

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

April 9, 1981  
9:00 A.M.

Council Chambers  
301 West Second Street

The meeting was called to order with Mayor McClellan presiding.

Roll Call:

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

Absent: None

INVOCATION

The Invocation was given by Roger Wilson, First Church of the Nazarene.

APPOINTMENT ANNOUNCED

Mayor McClellan announced the appointment of Tommy Parsons as a member of the Austin Housing Authority.

WILLIE KOCUREK DAY

Mayor McClellan read a proclamation designating April 9, 1981 as Willie Kocurek Day in Austin. Mr. Kocurek thanked the Mayor and Council for the proclamation. Accompanying him at the podium were J. P. Stallworth, president, Board of Realtors; Don Read, executive vice president, Board of Realtors; Mary Nell Garrison, chairman, Most Worthy Citizen Committee; William Raschke; Mr. and Mrs. Jerry Eickhorn; Raymond Prasatik; and Bennie Smykal.

**AREA 13 SPECIAL OLYMPICS DAY**

Mayor McClellan proclaimed April 11, 1981 as Area 13 Special Olympics Day and presented a proclamation to Sha Hall, Special Olympics coach, AISD; Donna Poulos, coach; students, David Gonzales, Duane Isabel, Linda Velasquez, and Miranda Davis; and UT Cowboys John Kincaide and Rusty Perry.

**RESOLUTION FOR MAYOR McCLELLAN**

Councilmember Himmelblau read a resolution signed by all Councilmembers, citing Mayor McClellan's use of CPR the preceding day which saved a citizen's life. Mayor McClellan thanked the Council for the resolution and stated the real credit goes to EMS and their quick reaction in a crisis.

**KUT-FM COMMUNITY SUPPORT WEEK**

Jared Foster, chairman, KUT Community Advisory Council, received a proclamation designating the week of April 10-18 as KUT-FM Community Support Week. The Mayor read the proclamation and Mr. Foster thanked her.

**HOUSE BILL NO. 16**

Councilmember Goodman read a resolution in support of House Bill No. 16 which would allocate revenue to a fund for the continued acquisition and development of parks and recreation services. Leonard Ehrler, Director, Parks and Recreation Department, and Don Cramer, Assistant Director, thanked the Mayor and Councilmembers for the resolution.

**MEDICAL LABORATORY WEEK**

Susan Corbin and Karen Stalhut, medical technologists, were in the Council Chamber to receive, with their thanks, a proclamation setting aside the week of April 12-18, 1981 as Medical Laboratory Week. Councilmember Himmelblau read the proclamation.

**AUSTIN SYMPHONY CELEBRATES WEEK**

Councilmember Cooke read a proclamation, received with appreciation by Jane Sibley, president, Symphony Board of Directors, which sets aside April 5-11, 1981 as The Austin Symphony Celebrates Week.

**CLASS RECOGNIZED**

Mayor McClellan recognized the presence in the Council Chamber of the 6th grade class from Williams Elementary School, and their teacher, Mrs. Castillo.

## MINUTES APPROVED

Councilmember Himmelblau moved that the Council approve the Minutes of the Meeting for the Special Called Meeting of March 18, 1981. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

Noes: None

Not in Council Chamber when roll was called: Councilmember Goodman

The Minutes of the Meeting for March 26, 1981 are being held until next week's meeting as Council has not yet read them.

## BOARD AND COMMISSION APPOINTMENTS

Mayor McClellan announced the following appointments are due for consideration at the April 16, 1981 meeting:

Building Standards Commission - 2  
EMS Quality Assurance Team - 1  
Ethics Review Commission - 1  
On-Going Goals Assembly Committee - 5  
MH/MR Public Responsibility Committee - 1  
Urban Transportation Commission - 4  
Renewable Energy Resources Commission - 1  
Water Quality Review Board - 5  
Community Development Commission - 6  
Dental Health Advisory Committee - 9  
Downtown Revitalization Committee  
Joint Airport Zoning Board - 1  
Elizabeth Ney Museum Board of Directors - 3  
Medical Assistance Program Advisory Board - 1  
MH/MR Board of Trustees - 1  
Environmental Board - 1  
Commission on the Status of Women - 2

Council representatives are to be chosen for the following:

Capital Area Planning Council - 1  
Police Department Internal Affairs Committee - 1  
Employees Retirement System of the City of Austin - 1  
Social Policy Advisory Committee - 1

## RELEASE OF EASEMENTS

Councilmember Cooke moved that the Council adopt a resolution authorizing release of the following easement:

7.5 feet of an Electric and Telephone Easement recorded in Volume 6861, Page 1737 of the Travis County Deed Records and being out of Lot 10, Block E, Southwest Oaks Phase II, 7402 Trede Cover.  
(Requested by Billy F. Priest Surveyors, Inc., representing Bill Milburn Company)

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

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

Councilmember Cooke moved that the Council adopt a resolution authorizing release of the following easement:

A 5.0 foot Public Utility Easement on Lot 11-A, Resubdivision, of Lots 1-11, Block A, The Highlands of University Hills, 6400 Chimney Creek Circle. (Requested by W. Harvey Smith, representing Austin Investment Group)

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

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

Councilmember Cooke moved that the Council adopt a resolution authorizing release of the following easement:

A 15.0 foot Electric Easement on Lot 1, TLR Hodges Addition No. Two, 8500 MoPac North. (Requested by Nolen and Associates, representing Jones-Prewitt Company, owner)

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

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

Councilmember Cooke moved that the Council adopt a resolution authorizing the release of the following easement:

A Sanitary Sewer Easement as recorded in Volume 526, Page 102, of the Travis County Deed Records and contained in Lots 1 and 2, Smith - Bennett Subdivision, 1308-1310 Elton Lane. (Requested by John C. Smith and Robert L. Bennett, Jr.)

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

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

Councilmember Cooke moved that the Council adopt a resolution authorizing the release of the following easement:

A 10.0 foot Public Utility Easement on Lots 5 and 6, Block "A" Perkins Valley Subdivision, 2410 Mozelle Lane. (Requested by Mr. Van Vahrenkamp)

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

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

#### CAPITAL IMPROVEMENTS PROGRAM

Councilmember Cooke moved that the Council adopt a resolution approving a Change Order in the amount of \$42,972.20 to Olmos Construction Company for Robert Mueller Municipal Airport 1980 - Interim Airside Improvements. CAPITAL IMPROVEMENTS PROGRAM No. 71/81-06. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

Councilmember Cooke moved that the Council adopt a resolution approving a fee settlement in the amount of \$10,000.00 for parkland and greenbelt acquisitions. CAPITAL IMPROVEMENTS PROGRAM Nos. 75/86-03, 75/86-13 and 75/86-14. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

## CONTRACTS APPROVED

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

B. G. BOYD CONSTRUCTION COMPANY  
9701 Gray Boulevard  
Austin, Texas

- CAPITAL IMPROVEMENTS PROGRAM -  
Hank and Jinx Avenue Drainage  
Improvements - \$17,274.50  
C.I.P. No. 75/60-02

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

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

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

JOE BADGETT CONSTRUCTION CO., INC.  
P. O. Box 9401  
Austin, Texas

- CAPITAL IMPROVEMENTS PROGRAM -  
Renovations to City Coliseum -  
\$852,560.00 C.I.P. No. 79/80-03

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

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

Councilmember Cooke moved that the Council adopt a resolution approving the following contracts:

Bid Award:

- Large Lamps for various City  
departments  
Twelve (12) Month Supply Agreement

GENERAL ELECTRIC SUPPLY COMPANY  
7521 North Lamar Boulevard  
Austin, Texas

- Items 3-5 - \$66,000.00

DEALER ELECTRICAL SUPPLY  
6714 North Lamar Boulevard  
Austin, Texas

- Item 1 and 2 - \$52,000.00

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

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

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

AUTOMATED OFFICE SYSTEMS, INC.  
1003 West 6th Street  
Austin, Texas

- Word Processing Unit, Parks and  
Recreation Department  
Item 1, 1 ea. - \$10,890.50

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

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

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

AUSTIN AMERICAN-STATESMAN  
308 Guadalupe  
Austin, Texas

- Printing and City-Wide Distribution  
of the Summer Activity Tabloid,  
Parks and Recreation Department  
Item 1 - \$10,247.50

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

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

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

POWER REPLACEMENT CORPORATION  
1850 Massachusetts Avenue  
Riverside, California

- Air Preheat Elements, Electric  
Department  
Item 1 - \$118,294.00

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

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

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

Bid Award:

- Distillate Heating Fuel Oil,  
Electric Utility Department

TESORO PETROLEUM CORPORATION  
Refinery Road  
Carrizo Springs, Texas

- Item 1, 1,500,000 gals. @ \$1.0485  
\$1,572,750.00

SIGMORE REFINING COMPANY  
3643 East Commerce Street  
San Antonio, Texas

- Item 2, 750,000 gals. @ \$1.0225  
\$766,875.00

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

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

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

DRESSER MANUFACTURING COMPANY  
23rd and Railroad  
Anniston, Alabama

- Butterfly Valve 48", Water and  
Wastewater Utility Department  
Item 1, 1 ea. - \$12,241.00

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

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

#### AGENDA ITEMS PULLED

The following items were pulled from the Agenda:

MILWOOD JOINT VENTURE CORPORATION

- For construction of a 16-inch water main and 21-inch wastewater main through Milwood Section II. Estimated cost will be \$39,275.00 for water and \$65,520.00 for wastewater if annexed within one year.

BILL MILBURN, INC.

- For construction of a 12-inch wastewater and 15-inch wastewater oversize main to be installed in Maple Run Section Six. Cost participation by City will be \$26,320.00.

#### AUDIT OF VALERO TRANSMISSION COMPANY

Councilmember Cooke moved that the Council adopt a resolution authorizing Austin's participation in an audit of Valero Transmission Company. (Total cost of audit \$218,000; City share \$14,910) The motion, seconded by Councilmember Mullen, carried by the following vote:

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



**TEMPORARY STREET CLOSING**

Councilmember Cooke moved that the Council adopt a resolution approving the temporary closing of the following streets from 3:00 a.m., May 2, 1981 to 9:00 p.m., May 3, 1981, as requested by Mr. French N. Smith III, representing the Old Pecan Street Association: (Rain dates May 9 and 10)

1. PARKING LANE AND OUTSIDE LANES, leaving two center lanes open, of East 6th Street from Brazos to Red River.
2. TRINITY STREET from 5th Street to 7th Street with fire lane open.
3. SAN JACINTO from 5th Street to 7th Street with fire lane open.

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

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

**ZILKER SHUTTLE SYSTEM**

Councilmember Cooke moved that the Council adopt a resolution establishing the Zilker Park Shuttle System as an on-going internal program. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

**COMPREHENSIVE EMPLOYMENT AND TRAINING PLAN**

Councilmember Cooke moved that the Council adopt a resolution authorizing submission of a modification to the present FY '81 Comprehensive Employment and Training Plan for the Capital Area Manpower Consortium to reflect revised Department of Labor allocations in Title II-D from \$2,522,755 to \$1,613,010 and Title VI from \$888,258 to \$462,597. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

**ITEM WITHDRAWN**

The following item was withdrawn from the agenda at the request of the City Manager:

Consider authorizing a funding alternative for the following agencies:

1. Austin Minority Economic Development Corporation
2. East Austin Chicano Economic Development Corporation
3. National Business League

#### CONTRACT FOR LEGAL SERVICES

Councilmember Cooke moved that the Council adopt a resolution approving a contract between Brackenridge Hospital and the law firm of Alvis, Carsow and Von Kreisler for legal services regarding expired citations and post judgement activity on default judgements. (Recommended by Hospital Board) The motion, seconded by Councilmember Mullen, carried by the following vote:

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

#### PUBLIC HEARINGS SET

Councilmember Cooke moved that the Council set two public hearings for the new water and wastewater policies as follows:

April 30, 1981 at 11:00 a.m.

May 7, 1981 at 3:00 p.m. and schedule for action.

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

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

Councilmember Cooke moved that the Council set a public hearing for April 23, 1981 at 3:00 p.m. on amendments to Chapter 41A and Chapter 29A concerning development controls for land within the Aquifer-related Slaughter, Bear, Little Bear and Onion Creek Watershed. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

**CAPCO APPOINTMENT**

Councilmember Himmelblau moved that the Council appoint Councilmember Mullen to the Capital Area Planning Council. The motion, seconded by Mayor McClellan, carried by the following vote:

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

Noes: None

Abstain: Councilmember Goodman, Mayor Pro Tem Trevino

**BUDGET AMENDED**

Mayor McClellan introduced the following ordinance:

AN ORDINANCE AMENDING THE 1980-81 OPERATING BUDGET, BY APPROPRIATING FUNDS FROM THE BUDGET OF BRACKENRIDGE HOSPITAL TO FUND 16 ADDITIONAL FULL-TIME EQUIVALENT POSITIONS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

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

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

Noes: None

The Mayor announced that the ordinance had been finally passed.

**ORDINANCE AMENDMENT**

Mayor McClellan introduced the following ordinance:

AN ORDINANCE AMENDING ORDINANCE NO. 801120-X BY RENUMBERING THE SUBSECTION OF THE AUSTIN CITY CODE OF 1967 ESTABLISHED THEREBY FROM 41-45(b) TO 41-35(b) IN ORDER TO MAKE THE SEVERAL SECTIONS OF CHAPTER 41 OF THE AUSTIN CITY CODE PROPERLY SEQUENTIAL; PROVIDING THAT THE RULE REQUIRING THAT ORDINANCES BE READ ON THREE SEPARATE DAYS BE SUSPENDED; DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

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

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

Noes: None

The Mayor announced that the ordinance had been finally passed.

## TAXI SURCHARGE

Mayor McClellan introduced the following ordinance:

AN ORDINANCE AMENDING CHAPTER 34, SECTION 34-42(a) OF THE CODE OF THE CITY OF AUSTIN, 1967, BY ADDING THERETO A SEPARATE SURCHARGE OF 50¢ FOR EACH TAXI CAB TRIP ORIGINATING AT MUNICIPAL AIRPORT; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

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

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

The Mayor announced that the ordinance had been finally passed.

## BOND SALE SET

Mayor McClellan introduced the following ordinance:

Councilmember Cooke moved that the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance, designating Thursday, May 28, 1981, 10:30 A.M. CDT, to receive bids on and authorize the issuance of bonds as follows:

\$27,000,000 CITY OF AUSTIN, TEXAS UTILITY SYSTEM REVENUE BONDS, SERIES 9:

\$27,000,000	Electric System Nuclear	Authorized 1-20-79
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\$7,500,000 CITY OF AUSTIN, TEXAS GENERAL OBLIGATION BONDS, VARIOUS PURPOSES, SERIES 262:

\$2,000,000	Hospital	Authorized 1-20-79
\$3,450,000	Street Improvement	Authorized 1-20-79
\$ 300,000	Drainage	Authorized 1-20-79
\$1,750,000	Police Building	Authorized 1-20-79

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

810409-D  
I.P.

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

The Mayor announced that the ordinance had been finally passed.

Councilmember Goodman registered his objection to the Electric System Nuclear Bonds.

#### ZONING ORDINANCES

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 15,750 SQUARE FOOT TRACT OF LAND, LOCALLY KNOWN AS 9700 NORTH LAMAR BLVD., FROM "GR" GENERAL RETAIL, FIRST HEIGHT AND AREA DISTRICT TO "C" COMMERCIAL, 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 PROVIDING AN EFFECTIVE DATE. (Van Cleave Development, C14-81-018)

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

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

The Mayor announced that the ordinance had been finally passed.

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:

LOT 4, BLOCK 1, R. NILES GRAHAM ADDITION, LOCALLY KNOWN AS 1615 WEST 6TH STREET, FROM "B" RESIDENCE, SECOND HEIGHT AND AREA DISTRICT TO "O-1" 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 PROVIDING AN EFFECTIVE DATE. (Croslin-Jackson-Rozelle Partnership, C14-81-026)

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

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

The Mayor announced that the ordinance had been finally passed.

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:

TRACT 1: A 4,200 SQUARE FOOT TRACT OF LAND, FROM "GR" GENERAL RETAIL, FIRST HEIGHT AND AREA DISTRICT TO "C" COMMERCIAL, FIRST HEIGHT AND AREA DISTRICT; AND,

TRACT 2: A 6,400 SQUARE FOOT TRACT OF LAND, FROM "GR" GENERAL RETAIL, FIRST HEIGHT AND AREA DISTRICT TO "A" RESIDENCE, FIRST HEIGHT AND AREA DISTRICT; ALL OF ABOVE PROPERTY BEING LOCALLY KNOWN AS 8732 NORTH LAMAR BOULEVARD; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE. (John D. Pounds, C14-81-030)

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

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

Noes: None

The Mayor announced that the ordinance had been finally passed.

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 9,046 SQUARE FOOT TRACT OF LAND, LOCALLY KNOWN AS 1507 HARRELL LANE, FROM "B" RESIDENCE, FIRST HEIGHT AND AREA DISTRICT TO "A" RESIDENCE, 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 PROVIDING AN EFFECTIVE DATE. (City of Austin Property Management, C14-81-040)

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

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

Noes: None

The Mayor announced that the ordinance had been finally passed.

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 6,611 SQUARE FOOT TRACT OF LAND, LOCALLY KNOWN AS 404 HIGHLAND MALL BOULEVARD EAST, FROM "C" COMMERCIAL, THIRD HEIGHT AND AREA DISTRICT TO "C-2" COMMERCIAL, THIRD 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 PROVIDING AN EFFECTIVE DATE.

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

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

Noes: None

Abstain: Councilmember Mullen

The Mayor announced that the ordinance had been finally passed.

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:

LOTS 13, 14, 15 AND 16, BLOCK 5, HYDE PARK SECTION ONE, LOCALLY KNOWN AS 4401 AVENUE D (WOODBURN HOUSE), FROM "A" RESIDENCE, FIRST HEIGHT AND AREA DISTRICT TO "A-H" RESIDENCE-HISTORIC, 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 PROVIDING AN EFFECTIVE DATE. (Woodburn House, C14h-81-001)

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

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

Noes: Councilmember Mullen

The Mayor announced that the ordinance had been finally passed.

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

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:

TRACT 14a: A PORTION OF LOTS 6 AND 7, BLOCK G, SUMMIT OAKS, FROM INTERIM "AA" RESIDENCE, INTERIM FIRST HEIGHT AND AREA DISTRICT TO "O" OFFICE, FIRST HEIGHT AND AREA DISTRICT; AND  
TRACT 14b: A PORTION OF LOTS 6 AND 7, BLOCK G, SUMMIT OAKS, FROM INTERIM "AA" RESIDENCE, INTERIM FIRST HEIGHT AND AREA DISTRICT TO "GR" GENERAL RETAIL, FIRST HEIGHT AND AREA DISTRICT;  
ALL OF ABOVE PROPERTY BEING LOCALLY KNOWN AS 11877-12005 U.S. HWY. 183, 12000-12004 AND 12003-12005 TWEED COURT, REAR OF 12004-12102 BELL AVENUE, 6000-6004 MCCOY ROAD, REAR OF 5901-6001 MCCOY ROAD, REAR OF 12200 HOWLETT COURT; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE. (Bell Avenue Area Study, Tract 14, C14-79-044)

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

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

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

#### UPDATE ON PURPA HEARINGS

MR. HECTOR DeLEON, Hearing Examiner for the PURPA (Public Utility Regulatory Policy Act) hearings, appeared before Council to present a short update on the status of PURPA hearings, "in light of the State of Mississippi vs. Federal Energy Regulatory Commission, which is a Federal District Court case decided in the State of Mississippi in February. The import of the case is that it declares the Public Utility Rate Policies Act unconstitutional as to Titles I and II.

"Currently, we are conducting public hearings relative to declining block rate and certain other aspects of the rate. The hearings are scheduled to be reconvened in July. The question before the Council is whether in light of this particular case, it is a wise expenditure of the taxpayers money to continue to go forward with the hearings. Your legal staff has done a fine job of reviewing the import of the case and have recommended that Council go forward.

"It is my recommendation that Council go forward at this time. The taxpayer dollars to be saved are minimal; there is a strong indication that this case will be reversed on appeal; and finally, there are certain time deadlines within the act itself that require action by Council. The deadline is November 1981. If the deadline is to be met, it will be necessary for the hearing to go forward simply because an evidentiary hearing is required.



fo  
"Finally, let me add two more items. The last time I made a report I neglected to provide insight to Council regarding action on recommendations presented. They were the basis of an evidentiary hearing as required by the Act. Those recommendations should be acted upon in accordance with the record developed at the hearing. If those recommendations are then opened up for further comment outside of the record, and if that comment is not based upon the record, then it subjects any action taken by Council to possibility of being overthrown. It could be set aside simply because it is action that is not predicated upon the evidentiary record that was developed during the hearing. For those reasons, I would impress upon the Council the need to base upon the recommendations based upon the record and only on the record.

"Finally, the PURPA requires that an evidentiary hearing be conducted relative to the lifeline rate. Currently that is not one of the items we have a mandate to look into. For that reason, I request Council to authorize this hearing office to go forward and include in the items to be considered in July the matter of lifeline rates so we can come back with recommendations based upon the evidentiary hearing and any action taken by the Council will be based upon the record that has been properly developed."

#### Motion

Mayor Pro Tem Trevino moved that the Council include in the July hearings the matter of lifeline rates. The motion, seconded by Councilmember Goodman, carried by the following vote:

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

Noes: None

Not in Council Chamber when roll was called: Councilmember Cooke

#### CITY MANAGER REPORT WITHDRAWN

The following City Manager Report was withdrawn from the Agenda:

Report on CDBG (Community Development Block Grant) contracts for the following agencies:

1. East Austin Chicano Economic Development Corporation
2. National Business League
3. Austin Minority Economic Development Corporation

#### REPORT FROM LEGISLATIVE COUNSEL

MR. JOE LONGLEY, legislative counsel, reported on current legislation which is of interest to the City of Austin. He said MTA is being considered today and there should be no problem. The resident physician bills are in committee and the sign removal bill is in subcommittee and probably will not come out.

## CABLE TELEVISION

Council had before it for consideration the following ordinances concerning cable television:

- I.5. Consider an Ordinance granting Capital Cable Company a cable television franchise.
- I.6. Consider an Ordinance establishing rates that can be charged for cable television services in the City of Austin.
- I.7. Consider an Ordinance consenting to the sale and transfer of 100% of the ownership interest in Capital Cable Company to Time, Incorporated.

(TRANSCRIPT OF THE PROCEEDINGS FOLLOWS)

MAYOR: I want to take up the Cable matter since we will not have a full Council this afternoon. We will take up cable and then we will proceed in the order of public hearings as they are scheduled. There have already been public hearings..the two public hearings that have been closed..I have..I hope everybody has a copy..Council..of what I put before you this morning. Let me just make some comments and certainly Council is welcome to discuss in any manner they please.

I really believe that we have spent a great deal of time and in following the advice and counsel of Harold Horn with Central Television Information Center. He said the first step you ought to exhaust is negotiating with those who are Cable providers. I think we have not exhausted that step. I think that it would be irresponsible of this Council to come this far in our negotiating and stop short of holding ATC's feet to the fire. I don't believe that we have held their feet to the fire, and I think now is the time to do that. And since I also feel that it is also..

GOODMAN: Where is the fire?

MAYOR: Okay. I am getting ready to.. Since I also feel that it is most important that we treat this as a public utility..As has been elegantly said, it may be more important than the telephone company 10 years from now..if we are to treat this as a public utility, and if this Council is to continue to negotiate, then we must have a first vote this morning. I want to make very clear with all I say that that first vote and passing on first reading an ordinance this morning, does not mean any commitment to do business with ATC. That commitment will only come if after holding the feet to the fire, we come back with a far better proposal for the City of Austin, and one that is competitive with any across these United States. I think that in looking at other places that many of the places have I think a far better option on an economy tier than what the City of Austin is being offered. I myself Council, and this is for your discussion, but I myself think we could do without the Universal Free Tier, which really has nothing for nothing on it, and more critically I think that we ought to look at an economy tier where you get at..you know..even more than what people are getting even now for \$4.95..you know in Tucson you have got an economy tier offerings at \$3.95 from ATC and \$2.95 from Warner. I think if we are willing to do without that Universal Free Tier, that we ought to be able to get an Economy Tier where you get 23 channels at a very low price, and certainly far more than what we are looking at right now. With all those things being said, I also think that the build-out system could be faster than the period laid out, and I have put before you a statement, if you will that you are certainly free to add to, in any way, but I would put it out for your suggestion that

April 9, 1981

within 15 days we have Cable Television Information Center provide the City with a detailed written evaluation of the current ATC Capital Cable proposal with particular attention being given to pricing programming and engineering elements of the proposal. The financial pro forma, using the valuation shall include projected revenues from leased channels, data transmission and advertising sales and this was certainly spoken to in our public hearings, and this is going to take cooperation on the part of the ATC and our staff in getting this information. CTIC has told the Council that we can get through negotiations as good a Cable Franchise as we could get otherwise through the forces of the market place and the competitive process.

Therefore we are asking CTIC..I want Council to ask CTIC to compare ATC Capital Cable's proposal to the market place, as it currently exists with special attention being given to the company's tier pricing and programming, satellite services, the construction timetable, which I spoke to earlier, and that CTIC present this Council with specific recommendations for the City to use to counter the company's proposal. We haven't started our negotiations yet..I really feel like. I know we have been doing it for a long time, but we really haven't offered strong counter-proposals. And bring the franchise in line with franchises from other cities, and what they are getting through the competitive process.

I also want us to ask CTIC to consider the ascertainment study that was prepared by Paul Smolen and Assocs., and the proposals submitted by the University of Texas; KLRU, which has not been addressed; AISD; the HECA; ACTV; and the Cultural Cable Coalition, and recommend to the Council how these requests can and should be met in the most efficient manner through the franchise agreement. Of specific recommendations, I want specific recommendations from CTIC regarding the amounts necessary..again a topic we discussed the other evening, and appropriate for operational and capital equipment costs for access in local origination, and the best way to administer these funds.

If this can all..if we get good counter proposals back to Council, and we can move with this, and really come up with a fine agreement, fine, and if not,..as I say there is certainly no commitment, and you know, at that point, if we don't get full cooperation and the best of all possible worlds, then I am ready to throw in the towel and we will leave it for the next Council and competitive proposals.

COOKE: Mayor, I might just interject, and I have no basic objections to what you are saying..I would hope that CTIC..of course, I am beginning to arrive at some personal conclusions about what I think some of those observations that you are asking CTIC to address, and I don't know what they are going to come back with specifically like Mr. Smolen's proposal..who should have the responsibility for local origination and some of those responsibilities. I am certainly willing to try to maintain an open attitude about what they might come back with. I feel like Mr. Horn will come back with some very good suggestions in these areas. We hope so. I would like to reiterate some of the points that I made the other night..as points of consideration and that is we possibly leave the pricing open at 23 channels..after 23 channels.. right now just look at that.

MAYOR: We are all assuming an 84..I assume we are discussing an 84-channel..

COOKE: 84-channel system..including..I said the other night AISD, and KLRU and hooking up all public buildings to cable, including the county..and that

April 9, 1981

includes also traffic lights, both computerized and future.. We have all.. there is a map that is available that shows where all that would go, and I believe that from our comments to..by Joe Collin, that can all be accommodated in the loop. I will hold on consideration..I have said that I felt like we should have an Austin Access Authority that umbrellas the organization as well as a Cable Officer funded by the franchise fee, and that ATC support of access should probably be greater than 1,000,000 and 3.8 million as far as equipment and operations over the franchise, but I was very hesitant to acquiesce to Mr. Smolen's fees..what he suggested. I would have some additional comments that I would like to make at this time..that I have visited with the company about. I think all of these.. but they have not really fermented or materialized anywhere, and I believe that they may be in concert with most of these, but I certainly wouldn't want to speak for them.

First, as Mr. Rifkin has said, that we make sure that we have language assuring the city that when certain satellite services become available, subscribers will get them. For example, prime time cable network and also similar language..and this may already be taken care of..correct me if I am wrong..where all the super stations for this market would be available if FCC rulings change, and that we get more specific delineation with regard to the Alpha-numeric offerings that we have, because we have a number of them. I, too, have some concerns about the duration of the build-out. I have heard everybody say from 3 years to 6 years, and looking at the material and the analysis and the difficulties that we have in our community, I still feel that 60 months is reasonable..both from our point of view and from ATC's point of view..and I know that there are those that differ with me on both perspectives.

We talked also about increasing the cable franchise expense reimbursement.. probably it is at 100, and I would respectfully ask that we make that 150. That we have the converter purchase option considered..allows for payment of the installation fee over 3 months..rather than the first month, and as Dr. Botein suggested..or commented on, and I am not sure, maybe Jerry could speak to this, but when I looked at Dr. Botein's comments, one of the ones that he did leave out, or has been left out at this point, that Dr. Botein spoke to.. and I had spoken to the cable franchise requester about this same point, is the validity of the 1995 installation and reconnect fee for Universal Tier ..now that may go away if we speak to something like you are talking to, Mayor. While it is a \$15 dollar fee on all the other tiers, and some of the comments have been made is that we should have a higher..maybe a higher connect fee on some of the upper tiers..lower on the Universal Tier, but what we seem to be doing is cross-subsidization of the tiers, and I think if it is going to be..if we are going to have a connect fee, it shouldn't be \$19.95 for Universal and \$15 for all the others..it ought to be the same for all of them. Otherwise we are subsidizing the other way, and so I think it should be \$15 for all and not \$19.95 for Universal and \$15 for the rest.

And I believe it has been addressed, Jerry, that the penalty for late payment of the franchise fee, and I believe that Monty has talked to this or Joe, I am not sure with..you know, ATC, and around the country has been..has done and I think would be just good marketing to do it here as to do periodic ascertainment. And I am going to leave that open, but I think we should have some kind of periodic ascertainment process. I think it is in the best interests of everybody, including the company, and I would like just one other thing that we might think of..remote keyboards might be provide to the City and the institutional agencies, so they can use the Alpha-numeric channels..

April 9, 1981

and I may be wrong about this, and it is not something we necessarily have to go into detail here about, but I think these keyboards are the same things as character generators, and we need to have those or we won't be able to use the Alpha-numeric channels for the City and some of the institutions, so I think that particular piece of equipment needs to be discussed, and if my concerns can be resolved and we can, then that doesn't need to be added. So those are some additional comments..I don't think, except one or two, these comments are a surprise to ATC, because I think I have discussed them in several of my meetings with them.

MAYOR: Two other things I would like to comment back on..I don't believe I mentioned earlier.. One is on the interim points on the build-out. If we were to eliminate one of those points, would it shorten that time frame on build-out..you know, the 36-point is one I am particularly asking about.

: Turning on the 36 channels or 42?

MAYOR: Right, I would like some comment back on that if that could shorten the build-out time expectantly..some comment on staggering the 84-channel turn-on..as it is ready turning it on.

HIMMELBLAU: I would also like to look at the 84-channels with the 54 channel rate, and an Economy that would include one super station and one cultural channel and movie service and one inexpensive family movie service, plus the cable news network, if possible.

MAYOR: With the 84..

HIMMELBLAU: The 54 channel rate are a lot more agreeable to..or easier for people on fixed incomes. We go to the 84 and I am afraid we are spewing costs out as we come down the years, and I would like to see some amendment of the rate with the 84 channels, and would like to see it a tier that would include a super station, a cultural channel, a premium movie service, and a premium family movie service that is not too expensive, plus the cable new network, in that tier.

MAYOR: I believe there is great unanimity, Betty on spending on what you say on the economy tier. You want good offerings at a low price, and..

HIMMELBLAU: ..and I think Lee said, that we would only be approving the rate through the third year, when the 23 channel system would be complete. Is that..

COOKE: That's a suggestion for Council's consideration..

HIMMELBLAU: I would like to see that too. And that the Council would have the right to initiate rate changes.

COOKE: Mayor, I know that we just received some modified pro formas, and I think the analysis of pro formas is that it deals with rates and a number of things will be adequately taken care of with your suggestions as you initially proposed. However, I would like to ask that..and I know tht Daron and Jerry have been working very hard on this, but we do have a couple of individuals in the City that..CPA's..that I would like to visit with you, Dan, that might also be able to take a sort of cursory look at it from the City's perspective,

April 9, 1981

while Mr. Horn's experts are looking at it,..we may have already addressed that to you yesterday.

: You already have.

COOKE: Okay.

GOODMAN: Two years ago, we had an informal..I had an informal visit from representatives of Capital Cable..those representatives that have operated the system for the past 17 plus years, and at that time they were requesting a 20-year extension to the franchise and proposing, if my memory serves me correctly, a 30-channel system. Today we are about to vote on the ordinance granting Capital Cable the franchise, yet we don't know what the terms of that franchise are going to be. We are going to vote on an ordinance establishing rates that are totally up in the air right now..we do not know what the rates are going to be. And we are going to vote on an ordinance consenting to the sale it should be, and transfer of Capital Cable to Time Incorporated, yet we don't know any of the details of that transfer. On all three counts, I think we are taking premature action, and I understand that it is only first reading, yet the die may be cast by our actions today. It sets us forth on a path of action that I think 15 years from now, or 5 years from now, or however long from now, we may regret. It may be a big mistake, that the citizens may pay for for a long time, not only in the actual rates that they pay, but in the services that they receive from the cable company.

I think ATC is a good cable company. I do not see the necessity to vote on first reading or on any reading, on three items today..none of which are actually going to go into effect, with the possible exception of the transfer of Capital Cable to Time Incorporated. And I continue to object to the fact that the companies..both companies involved have maintained a confidentiality agreement that offends the public..that those who have invested in this system for 17 years don't know how much that system is being sold for. When we are the ones who actually pay for it. I don't understand how we can vote on that not being given any of the information concerning the sale. I can't understand how we can vote on rates that are not in existence at this time, or on the system that we don't yet hardly have any idea of what it will look like. The only reason that I hear is that it is for the sake of this Council before this Council goes out of office. And that should be the least of our concerns regarding the franchise that will impact this community for years, to come. What is most important is that we have a quality cable system at an affordable rates, not which Council makes that decision, and I will not vote for any of those three today, and object vehemently to the transfer of Capital Cable when that information..financial information has been deprived from us.

I can't see how any one on this Council can tolerate that last item.

MAYOR: Let me just say that the reason certainly on voting on first reading today is not to have action before this Council goes out of office. The reason for voting on first reading, is that legally, if we are going to consider Capital Cable and ATC and a cable franchisee as a public utility..for us to be able to exhaust that first step that CTIC, Harold Horn, everyone says that you ought to do in a City where you have an ongoing system..the first thing you ought to do is exhaust the step of negotiation. We have not exhausted that step of negotiation..as I said, we have taken pretty much what they have given us..not any discredit to the staff who has certainly been working hard,

April 9, 1981

but it is time for this Council to make very clear what we expect this community to have. We have had people in here telling us in public hearings what they expect to have, and at a reasonable price. That is not there now, and there is no commitment, but if we are going to keep negotiating..we are just going to throw in the towel, and I think it would be irresponsible on our part, as I said earlier to throw in that towel before we have exhausted that first step that we all, you know, hire people on to advise us about. There is no commitment to going with ATC, and there will be no commitment to going with ATC, unless we have the best system any place in this country, and I think we ought to exhaust this step and hold their feet to the fire, and I don't know anyone in any better position to do that right now, than at this point of negotiation.

If it comes back same song, without all those drastic changes that we want to see, and all the information we want as laid out, then certainly then there is no commitment to go on with any second or third reading. We will not be in a commitment to do business. But the reason is not so there is some action before this Council goes out of office. The reason is so that this Council could exercise fully its powers if you will to try to get to the most quality cable system at the most reasonable price for the citizens of this community, and I think we ought to exhaust first that step.

GOODMAN: I would like to ask one question. Before I ask the question, I would like to make a comment, and that is, that you know those who will ultimately be effected by our decision once it is finally made, do have the last vote. They get the petitions if they so desire, and I..

MAYOR: ..and I respect that.

GOODMAN:..and rescind the Council's action, if the Council's action does turn out to be irresponsible.

MAYOR: It ought to be rescinded if it turns out to be irresponsible, but I don't see that this Council is about to do anything irresponsible, but I do think we ought to exhaust that first step and we are going to abdicate the ability to do so, if we don't take a first look today with no commitment beyond that.

HIMMELBLAU: Mayor, I will agree with you, but because we take the first vote today doesn't mean that I would be locked in to the second and third readings, but I would like to suggest that this be put back on the..if it goes through the first reading today, that it be put back on the Council agenda on May 7 and May 14, which the City Attorney tells me..

MAYOR: ..has to have 30 days..

HIMMELBLAU: between..can you suggest a time frame.

HARRIS: 30 days before..

MAYOR: ..utility and we are treating as a public utility, that is why you have to have 30 days.. But we are also going to..excuse me, my mike is off, ..I say you have to have that 30 days in between, if you are treating it as a public utility, and that's why we have to have that first reading today. If..but I want to reiterate we are really going to need a lot of work done. I want..the reason I have 15 days on the information back from CTIC, and the



April 9, 1981

recommendation is so that we then have time to do the negotiating. After we get back those specific recommendations and the public has time to fully participate with us in those negotiations..

GOODMAN: So my question was do we in fact make any commitment by first reading today, Mr. Harris, that would endanger or adversely effect the City's position in the event we were not to have final approval of a contract or franchise with Capital Cable or ATC.

HARRIS: No we don't do anything that would prejudice the City's right in any way shape or fashion by passing an ordinance on first..

GOODMAN: We will not be culpable in any way. We will not be responsible for any fees that Capital Cable or ATC may sue for in your legal opinion.

HARRIS: No, we would not.

GOODMAN: There would be no adverse impact from the City by taking a first reading vote today? In any way?

HARRIS: That is my opinion.

GOODMAN: Have you discussed that with anyone else, or given that thought consideration?

MULLEN: Well, what we can do..

GOODMAN: Excuse me, Mr. Mullen..

MULLEN: maybe representative.. To answer your question, just get a commitment from them to not take any action. That would solve that problem.

GOODMAN: I would encourage you to do so.

MULLEN: Well, you aren't going to be a part of this.

GOODMAN: I am not going to vote on it, so you know..

MAYOR: Well, I have to .....first reading....

MULLEN: Then you shouldn't worry about the legal ramifications if you are not going to vote on it.

GOODMAN: I am definitely worried about the legal ramifications, because that is part of the responsibility of this job. If you are going to vote on it, I certainly would be..

MAYOR: Let's put our attorneys in the room on record here.

HARRIS: I am on the record.

MAYOR: Yes, sir.

HARRIS: Are you a lawyer?

: I disclaim being a lawyer. And the company for the record states

April 9, 1981

that it fully understands the procedure, and it..we understand that a first reading is merely a continuation of the negotiation process, and the company ..in the event there is no culmination of this transaction, then we will seek no redress whatsoever.

MAYOR: Thank you.

MULLEN: How about Capital Cable?

GOODMAN: You a lawyer?

FRIEDMAN : I don't know.

GOODMAN: Are you representing all parties of Capital Cable?

FRIEDMAN : I have been and I still am. I think Mr. Harris has outlined it carefully and correctly for you. Mr. Rifkin's statement is absolutely correct. Quite frankly you are worrying about things that have never seemed to bother you in the last four years. You always take more than three readings on many issues. The bottom line is first reading is a first reading.

GOODMAN: Actually, Mr. Friedman, we are being sued right now for a first, second and third reading case that was later changed, so it does bother us considerably.

FRIEDMAN: Well, I never had that problem the six years I was on Council. I understand your sensitivity.

MAYOR: All right.

# MOTION

COOKE: Mayor, I move that we adopt with the considerations of those things that have been entered into the record by you, by Betty, by myself, for considerations for first reading only, to adopt an ordinance to..that would take into consideration the three ordinances that are on our agenda today. In other words we are adopting on first reading that would address all three of the.. Would that be proper Mr. Harris?

HARRIS: Yes, you can adopt all three on first reading, right?

GOODMAN: I mean, would it be legally proper?

COOKE: No, would it be proper that this motion tie in all three, because the last one were..

HARRIS: I think we ought to take each one of these one at a time. They are separate ordinances. What I really need to know for publication purposes is..I know I distributed a document to you yesterday with some changes in it. I basically need to know if that is the document we want to pass on first reading. If not, what specific changes do you want me to make to that document before I give it to the newspapers to publish.

GOODMAN: ....ordinance. What proposals you know, what transfer papers are we approving, you know..

MAYOR: Basically, that's the document, but with the understanding that that is first reading only..no commitment. And before we get to that second reading, we have got all of the enumerated items that must be addressed and remedied.

April 9, 1981

COOKE: That would be acceptable to the maker.

HARRIS: Because that includes the rate ordinance for the 84-channel system. Which is published..will contain those rates beyond the 23 channels, with the understanding that that is one thing that is going to be looked at very carefully on the second reading.

MAYOR: Okay, the motion right now, is we will take them one at a time. I.5. That's your first motion.

COOKE: That's correct.

MAYOR: Mr. Cooke.

SECOND

HIMMELBLAU: I will second it.

MULLEN: I have a deal right here on mileage that we might discuss for a second. Daron, would you kind of like to explain what we came up with? That has been a part of the discussion, the miles of cable. It appears we are about 150 miles different between what ATC has said we have, and what the City estimate now is, based on what I suggested we try and do. And 150 miles..what was it a cost per mile. I can't remember but it was..

DARON BUTLER: We ran several tests. First we looked at the cable mileage as outlined by ATC in its proposal..the cable mileage from Capital Cable's records, and we show that there was some variation of some 30 miles, and both mileage figures could clearly be indicated simply from the difference in the date they requested. Then at your recommendation, we went back and took another cut at it and found that on the aerial miles, using a formula based on the number of poles rented, that there were approximately 1,150 aerial miles in the system, and you compare that to any of the estimates then we are very close..we are in 40 to 50 plus or minus 40 miles on that, and I think that is a reasonable..without actually taking a penometer and measuring each strand on a strand map. The difference appears to be in the underground where there is some 100 miles variation based on the estimate, and we simply need to work on that.

I do not feel discomfited totally by those figures. I think that is something we simply need to hone in on. I believe the test on the aerial turns out to be quite right, and I appreciate your recommending that to me.

MULLEN: I think a lot of people in the City thought that those were totally considerably off.

BUTLER: I think we are fairly close, really. I think that..

MULLEN: Richard, I would like to ask..somebody once said, "any jackass can kick a barn down; it takes a carpenter to build one." We can get up here, and..after spending thousands and thousands of staff hours and just kick it in the ground and not attempt to build anything. I would like to know your suggestions. If you had an option of what you want from ATC, what would it be? What would you say to them? What would you say..this is what we want. To make this system work.

April 9, 1981

GOODMAN: What I would say for starters, Ron, is demonstrate an attitude where I don't even have to ask that question in the first place.

MULLEN: An attitude..I am worried a lot more about dollars, loss of time for the people of the City of Austin..

GOODMAN: Absolutely..where do you think it is encompassed in attitudes, so that we have rates that are realistic, so that we don't..you know..I could take this back to square one, and say that I would have liked to have seen a proposal the first time out from ATC that we could look at and say well, this is pretty close, and so forth; yet we have been through a teeth-pulling process, and we are still not there, as all of the members of the Council I think, have recognized today, that we don't have that proposal..probably the most basic element at all having an Economy Tier at rates citizens can afford. Every member of this Council right here saying today.. "No, we are not satisfied with that proposal." I would like to keep you company.

MULLEN: Could you be specific about what you want though, because if it is possible to put together what you want in the next two weeks, let's do it. But let's find out what you want specifically..

GOODMAN: You will get a full report on that, and I participated actively.. I have..

MULLEN: The only problem is if we go with your recommendations today, that report would be meaningless because you will not have an opportunity to act on what you are talking about.

GOODMAN: You and I will both be here two years.

MULLEN: The citizens of Austin are going to lose a great deal..at least they could accomplish a lot more a lot quicker if we get a notion to negotiate a good situation. If we can't then we both agree. My problem with what you are saying is that you are not giving us any concrete information to work on or proposal. It is easy to demagogue..on throwing the whole thing out..

GOODMAN: It is easy to say that, and I have consistently given a number of recommendations and proposals in meeting with the company, which was rather difficult to do...over a 3-month period....behind closed doors, where neither you nor I were allowed in. So you...that's part of it. So you would like to know what I want to know.. What is the purchase price?

MULLEN: If that is given to you, then you will consider if this is a good proposal, voting yes for it?

GOODMAN: Well, I would certainly consider the item concerning the transfer. You know..if you want to know about one of the other important points..I think the rate of return..to adopt these 3 items today, having no rate analysis, having no rates actually to analyze yet in a final proposal..how could I even begin to answer your question about some of the specifics I would like to..

MULLEN: I just want to know what you want, because in the next few weeks, you may get that and be able to vote yes on the proposal.

GOODMAN: And do I have to be confined to the next two weeks.

April 9, 1981

MULLEN: No, you don't.

GOODMAN: Thank you.

MULLEN: Neither do I..neither does anybody on the Council, but you still haven't answered the question. You still evade the question.

GOODMAN: No, Ron, for the past two years, I have answered that question in an intensive process throughout the entire cable consideration.

MULLEN: Let me ask you this. If, in the event we go to RFP's, and nobody will answer that question, would you still vote no?

GOODMAN: Nobody will answer..

MULLEN: Nobody will answer the question of how much they pay Capital Cable for their ..... value, or whatever..

GOODMAN: I don't think they have the right to do that, and I think that's our responsibility and part of the information that ought to be given to us. How..can we..you know we have been in business for somebody for the past 17 years, where we have allowed them to operate, and we have invested in that system. If it is a public utility as the Mayor says, then it is outrageous that we don't know what the sale of this public utility is..what the sale price of this public utility is, so we are going from one group that operates that way to another group that has accepted those conditions. Now if those are the kind of folks you want to be in business with and entrust the cable operation in this City for the next 15 years..if you feel comfortable with it, you vote your conscience, and that's fine.

MULLEN: Richard, you know that that is a very fair statement, and you know it because of..the Capital Cable is the one that has made that a problem.. not the new company.

GOODMAN: No, it's both. It takes two to tango, and there was an agreement made.

MAYOR: Right here today it is going to take 4 to tango, and we have a motion and a second on the floor..

MULLEN: I just wanted to..Mayor, what I was trying to get from Richard is more than just saying, "I am against"..so easy to always say I am against something..

GOODMAN: Ron, I would like..you know..I would like to see Spanish language programming on an economy tier, or universal tier. I would like to see other ..... including a black network that is in existence, and there is more than one, on that first tier. I would like to see cable news network either on the universal or the economy tier, so that as many people as possible have the opportunity for information of that type..news..

MAYOR: I totally concur.

?

GOODMAN: I would like to see leave channels and the revenue that could be anticipated from them included in the rate projections in the pro forma..

MAYOR: That's in what we have requested..

April 9, 1981

GOODMAN: ..which we do not have today..see..and the number of other items..

MULLEN: But everything you have said..

GOODMAN: ...I will try and get accomplished within the next two weeks. You know, I will participate in the process to the extent that I don't violate my own principles.

MULLEN: What I don't understand, Richard, is how you can participate in the process if you in fact are taking yourself out by voting no today.

GOODMAN: Well, I am voting no, but if your position prevails through three other votes, then I am not going to abdicate the responsibility that has been given to me and go pout, as I have seen others do on this Council. I don't do it that way. When I lose I still participate in an issue, and try to influence it to the best of my capabilities, because that is my responsibility..

MAYOR: ..(all talking at once.)

MULLEN: .....referring to me when you are talking about pouting. If you are let's get it out. Are you?

GOODMAN: Do you ever pout?

MULLEN: No, I don't any more than you do..

GOODMAN: Just don't worry..

MULLEN: The implication was there, and I wanted to find out what you were talking about..

GOODMAN: No the implication was not there. You have never pouted. Don't worry about the allegation.

MULLEN: Okay, I am going to pout now, Richard.

All talking at once.

MAYOR: ....the public hearing are now pouting..

MULLEN: Whatever you say and however we cut it, this is an extremely important issue, and it is worth discussing in detail, and I am sorry if it takes a little more time..normally we don't talk this much, and you know that, but I think this Council is under the gun and no matter what we do, we are going to be criticized. I don't care how we do it..we are..

MAYOR: That is absolutely correct..

MULLEN: We are under the gun of doing what's right. That's what..because no matter which way we go, the public is going to lose something one way or the other.

MAYOR: The four of us who are still ..... will be criticized more than others.

GOODMAN: You are right, Ronald, we are always under the gun, and I just

April 9, 1981

wonder if any weapons have been added to that arsenal in this consideration and whose gun we are under in this particular....

MULLEN: I am under the gun of trying to do what's right for the public, Richard. I hope you are too, and I think you are too, and I think you are, and I think that's what you are arguing about, and I am not taking that away from you, and I hope you don't think that anybody on this Council is doing any differently. We are all under judgement of what we think that if for the public.

GOODMAN: Absolutely, and I haven't made any indication whatsoever that any member of the Council was not up to doing what is right for the public, and we have a difference of opinion on it, and I respect that of course. And I hope that it is resolved in everyone's best interest ultimately, and I am just not so sure whose interests were put first in this particular case.. the people of the company.

MULLEN: Well, I hope we are putting the public..

MAYOR: Well, this Council is putting the people first. I don't know..you know..

GOODMAN: It is hard for me to see at this point, but we will wait until..

MAYOR: Richard, you just said you believe this Council and each member were doing what they believed was in the best interests of this community and the people.

MULLEN: He didn't mean it though...

MAYOR: Okay, let's..we have an I.5 with a motion and a second on the floor. First reading only, no commitments beyond that..everyone in here agrees to that..we have all these witnesses..okay.

ROLL  
CALL

TREVINO: Yes.

MAYOR: Yes.

COOKE: Yes

GOODMAN: No.

HIMMELBLAU: Yes.

MULLEN: Yes.

MOTION

COOKE: Mayor I move that we adopt I.6. on first reading.

SECOND

MULLEN: I will second.

MAYOR: All right, second is on I.6 on first reading only. No commitment beyond that. Call the roll.

MAYOR: Yes.

COOKE: Yes

April 9, 1981

GOODMAN: No again.

HIMMELBLAU: Yes

MULLEN: Yes

TREVINO: Yes.

MOTION

COOKE: And one that is vitally important to me, too, Mayor, as I think it is to all of us.. I move approval on first reading only for I.7.

SECOND

TREVINO: Second

MAYOR: I.7. Motion and second on first reading only.. Yes.

GOODMAN: Will the representative of Capital Cable come forth, please. Are you at liberty to tell us what the terms are in the transfer Mr.....

FRIEDMAN : No, sir I am not.

GOODMAN: Can you tell me why?

FRIEDMAN : Quite frankly, I do not know.

GOODMAN: And you are their representative?

FRIEDMAN : I am not their banker. I am their attorney representing the issue developing a franchise. I do not know the dollar value..dollars involved in the transfer between ATC and Time-Life and Capital Cable.

GOODMAN: As you referred to your earlier service..I will refer to it also, I don't think you'd tolerate this. Is there someone from your company here who can answer that question?

FRIEDMAN : Apparently not. I am here representing Capital Cable. And I would differ with you to an extent, Mr. Goodman, as Mayor I would tolerate it, because this is a private company doing private business, and as you were concerned as I am about the privacy of the subscribers, it seems to me there is a certain amount of confidentiality that must be honored by the company.

GOODMAN: The subscribers' money that is an accumulation of..

FRIEDMAN: I also went into the franchise fee that the City is collecting..

GOODMAN: We are voting on first reading right now, on an ordinance consenting to the sale and transfer of 100% of the ownership interest of Capital Cable to Time, Incorporated.

FRIEDMAN: Correct.

GOODMAN: Are you able to disclose any of the considerations that are involved in that sale and transfer.

: I am not nor have I ever been so asked in my 27 years of acquiring cable systems.



April 9, 1981

GOODMAN: Can you tell us why you are unable to provide the Council with those details?

RIFKIN: Because we are dealing with a private company.

GOODMAN: Excuse me..

RIFKIN: We are dealing with a private company. We are a publicly held company, and we will disclose according to SEC regulations that which is required of us.

GOODMAN: Yes, and if the Council wanted information concerning the sale and transfer of the company, would you be willing to provide it?

RIFKIN: I am unable to, and I have continued to contest that it is irrelevant to the subject matter. In the quasi utility mode that we are being cast, we have had the city's consultant indicate that that which passes between the two companies that does not enter into the rate base has no bearing on future citizens or current citizens of this city.

GOODMAN: You said you were unable to do so?

RIFKIN: Right.

GOODMAN: Can you clarify that please?

RIFKIN: I don't understand the question. I am unwilling, if that's clear. I am unwilling because of the confidentiality involved..I will not betray a confidence.

GOODMAN: You will not betray a confidence, meaning that you made an agreement.

RIFKIN: I did not say that, and I will not say that.

GOODMAN: I thought I heard that before..

RIFKIN: I don't know that you have. I have stated before that I will not disclose confidential information whether I have agreed to it or not by its very nature. I think that indicates something about our trust and belief.

GOODMAN: Thank you.

MAYOR: All right, we have first and second on the floor on I.7, and..

GOODMAN: I wasn't quite through with the discussion. Mr. Friedman. Since you were unable to answer that question, are there any other representatives of Capital Cable present?

FRIEDMAN: I looked around before. I did not see any.

MAYOR: He already answered that question.

GOODMAN: You want to look right past that door and see Mr. Morrell and Mr. Thomas, or did your vision..

April 9, 1981

FRIEDMAN: Well, I haven't been Superman since I left the Mayor's office. I can't see through the wall, Richard.

GOODMAN: Well, you were there a while ago, and I can tell you they are still there now. And perhaps that is an interesting..

FRIEDMAN: You can go out and get them, Mr. Goodman, .....question, I gave you an answer.

GOODMAN: ..result..of getting an answer to the question that we want. I think it is interesting that they are not here..

FRIEDMAN: I am not here to debate with you Richard. I am sorry I can't give you the information that I don't know. And I can't look through the wall.

GOODMAN: Well, for the record, they are there. And not in this.... I have completed my question.

MAYOR: We have a motion and second on the floor, and I.7, first reading only, no commitment beyond that. Call the roll, please.

COOKE: Yes.

ROLL  
CALL

GOODMAN: No.

HIMMELBLAU: Yes

MULLEN: Yes

TREVINO: Yes.

MAYOR: Yes.

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(CABLE ORDINANCES FOLLOW)

Cable Ordinances

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

AN ORDINANCE GRANTING A FRANCHISE TO CAPITAL CABLE COMPANY, TO OWN AND OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN AUSTIN, TEXAS, AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

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

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

AN ORDINANCE REGULATING AND PRESCRIBING RATES TO BE CHARGED FOR CABLE TELEVISION SERVICE WITHIN THE CITY OF AUSTIN BY CAPITAL CABLE CO., INC., PURSUANT TO THE CABLE TELEVISION FRANCHISE ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF AUSTIN; PROVIDING FOR INSTALLATION RATES; PROVIDING FOR MONTHLY SERVICE RATES; PROVIDING FOR OTHER RATES; PROVIDING FOR RECONNECTION, RELOCATION, AND EXTENSION CHARGES; PROHIBITING RESELLING OF CABLE SERVICE; SUSPENDING THE RULE REQUIRING THAT ORDINANCES BE READ ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

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

AN ORDINANCE CONSENTING TO THE SALE AND TRANSFER OF ONE HUNDRED PERCENT (100%) OF THE OWNERSHIP INTEREST OF CAPITAL CABLE COMPANY TO TIME, INCORPORATED; AND PROVIDING AN EFFECTIVE DATE.

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

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

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

#### RECESS

Council recessed its meeting at 11:10 a.m. and resumed its recessed meeting at 11:30 p.m.

#### ZONING HEARING

Mayor McClellan announced Council would hear the zoning case scheduled for 9:15 a.m. Pursuant to published notice thereof, the following zoning case was publicly heard:

JOHN R. AND  
GENEVA DOYLE  
C14-80-203

605 West St. John's

From "A" Residence  
1st Height and Area  
To "O" Office  
1st Height and Area  
NOT Recommended by the  
Planning Commission

Mr. Lillie, Director of Planning, reviewed the zoning application.

GENEVA DOYLE submitted a list of the property owners in the area who approve the request for a zoning change. She said they want "O" Office for an antique shop and that there are already several businesses on St. John's.

MRS. DAVIDSON, 7106 Guadalupe, appeared before Council and said the change could effect the residential quality of the neighborhood.

MR. DOYLE appeared and said their structure is the only one on the south side of the street which is not already zoned "LR" Local Retail.

Councilmember Cooke moved that the Council DENY the zoning change. The motion, seconded by Councilmember Goodman, carried by the following vote:

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

The Mayor announced that the zoning change had been DENIED.

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At this point, Councilmember Cooke left for the day.

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**PUBLIC HEARING - BUILDING STANDARDS COMMISSION'S DECISION**

Mayor McClellan opened the public hearing scheduled for 9:45 a.m. on an appeal from Mr. Roy Traugott of the Building Standards Commission's decision to demolish structure at 1910 Willow Street.

MR. LONNIE DAVIS showed slides of the property depicting the various points of disrepair.

ROY TRAUGOTT appeared and said he intends to fix up the property if he can get the permit. Councilmember Goodman asked him what he is planning to do and Mr. Traugott said he will bring the dwelling up to standard. Mr. Davis said it would cost in the neighborhood of \$10,000 to bring the property up to standard. He said the main concern of the Building Inspectors is the lack of activity indicating little attempt to fix up the property. Mr. Traugott assured Council he will be financially able to fix the property.

**Motion**

Mayor Pro Tem Trevino moved that the Council allow Mr. Roy Traugott 90 days to bring the structure at 1910 Willow Street up to standard; progress to be monitored and if progress is made, more time will be allowed. The motion, seconded by Councilmember Goodman, carried by the following vote:

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

Noes: None

Absent: Councilmember Cooke

Not in Council Chamber when roll was called: Councilmember Himmelblau

**AMENDMENT TO FY 1979-80 CDBG APPLICATION**

Mayor McClellan opened the public hearing scheduled for 11:00 a.m. on the amendment to FY (Fiscal Year) 1979-80 CDBG (Community Development Block Grant) Application.

RAY DELL GALLOWAY, representing the Eleventh, Twelfth and Rosewood Merchants Association, appeared before Council to "try to show you that your funds were well spent and to express our appreciation and thanks for the grant that you did give us. We also want you to note that we requested at that time no funds for our staff or salaries and we want to show you the way your money was spent." Mr. Galloway passed out to Council a proposal for a Corridor Improvements Project. The purpose of the proposal is to request Community Development Block Grant (CDBG) Funds to upgrade and make physical improvements to enhance the quality of life for the citizenry who live, work and participate in community activities in the East Eleventh, Twelfth Streets and Rosewood Corridors.

MRS. TAYLOR appeared before Council and read the following letter:

"The Eleventh, Twelfth, Rosewood and Adjacent Areas Merchant Association hereby submits the enclosed Corridor Improvements Proposal for Community Development Block Grant funds. In keeping with the human concerns that are unique to Austin, we wish to maximize the use of existing resources that would preclude the need for duplication of services and funds for staffing.

"It is the sentiment of our organization that this approach would bring immediate and beneficial services to the citizenry living, working, and participating in community activities in the Eleventh, Twelfth and Rosewood Corridors.

"Your funding of these projects will be of tremendous value to the overall development of the East Austin Community."

Mayor McClellan told Mr. Galloway and Mrs. Taylor that she is proud of what they are doing.

Mr. Ed Badgett, Assistant City Manager, stated, "For the record that we have to present to HUD (Housing and Urban Development), and we want to thank Mr. Conway for his report. This is not an issue in the administrative process for which this public hearing is held. There is another process for Mr. Galloway's report. I would like, for the record, for Mr. Herrera to read into the record the purpose of the public hearing and the issues for which the public hearing is being held."

Mayor McClellan stated, "We do not need to take a vote to reaffirm what we have done for 1979-80."

Mr. Carlos Herrera, Director of Human Services, stated, "I would like an opportunity at this final hearing for this particular amendment to read into the record the projects that are considered under that:

- Corridors Project
- Zoning Study and Preservation Plan
- Housing Rehabilitation Loans and Grants
- Code Enforcement
- Rosewood Neighborhood Center
- Montopolis Neighborhood Center

Boggy Creek Improvements  
Comprehensive Community Development  
Guadalupe Neighborhood Project  
Waterloo Elevator  
Revitalization for Stability and Pride  
Urban Renewal Projects (Disposition of Land)

And that constitutes the amendment to that fiscal year."

Motion

Mayor Pro Tem Trevino moved that the Council close the public hearing and accept the amendments as read into the record. The motion, seconded by Councilmember Goodman, carried by the following vote:

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

RECESS

Council recessed its meeting at 12:05 p.m. and resumed its recessed meeting at 2:20 p.m.

PARADE PERMITS

Mayor Pro Tem Trevino moved that the Council approve the following parade permits:

Ellen Jockusch, for the Texas Union Recreation Committee, from 8:30 a.m. to 9:30 a.m., Saturday, April 11, 1981, beginning at 23rd and San Jacinto through University of Texas Campus, West on 21st Street, proceed north on Guadalupe to Inner Campus Drive. (parade mainly on U.T. campus)

Enrique G. Lopez, Jr., for The Austin Farmworker Support Committee, from 12:30 p.m. to 3:00 p.m., Sunday, April 26, 1981, beginning from St. Edward's University, north on Congress Avenue to State Capitol grounds.

Pam Knierim, for Womens Art Guild of Laguna Gloria Art Museum, Inc., from 8:00 a.m. to 11:00 a.m., Sunday, May 17, 1981, beginning from Brazos and East 1st, west on West 1st, left at West 1st and Lake Austin Boulevard, west on Lake Austin Boulevard, right to Enfield and east to Exposition, right to Lake Austin Boulevard, left and then right on West 1st to finish at Austin High Tennis Center.

Mr. Hobart Hukill, for U.S. Committee in Solidarity with The People of El Salvador, from 12:30 p.m. to 2:00 p.m., Saturday, April 18, 1981, beginning from State Capitol, East on 11th to San Jacinto, south on San Jacinto to 10th, to Congress, south on Congress to 4th Street, west on 4th to Guadalupe, south to Riverside, west to Auditorium Shores.

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

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

Noes: None

Absent: Councilmember Cooke

Not in Council Chamber when roll was called: Councilmember Goodman

#### VEHICULAR ACCESS TO BALLFIELDS DISCUSSED

MR. LEE YEAKEL, representing West Austin Little League, appeared before Council to discuss the vehicular access to the ballfields in the area north of West 1st Street and west of Lamar Boulevard, referred to as the West Sand Beach Reserve North. He showed a map and discussed a solution by using a park road as access to the ballfield.

#### ACCESS TO ANIMAL SHELTER

MR. DOYLE NORDYKE, representing the Humane Society of Austin and Travis County, appeared before Council to discuss traffic safety problems of vehicles entering and leaving the animal shelter. He said the hazard should be alleviated.

#### CITIZEN DID NOT APPEAR

Mr. Art Keller, representing Town Lake YMCA, had requested to discuss safety of pedestrians and vehicles along the West 1st Street corridor. He was not able to appear.

#### PLAN FOR WEST 1ST STREET CORRIDOR

MR. JACK HOLFORD appeared before Council to present a plan of a park road designed to reduce safety hazard to both pedestrians and vehicles along the West 1st Street corridor. He said the road would cost less than \$550,000 and the funds set aside to widen West 1st Street could be used for the park road instead.



Mr. Leonard Ehrler, Director of Parks and Recreation, said Mr. Holford and others have reported to the Parks and Recreation Department and there are some problems of logistics to be worked out. Mayor McClellan said the problem is increasing daily and that the money for the road needs to be identified.

Mr. John German, Director of Public Works, said they have a consultant working on this but would like to work with the people who have appeared today on parks, streets and access and come back to Council in 30 days.

#### CITIZEN DID NOT APPEAR

Mr. Toby Pearson, Assistant Circulation Director, American-Statesman, had requested to appear before Council to reschedule the public hearing for Zoning Case No. 9228-32 Old Highway 183. He did not appear.

#### DISCUSSION OF NEY MUSEUM

MR. JOHN SANFORD appeared before Council to discuss cuts by Parks and Recreation Department to postpone funding of the Ney Museum. He said the Hyde Park Neighborhood Association, whom he represents, would like the \$95,000 for repairs to the Elizabet Ney Museum put back in the budget so the art and statues of the museum can have a permanent home. -

#### CITIZEN DID NOT APPEAR

MR. ROBERT D. LIPMAN had requested to appear before Council to request a re-evaluation of a petition for disannexation of Los Altos Subdivision by virtue of continuing failure to provide city services. He did not appear.

#### AUSTIN CIVIC BALLET

J. JETTE CAMPBELL appeared before Council to request to lease the firehouse at Guadalupe and 30th Street to Austin Civic Ballet. He offered an amount of \$200 a month for the second floor and \$225 a month for ground floor.

Councilmember Himmelblau introduced Sandy and Eugene Slovin who are associated with the ballet and said it is commendable they want to rent the firehouse. She requested the City Manager to work out an equitable lease agreement and bring it back to Council by April 23, 1981.

## MORATORIUM DISCUSSED

MR. THOMAS B. WATTS appeared before Council to discuss the effect of the March 19, 1981 moratorium on Slaughter Creek on the preliminary plat of Peachtree Creek filed with the Planning Department on March 18, 1981. "We worked on this piece of property approximately a year and missed filing a preliminary plan prior to your first moratorium by three days. ... We tried to pay attention to our business very carefully. I inquired about a moratorium being filed. On the 18th I filed a preliminary plan again inquiring as to whether a moratorium had been placed on that creek. It was accepted, taken to the Planning Commission for disapproval...a routine 30-day disapproval. On the 19th you passed a moratorium that went into the middle of April. The wording that says anything not in an approved or disapproved preliminary final plan will not be approved. This is a retroactive action to stop a process that was perfectly legal and right and had a clear cut procedure to follow between the 14th and the 19th of March. It is in effect going back and saying, 'No, you can't do it,' and we are very upset about that. We see a Constitutional question if nothing else. We have talked to the City Manager when we saw the Planning staff was going to, in fact, carry this preliminary for a disapproval.

"We talked to Mr. Daron Butler, who took it under advisement and after a week or so gave us a letter that they would carry it only to disapproval. We asked him for reconsideration, pointing out the sequence of events and the expenditure of a great deal of effort. ... We think the ordinance as written is highly illegal and disenfranchises us of our right to act under a valid ordinance which was valid on the 18th of March. We ask you to take whatever action is necessary to allow this preliminary to proceed through its normal course of events as specified under the Subdivision Ordinance on the 18th of March when it was filed."

Mr. Albert DeLaRosa, Assistant City Attorney, stated: "Moratoria are legally permissible tools related to growth management and have so been upheld by numerous Texas courts and other decisions. It is important to point out that the purpose of the moratorium was to prevent the processing of an application beyond a certain point. It does not operate to prohibit the filing of an application; therefore, Mr. Watts did not obtain any right or privilege by the mere filing of his application. He was in no way prevented by the moratorium from filing an application. Even now with the moratorium back in effect, anyone can file an application and anyone could have filed an application during the initial time period of the moratorium.

"My point is the moratorium did not prevent him from going ahead with his plans for filing an application. He indicated he was preparing to file an application prior to the original moratorium. He could have still filed that application after the Council passed the initial moratorium and it is a fundamental point, as we have stated numerous other times to Council that rules and regulations may not be changed to the effect that a property owner's vested rights would be usurped. Vested rights are acquired where the property owner has made substantial expenditures of time, money and efforts in good faith reliance on the existing rules and regulations. Mr. Watts, in my opinion, has not demonstrated good faith and reliance at this point in time. The moratorium has been in effect for several months, and the task force has been at work since the middle of September, 1980.

"If Mr. Watts feels his vested rights are being usurped, he would have to demonstrate that those rights existed prior to the original implementation date and moratorium; and certainly when the Council does consider adopting development controls, Mr. Watts at that time could be heard to request that his development be exempted from such controls. It is important to point out at this point in time, Mr. Watts has only a disapproved preliminary. This Council, in dealing with other watersheds, has mandated that even those applications which have been processed all the way to the disapproved final stage be required to comply with the new development controls ordinance."

Mr. Watt said the previous moratorium did not exist in the period between the 14th and 19th. A new moratorium was created then. He said his quarrel is what was legal to file and what was legal on the 18th was usurped on the 19th retroactively. He said that is a basic contention.

### ZONING HEARING

Mayor McClellan announced Council would hear the zoning case scheduled for 10:00 a.m. Pursuant to published notice thereof, the following zoning case was publicly heard:

BILL MILBURN, INC.      3516-3540 Duval Road  
By John Meinrath  
C14-80-138

From Interim "AA" Residence  
1st Height and Area  
To "GR" General Retail,  
"LR" Local Retail, "BB"  
Residence, and "A" Residence  
NOT Recommended

RECOMMENDED by the Planning Commission  
Tracts A and B to "GR" General Retail;  
Tracts C and D to "O" Office; Tract E to  
"A" Residence; Tract F to "LR" Local  
Retail; Tracts G, H and I to "A" Residence;  
and Tract J to "A-2" Condominiums with  
conditions for each tract as follows:

#### Recommendation of conditions by Planning Commission:

Tracts A and B - "GR" General Retail, restricted against "A" Residence, "B" Residence and "BB" Residence uses; no building permits issued until actual construction of Parmer Lane, with US 183 overlay and landscaping.

Tracts C and D - "O", restricted to Office use only and site plan, no access to Yett Lane, 15-foot setback, 6-foot privacy fence west of the setback.

Tract E - "A" Residence as requested and recommended.

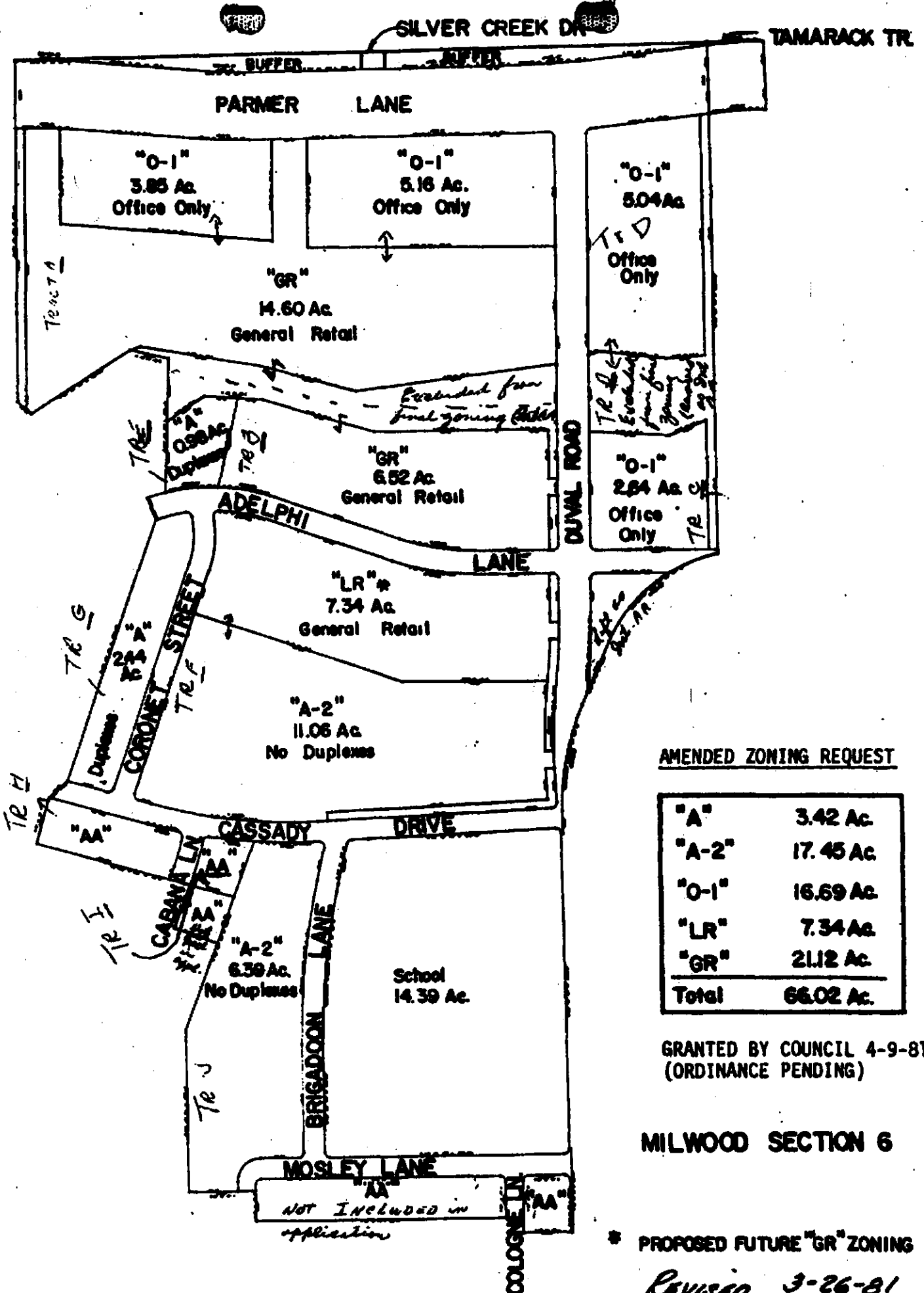
Tract F - "LR" Local Retail, restriction for site plan, no residential use, limited access and buffer toward the school site, mixture of "O" Office, esthetically blended with site.

Tracts G, H, I - "A" Residence, as staff recommended and applicant requested.

Tract J - "A-2" Condominium, as recommended

Also the following four agreements as read into the record by John Meinrath at Planning Commission meeting:

1. Limitation of curb cuts on Parmer Lane on "GR" General Retail tract to 200 foot minimum
2. Limitation on parking light illumination, so that it is directed away from the Northwood and Millwood subdivisions.
3. Duplex size will be no smaller than 2,000 square foot total per unit (both sides) per lot, and no less than 25% masonry exterior construction.
4. Six-foot privacy fence to be erected along the entire west side of the entire project between any retail and any single-family, duplex or "A-2" Condominium property, in addition to the 25-foot buffer around any "GR" General Retail property.



# AMENDED ZONING REQUEST

"A"	3.42 Ac.
"A-2"	17.45 Ac.
"O-1"	16.69 Ac.
"LR"	7.34 Ac.
"GR"	21.12 Ac.
<b>Total</b>	<b>66.02 Ac.</b>

GRANTED BY COUNCIL 4-9-81  
(ORDINANCE PENDING)

MILWOOD SECTION 6

\* PROPOSED FUTURE "GR" ZONING

Revised 3-26-81

Mr. Lillie, Director of Planning, stated, "This zoning case was before Council about six months back. A request was made by associations in the area to have an opportunity to meet with Mr. Milburn. Mr. Milburn did request postponement for six months for the public hearing to be rescheduled for today. I think the information is that there has been an agreement on what zoning should be recommended and I will let representatives of Mr. Milburn as well as the associations make their presentations to you."

MR. JAMES YETT appeared and requested a 90-day postponement. He said for a project this size all people in the area should have a chance to know about it. He felt the decision on the zoning should be made when there is a full Council with the newly elected members. He said Commissioner Honts has said the City may have to build Parmer Lane and that will cost the City \$4-5 million.

Discussion followed as to whether or not the postponement should be approved.

DICK SAGE, Northwood Homeowners Association, contacted the neighborhood and said only one person objects to the zoning change. He said Mr. Yett was not contacted because he is not a member of the homeowner's association.

BILL CROMER, representing Milwood Section, said they endorse the compromise and delivered a flyer to all people in Milwood. He said Walnut Crossing endorses the compromise also.

JOHN MEINRATH, representing applicant, showed a map of the proposed project.

Mayor McClellan announced that there is no motion to postpone the hearing, so Council will proceed with hearing of the zoning case scheduled.

John Meinrath, representing the Milburn Company, stated "We've reached a compromise with the Northwood Neighborhood Association, the Walnut Crossing Association and with the Milwood Association. The plan we have all agreed to is before you. (Referred to map) We have reduced the amount of "GR" General Retail that we initially requested by about 50%. We've reduced the amount of "LR" Local Retail that we requested about 60%. We have replaced most of the "GR" General Retail with "O" Office and the "LR" Local Retail with "A-2". Duplexes have been cut in number by about 30% and "BB" Residence zoning has been eliminated entirely from the plan. We have eliminated any permanent zoning request from the branch of Walnut Creek you see going through the green there and provided green buffering for benefit of neighboring residential areas. These changes have been incorporated in order to provide a most effective, feasible land use transition from the surrounding residential neighborhood to the shopping center which is the main objective of this plan."

Bill Cromer reappeared and read a letter from Bob Richardson of Walnut Crossing stating the compromise is supported by Milwood.

Dick Sage, representing Northwood, expressed support for Milwood Section 6.

James Yett returned to say he had polled his neighborhood and the five homes adjoining the north part of the project did not know about the compromise. He asked again for a 90-day postponement so everyone can be notified.

MS. JUDY RODESAT, who lives at the corner of Duval and Yett, asked Council to include restrictions. Mayor McClellan and Mr. Albert DeLaRosa, Assistant City Attorney, said they will be.

Council decided to close the public hearing and hold final vote on zoning until Councilmember Himmelblau returned to the Council Chamber.

#### Motion

Councilmember Mullen moved that the Council close the public hearing. The motion, seconded by Councilmember Goodman, carried by the following vote:

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

Later in the day, after Councilmember Himmelblau and Mr. Meinrath referred to a map which was done in color, the following motion was made:

#### Motion

Mayor Pro Tem Trevino moved that the Council grant the following change:

Tract A - 14.60 acres "GR" General Retail, 3.85 and 5.16 acres  
"O-1" Office;  
Tract B - to "GR" General Retail;  
Tract C - to "O-1" Office;  
Part of Tract D - to "O-1" Office with a portion left as Interim  
"AA";  
Tract E - to "A" Residence;  
Tract F - to 7.34 acres "LR" Local Retail, and 11.06 acres "A-2"  
Condominium;  
Tract G - to "A" Residence;  
Tract H - to "AA" Residence;  
Tract I - to "AA" Residence; and  
Tract J - to "A-2" Condominiums; with deed restrictions as follows:

- \* No parking lot illumination shall be permitted on any tract of the subject property zoned "GR" General Retail, "LR" Local Retail or "O-1" Office, except cut-off Luminaire or equivalent type of overhead lighting; provided further that the light sources shall not be visible from neighboring residential areas.

- \* No development shall be permitted on any tract of the subject property zoned "A-2" Condominium, unless the buildings proposed for such development are compatible with homes in the neighboring subdivisions and are constructed of at least 25% masonry on external walls and unless the minimum average dwelling unit therein is no smaller than 1200 square feet; provided, however, that these limitations may be waived by evidence in written letter form of an affirmative vote of the executive committees of the Walnut Crossing Neighborhood Association and the Milwood Neighborhood Association.
- \* A strip of the subject property on the west side of Duval Road south of Walnut Creek 25 feet back from the outside curb line shall be retained as an environmental buffer after completion of the extension and realignment of Duval Road as proposed and no construction shall occur in said buffer strip except the placement of one curb cut per lot abutting Duval Road and the provision of landscaping features such as berms and hedges and other vegetation therein as permitted by the City of Austin; provided that no construction shall commence on any such lot abutting Duval unless an operable sprinkler system is installed in said buffer strip to water vegetation therein; and provided further that no buffer strip or sprinkler system shall be required along any lot which is resubdivided into single family lots.
- \* No tract of subject property zoned "A-2" Condominium under Chapter 45 of the Austin City Code shall be developed for owner-occupied residential use other than single family unless either (a) the property is resubdivided into smaller lots, or (b) a homeowner association is created to maintain said tract.
- \* No tract of the subject property zoned "A-2" Condominium abutting Duval Road shall be developed for uses other than single-family residential unless a wall or hedge is erected or emplaced, as permitted by the City of Austin, within 25 feet from the curb line of Duval Road after that roadway is realigned as proposed.
- \* No duplex development shall be permitted on any tract of the subject property zoned "A-2" Condominium, and no apartment development shall be permitted on any tract zoned "GR" General Retail or "LR" Local Retail.
- \* No sign shall be permitted on any tract of the subject property on the west side of Duval Road (after said roadway is extended north and realigned as proposed), or along any tract within 300 feet of Parmer Lane, except signs which meet all the limitations on signs placed along Burnet Road in the City of Austin under current zoning regulations.



- \* No free standing sign shall be permitted on any portion of any tract of the subject property within 300 feet of Parmer Lane or south of Walnut Creek except signs which are indirectly illuminated and lower than 20 feet in height; provided, however, that these limitations shall not apply to any sign which is located in an area zoned "GR" General Retail within 300 feet of the northwesternmost corner of the subject property.
- \* The following restrictions shall apply along the eastern property line of any portion of the subject tract which abuts Yett Lane. A twenty-five (25) foot buffer shall be retained in which no development shall be permitted and a six (6) foot privacy fence shall be constructed along the western edge of said buffer prior to the issuance of a certificate of occupancy for construction located within 300 feet of said buffer; and, no vehicular access shall be permitted to or from Yett Lane.

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

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

The Mayor announced that the change had been granted to:

Tract A - 14.60 acres "GR" General Retail, 3.85 and 5.16 acres  
"O-1" Office;  
Tract B - to "GR" General Retail;  
Tract C - to "O-1" Office;  
Part of Tract D - to "O-1" Office with a portion left as Interim "AA";  
Tract E - to "A" Residence;  
Tract F - to 7.34 acres "LR" Local Retail, and 11.06 acres "A-2"  
Condominium;  
Tract G - to "A" Residence;  
Tract H - to "AA" Residence;  
Tract I - to "AA" Residence; and  
Tract J - to "A-2" Condominium;

subject to conditions, and the City Attorney was instructed to draw the necessary ordinance to cover.

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GULF OIL CORP-  
ORATION  
By K. L. Vaughn  
C14r-81-045

10947 Research  
Boulevard

From "A" Residence  
1st Height and Area  
To "GR" General Retail  
1st Height and Area  
RECOMMENDED by the Planning  
Commission

Councilmember Goodman moved that the Council grant "GR" General Retail, 1st Height and Area District, as recommended by the Planning Commission. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

Noes: None

Absent: Councilmember Cooke

Not in Council Chamber when roll was called: Councilmember  
Himmelblau

The Mayor announced that the change had been granted to "GR" General Retail, 1st Height and Area District, and the City Attorney was instructed to draw the necessary ordinance to cover.

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L. PAUL ROCHESTER  
By Roger L. Eames  
C14r-81-046

11001 Research Boulevard

From "A" Residence  
1st Height and Area  
To "C" Commercial  
1st Height and Area  
RECOMMENDED by the Planning  
Commission

Councilmember Goodman moved that the Council grant "C" Commercial, 1st Height and Area District, as recommended by the Planning Commission. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

Noes: None

Absent: Councilmember Cooke

Not in Council Chamber when roll was called: Councilmember  
Himmelblau

The Mayor announced that the change had been granted to "C" Commercial, 1st Height and Area District, and the City Attorney was instructed to draw the necessary ordinance to cover.

## CONTINUATION OF A PUBLIC HEARING

Mayor McClellan opened the continuation of a public hearing scheduled for 10:00 a.m. to consider amending Chapter 45 (Zoning Ordinance) of the Austin City Code allowing Adult Day Care Centers by Special Permit in "A" Residence Districts and as a permitted use in "BB" Residence and more permissive districts.

NANCY MORGAN, representing the Max Gochman Cerebral Palsy Center, asked Council to adopt the proposed amendments.

No one else appeared to speak. Since there were not enough Councilmembers present to pass an ordinance, a motion was made to close the public hearing, and a decision was made to vote later in the afternoon.

Motion

Councilmember Goodman moved that the Council close the public hearing. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

Later in the day:

Motion

Mayor McClellan introduced the following ordinance:

AN ORDINANCE AMENDING CHAPTER 45 (ZONING ORDINANCE) OF THE AUSTIN CITY CODE OF 1967; AMENDING SECTION 45-1 THEREOF TO PROVIDE A DEFINITION FOR DAY CARE CENTERS FOR BOTH CHILDREN AND ADULTS; AMENDING SUBSECTION 45-17(h)(2) THEREOF TO PROVIDE FOR DAY CARE CENTERS FOR BOTH CHILDREN AND ADULTS AS PERMISSIBLE USES IN "A" RESIDENCE DISTRICTS BY SPECIAL PERMIT ONLY; AMENDING SECTION 45-18(e) THEREOF TO PROVIDE FOR DAY CARE CENTERS FOR BOTH CHILDREN AND ADULTS AS PERMISSABLE USES IN "BB" RESIDENCE DISTRICTS; AMENDING SUBSECTION 45-30(c)(17) THEREOF TO PROVIDE FOR THE REQUISITE OFF-STREET PARKING FOR A DAY CARE CENTER WHETHER SUCH FACILITY IS FOR CHILDREN OR ADULTS; PROVIDING FOR SEVERABILITY; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

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

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

The Mayor announced that the ordinance had been finally passed.

## PUBLIC HEARING ON MODIFYING RESTRICTIVE COVENANT

Mayor McClellan opened the public hearing scheduled for 10:45 a.m. to consider modifying a restrictive covenant, including site plan, for a 12-unit apartment dwelling group on a 1.579 acre tract at 6902 Thorncliff Drive and 3804 Knollwood Drive (C14p-81-009 and C14-79-202).

No one appeared to be heard.

Councilmember Mullen moved that the Council close the public hearing and approve modification of a restrictive covenant, including site plan, for a 12-unit apartment dwelling group on a 1.579 acre tract at 6902 Thorncliff Drive and 3804 Knollwood Drive (C14p-81-009 and C14-79-202). The motion, seconded by Mayor McClellan, carried by the following vote:

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

Noes: None

Absent: Councilmember Cooke

Not in Council Chamber when roll was called: Councilmember  
Himmelblau

## RECESS

Council recessed its meeting at 3:45 p.m. and resumed its recessed meeting at 4:00 p.m.

## ZONING HEARING

Mayor McClellan announced Council would hear the zoning case scheduled for 3:00 p.m. Pursuant to published notice thereof, the following zoning case was publicly heard:

THE ESTATES OF  
FRANCES G. BRODIE  
AND H. E. BRODIE  
By J.M. Patterson,  
Jr.  
C14r-81-033

Intersection of South  
Lamar and West Loop  
360

From Interim "AA" Residence  
1st Height and Area  
To "C" Commercial and "C-1"  
Commercial, 1st Height and  
Area; "GR" General Retail,  
1st and 2nd Height and Area;  
"B" Residence, 2nd and "O"  
Office, 2nd Height and Area

RECOMMENDED by the Planning Commission,  
as requested, waive 50-foot setback  
requirement for Tract C; accept Letter of  
Credit for \$10,000 to insure that a TIA  
will be completed on a timely basis  
through review of subdivision process.

April 9, 1981

Mr. Lillie, Director of Planning, told Council, "The City received an application for zoning on approximately 80 acres of land at the intersection of South Lamar and Loop 360. It is a part of 160 acres owned by Brodie Estate. Half of the property is being recommended and proposed as public park land and the balance, just under 80 acres, is being requested for zoning. A brief description of the application would find that about 26 acres of the land at the intersection is requested for "GR" General Retail zoning. Slightly under two acres of land again at the intersection is requested for "C" Commercial or "C-1" Commercial zoning. On two separate tracts. One on South Lamar and the other on Loop 360 near Barton Creek are "O" Office, 2nd Height and Area, one of six acres on South Lamar and the other just under 15 acres on Loop 360. The final tract of 31 acres for "B" Residence, 2nd Height and Area on South Lamar. As the application was being reviewed, staff felt there were at least three issues which needed to be resolved.

"One dealt with traffic and traffic impact of land development at this intersection and the Urban Transportation Department and the applicant have been working very closely to try and resolve the traffic impact question. Estimated traffic load generated by this development would be approximately 29,000 trips a day.

"The second is utilities that would be available to serve the properties, and again the applicant has been meeting with the Water and Wastewater Department to resolve that question satisfactorily.

"The third issue is the relationship of any proposed development to Barton Creek and the impact of any storm water run-off and negative impact from the development to Barton Creek itself. We found that the tract did not require a subdivision to be filed. And as you know the Barton Creek Ordinance is a subdivision ordinance. Therefore, technically, this project does not have to fall under the Barton Creek Subdivision Ordinance. The developer has volunteered to submit a plan and that plat will be reviewed under the Barton Creek Ordinance and the Creek and Waterway Development Permit.

"The Planning Commission heard testimony from the Urban Transportation Department. They have a great deal of concern regarding the capacity of the roadway to handle this development when it is complete. This development is phased over a four-to-six year period of time, and the Commission recommended that with the traffic impact analysis that the owner and applicant and Urban Transportation Commission and Department would have time to work out the problems that need to be considered. The Commission and the Council very soon will be considering the southwest quadrant study which will have a great deal to say about the capacity of Loop 360 and South Lamar to handle traffic in this area in the future.

"The Commission, after reviewing the testimony, felt that it is their interest and I think the interest of the City that intensive non-residential development should be encouraged at major intersections rather than strip-zoned and developed along major roadways and that this intersection is an appropriate one for intensive development. The application as it comes to you is recommended by the Planning Commission.

April 9, 1981

"One of the factors raised by staff was an interest on the part of the Commission, and Council historically over the last several years to require 1st Height and Area along the frontage of major arterial streets, and that issue was considered by the Commission, and the Commission is requesting that you waive at least 50 feet of that 100 feet on Tract C, which is the residential condominium tract, and also to assure that a traffic impact analysis is complete to accept the letter of credit for \$10,000 to assure the completion of that study on a timely basis and that the development be reviewed under the subdivision process which is the Barton Creek Ordinance and the waterway permit."

MR. PORTER YOUNG appeared before Council and proposed changes to their zoning request. These changes were included in the motion by Councilmember Goodman. Councilmember Goodman, at this point made a motion. Mr. Young then continued with his presentation. He showed slides of what the proposed development should look like. Mr. Young, who is a developer, discussed the green belt, and said he has worked with various neighborhood groups.

BURT PENCE appeared to discuss the background of Mr. Porter and said the Brodie tract has special considerations.

J. M. PATTERSON, JR., representing the Brodie Estate, said it has been left to 36 heirs and it needs to be sold in order to pay taxes. He said the plan to develop will not jeopardize the estate too much.

JACK HOLFORD spoke in favor of Mr. Young's plan, as did MS. DIANE DUBOIS. CHRIS YOUNG read a letter from Barton Hills Horseshoe Bend Neighborhood Association approving the application.

PHILLIP BLACKERBY, President of Save Barton Creek Association, said more time is needed to study the project. He questioned some of the points of the motion on the floor and they were explained to him.

Mayor McClellan asked, "I want anyone who disagrees to speak. Is there anything in the motion on the floor that is not absolutely in line with the Barton Creek Watershed Ordinance?" Mr. Lillie said, "It is difficult to answer that question because this is not a subdivision we are looking at. It is a zoning case and we are not looking at slopes and soils and that sort of thing. That will be addressed later. ... The Barton Creek Ordinance is supreme as far as development of the land is concerned."

Mr. Young said they can offer a restrictive covenant that zoning will comply with the Barton Creek Ordinance. Mayor McClellan said the zoning should also be made subject to the subdivision.

A man who did not identify himself talked about the Barton Creek Ordinance.

DAVID BLOCH, Zilker Park Posse, said he appreciates the compromise.

FRANK COOKSEY, Vice-president of Save Barton Creek Association, told Council to look at what is necessary for zoning this tract. He said this will siphon away downtown shopping in the growth corridor.

Mayor McClellan asked about the traffic situation. Dr. Benson, Director of Urban Transportation, told her that the staff and consultant concur on the problems of ingress and egress. He said a signal is warranted on 360 if traffic warrants it. Continued study will be done concerning traffic.

DOROTHY RICHTER, resident of Hyde Park, passed out sacks of rocks to the Councilmembers from Barton Springs and said the Aquifer is disturbed and there is a green-black substance in the pool.

JOE RIDDELL spoke against the zoning, as did a man who did not identify himself.

PHILLIP BOGGEL responded to comments of people against the development and defended the shopping center and Mr. Young's plans.

ROBERT SNEED proposed as a condition of zoning a restrictive covenant which would say that development on this tract could only be done in accordance with approval under the Barton Creek Development Ordinance and as a covenant running with the land in favor of the City of Austin.

FRANK J. HORSFAL appeared and said he is on the side of the environmentalists.

A woman who did not identify herself has strong feelings about the cut and fill.

No one else appeared and the public hearing was closed.

#### Motion

Councilmember Goodman moved that the Council close the public hearing and grant the following:

- Tract A1 - "GR" General Retail, 1st Height and Area;
- Tract A2 - "C" Commercial, 1st Height and Area;
- Tract A3 - "GR" General Retail, 2nd Height and Area, limited to 40 feet in height;
- Tract A4 - "C-1" Commercial, 1st Height and Area;
- Tract B - "O-1" Office, 2nd Height and Area, limited to 60 feet in height;
- Divide Tract C into two tracts;
- Tract C1 - to be 3/4 of Tract C, to be zoned as follows: "B" Apartments 2nd Height and Area, limited to 50 feet in height;
- Tract C2 - to be 1/4 of Tract C, to be zoned as follows: "BB" Apartments, 1st Height and Area for northernmost quadrant closest to creek;
- Tract D - "O-1" Office, 2nd Height and Area, limited to 40 feet;

with the following conditions:

1. Provided that the entire development be subdivided in compliance with the Barton Creek Ordinance, restrictive covenant to be submitted;

2. Provided that the applicant submit for review and approval a Traffic Impact Analysis;
3. Provided that the applicant comply with all other applicable existing ordinances and policies of this City; and
4. Any site plan amendments to be brought back for approval.

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

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

The Mayor announced that the change had been granted as follows:

- Tract A1 - "GR" General Retail, 1st Height and Area;
- Tract A2 - "C" Commercial, 1st Height and Area;
- Tract A3 - "GR" General Retail, 2nd Height and Area, subject to conditions;
- Tract A4 - "C-1" Commercial, 1st Height and Area;
- Tract B - "O-1" Office, 2nd Height and Area, subject to conditions;
- Tract C1 - "B" Apartments, 2nd Height and Area, subject to conditions;
- Tract C2 - "BB" Apartments, 1st Height and Area for northernmost quadrant closest to creek;
- Tract D - "O-1" Office, 2nd Height and Area, subject to conditions; and subject to general conditions of the whole tract;

and the City Attorney was instructed to draw the necessary ordinance to cover.

#### AUSTIN REDEVELOPMENT AUTHORITY

Council had before it for consideration the following items relating to the contract approved on April 2, 1981 with Austin Redevelopment Authority:

- a. That the City Manager prepare and present to the City Council prior to July 1, 1981, a plan whereby the City, to the maximum extent permissible by law, shall undertake those activities and services covered by the contract with ARA.
- b. That the Council recommend to the City Manager that such plan include a provision that all existing ARA staff be given the opportunity to become city employees, subject to reclassification of their staff positions in accordance with the City's personnel classification system; such employees to be assigned to positions in the Office, Division or Department which will undertake the activities and services previously contracted with ARA, under the same terms, conditions, rules and policies as City employees.
- c. Consider authorizing priority status to the eleven homes identified by Carnales, Inc., that require renovation.



Mr. Ed Badgett, Assistant City Manager, stated, "Council, at the April 2, 1981 Council Meeting, approved by 6-0 vote the first five points of a motion for the City to absorb the functions of the Austin Redevelopment Authority. The last two points of the motion were tabled until today for further discussion. On April 6 a City Council Work Session was held with ARA board members to address point 6 and 7 of the proposed contract consideration with ARA. The results of that session was that an organizational chart was presented by Mrs. Kay Johnson of the ARA board which is parallel to Alternative 2 of the City Manager's Report that was presented to Council April 2.

"The proposed structure provides the basis for planning transitions, implementing the transitions and continuing clearest delivery after the transition. One of the things we have concern about is that prime interest in this is that of the beneficiaries of the service and these are the effected homeowners. Our approach to it is not to begin to deal with a structure or a chart without first having gone through and done a series of analyses that involve taking a look at policies, asking questions as to whether the policies that are in place are those that allow the most effective and efficient delivery system for the client. Next, see if the systems that are in place are adequate for the delivery of services and third to take a look at available resources. I think after doing that what we have will be an organizational structure that will have evolved from that lengthy process.

"We had again two points with the one in terms of looking at the process which I have just spoken to. The other is with the employees of ARA. We feel they possess a variety of knowledge and skills which are necessary for the delivery of prescribed services and logic suggests that they would be continued in the delivery of services to effected homeowners. I am certain an offer to join the City family will be made to all ARA employees. We have standing by to assist us in the transition to help assure there is fair treatment of all employees the head offices of regional council and regional accounting. In addition, the housing section in Washington has consulting services from the National League of Cities. Our recommendation is that Council adopt points 6 and 7 of the proposed contract considerations with ARA (Items a. and b.)"

Mayor McClellan stated, "I think it was very positive to meet with our ARA Board the other evening and I know Mrs. Johnson would be here today if she were not in the hospital. I thought she had some very good suggestions on how to incorporate this into the City structure. I just wanted the record to reflect that."

Councilmember Himmelblau said, I would like very careful consideration given to put this under the Assistant City Manager and not in the Human Resources Department." Mayor McClellan told her that will be included in the motion.

#### Motion

Mayor Pro Tem Trevino moved that the Council adopt a resolution to approve the following:

- a. That the City Manager prepare and present to the City Council prior to July 1, 1981, a plan whereby the City, to the maximum extent permissable by law, shall undertake those activities and services covered by the contract with ARA.

- b. That the Council recommend to the City Manager that such plan include a provision that all existing ARA staff be given the opportunity to become City employees, subject to reclassification of their staff positions in accordance with the City's personnel classification system; such employees to be assigned to positions in the Office, Division or Department which will undertake the activities and services previously contracted with ARA, under the same terms, conditions, rules and policies as City employees.

and this to be put under the Assistant City Manager. The motion, seconded by Councilmember Goodman, carried by the following vote:

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

Noes: Councilmember Mullen

Absent: Councilmember Cooke

Mr. Badgett said more work needs to be done on c. and asked for a postponement on Council's decision.

#### ZONING CASE POSTPONED

Council was scheduled to take action on the following zoning case, but it was postponed by Council:

BALCONES ASSOCIATES, 3301-3309 Northland  
LTD. 5400-5618 MoPac  
By James W. Moritz Boulevard  
C14r-81-032

From "LR" Local Retail  
2nd Height and Area  
To "LR" Local Retail  
3rd Height and Area  
NOT Recommended by the  
Planning Commission

#### AGENDA ITEMS TO BE BROUGHT BACK

The following Agenda items are to be brought back on dates as shown:

A resolution considering approval of revised approach main costs (Maple Run, Bill Milburn, Inc.) reflecting a \$50,000 to \$80,000 increase due to requirement of (2) pumping units instead of one (1), and a repayment to the applicant for the additional cost will be brought back on April 16, 1981.

Joe Riddell showed slides in protest. Staff is to do some research.

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A resolution to consider the appointment of members of a Citizen Technical Task Force for Alternatives Analysis of major transit operations for Austin will be brought back on April 23, 1981.

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A resolution to set public hearings for the purpose of determining CIP (Capital Improvements Program) Projects to be included in a bond election to be held on June 27, 1981 will be back on the April 16, 1981 agenda.

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An Ordinance amending the 1980-81 Operating Budget by appropriating \$89,848 from the General Fund ending balance and transferring \$69,942 to the Public Works Department and \$20,206 to the Planning Department to provide for implementation of the Williamson Creek Ordinance will be considered April 16, 1981.

#### ITEM FROM COUNCIL

Discussion of the City's progress with housing rehabilitation, which was put on the agenda by Councilmember Himmelblau was included in discussion of the Austin Redevelopment Authority.

#### EXECUTIVE SESSION

Mayor McClellan announced that Council will convene in a closed or executive session authorized by Section 2, paragraphs (e), (f) and (g) of Article 6252-17 Texas Revised Civil Statutes annotated; and after such closed or executive session, any final action, decision or vote with regard to any matter considered in the closed or executive session will be made in open session, should such action, decision or vote be necessary.

#### RECESS

Council recessed for executive session at 6:50 p.m. and resumed its recessed meeting at 7:00 p.m.

## ZONING HEARING

Mayor McClellan announced Council would hear the zoning case scheduled for 7:00 p.m. Pursuant to published notice thereof, the following zoning case was publicly heard:

MYERS K. PARSONS  
C14-81-029

2720-2802 Lyons Road

From "A" Residence  
1st Height and Area and  
"C" Commercial, 1st Height  
and Area  
To "DL" Light Industrial  
1st Height and Area  
NOT Recommended by the  
Planning Commission

The applicant, MR. PARSONS, showed slides of the area.

MRS. MYRA PARSONS appeared and said she and her husband want to manufacture video games.

RAYMOND CAMPOS, resident of the area, spoke in support of the zoning. He said it would be a good business venture which will offer a lot of jobs to people in the area. He said Mr. Parsons has explained his plan to the neighborhood and it will not offer visual pollution.

ROSA GONZALES, who lives on Fiesta Street, spoke in favor of the factory. She said it represents an opportunity for East Austin.

RIAS VASQUEZ spoke in favor of the zoning application.

GILBERT VELASQUEZ said he is in favor of the zoning change and most of his friends are also.

ALICIA GARCIA, representing Govalle Association for Survival, spoke against the zoning change. She said the ten-year flood plain is dangerous and had people in the audience who are opposed to the change stand up.

Mayor Pro Tem Trevino said the decision is difficult as they are aware they need good job opportunities in the area and he complimented the people who spoke on behalf of the proposal, but he said he cannot support the change in zoning.

Councilmember Mullen complimented those in the audience who stood up to say what they think.

Mr. Parsons returned to say it will be a boost for East Austin. If this is not passed, then he will request M-1 zoning for trailer parks. He asked Council to amend zoning to M-1.

Mayor McClellan asked if Mr. Parsons will have to go back to the Planning Department for that. There was no discussion.

Mr. Parsons discussed the problem he has with trying to keep the area cleaned up. He said the worst offender for dumping trash on the property is the Housing Authority. Mayor McClellan asked for a report regarding his statement.

Councilmember Goodman moved that the Council uphold the recommendation of the Planning Commission, and DENY the zoning change. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

Noes: None

Absent: Councilmember Cooke

Not in Council Chamber when roll was called: Councilmember Himmelblau

The Mayor announced that the zoning had been DENIED.

#### ZONING SET FOR PUBLIC HEARING

The City Manager reported the following applications have been referred to the Planning Commission for recommendation and have been set for public hearing before the City Council on April 23, 1981:

ALLEN STANFORD By Milton Haynie C14-81-044	7045 Village Center Drive	From "GR" General Retail 1st Height and Area To "C" Commercial and "C-2" Commercial, 1st Height and Area
MARK LANE HAYSLIP C14-81-047	1410 West 6th Street	From "B" Residence 2nd Height and Area To "O-1" Office 2nd Height and Area
RAYMOND H. STEWART By Robert Hageman C14-81-048	2013 Bluebonnet Lane	From "A" Residence 1st Height and Area To "BB" Residence 1st Height and Area
FAIRWAY ESTATES, INC. By Ralph Stansberry C14r-81-049	9223-9233 Balcones Club Drive 13316-13330 U.S. 183	From Interim "AA" Residence 1st Height and Area To "GR" General Retail 1st Height and Area
RAY BROWN By Joe Colley C14-81-050	4022 Manchaca Road	From "A" Residence 1st Height and Area To "O-1" Office 1st Height and Area
E. B. HOES, JR. C14-81-051	4505-4507 Manchaca Road	From "A" Residence 1st Height and Area To "O" Office 1st Height and Area

GEORGE MILTON, JR.,  
CLEO DANIEL MILTON  
AND MICHAEL MILTON  
By David Ambrust  
C14-81-052

1401-1405 Edgecliff  
Street  
1400-1408 Edgecliff  
Street  
1400-1412 Riverside  
Drive

From "A" Residence  
1st Height and Area  
To "L" Lake  
3rd Height and Area

UVAG REALTY  
PARTNERSHIP  
By John Meinrath  
C14-81-053

3200-3220 and 3300-3310  
North Lamar  
1000-1012 and 1001-1013  
West 33rd Street  
1011-1015 West 32nd  
3105 Wabash  
1010-1016 West 31st  
3200-3212 Bailey  
1201-1203 and 1207-1209  
West 33rd Street  
1307-1315 West 34th  
3203-3211 and 3301-3305  
Shoal Creek Boulevard  
1221 West 33rd Street

From "A" Residence, 1st and  
5th Height and Area; "B"  
Residence, 2nd Height and  
Area; "O" Office, 1st and  
3rd Height and Area; "C"  
Commercial, 5th Height and  
Area  
To "O" Office, 1st and 3rd  
Height and Area; "C"  
Commercial, 3rd Height and  
Area

JAMES T. HOOVER  
By American Design  
Group, Inc.  
C14-81-038

900-902 South 1st Street  
804 South 2nd Street  
901 South 2nd Street  
900-912 South 2nd Street  
700-710 Christopher  
Street

From "A" Residence  
1st Height and Area  
To "B" Residence  
1st Height and Area and  
"A-2" Condominium  
1st Height and Area

RICHARD MATZ,  
TRUSTEE  
By John Meinrath  
C14-81-039

9105-9303 Dessau Road

From Interim "AA" Residence  
1st Height and Area  
To "DL" Light Industrial  
1st Height and Area

JEAN McDONALD,  
INC.  
C814-80-009

Bull Creek Road-FM  
2222

From "A" Residence  
1st Height and Area  
To "A-P.U.D." Residence  
1st Height and Area

DONALD S. THOMAS,  
TRUSTEE AND JOHN  
JOSEPH  
By Tom Curtis  
C14-79-098

3701-4309 Duval Road  
11900-11942 Burnet Road

From Interim "A" Residence  
1st Height and Area  
To "DL" Light Industrial  
1st Height and Area

MID-TEXAS BROAD-  
CASTING, INC.  
By Graves, Dougherty  
Hearon and Moody  
C14-80-215

1904-1906 Pearl Street

From "B" Residence  
2nd Height and Area  
To "O" Office  
2nd Height and Area

April 9, 1981

WALTER W. FONDREN,  
III AND R.P.C.  
INVESTMENTS, INC.  
By Rick Triplett  
C14-81-025

5207-5711 Riverside  
Drive  
5800 block of proposed  
Oltorf Road

From Interim "A" Residence  
1st Height and Area  
To "D" Industrial  
2nd Height and Area

## ADJOURNMENT

Council recessed its meeting at 7:30 p.m.

APPROVED:

*Carole Keeton*  
Mayor

ATTEST:

*Grace Monice*

City Clerk