to act in the best interest of the City you are serving.

The declaration of policy in the Ethics Ordinance states as city policy "that all city officials ... act and conduct themselves both inside and outside the City's service, as to give no occasion for distrust of their integrity, impartiality or of their devotion to the best interests of the City and the public trust which it holds." A City official's integrity, impartiality, and devotion to the best interests of the city may also be called into question based on factors other than a direct or indirect personal pecuniary interest. In the absence of such a pecuniary interest, there can be no violation of the letter of the law under the Ethics Ordinance. If, however, you believe that your participation in matters directly related to Hyde Park Baptist Church would be affected by your membership in the church, or that your participation may give occasion for distrust of your integrity, impartiality, or devotion to the best interests of the city, an abstention on the matter would be appropriate.



Paul C. Isham  
City Attorney

PCI:rs