

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

March 20, 1980  
6:00 P.M.

Council Chambers  
301 West Second Street

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The meeting was called to order with Mayor McClellan presiding.

Roll Call:

Present: Mayor McClellan, Councilmembers Cooke, Goodman, Himmelblau,  
Mayor Pro Tem Mullen, Councilmembers Snell, Trevino

Absent: None

WORLD RUNNERS DAY

A proclamation declaring March 23, 1980 to be World Runners Day was read by Councilmember Goodman and accepted by Sheila Kuzniesk, Ann Benson and Martha Davis with their thanks and appreciation.

ALBERTO GARCIA DAY

Judge of the Municipal Court Alberto Garcia was honored on March 20 by a proclamation designating that date as Alberto Garcia Day, in recognition of his years of service in the Municipal Court from 1973 to 1980, acting first as Associate Judge and finally as Presiding Judge. The Mayor read a proclamation and Mr. Bill Paar of the South Austin Neighborhood Council read a statement. Judge Garcia thanked the Mayor and Council and fellow citizens for the recognition.

## CAPITAL EYE WEEK

Councilmember Cooke read a proclamation which proclaimed the week of March 23-29, 1980 as Capital Eye Week. Jeri Bushala, member of the Board of Trustees of the Public Information Corporation thanked the Mayor and Council for the proclamation. Mr. Winston Bode, host of the television program Capital Eye also thanked the Council.

## UNITED STATES BOXING DAY

March 20 was designated as United States Boxing Day according to a proclamation read by Councilmember Snell and accepted by Moses Saldana. The proclamation was in honor of the 24 members of the American Boxing Team who lost their lives in an airplane crash over Warsaw, Poland. Texan Byron Payton was a member of the Team. Mr. Saldana requested a moment of silence in the Council Chamber in memory of the team, and then thanked the Mayor and Council for the proclamation.

## RESOLUTION TO JIM KIERNAN

Mayor McClellan read a resolution, signed by all Councilmembers, which cited Jim Kiernan, Austin-Travis County Health Department district sanitarian for his efforts in saving a woman's life. Mr. Kiernan thanked the Mayor and Council for the Resolution. Dr. Albert Randall, Director, Health Department, and Mr. Fred Rodger, Director, Environmental Health Service were at the podium with Mr. Kiernan.

## BALLET FOLKLORICO AZTLAN DE TEJAS WEEK

Maria Sabina, founder and director of the Ballet Folklorico Aztlan De Tejas, received a proclamation with her thanks and appreciation which designates the Week of March 24-30 as Ballet Folklorico Aztlan De Tejas Week. Councilmember Trevino read the proclamation and several dancers from the ballet group were in the Council Chamber.

## BLACK STALLION DAY

Dr. Leo Cuello and his daughter Francesca were in the Council Chamber to receive a resolution designating Wednesday, March 26 as Black Stallion Day. Dr. Cuello explained to Council and members of the audience that his daughter Francesca was in an automobile accident three years ago and because of the excellent care she received at Brackenridge Hospital, she is alive today. Therefore, they will show their Arabian stallion Cass Ole at the premiere of the film, "The Black Stallion" on March 26 to help raise funds toward the purchase of a Zeiss microscope for Brackenridge Hospital. Francesca Cuello also spoke and expressed her appreciation for the care she received at Brackenridge. Robert Spurck, Brackenridge Hospital Administrator, talked of the premiere showing of the movie and thanked the Cuello's for their efforts with the benefit.

## MINUTES APPROVED

Councilmember Snell moved that the Council approve the Minutes of the Meeting of March 6, 1980 and Special Meeting of February 27, 1980. The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Snell, Trevino, Mayor McClellan,  
Councilmembers Cooke, Goodman

Noes: None

Not in Council Chamber when roll was called: Councilmember Himmelblau

## BOARDS AND COMMISSIONS

Mayor McClellan announced the following board and commission appointments will be made March 27, 1980:

Board of Adjustment - 1  
Building Standards Commission - 1  
Community Development Commission - 6  
Dental Health Advisory Committee - 9  
Human Relations Commission - 1  
Environmental Board - 1  
On-Going of Goals Assembly Committee - 1

## CAPITAL IMPROVEMENTS PROGRAM

Councilmember Goodman moved that the Council adopt a resolution to acquire certain land for East Riverside Drive (IH 35 to Summit) in exchange for two tracts of land owned by the City of Austin. (R. L. Wyatt) The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau

Noes: None

## CONTRACTS APPROVED

Councilmember Goodman moved that the Council adopt a resolution approving the following contract:

CENTEX MATERIALS, INC.  
Timberline Office Park  
Austin, Texas

- Recycling waste trap rock aggregate  
Public Works Department  
Twelve Months Service Agreement  
Item 1, Estimated 2,000 tons @ \$5.30  
Estimated total amount: \$10,600.00

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau

Noes: None

Councilmember Goodman moved that the Council adopt a resolution approving the following contract:

GRAVITY STRUCTURES-GABION SYSTEM	- Gabions and Revet Mattresses
1010 West 23rd Street	Public Works Department
Austin, Texas	Items 1-9 - \$20,849.00

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

Councilmember Goodman moved that the Council adopt a resolution approving the following contract:

TRAVIS PROPERTIES	- Office Space at the Travis Building
1010 Vaughn Building	for the Internal Auditing Department
Austin, Texas	Total: \$1,934.40 per month for a four-year period

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

Councilmember Goodman moved that the Council adopt a resolution approving the following contract:

LEUPOLD & STEVENS, INC.,	- Water Level Recorders, Engineering
c/o Newman Engineered Equipment	Department
10052 Monroe	Item 1, 4 ea. @ \$1,300
Dallas, Texas	Total \$5,200.00

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

Councilmember Goodman moved that the Council adopt a resolution approving the following contract:

GENERAL ELECTRIC SUPPLY COMPANY	- Cooper Bus Bars. Electric Utility
7521 North Lamar	Department
Austin, Texas	Item 1, 1500 ft., 13,041 lbs. @ 1.864 Total: \$24,308.42

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

Councilmember Goodman moved that the Council adopt a resolution approving the following contract:

QUALITY EQUIPMENT COMPANY	- Compact Tractor-Loader-Backhoe,
815 McPhaul	Vehicle and Equipment Services
Austin, Texas	Department
	Item 1, 1 ea. - \$16,993.00

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

Councilmember Goodman moved that the Council adopt a resolution approving the following contract:

E. J. WARD, INC.	- Automated Fuel Dispensing System
8801 Tradeway	and five years maintenance of
San Antonio, Texas	Hardware and Software, Vehicle and
	Equipment Services and Data Systems
	Total: \$160,795.00

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

Councilmember Goodman moved that the Council adopt a resolution approving the following contract:

UNITED STATES PIPE & FOUNDRY	- Ductile Pipe, Central Stores Division
11325 Pegasus Street, Suite E-226	Twelve Month Supply Agreement
Dallas, Texas	Items 1-8, Est. Total: \$148,942.00

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

Councilmember Goodman moved that the Council adopt a resolution approving the following contract:

THOMPSON-HAYWARD CHEMICAL COMPANY - Flusilicic Acid, Water and Wastewater  
222 Sequin Street Department  
San Antonio, Texas Twelve Month Supply Agreement  
Item 1, - Est. Total: \$23,982.00

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

Councilmember Goodman moved that the Council adopt a resolution approving the following contract:

M. B. JUSTICE COMPANY - CAPITAL IMPROVEMENTS PROGRAM -  
3206 Stardust Drive Blackshear Phase II- Street, Drainage  
Austin, Texas and Sidewalk Improvements -  
HCD - \$54,106.50 CIP No. 79/62-05

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

Councilmember Goodman moved that the Council adopt a resolution approving the following contract:

BECKMAN INSTRUMENTS - Beckman Gamma-4000, 200 sample  
2500 North Harbor Boulevard w/OP-5000 Ria Computer, Laboratory  
Fullerton, California Department of Brackenridge Hospital  
1 ea. - \$14,677.50

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

Councilmember Goodman moved that the Council adopt a resolution approving the following contract:

R. P. KINCHELOE COMPANY - Kodak RP X-omat Processor Model  
P. O. Box 26200 M-8, Radiology Department of  
Dallas, Texas Brackenridge Hospital  
1 ea. - \$12,400.00

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

Councilmember Goodman moved that the Council adopt a resolution approving the following contract:

SOUTHWEST AND JOHNSON X-RAY  
COMPANY  
1903 Anson Road  
Dallas, Texas

- X-Ray Chemicals and X-Ray Film,  
Brackenridge Hospital  
Twelve Month Supply Agreement  
Section I - Items 1-5  
Section II - Items 1-20  
Total: \$449,713.50

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

#### AUDITORIUM AIR CONDITIONING REPAIR

Councilmember Goodman moved that the Council adopt a resolution to approve a change order in the amount of \$15,219.95 to A.C.I. Systems Division for air conditioning repair at Municipal Auditorium. The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

#### THE AUSTIN HISTORY CENTER

Councilmember Goodman moved that the Council adopt a resolution to rename the Old Central Library Building "The Austin History Center." The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

#### INTERLOCAL ASSISTANCE AGREEMENT

Councilmember Goodman moved that the Council adopt a resolution approving the inclusion of Caldwell County within the Interlocal Assistance Agreement (which created the Greater Austin Area Organized Crime Control Unit.) The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

## PRIVATE INDUSTRY COUNCIL

Councilmember Cooke moved that the Council adopt a resolution to amend the Capital Area Manpower Consortium's Agreement to establish the Private Industry Council in Austin as required by Title VII of the Comprehensive Employment and Training Act, the Private Sector Initiatives Program (PSIP). The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

## AUSTIN ROADWAY PLAN

Councilmember Goodman moved that the Council postpone until April 17, 1980 consideration of adoption of the Metropolitan Roadway Plan. (Action on plan at 6:30 p.m.) The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

## AGENDA ITEM POSTPONED

Councilmember Goodman moved that the Council postpone until March 27, 1980 consideration of rescinding the contract with the City of Rollingwood for the provision of wastewater services to "The Corners" Subdivision. The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

## PUBLIC HEARINGS SET

Councilmember Goodman moved that the Council set a public hearing on April 10, 1980 at 10:30 a.m. on the following appeals of the Planning Commission's decisions from:

1. Mr. John L. Warfield, Chairperson, Austin Community Radio-KAZI, regarding Special Permit #C14p-80-004.
2. Mrs. Dora (Dinkie) Essary, Dinkies Darlings Day Care Center, File No. C14p-80-002.

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None



## EMINENT DOMAIN PROCEEDINGS

Councilmember Goodman moved that the Council adopt a resolution to authorize eminent domain proceedings to acquire the following tract of land for the South Austin Service Center:

A 38.53 acre tract of land out of the Santiago Del Valle Grant.  
(Austin Independent School District, owner)

The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

## OPERATING BUDGET AMENDED

Mayor McClellan introduced the following ordinance:

AN ORDINANCE AMENDING THE OPERATING BUDGET FOR THE FISCAL YEAR 1979-1980 BY TRANSFERRING \$32,650.00 FROM THE BUDGET OF THE ENGINEERING DEPARTMENT TO THE BUDGET OF THE BUILDING INSPECTION DEPARTMENT IN ORDER TO FUND THE RESPONSIBILITY FOR DRIVEWAY INSPECTIONS TRANSFERRED FROM THE ENGINEERING DEPARTMENT TO THE BUILDING INSPECTION DEPARTMENT; SUSPENDING THE RULE REQUIRING THAT ORDINANCES BE READ ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

Councilmember Goodman moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilmember Snell, carried by the following vote:

Ayes: Councilmembers Snell, Trevino, Mayor McClellan, Councilmembers  
Cooke, Goodman, Himmelblau, Mayor Pro Tem Mullen  
Noes: None

The Mayor announced that the ordinance had been finally passed.

## ONE-WAY STREET SYSTEM MODIFIED

Mayor McClellan introduced the following ordinance:

AN ORDINANCE DESIGNATING THE DIRECTION IN WHICH TRAFFIC SHALL MOVE ON WEST 16TH AND WEST 17TH STREETS BETWEEN CONGRESS AVENUE NORTH AND SAN ANTONIO STREET, IN ACCORDANCE WITH SECTION 21-39 OF THE AUSTIN CITY CODE OF 1967; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

Councilmember Goodman moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilmember Snell, carried by the following vote:

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Ayes: Councilmembers Snell, Trevino, Mayor McClellan, Councilmembers  
Cooke, Goodman, Himmelblau, Mayor Pro Tem Mullen  
Noes: None

The Mayor announced that the ordinance had been finally passed.

#### SIGN ORDINANCE AMENDMENTS

Mayor McClellan introduced the following ordinance:

AN ORDINANCE AMENDING CHAPTER 3 OF THE CODE OF THE CITY OF AUSTIN 1967, PROVIDING SIZE RESTRICTIONS FOR ON-PREMISE SIGNS ALONG CERTAIN DESCRIBED PORTIONS OF IH-35; PROVIDING HEIGHT LIMITATIONS FOR OFF-PREMISE SIGNS ALONG CERTAIN DESCRIBED PORTIONS OF IH-35; PROVIDING FOR SEVERABILITY; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

Councilmember Goodman moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance. The motion, seconded by Councilmember Snell, carried by the following vote:

Ayes: Councilmembers Snell, Trevino, Mayor McClellan, Councilmembers  
Cooke, Goodman, Himmelblau  
Noes: Mayor Pro Tem Mullen

The Mayor announced that the ordinance had been finally passed.

Mayor McClellan introduced the following ordinance:

Councilmember Goodman moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance. The motion, seconded by Councilmember Snell, carried by the following vote:

Ayes: Councilmembers Snell, Trevino, Mayor McClellan, Councilmembers  
Cooke, Goodman, Himmelblau, Mayor Pro Tem Mullen  
Noes: None

The Mayor announced that the ordinance had been finally passed.

## MUNICIPAL UTILITY DISTRICT POLICY

Mayor McClellan introduced the following ordinance:

AN ORDINANCE ESTABLISHING A MUNICIPAL UTILITY DISTRICT (MUD) POLICY FOR THE CITY OF AUSTIN; ESTABLISHING THEREIN BASIC QUALIFICATIONS FOR CONSENT TO THE CREATION OF A MUD; PROVIDING PERCENTAGES ALLOWED FOR BOND FINANCING; ESTABLISHING THE PROVISIONS OF THE BONDED PACKAGE; PROVIDING FOR THE PROVISION OF SPECIAL WATER AND SEWER RATES WITHIN THE CONSENT AGREEMENT AS AUTHORIZED BY SECTION 54.016(h) OF THE TEXAS WATER CODE; ESTABLISHING VARIOUS REQUIREMENTS; DECLARING A POLICY STATEMENT; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

Councilmember Goodman moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance. The motion, seconded by Councilmember Snell, carried by the following vote:

Ayes: Councilmembers Snell, Trevino, Mayor McClellan, Councilmembers  
Cooke, Goodman, Himmelblau, Mayor Pro Tem Mullen  
Noes: None

The Mayor announced that the ordinance had been finally passed.

## BARTON CREEK MORATORIUM EXTENDED

Mayor McClellan introduced the following ordinance:

AN ORDINANCE AMENDING ORDINANCE NO. 790719-P, ORDINANCE NO. 790809-U, ORDINANCE NO. 791018-H, ORDINANCE NO. 791220-N, ORDINANCE NO. 800110-C, ORDINANCE NO. 800214-B, AND ORDINANCE NO. 800228-N; PROVIDING FOR THE EXTENSION UNTIL APRIL 18, 1980, OF THE MORATORIUM ON 1) THE FILING OF ANY ZONING CASE COVERING LAND LOCATED WITHIN THE BARTON CREEK WATERSHED, 2) THE CONNECTION OF CERTAIN LANDS LOCATED WITHIN THE BARTON CREEK WATERSHED TO THE CITY OF AUSTIN SEWER SYSTEM, 3) THE PROCESSING OF PLAT APPLICATIONS COVERING LAND LOCATED WITHIN THE PORTION OF THE BARTON CREEK WATERSHED LYING WITHIN THE CITY OR WITHIN THE CITY'S EXTRA-TERRITORIAL JURISDICTION BEYOND A CERTAIN STAGE; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

Councilmember Goodman moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance. The motion, seconded by Councilmember Snell, carried by the following vote:

Ayes: Councilmembers Snell, Trevino, Mayor McClellan, Councilmembers  
Cooke, Goodman, Himmelblau, Mayor Pro Tem Mullen  
Noes: None

The Mayor announced that the ordinance had been finally passed.

## ANNEXATION ORDINANCE

Mayor McClellan brought up the following ordinance for its third reading:

AN ORDINANCE PROVIDING FOR THE EXTENSION OF CERTAIN BOUNDARY LIMITS OF THE CITY OF AUSTIN AND THE ANNEXATION OF CERTAIN ADDITIONAL TERRITORY CONSISTING OF 97.57 ACRES OF LAND, SAME BEING OUT OF AND A PART OF THE T. J. CHAMBERS GRANT IN TRAVIS COUNTY, TEXAS; WHICH SAID ADDITIONAL TERRITORY LIES ADJACENT TO AND ADJOINS THE PRESENT BOUNDARY LIMITS OF THE CITY OF AUSTIN, IN PARTICULARS STATED IN THE ORDINANCE; AND PROVIDING AN EFFECTIVE DATE. (C7a-79-021)

The ordinance was read the third time, and Councilmember Goodman moved that it be finally passed. The motion, seconded by Councilmember Snell, carried by the following vote:

Ayes: Councilmember Snell, Mayor McClellan, Councilmembers  
Cooke, Himmelblau, Mayor Pro Tem Mullen  
Noes: None  
Abstain: Councilmembers Trevino, Goodman

The Mayor announced that the ordinance had been finally passed.

## ZONING ORDINANCE

Mayor McClellan introduced the following ordinance:

AN ORDINANCE ORDERING A CHANGE IN USE AND HEIGHT AND AREA AND CHANGING THE USE AND HEIGHT AND AREA MAPS ACCOMPANYING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967 AS FOLLOWS:

A 12,796.215 SQUARE FOOT TRACT OF LAND, LOCALLY KNOWN AS 1707 AND 1709 EAST MARTIN LUTHER KING, JR. BOULEVARD, ALSO BOUNDED BY SALINA STREET, FROM "A" RESIDENCE, FIRST HEIGHT AND AREA DISTRICT TO "O" OFFICE, FIRST HEIGHT AND AREA DISTRICT; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY. (Bobby R. Taylor, C14-79-135)

Councilmember Goodman moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilmember Snell, carried by the following vote:

Ayes: Councilmembers Snell, Trevino, Mayor McClellan, Councilmembers  
Cooke, Goodman, Himmelblau, Mayor Pro Tem Mullen  
Noes: None

The Mayor announced that the ordinance had been finally pass on an emergency basis.

## ANNEXATION PUBLIC HEARING

Mayor McClellan opened the public hearing scheduled for 6:30 p.m. to consider annexation of and directing the administration to institute annexation proceedings. Mr. Lillie, Director of Planning, reviewed the application. No one appeared to be heard.

Motion

Councilmember Himmelblau moved that the Council direct the administration to institute annexation proceedings to annex the following:

59.69 acres of land (58.63 acres requested by owner and known as proposed Barrington Oaks Section 7, 8, 9 and 11 and 1.06 acres initiated by the City.) C7a-79-023.

The motion, seconded by Mayor Pro Tem Mullen, carried by the following vote:

Ayes: Councilmembers Cooke, Himmelblau, Mayor Pro Tem Mullen,  
Councilmember Snell

Noes: None

Abstain: Councilmember Trevino

Not in Council Chamber when roll was called: Mayor McClellan,  
Councilmember Goodman

## PUBLIC HEARING ON STREET VACATION

Mayor McClellan opened the public hearing scheduled for 7:00 p.m. on vacating the following and passage of ordinance:

A portion of Leigh Street, right-of-way adjacent to Lot 15,  
Block 6, Pemberton Heights, Section 1, 2428 Jarratt Avenue.  
(Requested by Mr. Ed Small, owner)

Mr. John German, Director of Public Works, described the area. Mayor McClellan suggested this be sent back to the Board of Adjustment so they can look at the variance request. Councilmember Himmelblau asked if Council can advise the board on how they should proceed because they are not asking for staff recommendations. Mr. Davidson, City Manager, stated he will send a communication on behalf of the Council, making the request.

Councilmember Cooke moved that the Council send back to the Board of Adjustment for consideration of variance request on a portion of Leigh Street right-of-way adjacent to Lot 15, Block 6, Pemberton Heights, Section 1, 2428 Jarratt Avenue. The motion, seconded by Mayor McClellan, carried by the following vote:

Ayes: Councilmembers Cooke, Goodman, Himmelblau, Mayor Pro Tem  
Mullen, Councilmembers Snell, Trevino. Mayor McClellan

Noes: None

## CONTRACT APPROVED

Council had before it for consideration the awarding of a contract for weed lot clearance for the Austin Travis County Health Department to Power Clean, for a 12-month contract totalling \$71,520.00.

Councilmember Snell said he had been told that in the bidding process one of the applicants had received incorrect information from staff and told not to bid on the contract because they would not receive same.

Mr. Solon Bennett, Director of Purchasing, stated he is not aware of the situation and that 21 bid invitations were issued. Mr. Davidson requested the vote on this be delayed one hour so he can call and get the correct information.

Later in the evening, without further discussion, the following motion was made:

Councilmember Cooke moved that the Council adopt a resolution to approve the following contract:

POWER CLEAN  
7526 North Lamar  
Austin, Texas

- Weed Lot Clearance Program, Austin  
Travis County Health Department  
Twelve Month Contract  
Estimated Total: \$71,520.00

The motion, seconded by Mayor Pro Tem Mullen, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmember Trevino, Mayor McClellan,  
Councilmembers Cooke, Goodman

Noes: None

Not in Council Chamber when roll was called: Councilmembers Snell,  
Himmelblau

## MICROWAVE RECEIVER TOWER FOR CABLE

The Council had before it for consideration a resolution authorizing the agreement with Capital Cable Company for the lease of certain city-owned property for the location of a microwave receiver tower.

Councilmember Cooke stated: "As we contemplate the proposed Capital Cable Company contract, and I realize that this potential contract says that if for some reason Capital Cable is not renewed that this contract would be voided. It is of some concern to me to be proceeding with a contract like this under the contemplation of what we are discussing regarding Capital Cable's request before the Council."

STEVE CARR, representing Capital Cable, stated the lease is tied to the franchise and if there is no franchise, there will be no lease. Councilmember Goodman asked what the dollar investment amount will be on the part of Capital Cable. Mr. Carr answered about \$5,000.00.

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Earlier, Councilmember Himmelblau asked if the Battered Women's Center would be offered the same agreement as fire stations since the tower will be located on that property. (Free Cable and HBO in exchange for monitoring the set) She also requested a fence be built around it.

Councilmember Cooke moved that the Council adopt a resolution to authorize an agreement with Capital Cable Company for lease of certain city-owned property for the location of a microwave receiver tower, subject to fencing and the same agreement for the Battered Women's Center as provided for the fire station. The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Councilmember Himmelblau, Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor McClellan, Councilmembers Cooke, Goodman  
Noes: None

#### STASSNEY LANE OVERPASS PROJECT

Councilmember Himmelblau moved that the Council adopt a resolution to modify the Urban Systems Projects by deleting the Decker Lane Road Project and programming the Stassney Lane Overpass Project. The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmember Snell, Mayor McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None  
Not in Council Chamber when roll was called: Councilmember Trevino

Before the vote was taken, Councilmember Snell remarked, "I don't think this is the time to start reshuffling money. If we move the money which has been allocated for Decker Lake Road, we're not sure if the money will be replaced. This has been in the project for a long time, and I don't want to see this money changed to another location." Councilmember Himmelblau said the match is needed for the Stassney Lane Overpass. Mr. John German stated, "There won't be any detrimental effect. If we want to do Decker Lake Road at another time we can work with the Highway Department. ... \$50,000 was in there at one time several years ago merely for engineering purposes. At this point it would probably take considerably more than that to do even the engineering. We have a proposal coming to Council in the next CIP (Capital Improvements Program) reflecting what the total construction costs would be for Decker Lake Road. It will be considerably more...like several hundred thousand dollars, so \$50,000 would not go very far. We feel like the Stassney Lane Overpass Project is very important." Mr. Davidson said that one of the problems here is that even if we need this money we just can't use it, but we know about your concern and will keep it in mind as information is put before the Council on future CIP projects.

## REQUEST FOR ZONING CHANGE

MR. VINCENT GILES, SR., President and MR. HARDY OVERTON, SR., Vice-President, Cavalier Park and Craigwood Neighborhood Association, appeared before Council to request initiation of a zoning change to convert the Interim "AA" Residential Zoning to Permanent "AA" Residential Zoning for these neighborhoods. Mr. Giles stated that it is vital to get permanent zoning.

Councilmember Snell moved that the Council instruct the City Manager to instruct the staff to initiate a zoning change to convert the Interim "AA" Residential Zoning to Permanent "AA" Residential Zoning. The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Councilmember Snell, Mayor McClellan, Councilmembers Cooke, Goodman, Himmelblau, Mayor Pro Tem Mullen

Noes: None

Not in Council Chamber when roll was called: Councilmember Trevino

Mr. Lillie said there are 6 neighborhoods in this process now and this one will be worked on next summer.

## AFFIRMATIVE ACTION PROPOSALS

MR. RAFAEL QUINTANILLA appeared before Council to discuss an affirmative action proposal. He said the following groups endorse the statement he read: LULAC, South Austin Neighborhood Council, Mexican-American Democrats, G.I. Forum, Mexican-American Business and Professional Women, and Image.

"On March 22, 1979, the Austin City Council unanimously adopted a resolution calling for a concentration of efforts in the area of minorities, women and the handicapped. Specifically the Council directed the City Manager to hire an equal employment opportunity officer and necessary support staff to develop an aggressive employment strategy and promulgate a plan that identifies specifics that can be filled by recruiting primarily within the Austin labor market. Council took this action because in spite of the adoption of a City affirmative action plan in 1974 there still exists significant under-utilization of the above-named groups, especially in upper management positions. On the first anniversary of the resolution we have an affirmative action officer but no staff, no recruitment strategy, and no plan identifying positions to be filled by recruitment. The new affirmative action officer was appointed on June 1, 1979. We waited for seven months for new affirmative action plan. During this time we were not consulted about specifics to be included in the plan. Finally, in December we were informed the long-awaited plan would be presented in January. Most of us had high expectations that a meaningful plan would be adopted. The plan turned out to be little more than a policy statement with blanks to be filled in once the Council signed its approval. Many of us advised the City Council the plan was not sufficient and we could not support it at that time.

"Recently, another draft was released which is a slight improvement over the January plan. Basically, however, the City Manager is still asking us to endorse a blank check. We refuse to do so. We all agree the plan has two major deficiencies. First, it fails to clearly identify the problems to be corrected. Nowhere is it clearly stated why an affirmative action plan is needed. The identification should be done by each department so every department



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head knows what he is expected to correct. Secondly, the plan fails to clearly define or state the goals to be achieved. It is unclear whether the City wants a work force which is a proportionate representative at all levels of the work force or one which is merely similar to other businesses in Austin. Moreover no justification is presented for a five-year plan as opposed to a two-year or three-year plan. To summarize, the plan presented to us for our review is merely the framework for an affirmative action plan. We are afraid if the plan is adopted in its present state the City might wait another year to fill in the blanks. There is good reason for our concern. We are not merely debating words on paper, we are debating the real jobs.

"In the years interim without a plan, the Manager has made eleven appointments, but only one is Black and two Hispanic. The Black and one of the Hispanics simply replaced the same who had resigned earlier. The net gain has been one and that is the affirmative action officer. Even more significantly, the City Manager has just completed his reorganization of senior staff. Counting the Manager, that staff now consists of four Anglo males and one Anglo female. We are witnessing a repetition of the failure of the City between 1973 and 1979 to take advantage of a growth of 80% in the number of officials and administrators to fully correct previous under-utilization. It is not our intent simply to be pessimistic and critical. We would recommend the Council direct the Manager to meet with us and come back to Council in two weeks with a plan acceptable to us and the Manager."

Councilmember Cooke said, "I don't necessarily agree with your statement that business under-utilizes the community. In general, it is a gross statement and I think it is an unfair statement because it is a gross generalization."

Mayor McClellan stated the Manager is bringing the affirmative action plan to Council next week and suggested no action be taken until Council has a chance to be contacted by groups who want to express their views of the plan. Mr. Davidson pointed out that he has met with the groups recently and he has included their suggestions. He feels more suggestions will be forthcoming when he presents the plan and feels it is now time to put the version that has been drafted on the table subject to further revision depending on the suggestions that will be made and depending on what the Council would like in the final version.

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MR. ERNEST PERALES appeared before Council to discuss affirmative action. He contended that affirmative action has not been evidenced in recent appointments and that the minorities, women and handicapped have been deceived and left out.

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MR. GABE GUTIERREZ appeared before Council to discuss affirmative action. He felt hiring of minorities and women in the City of Austin should reflect the total number of the work force in the city, percentage-wise.

Mayor McClellan told all speakers the City has been working toward an acceptable affirmative action program.

## CITIZEN ASKS WAIVER OF FEES FOR WEED CUTTING

MR. LAWRENCE R. OWENS appeared before Council to request fees for weed cutting by City contractor be waived due to lack of proper notification. Mr. Owens said the notice was sent to his deceased father. There was a notice of a certified letter in the post office, but it was not picked up. Mr. Davidson told Mr. Owens that Dr. Randall, Director of the Health Department will meet with him, show him what the city has in the way of records on his case, answer his questions and bring a report back to Council.

## POLLING PLACES FOR DEMOCRATIC PARTY

Councilmember Snell moved that the Council approve the request by MR. KEN WENDLER, Chairman of the Travis County Democratic Executive Committee, for City assistance in counting the punch card ballots for the May 3, 1980 Democratic primary, and if needed, the June 7, 1980 run-off election, also permission to use the following City facilities as polling places on the same dates:

- a. Doris Miller Auditorium, 2300 Rosewood
- b. Ullrich Water Treatment Plant, 1000 Forest View Drive
- c. Austin Recreation Center, 1213 Shoal Creek Boulevard
- d. Pan American Recreation Center, 2100 East 3rd Street

The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Councilmember Trevino, Mayor McClellan, Councilmembers Cooke, Goodman, Himmelblau, Mayor Pro Tem Mullen, Councilmember Snell  
Noes: None

## CELEBRITY ALL-STAR CANOE RACE

Councilmember Cooke moved that the Council approve the request of MR. DAVE SHEPPERD, Vice-President of 1980 Austin Sports Fest, to use a motor boat on Town Lake for the Celebrity All-Star Canoe Race on Sunday, March 30, 1980. The motion, seconded by Councilmember Snell, carried by the following vote:

Ayes: Mayor McClellan, Councilmembers Cooke, Goodman, Himmelblau, Mayor Pro Tem Mullen, Councilmembers Snell, Trevino  
Noes: None

## ELECTRIC RATES DISCUSSED

MR. M. A. LANG appeared before Council to discuss electric rates. He passed out information to the Council. (CITY CLERK DID NOT RECEIVE A COPY.) He discussed the information. The Mayor said his information should be sent to the City Electric Utility Commission for their recommendation. Mayor Pro Tem Mullen said, "I would like to go on record saying it takes quite a lot of time and effort to go through and understand what his contention is and I think he

has a very valid complaint and I think Mr. Davidson and R. L. Hancock have met with him and tried to address those. It appears that some of his past problems are going to take a long time to overcome if done by the way the staff is suggesting. I don't want the Utility Commission to look at this as if Mr. Lang is some sort of a kook off the street. Sometimes we push people off as if they don't know what they are talking about. I think Mr. Lang has some very interesting and valid information I would like him to go in depth about and see if there is a solution."

Mr. Davidson said the Electric Utility Commission is meeting next Monday and a report can be brought back April 3, 1980.

#### BUD FLYNN REPORTS

MR. BUD FLYNN appeared before Council to discuss several public issues. He told Council and audience if they want him in the Texas Democratic Primary election, he needs money and support. He suggested a monorail system be set up between Austin and San Antonio with an airport in between.

#### PARADE PERMIT

Councilmember Trevino moved that the Council approve the request for a parade permit from MRS. RICHARD E. COONS for West Austin Youth Association from 8:00 a.m. to 9:30 a.m., Saturday, April 12, 1980 beginning from Knebel Field (Enfield) right on Scenic, left on Cherry Lane, right on Robin Hood, right on Enfield to Knebel. The motion, seconded by Councilmember Snell, carried by the following vote:

Ayes: Councilmembers Goodman, Himmelblau, Mayor Pro Tem Mullen,  
Councilmembers Snell, Trevino, Mayor McClellan

Noes: None

Not in Council Chamber when roll was called: Councilmember Cooke

#### CELEBRATION PERMIT

Councilmember Trevino moved that the Council approve the request of MR. DAN COLLEN, representing the Royal Order of Partiers, for permission to have amplified music and beer at City park (Waterloo or Patterson) March 29, 1980, from 12 noon to 8:00 p.m. for small celebration. The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Councilmembers Goodman, Himmelblau, Mayor Pro Tem Mullen,  
Councilmembers Snell, Trevino, Mayor McClellan

Noes: None

Not in Council Chamber when roll was called: Councilmember Cooke

Councilmember Himmelblau questioned the use of amplified sound near a hospital. She said amplified music in Waterloo Park disturbs the patients at Brackenridge. Mr. Albert De La Rosa, Assistant City Attorney, told her he would check into the regulations and report back.

## TEXAS WRANGLERS TUG-OF-WAR

Councilmember Trevino moved that the Council approve the request of MR. KEVIN J. LILLY, President, Texas Wranglers, University of Texas, for permission to serve beer at Pease Park, Saturday, March 22, 1980 from 2:00 p.m. to 6:00 p.m. for a Tug-of-War Event. The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Councilmembers Himmelblau, Snell, Trevino, Mayor McClellan,  
Councilmember Goodman  
Noes: None  
Not in Council Chamber when roll was called: Mayor Pro Tem Mullen,  
Councilmember Cooke

## ROADWAY PLAN

MRS. ARI WRIGHT and MS. MARY BLACKSTOCK, who had requested to appear to discuss the Roadway Plan did not remain to speak when the decision of the Roadway Plan was postponed until April 17 at 6:30 p.m.

## OPERATING BUDGET AMENDMENT

Mayor McClellan introduced the following ordinance:

AN ORDINANCE AMENDING THE OPERATING BUDGET FOR THE FISCAL YEAR 1980-1981 BY REAPPROPRIATING \$18,367 FROM THE RESEARCH AND BUDGET DEPARTMENT AND \$42,212 FROM THE ELECTRIC UTILITY DEPARTMENT TO THE OFFICE OF ENERGY CONSERVATION AND RENEWABLE RESOURCES; SUSPENDING THE RULE REQUIRING ORDINANCES TO BE READ ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

Councilmember Himmelblau moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor  
McClellan, Councilmembers Cooke, Goodman, Himmelblau  
Noes: None

The Mayor announced that the ordinance had been finally passed.

Before the vote was taken, Councilmember Himmelblau said she is beginning to object to rental of space by City departments outside of City facilities. City Manager Davidson explained the space needed is for the newly created Office of Energy Conservation and Renewable Resources, and that there is no City of Austin space which can be used. Mr. Davidson went on to cite the shortage of office space in Austin and said an additional 134,000 square feet of space is needed for various departments. Councilmember Himmelblau suggested the City may need to buy space and convert it for their use. Mr. Pieter Sybesma, who will head the new department, confirmed the fact there is no space available in City Hall or the Annex at the present time. He said the space to be rented in the Brown Building will be leased with a three-month option.

MORATORIUM ON PROCESSING OF PLATS  
WITHIN CERTAIN WATER SERVICE AREAS

Council had before it for consideration the establishment of a 90-day moratorium on the processing of subdivision plat applications covering land within certain water service areas beyond being accepted for filing and disapproval by the Planning Commission with certain exceptions.

Councilmember Himmelblau stated, "I think several of us are here at the podium who were here in 1976 when the moratorium on subdivision plats was imposed and I know what it did as far as the tremendous growth to our neighbor to the north, Round Rock. Moratoriums can lead to urban sprawl and uncontrolled growth but I know we need time for an assessment as to where we are and make the following motion:

Motion

Councilmember Himmelblau moved that the Council delete from any moratorium the areas of Southwest "A" and Northwest "B" that are within the corporate limits of the City of Austin and that a 90-day moratorium be placed on Southwest "B" and "C" and the tracts of land that are outside the city in Southwest "A" and Northwest "B" be included in the moratorium. The motion was seconded by Councilmember Snell.

MR. JOHN McPHAUL appeared before Council and asked for a clarification from the City Attorney regarding some of the developers who have entered into a contract with the City of Austin to extend the Bull Creek Lateral "A" sewer line in or outside of the city limits but intend to subdivide their property. He said it does not seem fair for them to go into their pockets to extend the sewer line for the City of Austin and then be denied water when they decide to subdivide. He said he wanted to make certain they are exempt from the moratorium on that standpoint.

The Mayor pointed out they would probably do as had been done on the Barton Creek Moratorium...make certain exemptions. She asked the City Attorney's advice but thought if they have legal commitments for utility service, they should honor them.

Councilmember Himmelblau asked the City Attorney if an amendment to her motion could be handled on a case to case basis where an agreement is already in effect with the City. Mr. De La Rosa said this would be all right.

Councilmember Himmelblau stated, "The intent of my motion is to exempt property within the corporate limits and I know you are referring to the inside the city limits increment fee which has been lifted. I have no intention, as long as I am still here, of ever re-enacting it."

Councilmember Cooke questioned corporate limits and outside corporate limits. Mr. De La Rosa stated, "The City of Austin does not have the inherent duty to supply water and wastewater and other public utilities to areas outside the City's jurisdiction. It can, of course, provide that service to individuals in case the law has established once a city takes upon themselves to serve other areas outside the corporate limits and it has to do so without discrimination and unarbitrarily. Case law also points out that what the City is actually doing when it is applying service beyond its corporate limits, the City is basically saying there is a sufficient supply of that utility to provide that service not only for the City of Austin but it has some extra supply if there is sufficient capacity to provide service beyond the city limits. That it can certainly choose not to do so. That is within the discretion of the City Council to make the finding that the City system does not have sufficient capacity to provide service both to those areas inside the city and outside the city limits."

Discussion followed concerning possibilities.

MR. J. W. SMITH, a developer, appeared and discussed the 1976 moratorium. After a length of time he said, "I'll tell you what the real meaning of a moratorium is and the worst thing that can happen. The real meaning is people being laid off because of lack of work, sales falling off in local businesses in the parts town where the moratorium is because of all the construction workers out of work. Developers going broke. Lots and housing prices going up because of the delays involved. These are the real results. We're in an economic period of time like we've never seen it and we don't know whether it's getting worse, better, or what. Actually, none of us know what will happen tomorrow. We're talking about cutting off a lot of people's livelihood just so someone can decide over a 90-day period of time just where they want to go. If we have efficient management in that department and some engineers they can solve the problem without any moratorium if in fact there are any problems. I suggest the City Council hire an independent engineering firm to analyze the problems in that department and come up with a solution without any moratoriums."

Second to Motion Withdrawn

Councilmember Snell withdrew his second to the motion.

Second to Motion

Mayor McClellan seconded the motion.

Motion Withdrawn

Councilmember Himmelblau withdrew her motion.

Mayor Pro Tem Mullen said he feels this whole thing is a red herring and not necessary. He said he checked with the State Board of Health and understands one gallon a minute is the pumping capacity required by the State law now. He said that is 120% more than the City is requiring. He continued "the desire to have the full 2.2 gallons per minute is a luxury we just can't afford right now but we still can provide the services we talked about providing without really endangering anybody's health or safety or any of the other things we always hear when we want something done."

Councilmember Cooke said, "The clarification I have from previous hearings and consulting reports for the City of Austin is that 2.2 gallons per minute is the recommendation to the City...it is an optimum for Austin. There is no industry standard." Mayor Pro Tem Mullen said we cannot go with the optimum but sees no necessity to have a moratorium because they want to impose an optimum."

More discussion followed and questions were asked of Mr. Curtis Johnson, Director of Water and Wastewater. Mayor Pro Tem Mullen mentioned he appreciates all the extra time and research Mr. Johnson's department went to between Monday and today to give Council the information they needed and requested. Councilmember Himmelblau then suggested they take the sections one at a time for a vote.

Motion

Councilmember Himmelblau moved that the Council impose a 90-day moratorium on Southwest "C". The motion was seconded by Councilmember Cooke.

Councilmember Himmelblau explained Southwest "C" is Water District 14 and as far as she knows it has been in trouble since the '70's.

The contract was then discussed and after more comments by Councilmembers, Mr. Davidson, Mr. Johnson, the Mayor and Mr. Jeryl Hart, the roll call was taken.

Motion Restated and Roll Call

Mayor McClellan brought up the following ordinance for its first reading:

AN ORDINANCE ESTABLISHING A TEMPORARY NINETY (90) DAY MORATORIUM ON THE PROCESSING OF CERTAIN SUBDIVISION PLAT APPLICATIONS COVERING LAND LOCATED WITHIN THE SOUTHWEST C WATER SERVICE AREA OF THE CITY OF AUSTIN BEYOND A CERTAIN STAGE; AUTHORIZING AGREEMENTS WITH CERTAIN SUBDIVIDERS OF LAND FOR THE CONSTRUCTION BY THE CITY OF NECESSARY WATER AND/OR WASTEWATER IMPROVEMENTS ON CERTAIN CONDITIONS; DIRECTING THE DEVELOPMENT OF A PROGRAM FOR THE EXTENSION OF THE CITY'S WATER AND WASTEWATER UTILITY SYSTEMS AND A PLAN FOR THE IMPLEMENTATION OF SAID PROGRAM; SUSPENDING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

The ordinance was read the first time, and Councilmember Himmelblau moved that the ordinance be passed to its second reading. The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Councilmember Trevino, Mayor McClellan, Councilmembers  
Cooke, Himmelblau

Noes: Councilmember Goodman, Mayor Pro Tem Mullen, Councilmember  
Snell

The Mayor announced that the ordinance had been passed through first reading only.

MR. HORSFALL spoke a few words to Council.

Motion

Councilmember Cooke moved that the Council extend the moratorium to Southwest "B" for 90 days. The motion was seconded by Mayor McClellan.

After lengthy discussion:

Motion Withdrawn

Councilmember Cooke withdrew his motion.

Mayor McClellan announced the second reading of the Ordinance will be at a Special Called Meeting at 2:00 p.m. in the Electric Building and the third reading will be at a Special Called Meeting at 11:30 a.m. Monday in the First Floor Conference Room at City Hall.



## WATER AND WASTEWATER CIP REPORT APPROVED

Council had before them for consideration approval of the Water and Wastewater Capital Improvements Program (CIP) Report.

Councilmember Goodman asked, "Why do we need to make these revisions tonight if these CIP projects have been approved by us in the 1979 CIP. Is it necessary because of the accelerated schedule for the Spicewood Pump and Jollyville Pump and the paving project you told me about earlier? Why necessary to adopt the 6, 12, or 18-month plan tonight?"

Mr. Daron Butler replied, "We have presented this to Council and asked for action on it because to get to the dollars to carry us for either one of the time periods we have to cancel some projects, make some recommendations for protective funding in order to continue the system for the next time. We have discovered over a time that anytime staff recommends removing projects by cancelling the appropriations and making funding available for the purposes, especially when these have to come back through the CIP processes that it is to Council's advantage to have an opportunity to make an evaluation of our priority rankings and our judgement call for these projects. It is our recommendation that Council give us the authority to implement the 6-month schedule because it protects on-going projects, it allows us to continue a very important paving program in conjunction with the Public Works Department and allows us to match EPA (Environmental Protection Agency) grant money. It also gives the Council the latitude to go through an entire CIP process and review the total needs of the Water and Wastewater Department in light of the last election in terms of some of the discussion held tonight and move ahead."

Councilmember Himmelblau asked, "If we go ahead with this approval and we find that some of the projects can be funded in another manner, then this can be amended?" Mr. Butler said, yes.

Motion

Councilmember Cooke moved that the Council approve the Water and Wastewater Capital Improvements Program Report for six months. The motion, seconded by Councilmember Goodman, carried by the following vote:

Ayes: Councilmembers Cooke, Goodman, Himmelblau, Mayor Pro Tem Mullen, Councilmembers Snell, Trevino, Mayor McClellan  
Noes: None

Councilmember Himmelblau requested a report from the City Manager of a list of projects which could have alternative funding.

Councilmember Goodman asked for information regarding the effect of these projects when Council considers CIP this next summer.

## PAVING ASSESSMENTS

Mayor McClellan opened the continued public hearing scheduled for 8:30 p.m. in connection with assessments to be levied on the following:

CAPITAL IMPROVEMENTS PROGRAM - RIVERSIDE DRIVE covering approximately 19-1/2 blocks. C.I.P. No. 73/62-03

(COMPLETE TRANSCRIPT ON FILE IN CITY CLERK'S OFFICE.)

Mr. John German, Director of Public Works, appeared before Council to explain there would be two cases tonight owned by individuals on Riverside Drive. These parcels were not acted upon previously because one of the parties asked for a delay and Mr. C. L. Reeves raised some questions at the last hearing. His questions were relative to the right-of-way dedication and Mr. German said Council has received in their agenda material three options that the Council could consider relative to the three parcels that Mr. Reeves partially owns or owns entirely. One option is to levy the full amount as originally recommended. That totals over \$9,000. Another option is to levy an assessment based only on the curb and gutter costs and the driveway cost, and that is over \$2,000. Or, Council has the option to approve any figure less than the \$9,446.82 figure.

Mr. German continued that the other parcel, Parcel 4 will be discussed by the property owner with his recommendations. "However, we have had reports from the appraiser that certainly indicates that the property has been enhanced considerably more than the assessment of \$58,000 plus, and it is still the staff's position, both Public Works and the Legal Department, that we continue to levy the assessments on Parcel 4 as originally recommended."

DONALD DUMAS, representing the owners of Tract 4 appeared before Council to state the presentation will be in two parts. He said they disagree with the appraiser's report and he will speak in what he termed equities involved in the situation. "I have spoken to the Council about those earlier. They involve the fact that Mr. Montgomery, being owner of the property and representing other owners of the property transferred to the City at various times beginning in 1966 and continuing through 1971 property valued in excess by what I consider a conservative estimate, \$300,000. He did this for two reasons. One, in order to obtain the zoning and subdivisions. Two, he dedicated excess property not at that time taken as a matter of custom and as a matter of policy by Council for these things, with the expectation that if the City got the right-of-way for Riverside Drive at a discounted cost or at no cost through dedication or bargain prices, that they would not assess his property." Mr. Dumas went on to tell about his efforts to find records which would be positive proof. There are none. "Mr. Montgomery has a gentleman's agreement with the City. He and the owners of the property performed and now they are simply asking that the City perform."

City Manager Davidson stated: "... I have not personally looked into what Mr. Dumas is talking about in connection with his client, but I arrived in Austin late in 1969 and I did not handle any of the transactions that Mr. Reeves discussed or that you, sir, discussed. But I want Council to know that I do believe that in connection with some of the larger property owners along Riverside Drive that such an agreement was reached, whether it was a gentleman's agreement, or whether there was something in writing that we can't locate or not, and I feel that the Council ought to take that into some consideration as you make a decision on these two cases."

Mr. German pointed out that the City paid \$6,400 an acre for the four acres involved in Parcel 4. Mr. Dumas told him that was a fifth of the value of the land.

Discussion ensued concerning property values, etc. Councilmember Goodman then opined, "... In your particular case there were never any records, except a gentleman's agreement. The reason why I think you are entitled to some consideration is that the two smaller parcels...the .4 acre tract just near the intersection of Pleasant Valley Road and the .3 acre tract were dedicated outright to the City for no compensation." Further discussion followed on land values, deeds, conversations, etc.

#### Motion

Councilmember Goodman moved that the Council reduce the assessment by 50%. The motion was seconded by Councilmember Cooke.

Mr. Dumas said, "If I may, before Council votes on that... I am in a very awkward position here. I cannot, you know, on behalf of my client say 'okay,' and then step away from the podium. What I have got to do with Council's permission is let Mr. Womack build a record for us in case my client wants to appeal."

MR. DANNY WOMACK, representing Mr. Siddons, addressed Mayor and Council by stating, "I think you understand that any appeal from here you don't start all over, you are stuck with a record that is made before the Council, so we have to make a record." He proceeded to question Mr. Wiley, the appraiser.

(Transcript of Mr. Womack's questioning of Mr. Wiley follows).

D.1. 8:30 Public Hearing - Continued public hearing in connection with assessments to be levied on the following:

CAPITAL IMPROVEMENTS PROGRAM - RIVERSIDE DRIVE covering approximately 19 1/2 blocks. C.I.P. No. 73/62-03

JOHN GERMAN: Mayor, members of the Council, we are bringing back to you tonight properties owned by two individuals on Riverside Drive. These particular parcels were not acted upon the last time the Council heard the issue of assessments on Riverside Drive. One of the parties asked for a delay and I think we have not even heard their case. The other party, Mr. C. L. Reeves, raised some questions at the last hearing, and we have provided some explanations as we see it from a staff standpoint, what some of the problems were relative to the right-of-way dedication that Mr. Reeves was talking about, and also perhaps what led to some of the confusion about the paving improvements along Riverside Drive as far as Mr. Reeves is concerned.

We presented in the staff report that is in the agenda material, three options that the Council could consider relative to the three parcels that Mr. Reeves partially owns or owns entirely. One option is to levy the full amount as we originally recommended. That totals some over \$9,000. Another option is to levy an assessment based only on the curb and gutter costs and the driveway cost, and that's something over 2,000 dollars..\$2,195.29. Or of course the Council has the option to approve any figure less than that \$9,446.82 figure.. Option A.

Relative to the other parcel, Parcel No. 4, we will hear the recommendations of the property owner..the property owner's representative here tonight. However, we have had reports from the appraiser that certainly indicates that the property has been enhanced considerably more than the assessment of \$58,000 plus, and it is still the staff's position, both Public Works and the Legal Department that we continue to levy the assessments on Parcel 4 as originally recommended.

MULLEN: Any questions..We don't have a ..I think we ought to just wait until we have a full Council, or at least a partial one. You have something to hand out..?

GERMAN: Relative to the discussion of Mr. Reeves' questions, I have the subdivision files and all the plats relative to some of the subdivision development out there, if any one cares to peruse through them or double-check our recommendation.

MULLEN: Anybody listening in the back, we need one more Council member to get a quorum. For lack of interest, we will just go to sleep. Laura, can you sing for us, please. Mr. Dumas are you representing people on this property?

DONALD DUMAS: Yes, my name is Donald Dumas, and I represent the owners on this Tract 4, and with Council's permission, our presentation tonight will be in two parts, although I disagree with the appraiser's report, I will be speaking in what I choose to term as equities involved in the situation. I have spoken to the Council about those earlier. They involve the fact that Mr. Montgomery being an owner of the property and representing other owners of the property transferred to the City at various times beginning in 1966 and continuing through 1971 property valued in excess of what I consider a

conservative estimates..\$300,000. He did this for two reasons. One, in order to obtain the zoning and subdivisions. Two, he dedicated excess property not at that time taken as a matter of custom and as a matter of policy by Council for these things, with the expectation that if the City got the right of way for Riverside Drive at a discounted cost or at no cost through dedication or bargain prices, that they would not assess his property.

Now, when I came before Council before, Council asked staff to see if they could find anything in support of that. Staff support came back and said that they could not. Since that point in time, I have gone through the minutes of the Council meetings. I have found nothing in the minutes directly in point. A December 22, 1970 Council meeting where this came up, and Mr. Montgomery spoke from the audience, laying it out what his understanding was..unfortunately is no help because although Mayor LaRue said, please come up and speak in the mike. He didn't. The transcription is Mr. Montgomery not speaking in the mike. So it occurred to me I might poll the Council members at that time, which 1969 and 1970 Councils. I have spoken to everyone who is available on the Council at that time, with the exception of Stuart McCorkle. All of those people, with the exception of Ralph Janes and W. R. Price, say that's 10 years ago. I can't remember what happened 10 years ago. I have provided for all Council members either directly or through their staff personnel two items..one is a plat, and the other is a photocopy of a letter from Mr. Ralph Janes, wherein he sets out clearly that it is his understanding that Mr. Montgomery transferred these things with the expectation that there would be no assessment.

I talked to Mr. Price last night on the phone..have not had the opportunity to get anything in writing from him at this point. He said however, that his recollection was that the Council was trying to get Riverside Drive widened without having to buy the high priced land, and therefore in exchange for dedication or bargain prices on the land, had agreed not to assess.

Now I have gone through as best I could with the figures we are talking about, and if you take conservative estimates on the value of the land that was given, it is in excess, and I am cutting it down for property that he gave because he had to to get his zoning..and I have got.....that policy, too.. to well over \$150,000 worth of property, and when..what Mr. Montgomery did now and the other owners of the property get an assessment for \$58,000 on this property..needless to say it takes them aback considerably. And Councilmember Himmelblau's aid..I think put it pretty well. She said if I understand what you are trying to tell me, it is that Mr. Montgomery had a gentleman's agreement with the City. He and the owners of the property performed, and now they are simply asking that the City performed. And that's it in a nutshell.

COOKE: There is no response to the City on that. There is no record of it. There is no minutes. There is no letters. There is no communication.

DAVIDSON: I would like to say something about that, as I did when Mr. Reeves first came before the Council with his case, and I have not personally looked into Mr. Dumas is talking about, in connection with his client, but I arrived in Austin late in 1969, and I did not handle any of the transactions that Mr. Reeves discussed or that you, sir, discussed. But I want the Council to know that I do believe, that in connection with some of the larger property owners along Riverside Drive, that such an agreement was reached, whether it was a gentleman's agreement, or whether there was something in

writing that we can't locate or not, and I feel that the Council ought to take that into some consideration as you make a decision on these two cases.

HIMMELBLAU: I would like some clarification. I am sorry I was discussing the roadway plan with somebody. I don't know how my name came in to it, since I haven't had any discussion on this.

DUMAS: Your name came into it in reference to your aide. I could not talk to you, so it was suggested that we talk to your aide.

HIMMELBLAU: Yes, but my aide does not speak for me nor vote for me, nor do I want those opinions expressed at the podium, please.

DUMAS: I am sorry, ma'am, that's not what I said, I said what your aide said sums up my feelings about it.

HIMMELBLAU: All right.

DUMAS: I appreciate your comment, Mr. Manager, and I would point out to the City if I may that my impression at that time in history was that Austin was going from a small town operation to a large town operation, and deals were made like that all the time. And one thing in this particular area that makes it unique, is that it took 10 years to realize the end result. Where if it had taken the two to three years, we wouldn't be looking at this problem, because the people would be there who made the deal and who would remember. I wish you had more questions, because I feel like something like this so hard to put over, and that..Councilman Himmelblau is why I tried to talk to people on a one-to-one basis if possible.

COOKE: I think I clearly understand the point of view of what you are saying, and I think the point has some merit. I mean there is no way we can document it, but..I mean..you know, I am not a lawyer, but there is good faith intentions and we certainly have taken those kind of things into consideration as a Council in previous discussions, and I guess the one that I would bring to mind might not be exactly the same, but a number of neighbors have come in to us about a year and a half ago, and they had an understanding with the City and there was no formal documentation of it that they wouldn't be assessed the cost of improvements to that City..I mean that street..I believe it was Tillery.

GERMAN: Tillery.

COOKE: And we certainly listened to that in good faith and listened to all the comments, and then tried to take that into consideration in our deliberation. I think we have a fair appraisal of a similar type situation here tonight.

GOODMAN: There is only one thing I would like to point out, and that is ..there are a couple of things I would like to point out. The basic thing is that the 3.99 acres that is the major portion of this case is that the City paid 6300 dollars an acre for those 4 acres. And when part of this transaction occurred.

GERMAN: That was the point I was going to raise, that the City did in fact buy the right-of-way. We had some agreements for options off that tract.

GOODMAN: I would like to ask in comparison to Mr. Reeve's case with this

one. If there aren't substantial differences between the two, including the fact that in this particular case, we paid for right-of-way.

GERMAN: I think you could say that, yes.

DUMAS: May I speak to that point. As I discussed with some of you, you did in fact agree to pay for it, and you did pay for it, but as I pointed out what you got was an extreme bargain..up front, even if you had paid for it on the day that we entered into the conditional deed with you, when in fact it was 10 years after you entered into the deed before you paid your money at no interest rate, no escalation in price.

The tracts of land on the little plat that I have furnished run along Riverside Drive, and they are about 550 feet east of Pleasant Valley Road. My clients bought over 100 acres total running from Riverside Drive clear up to the lake at that time. They paid cash for both of those tracts, so they are buying in quantity and they are paying cash. So they have got a per acre price at a considerable discount, and the property you got was the frontage. Which is another thing that mitigates to reduce or to increase the value of the property you got, so at the time you got it..and I have no doubt that we can get other people who are expert in real estate, and I would like to state that I have been involved with this and other real estate in the City of Austin for now some 13 years, and consider myself qualified to speak, particularly about the value of this property. When you got it, you got it at a fifth of the value, minimum, fifth of the value.

had

GOODMAN: Did those who/extended the conditional option to the City in 66 on 3.99 acres.. That..that..that was when the conditional option agreement was signed. Right?

DUMAS: That's..well, it is a conditional deed. We offered an option..they said we want a conditional deed, which is just another way to effect an option.

GOODMAN: Did they have the option at that particular time, or at any time prior to 1975, when it was finally executed and paid for?

DUMAS: They had 10 years in which to use it for right-of-way for Riverside Drive and pay the consideration for it, or there was an alternative in there that, if at the time improvements were done on Lakeshore Boulevard, they could claim..they could pay for those improvements and not assess the property owner for that, and that would be consideration for it.

GOODMAN: But it was the former option that was utilized. Did those who you represent have the option of cancelling that agreement..in the period between 1966 and 1975?

DUMAS: No, sir, not at all. The only thing that would have evitiated or negated that deed would have been had the City decided not to use that right-of-way..or not, yes..not to use that property as right-of-way in Riverside Drive. The City didn't want an option. They asked for a conditional deed. And what happens in that, is they get title to it, subject to divestment of the title in the future if they do not perform on their condition. So it is their land.

HIMMELBLAU: Now, can you go back one step for me, because I don't understand

legaleze. Did Mr. Montgomery, or Mr. Montgomery's estate deed the right-of-way to the City?

DUMAS: That's right. They deeded the right of way to the City, and..

HIMMELBLAU: ..with the understanding that they would not be assessed? That's.. from what I am picking up in this memo from Mr. Janes..

DUMAS: Yes, ma'am, but in this instance, the point that Councilman Goodman brought up was that in fact, they were offered and did ultimately receive consideration for it. My response was that the consideration my clients offered, and that the City accepted was something like a fifth of the value of the property.

GOODMAN: \$6300 an acre in 1966.

DUMAS: 63 to 6500 dollars an acre. Now if this is the gravy property along the main thoroughfare, and it is priced at what they pay per acre for a 100 acres and paid cash for it.

GOODMAN: I think you are entitled to some consideration..at least a 25% reduction, and it is a figure I arrived at just by making some judgments about what transpired here, and not knowing what actually did transpire when these gentlemen's agreements or whatever were made. I don't think it should be a 100..you know, I don't think we should dismiss 100% of the assessment.

DUMAS: Well, of course, Council can make any kind of determination that it wants to, but it seems to me that either they are entitled to no assessment, or you assess for the full amount. Otherwise, it is arbitrary..you know..if we..

GOODMAN: No..I think there would be some arbitrary action, and I think we have little choice, because of the lack of documentation that..that..your clients cannot provide the documentation to support the agreement that existed. In Mr. Reeves case, for example, there was a City employee who died. We don't know where those records are and so forth. In your particular case, there were never any records..except a gentleman's agreement. The reason why I think you are entitled to some consideration is that the two smaller parcels.. the .4 acre tract just near the intersection of Pleasant Valley Road, and the .3 acre tract were dedicated outright to the City for no compensation.

DUMAS: That's right, and at the time we dedicated those, we sold the site just right above it, which is designated as 8.33 for \$1.65 a foot. If you take \$1.65 a foot times the almost one acre that you have got there, you have got an amount of money in dollars of that date in excess of \$70,000.

GOODMAN: Okay, but what we are dealing with is a \$58,000 assessment and a grand total dedication of less than 5 acres, so I would think that if one-fifth of what we are talking about here was dedicated, there's..you are at least entitled to a one-fifth reduction and then there is the other..there are two other matters to take into consideration..the fact that..

DUMAS: If we were insisting just on the basis of front footage..

GOODMAN: I wasn't through yet. ..is that there is one other basis, and that



is that the 3.99 acres were sold to the City at something below their real value and there is the 80-foot right-of-way dedication on Elmont and Town Lake Circle, which is another consideration. I don't think there is any way to arrive at anything but some kind of arbitrary decision about what the reduction should be.

DUMAS: Well, if you believe there was an agreement, it appears to me that..

GOODMAN: I don't know if there was an agreement, or not. What I am basing my decision on to reduce it by some figure..by at least 25%.. What I am saying is the fact that part of this was an outright dedication, and you know, I don't need to know that there was an agreement to know that people don't give away land for nothing. I think that was the obvious intention when the .7 acres or .8 acres was dedicated to the City.

DUMAS: Okay. You are talking acres, and you are saying if we got roughly one-fifth of the acres; therefore, we give you the one-fifth reduction. We are not talking acres..

GOODMAN: There are other factors in that consideration..

DUMAS: ..but we are talking dollars, Councilmember Goodman, we are talking dollars. In 1970 when that happened, you got \$70,000 worth of property, and now you want to..in exchange for the \$70,000 worth of property give my clients one-fourth of \$58,000. That's far from a quid pro quo.

GOODMAN: I said..at least, and if the other considerations that were involved were the alleged below market prices that were involved in the transaction involving the 3.99 acres, and the..beyond normal dedication of right-of-way on Elmont and Town Lake Circle.

DUMAS: Well, I am sorry. I don't agree with your analysis at all, obviously. I am not up here asking for less than 100% reduction.

GOODMAN: I understand that.

DUMAS: There was an agreement. It wasn't in writing. I am sorry, boy am I sorry. Boy, are my clients sorry.

HIMMELBLAU: When was this..66 or 70?

DUMAS: It began in 1966 and there was another transaction that took place during a period of time from February of 1969 through December of 1970, when it was finally finalized on the two smaller tracts.

HIMMELBLAU: When was there Council action on.. When was it voted?

DUMAS: The..I am sorry, which one?

HIMMELBLAU: Either of them, I guess.

DUMAS: All right, the 1966 one, I don't know because that predated my actual knowledge by some three years in this. I think we have got something in the file from the staff report earlier..the deed. I assume that the deed followed very closely on the heels of the Council action. Council action in 1969 was March..February 27, 1969. The Council action in 70 was December 22, 1970. And

I also asked Emma Long if she didn't remember either from 69 Council.

HIMMELBLAU: Would we have..I know that Miss Monroe was not City Clerk at that time, and I know that the Minutes weren't always transcribed. Is there any way to pull this.

DUMAS: I have got them.

GERMAN: I have a copy of the deed that dealt with the 3.99 acres, which is dated the 26th of January, 1966.

GERMAN: We also have..I have a copy if the Council is interested in report that Charles Bluntzer made..Assistant City Attorney in January of 78, which describes an original request made by Mr. Dumas way back in 78..77..about a similar contention, and Mr. Bluntzer researched all the records that he could find and came back with a conclusion that there was no agreement, other than this agreement for the City to purchase the right-of-way at the stated price, based upon this 1966 deed.

DUMAS: His conclusion was exactly not that there was an agreement. His conclusion was that he could find nothing in writing, nor in talking to the City Council member or to any City personnel could he find anything to support it..not that there wasn't an agreement. He simply said he couldn't find support for it.

GERMAN: You are right. There were no records to indicate..

COOKE: I guess the best that we can do in my opinion is give consideration based on..you know..on good faith. I don't think that..I don't feel personally that..I can understand the good faith and respect it. I can't necessarily mitigate the entire appraisal. I am not sure..you know, you say, well, Mr. Goodman's 25% reduction is arbitrary..

Motion

GOODMAN: I wasn't through yet, though, with that 25%. In fact, I will make a motion now, in good faith, which takes into account any considerations that existed so forth, and move that we reduce the assessment by 50%..

Second

COOKE: Second.

GOODMAN: ..to \$29,000.

DUMAS: If I may before Council votes on that.. I am in a very awkward position here. I cannot..you know..on behalf of my client say "Okay," and then step away from the podium. What I have got to do with Council's permission is let Mr. Womack build a record for us in case my clients want to appeal.

GOODMAN: I fully understand that legal procedure..

DUMAS: and, if you will excuse me then,..

GOODMAN: ..go right ahead.

DUMAS: ..I will turn it over to him. Thank you for your consideration.

MR. DANNY WOMACK: Mayor and members of the Council, my name is Danny Womack, and I also represent Mr. Siddons, and I am sorry to take up any more of your

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time, but I think you understand like Mr. Goodman said, that any appeal from here you don't start all over, you are stuck with a record that is made before the Council, so we have to make a record.

Mr. Wiley would you come to the podium, please sir. I would also like to say we requested the support papers and whatever that Mr. Wiley used in arriving at his opinion of the value of this piece of property, and that information was denied to us, and it is a little bit difficult to talk with Mr. Wiley about an appraisal he made on a particular piece of property without knowing the comparable sales and whatever he used to arrive at that opinion of value. And even if he were to give me the comparables right now, obviously, I wouldn't know what he was talking about, because I wouldn't have had the time to look into it. So we are working with that handicap also. But Mr. Wiley in looking at your report, and I thank you for your advice a couple of times, is that correct, sir.

WILEY: That's correct.

WOMACK: And we are speaking about Parcel 4, are you familiar with that parcel?

WILEY: Yes, sir, I am.

WOMACK: Okay. Now, in looking over your report it would look to me as if the enhanced value that you have placed upon the property was based entirely upon the amount of property that was taken out of the 100-year flood plain because the drainage improvements.

WILEY: That is not correct.

WOMACK: Okay, what portion of that assessment goes to just the part of the property that was taken out of the floodplain?

WILEY: The..a portion of the assessment?

WOMACK: Well, the portion of your increased value.. You found that the property was enhanced by how many dollars?

WILEY: In the final enhanced version that I have, \$68,425..

WOMACK: All right, and what portion of that enhancement is caused by removing a certain portion of the property from the floodplain?

WILEY: The total value of the tract is based on the basis of looking at the tract in relation to the market place. We have a \$1.25 that is assessing the relationship of that tract in its topographic relationship to the street and other properties in the area. The \$1.25 is then allocated to that portion not in the floodplain, and those portions in the floodplain are giving reduced allocations. The total of \$1.25 therefore is a basis beginning point for the whole tract. The allocated portions that I have for that in the 25-year floodplain is a contribution of 50 cents a square foot, and in the 100-year floodplain \$1.00 a square foot. The reasons for the difference is in..basically in the 100-year floodplain this portion probably could be used for building sites where the foundation needs to be 1 foot above this 100-year floodplain, with some alterations.

The tract is looked at on a whole basis of before the value of \$809,675 and

after the project a value of \$878,100. So that I find a positive enhancement of \$68,425, and I have not in a sense allocated to any of this to removal from the floodplain.

WOMACK: Well, did you change your value of any portion of the land that never was in the floodplain in your after value?

WILEY: I did not.

WOMACK: Okay, then you only changed the value of that portion of the property that was originally within the floodplain because of the drainage project and road are not out of the floodplain, is that correct?

WILEY: That is correct, because the total tract relationship to the others and the roadway and the final project was not changed.

WOMACK: Okay, but if I understand what you said, again, any increase in value you actually placed on the tract came from that acreage that was removed from the 100-year floodplain and now is outside of the floodplain.

WILEY: It was increased..apparently as far as the evaluation technique, except that I am looking at the whole tract in its final concept.

WOMACK: Well, if your total number \$68,400 and some odd dollars, comes by multiplying the amount of land that was within the floodplain by 1.25 and subtracting from that the first value you placed upon it, which was a \$1.00 a square foot, then I guess I can assume that all of your enhancement comes from that property removed from the floodplain. That's what your report says.

WILEY: I do not consider it that way. I consider it that the basic price or value of \$1.25 is the whole tract consideration in relation to the topographic level between the .....of that roadway and the roadway..the level of the tract itself, also the relationship of that tract to others there in the vicinity, also the size of that tract in relation to others in the vicinity that were sold.

WOMACK: Well, break it down for us then. What portion of it did you allocate to removal from the floodplain?

WILEY: I have a before value and an after value.

WOMACK: You are telling me you cannot break it down between what you allocated to floodplain, what you allocated to new road design, what you allocated to access from the road to the property itself.

WILEY: That's correct.

WOMACK: Okay, so you don't have any idea...the .....of \$68,000 is the total enhancement..\$68,425 is the total enhancement. Well, if you didn't use the floodplain, don't you think it is kind of strange that if you take the number of acres that was removed from the 100-year floodplain and is now not in a floodplain at all and you multiplied by the number you gave me that I exactly come up with an enhanced value you say you found?

WILEY: This may be true, but it is not the relationship that I feel should apply to the tract, and it is also not the relationship that I looked to

evaluate the tract. In other words, I am looking at a whole property value, before and after.

WOMACK: Okay. Page 47 of your report, it says the 2.465 acres is now removed from floodplain is considered at \$1.25 a square foot. You multiply that number times \$1.25 and you come up with a total enhancement you found on the property. Now you changed that because they surveyed the property and found out as a matter of fact more property than you thought had been removed from the floodplain.

WILEY: That's correct.

WOMACK: Okay, but the number..the total enhancement number you have placed on the property is exactly the number of acres time your difference in value that was removed from the floodplain.

WILEY: That certainly is true, but I do not consider it as being the means of looking at this tract. It is a mathematical means of coming up with a number, but I am..I also trying to evaluate the whole tract before and after.

WOMACK: Okay, but you can't tell us..you can't break it down for us..you can't give, although the acreage taken out of the floodplain is exactly the number you came up with as total enhancement, you still can't say, "well, really I said three quarters of that was because it was removed from the floodplain, and one-quarter was because of new bigger road design"or anything like that. There is no way you can break that down for us.

WILEY: No, I am not trying to break this in..

WOMACK: Okay..well, if you didn't consider that portion of property taken out of the floodplain as having the same value as that property that is already out of the floodplain, and obviously, you didn't put \$1.25 a square foot on the whole property..some of the property you put less than \$1.25 and some of you you had to put more than \$1.25.

WILEY: I have already said that, yes.

WOMACK: Right, but you can't tell us about that either..you don't have any depth factors or anything like that?

WILEY: No.

WOMACK: All right, according to your report there is four things that you considered..or were told to consider, I assume, is what it really says, by the City Attorney's office in coming up with your value. Now, were there any changes in access to this piece of property caused by the new road design?

WILEY: Yes, there were some changes in access.

WOMACK: Was the access good, better, or worse than it was prior to the road change?

WILEY: Ah, the words that you are using are in relation to the structure after, so why don't we use the word..I think it had good access before. I think it has good access after.

WOMACK: Did it have as good access from traffic traveling in either direction

after as before?

WILEY: With traffic traveling westbound it had as good or better access. With traffic traveling eastbound there is now a median with controlled crossover. I think there is also possibly a..through arrangements a means of gaining more left turn access, but as far as the facility exists today, as it is..there is fewer opportunities to turn left..

WOMACK: Okay, and as a matter of fact, if you are going to turn left into this tract, do you have even a protected lane to turn from or do you have to turn from a traffic lane?

WILEY: In general the present means of getting to this tract would be to travel to Pleasant Valley and circle under the..or around the..that intersection with a kind of U-turn turnback and come back to the tract, but there is also a possibility of a left turn there at the Taco Bell.

WOMACK: Okay, but is that..is it indented where you can pull out of the traffic lane in order to wait to make your turn, or do you have to make the turn from the traffic lane?

WILEY: Not to my recollection.

WOMACK: Well,..show you.. (not at mike)..

WILEY: There is no drawn protected left turn at Willow Creek, however, there is shown to be a fairly large median there, and so it..I would assume there is a possibility that a left turn lane could be provided there at that median.

WOMACK: Okay, but as designed, there is no left turn...

WILEY: That's correct.

WOMACK: ..at either of the cuts. If you are going to turn you are going to turn from the traffic.

WILEY: If you are going to turn, you are probably going to go down to Pleasant Valley and come back.

WOMACK: All right,<sup>so</sup>/we can forget these medians you talked about as providing access to the tract. If you want access to this tract, you are really going to go all the way down to the intersection..

WILEY: That's correct.

WOMACK: ..of Pleasant Valley and come back.

WILEY: As it..

WOMACK: ...that effect access traveling in an easterly direction? (Not close to mike)

WILEY: It certainly does.

WOMACK: .....effect it good or bad?

WILEY: I would consider it a negative adjustment.

WOMACK: All right, so that would be a decrease in value when your..

WILEY: That's correct.

WOMACK: ..putting your pluses and minuses together on the tract. Is that correct?

WILEY: That's correct.

GOODMAN: Is that taken into consideration? (not at mike)

WILEY: Yes, sir, it is.

WOMACK: All right, it also says changes in the..

GOODMAN: ..just skip that for the record, was that taken into consideration in your appraisal?

WILEY: Yes, it was.

WOMACK: Changes in the property in relationship to the 100-year floodplain I think you have already answered that. You did consider that portion of the property that was taken out of the floodplain..

WILEY: That's correct.

WOMACK: ..the argument would be how much you considered. Okay, the paving and curbing of the paving project, what part of this enhanced value did that add to the property?

WILEY: It certainly adds a value to it. It gives it better visibility. We of course have our prior experience with commercial properties, which indicates that this sort of thing has certainly enhanced visibility...acceptability of these properties, also their access.

WOMACK: Okay. How does it help the visibility?

WILEY: It is just more attractive. The other thing is that the..I guess that the motorist feels safer so that.. ..he doesn't feel that he has got to pay as much attention exactly where he is going in this kind of facility.

WOMACK: Okay, on this tract itself, now, describe it as far as grade level with the road is concerned. Is it at grade?

WILEY: No, sir.

WOMACK: How far below grade is it?

WILEY: It varies. I am sure it varies..in fact I know it varies..actually as to the actual depth..probably somewhere between 10 or 12 feet to probably as much as 15 to 20 feet below grade.

WOMACK: Okay, there is considerable difference between grade of this property and the road bed.

WILEY: That's correct.

WOMACK: Okay, now anytime you are that far below grade, that hampers visibility, does it not, for commercial purposes?

WILEY: Yes, it does.

WOMACK: In order to..

WILEY: ..be also visibility would be effected considering the size of the tract. In other words a much smaller tract would have less visibility than a much larger tract as a .....

WOMACK: Okay, by now as actual access onto this tract right now, the only road it fronts on is East Riverside Drive, is that correct?

WILEY: Yes.

WOMACK: Okay. The only access right now is how, on to this tract? Presently, I am talking about.

WILEY: Would be off East Riverside Drive.

WOMACK: Okay, but there is a drainage ditch parallelling East Riverside Drive.

WILEY: That's correct.

WOMACK: Okay, if you are going to cross that drainage ditch, what would you have to do?

WILEY: Well, the present property owner extended a culvert there in order to have a means of access..this is at Willow Creek Drive..and would be just east of the..correction,west of the Taco Bell. Taco Bell is situated there at that culvert.

WOMACK: Okay, now did they build Taco Bell at grade level..at regular grade level?

WILEY: That's correct.

WOMACK: Huh.

WILEY: That's correct.

WOMACK: Well, it was elevated was it not. ....to grade level.

WILEY: That's correct.

WOMACK: Who paid for that access into the Taco Bell property? Did the City pay for that culvert over the drain way, or..

WILEY: No, it is my understanding that the property owner paid for it.

WOMACK: You know what the property owner paid for it?

WILEY: I haven't any idea.



WOMACK: Would you be surprised if I said \$19,000?

WILEY: How much?

WOMACK: \$19,000

WILEY: I think it might be more than that.

WOMACK: Okay. And an entrance into a place like that the City of Austin has to be designed to carry emergency vehicles, not just regular vehicle traffic, is that correct?

WILEY: I am sure that's right.

WOMACK: And the fact that anybody purchasing this property is going to have to spend that kind of money in order to use it is going to effect the market price, is that correct?

WILEY: That's right.

WOMACK: The fact that you are going to have to spend a lot of money on site improvement to bring it up to grade level is going to effect the market price, is it not?

WILEY: No, bringing the whole tract up to grade level would not do that. I don't think any purchaser of that tract would do that.

WOMACK: Well, on the only piece that has been sold on it, they chose to do it.

WILEY: That's correct, but I think the future development of this tract will be predominately at the level of the tract itself.

WOMACK: Well, you say again in your report that there is two possibilities and one of them is bringing it up to grade..bring the tract up to the road level.

WILEY: That's correct.

WOMACK: Okay, so whether you bring it up to the road level or not, you are still going to have to pay for some sort of access off of East Riverside Drive into the tract itself.

WILEY: That's correct.

WOMACK: And as you have already testified, that is considerable drop there for most of it.

WILEY: That's correct.

WOMACK: Now considering the part of the property that was taken out of the 100-year floodplain by this drainage easement or drainway that they have done there..you know how much of the property that actually effects?

WILEY: Approximately a little over 14%.

WOMACK: Okay, I measured with my scale on the City's floodplain map and

it appears to me that there is about 300 front feet on the road that would be effected by the portion of the property that is taken out of the floodplain. Do you think that sounds approximately correct to you?

WILEY: I haven't any idea. I haven't tried to estimate the frontage.....I can tell you that according to the engineering study we got that 14.45% was removed.

WOMACK: Okay, but I am talking about actual frontage on the road, and we have got about 1500 foot of road frontage, and I am.. You think that the City's map is probably accurate. It says 1 inch equals 40 foot..and if I can scale it off, as I have done on their floodplain map here and it shows that only 300 foot frontage is actually effected by these drainage improvements..that you wouldn't have any quarrel with that statement. Is that correct?

WILEY: No, if I had a ruler and could confirm it, I wouldn't have.

WOMACK: All right, and as far as the drainage improvements are concerned, it is only that portion of the tract that is helped. The rest of the tract wasn't in the floodplain to start with, is that correct?

WILEY: That's correct.

WOMACK: And if you apply the front foot value that the City..is the greatest amount they could charge as to the only part effected, then you would have 300 foot times \$38.00 or about \$11,000 being the total amount that you could assess against this property if we were considering only that last 300 foot.

WILEY: Why would you want to do that, sir, when the roadway is along the 1500 feet?

WOMACK: Well, I would want to do it, because the only part that the drainage assisted was the last 300 feet.

MAYOR: Mr. Womack, excuse me for interrupting, but do you think that..I mean how much longer is this going to go on?

WOMACK: I will try to do it in another 10 minutes, or less.

MAYOR: Well, I was going to suggest 5 minutes if you wrap it up. I think we have allowed probably more time than we ever do..

WOMACK: Well, the problem I have got, Mayor, as I said before..

MAYOR: I am just saying that even Courts put reasonable time limits on presentations I assume..I don't..

WOMACK: No.

MAYOR: No..?

MULLEN: (not at mike) well, can we .....let him.....rest of the night and go through this? I am serious.

MAYOR: Let me ask the attorney. Do we need to allow indefinite..unlimited time for this question?

MULLEN: For the two of us, Mayor.. Well, there's Lee, I am sorry..

: ....

: I think, of course, City Council is not acting as a judge in this particular..

MAYOR: I am not a Court, I can guarantee you..

: ..don't have any formal rules and you can allow as much time as you want to, or you can ask anyone who is before the Council to begin closing down his discussion with the Council..

MAYOR: Let me ask you to begin closing down your discussion.

WOMACK: I think I get the drift.

MULLEN: I wonder if..in all honesty, does the Council have to stay in session for this to continue on and be legal or not?

MAYOR: He wants it on the record. We are not even adjourned if we are not here..I mean aren't even meeting.

: Council hasn't..take a vote on ....actions.

MAYOR: As soon as he goes into Court, he can make his case there.

WOMACK: Well, let me get into one other area, and then do as you please, I guess.

MAYOR: Well, you may not have 4 people here to vote in a few minutes.

WOMACK: Well, that ought to be an easy record if it gets to that point. Is there any portion of the drainage improvements that were done on this piece of tract that are actually in the right of way of the road itself?

WILEY: I think that there probably are now. I understand that a portion of the property of course was acquired in order to facilitate this easement.

WOMACK: Okay, but suppose they did acquire another easement, after they had applied the right of way as a matter of fact, all the drainages was in the second easement, it is not within the right of way. Would that effect your opinion of value?

WILEY: You want to rephrase the question please.

WOMACK: Well, if as a matter of fact the drainage improvements were not even within the right of way acquired for the road, would you still think that the drainage improvements had anything to do with the road adding value to the tract?

WILEY: Sure I would.

WOMACK: All right, then in your opinion the drainage improvements would not have been made, but for the road being built? Is that correct?

WILEY: I think that they are part and parcel with the project..complete project, that's correct.

WOMACK: You don't think that the drainage from the south would have had to be taken care of whether a road was there or not?

WILEY: Drainage to the south..

WOMACK: South to the north through this tract?

WILEY: It probably would have eventually had to have been taken care of some how, but you know this is the only project that we are dealing with at this time.

WOMACK: Okay, are you familiar with the floodplain maps and area and things like that? Is it shown as a flood prone area?

WILEY: Yes.

WOMACK: All right, the only thing we are trying to get at, is just that.. any enhancement from his own testimony in spite of what he is trying to back up into, comes from the fact that a certain area of the tract was removed from the floodplain by the drainage project. The drainage project would have taken place even without the road, because it would have had to with all the development to the south. The piece of tract was even leased at one time and somebody who grew grain. It finally got so wet that it couldn't grow grain in that area, and now they have trouble mowing it, so the City created the 100-year floodplain, and the road is only going to dump more water on it. That if the City had not built the bom and channelized the creek, then the City would have been dumping a lot more water upon this man's land. This man would have had a tort action against the City of Austin for flooding the property. The City by channelizing the drainway and taking the water off the property only saved the City and the citizens of Austin from a lawsuit, and that's a general benefit..community benefit, as opposed to a special benefit to this piece of property, so essentially you have created the problem and now you are asking this guy to pay to have it corrected when he could have had a lawsuit against you and you would have had to correct it anyway. And the drainage..the drainage project itself if you will look at the floodplain map the City has, you will see that it is totally without..outside of the right-of-way of the road itself. If you will read the statute that gives you the right to charge people for paving assessments in the first place, it says paving of roadways or culverts or drains. This is not a culvert. I don't think you can call it a drain. If you can't call it a culvert or drain, you can't charge for it.

Mr. Wiley has not placed any value on the tract in spite of what he just got through saying from the paving itself, because the exact enhancement he comes up with is the amount of property removed by the floodplain times its value, and he did it, he changed it three different times..he came up with the same number every time. So I don't think, and we don't think that there is any money owed by Mr. Siddons for any part of the paving assessment since as a matter of fact from your own appraisal's testimony, there is no part of the paving and guttering that enhanced the value of the tract itself. Thank you.

MAYOR: Thank you, sir. We have a motion and second on the floor don't we?

Roll Call on Motion

Ayes: Councilmembers Goodman, Trevino, Mayor McClellan,  
Councilmember Cooke  
Noes: Mayor Pro Tem Mullen  
Not in Council Chamber when roll was called: Councilmembers  
Himmelblau, Snell

(To reduce assessment by 50% on Parcel 4).

Mayor Pro Tem Mullen stated: "I would like to say this for the record. I think they had a valid case, and that's why I voted no, I felt like...I know you all listened to him. ....It has nothing to do with what the staff talked about or what the appraiser talked about, but what I felt happened way back when the good old boys sat down and made a deal, and before the City was being run a little bit less stringently than it is now."

Motion

Councilmember Goodman moved that the Council approve Option B and assess Parcels 7, 8 and 9 for \$2,195.29. The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor Pro Tem Mullen, Councilmember Trevino, Mayor McClellan,  
Councilmembers Cooke, Goodman  
Noes: None  
Not in Council Chamber when roll was called: Councilmembers  
Himmelblau, Snell

## AFFIRMATIVE ACTION

MR. JOHN ARUMBULA, who was not listed on the Agenda, appeared to speak on affirmative action. It was his opinion that there is not an equal amount of hiring of Hispanics for the City of Austin.

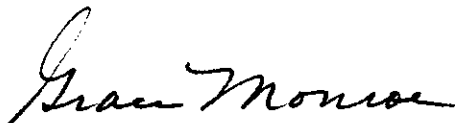
## AJOURNMENT

Council adjourned its meeting at 11:05 p.m.

APPROVED

  
Mayor

ATTEST:



City Clerk