

## MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

January 18, 1973  
10:00 A. M.

COUNCIL CHAMBERS-CITY HALL

The Meeting was called to order with Mayor Butler presiding.

## Roll Call:

Present: Councilmen Dryden, Nichols, Mayor Pro Tem Love, Councilmen  
Lebermann, Friedman, Handcox, Mayor Butler  
Absent: None

The Invocation was delivered by Deputy City Manager Homer Reed.

## APPROVAL OF MINUTES

Councilman Nichols moved the Council approve the Minutes of the Regular Meeting of December 14, 1972. The motion, seconded by Mayor Pro Tem Love, carried by the following vote:

Ayes: Councilmen Dryden, Nichols, Mayor Pro Tem Love, Councilmen Lebermann,  
Friedman, Handcox, Mayor Butler  
Noes: None

## ELECTRICAL RATE ORDINANCES AMENDED

Mayor Butler introduced the following ordinance:

AN ORDINANCE AMENDING ORDINANCES NOS. 590910-F, 641210-H, 650909-F, 700129-D, AND 700129-E, BY PROVIDING FOR ADJUSTMENTS TO THE ELECTRICAL RATES OF THE CITY OF AUSTIN IN THE EVENT OF CONTINGENT LIABILITY FOR FUEL; AND SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS.

Councilman Nichols moved the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilman Handcox, carried by the following vote:

Ayes: Councilman Nichols, Mayor Pro Tem Love, Councilmen Lebermann,  
Friedman, Handcox, Mayor Butler, Councilman Dryden  
Noes: None

Mayor Butler announced that the ordinance had been finally passed.

City Attorney Don Butler explained the problem as to questions to be resolved by the Gas supplier; and in order to maintain the operation position and protect the bonded indebtedness and rate, it is necessary to have the necessary moneys. This action by the Council will allow the receiving of the money, but refunding if possible, rather than paying it out and losing all hope of getting it back. Mayor Butler added the City has to collect this money in the event it is necessary, and it will be put in an interest bearing account. In the event the City's position prevails and the additional amount of money is not needed, it would be refunded plus interest.

Councilman Nichols stated this refund would be predicated on the past six months' bills.

#### EASEMENT RELEASED

Councilman Nichols moved the Council adopt a resolution authorizing the release of the following easement:

A portion of an existing public utilities easement out of Lot 7-A, Block D, WOOTEN TERRACE SECTION THREE.

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

Ayes: Councilman Handcox, Mayor Butler, Councilmen Dryden, Nichols,  
Mayor Pro Tem Love, Councilmen Lebermann, Friedman  
Noes: None

#### ZONING DENIED

C. K. JAMISON  
By Joe R. Long  
C14-72-214

4308-4310 Avenue F

From "A" Residence First  
Height and Area  
To "B" Residence Second  
Height and Area DENIED

Mayor Butler noted this case had been postponed twice - once at the applicant's request, and once at the neighbor's request.

Planning Director Dick Lillie reviewed the history of this tract and zoning, which was subject to a covenant that the tract would be used only for a Halfway House. The owner at that time did not complete the covenant requirement, and the case was dismissed in the normal routine.

Mr. Joe Long represented the applicant, C. K. Jamison, stating there was a Halfway House operation for about two years. The property is now vacant. He agreed with Councilman Dryden in that between 43rd and 44th streets, all houses were single family or duplex. Mr. Long stated the area is either deteriorating or has deteriorated. He pointed out the apartment developments in the area, asking the Council to let the owner proceed to develop his property in the same way that other properties have been developed.

Opposition was expressed by Osborne Dykes, who stated this block is solidly residential with a narrow street. He pointed out besides vehicle traffic there is pedestrian traffic; and an apartment in the area would increase the

density and as such create a hazard to the children.

It was pointed out this 100 x 125 foot tract under "B" Residence Second Height and Area would accomodate 17 apartments. The width of the street is 30 feet of paving on a 60 foot right of way.

Mr. Lillie reported the Commission voted three to three. City Attorney Butler stated the ordinance provides that in the event of an unfavorable report of the Planning Commission, six votes would be necessary. In this case there was no adverse report of the Planning Commission, the motion to deny receiving a tie vote, therefore not passing.

Mrs. Paul Phillips and Mrs. Emma Davis spoke in opposition to the zoning change.

Councilman Dryden moved the Council deny the zoning change. The motion, seconded by Councilman Friedman, carried by the following vote:

Ayes: Mayor Pro Tem Love, Councilmen Lebermann, Friedman, Handcox,  
Mayor Butler, Councilman Dryden  
Noes: Councilman Nichols

#### CONTRACTS AWARDED

Councilman Nichols moved the Council adopt a resolution awarding the following contract:

DEXTER SIMONS CONSTRUCTION  
COMPANY  
(Austin, Texas)

- For the installation of approximately  
1240 linear feet of 6" water main and  
appurtenances - East 20th Street -  
\$10,950. (Capital Improvements Program  
Project No. 540603)

The motion, seconded by Councilman Friedman, carried by the following vote:

Ayes: Councilmen Lebermann, Friedman, Handcox, Mayor Butler, Councilman  
Nichols, Mayor Pro Tem Love  
Noes: Councilman Dryden

Councilman Nichols moved the Council adopt a resolution awarding the following contract:

TIM DORSETT DITCHING  
(Buda, Texas)

- For the installation of approximately  
1850 linear feet of 6" water main and  
appurtenances - Cherico and Sellers  
Streets and Milburn Lane - \$11,714.50  
(Capital Improvements Program Project  
No. 540603)

The motion, seconded by Councilman Friedman, carried by the following vote:

Ayes: Councilmen Lebermann, Friedman, Handcox, Mayor Butler, Councilman  
Nichols, Mayor Pro Tem Love  
Noes: Councilman Dryden

Councilman Nichols moved the Council adopt a resolution awarding the following contract:

ECONOLITE DIVISION  
(Ft. Worth, Texas)

- One Hundred (100) Loop vehicle Detector  
Amplifiers - \$7,350.

The motion, seconded by Councilman Friedman, carried by the following vote:

Ayes: Councilmen Lebermann, Friedman, Handcox, Mayor Butler, Councilman  
Nichols, Mayor Pro Tem Love

Noes: Councilman Dryden

Councilman Nichols moved the Council adopt a resolution awarding the following contract:

TEXAS CRUSHED STONE CO.  
(Austin, Texas)

- Flexible Base Supply Agreement -  
\$70,950.00.

The motion, seconded by Councilman Friedman, carried by the following vote:

Ayes: Councilmen Lebermann, Friedman, Handcox, Mayor Butler, Councilman  
Nichols, Mayor Pro Tem Love

Noes: Councilman Dryden

Councilman Nichols moved the Council adopt a resolution awarding the following contract:

LONGHORN PORTLAND CEMENT  
COMPANY  
(San Antonio, Texas)

- Portland Cement Supply Agreement -  
10,080 sacks - \$14,112.00.

Councilman Nichols inquired about the cement bid; why there was only one bidder. City Manager Davidson responded that anytime only one bid was received, he had asked that the Purchasing Official contact other potential bidders to find out why they did not bid; and if there was anything that the City had done that precluded one's bidding.

The Purchasing Director stated they had requested authentication of the reasons for not bidding, so there is no collusion or conspiracy, and the suppliers have signed to that effect. Councilman Nichols stated it appeared there may have been collusion with the manufactures. Mr. Bennett stated he had no basis that the manufucaurers were in collusion; but he would refer this to the legal department. Councilman Nichols asked that the refer this bid to the Legal Department.

Councilman Dryden asked about competition with other firms. It was pointed out that the supplier in San Antonio probably did not want to compete with its own supplier. However, they should be able to compete with Longhorn. City Manager Davidson stated there is a policy where the Attorney General of the United States is notified of any alleged discouragement or competition in any one field or another. He suggested that this type of item should be submitted to the Attorney General for that kind of review.

Councilman Friedman seconded Councilman Nichols' motion to award the contract. The motion carried by the following vote:

Ayes: Councilmen Lebermann, Friedman, Handcox, Mayor Butler, Councilman Nichols, Mayor Pro Tem Love  
Noes: Councilman Dryden

Councilman Nichols moved the Council adopt a resolution awarding the following contract:

USS AGRI CHEMICALS (Memphis, Tennessee)	- Anhydrous Ammonia Supply Agreement - 100,000 lbs. - \$5,500.00.
--	--

The motion, seconded by Councilman Friedman, carried by the following vote:

Ayes: Councilmen Lebermann, Friedman, Handcox, Mayor Butler, Councilman Nichols, Mayor Pro Tem Love  
Noes: Councilman Dryden

Councilman Nichols moved the Council adopt a resolution awarding the following contract:

LEIF JOHNSON FORD (Austin, Texas)	- 61 each Administrative Sedans - \$196,012.52.
JAY SMITH CHRYSLER PLYMOUTH (Austin, Texas)	- 34 each Administrative Sedans, 41 each Patrol Sedans, 4 each Patrol Station Wagons - \$279,286.00.

The motion, seconded by Councilman Friedman, carried by the following vote:

Ayes: Councilmen Lebermann, Friedman, Handcox, Mayor Butler, Councilman Nichols, Mayor Pro Tem Love  
Noes: Councilman Dryden

#### ANNEXATION HEARING SET

Mayor Pro Tem Love moved the Council adopt a resolution setting a public hearing at 10:00 A. M., February 1, 1973, to consider annexing the following:

11.29 acres of land out of the Santiago Del Valle Grant - portion of BERGSTROM DOWNS NO. 1. (requested by owner)

20.49 acres of land out of the John Applegait Survey - proposed WINDSOR HILLS, SECTION SEVEN. (requested by owner's representative)

1059.92 acres of land out of the John Applegait and Willis Avery Surveys. (initiated by City of Austin)

The motion, seconded by Councilman Nichols, carried by the following vote:

Ayes: Councilmen Friedman, Handcox, Mayor Butler, Councilmen Dryden, Nichols, Mayor Pro Tem Love, Councilman Lebermann  
Noes: None

## PROFESSIONAL CONSULTANTS

Councilman Nichols moved the Council select Oscar Holmes as the Professional Consultant to provide engineering services in connection with the following 1973 Capital Improvements Program Project:

Turtle Creek Area Wastewater Relief Main South First  
Street from King Edward Northerly to Williamson Creek -  
Project No. 5068 0.

The motion, seconded by Councilman Handcox, carried by the following vote:

Ayes: Mayor Butler, Councilmen Dryden, Nichols, Mayor Pro Tem Love,  
Councilmen Lebermann, Friedman, Handcox  
Noes: None

## COST SHARING CONTRACT

Councilman Nichols moved the Council adopt a resolution authorizing the City Manager to execute a cost sharing contract with the Capital Area Planning Council for the purchase of Police Communications Equipment. Total cost of Equipment is \$186,337.00; City of Austin 25% share is \$48,584.00.

Mayor Butler explained this would help in the area of Law enforcement. The City Manager stated much could be done to prevent crime; but without a first class communications network, it is not effective. The Chief of Police, Bob Miles, explained the alternate bid covered the consoles rather than a monitor set which sits on a desk. The difference is \$19,700. (\$10,000 City's part)

The motion, seconded by Councilman Lebermann, carried by the following vote:

Ayes: Councilmen Dryden, Nichols, Mayor Pro Tem Love, Councilmen  
Lebermann, Friedman, Handcox, Mayor Butler  
Noes: None

## TEXAS CONSUMER ASSOCIATION

Mr. Lloyd Doggett appeared to discuss a consumer proposal, stating there is a trend in local governments to take an active role in representing the consumers, their businesses, and problems. This trend has taken form of creation of innumerable different departments and divisions in County community services and City departments of consumer affairs. He noted with the developments of these programs, Austin is about the largest metropolitan area that does not have some type of program to assist in business and consumers in relationship in the market place.

Mr. Doggett listed numerous "deceptive practices" in door-to-door sales. He pointed out practices under the "repair syndrome" - lost cost repairs of transmissions whereby the customer returns to find his transmission scattered over the floor of the establishment, and he can either have it repaired at a much higher price or take the parts home in a basket. Other practices are operators who come to Austin for a short period and victimize a few people and leave town.

He referred to a proposed ordinance which would create a City-County Consumer Affairs Office. Councilman Nichols asked if Mr. Doggett had discussed this with the County. Mr. Doggett said he had discussed this with several commissioners individually and will make a formal presentation shortly.

Contrary to some peoples' beliefs, Mr. Doggett stated this ordinance did not create a criminal office. The function of such an office would be the promotion of voluntary compliance with normal business activities. An enforcement office should be provided.

Mr. Doggett pointed to existing agencies to compliment such a proposal - TexPIRG and the Consumer Counselling Service Program.

In discussion of the ordinance, Mr. Doggett stated the same protection for the honest business man was provided under the proposal. Mayor Butler and each of the Council Members discussed this proposal with Mr. Doggett. Mr. Doggett referred particularly to the Consumer Counselling Service, which was a fine program; and that TexPIRG program could offer quite a bit in this line. Mr. Doggett stated there would be a negative view to such a program, but these programs have worked well in other cities in Texas.

Mr. Doggett suggested (1) That the Council Meet with the Dallas Office and the Attorney General's Office to determine how the operations of these programs is working out; (2) That the City hold a public hearing on a proposed ordinance and have a formal presentation of the programs' being conducted by existing agencies - Better Business Bureau, TexPIRG, Consumer Counselling; and (3) Consult with the Council to see what type of roles might be played by both the City and the County.

Mayor Butler announced that Councilman Lebermann and he had a report to make concerning negotiations with TexPIRG and the Legal Aid Society.

#### REPORT - MAYOR BUTLER & COUNCILMAN LEBERMAN

Mayor Butler complimented Mr. Doggett on the work he had done and the fine presentation he made. The Mayor stated he primarily had been working with TexPIRG soliciting from them a plan or proposal in which the expertise that is represented by that group could be utilized. He stated that this plan offered today is a combination of their plan and the ones that Councilman Lebermann and he had talked about. The objection that Mayor Butler had was the cost - \$40,000 for a director, assistant, and secretary, and that sized staff would be inadequate to handle the number of complaints.

Councilman Lebermann reported he had been discussing this matter with Legal Aid people who came to him and expressed an interest in City-County funding -- joint funding, together with a branch of Legal Aid, which would have some formal status with Legal Aid and Consumer Services Agency, which has done a great deal of counselling, negotiations or arbitration and doing an excellent job with volunteer staff.

He stated TexPIRG, the Mayor, Commissioner Samuelson, and he had discussed this program. Legal Aid had indicated a commitment of 15 of their senior law students and para-professionals to this program.

Mayor Butler, in line with what Councilman Lebermann had just indicated, asked the Council's concurrence to give Councilman Lebermann, Mr. Doggett and himself, as well as other interested, three weeks to pursue all of these various points and come back with reports and two or three avenues from which to choose.

Councilman Friedman stated h, Mr. Doggett, and several people had been working on this consumer protection idea for quite a while. This program was conceived at the very beginning to work with every organization in this community. They had met with the TexPIRG, Consumer Counselling people, and several had talked with Commissioner Samuelson to help involve the County in this type of program; and what was presented today is that combination program.

Councilman Friedman moved the Council set a public hearing on Consumer Protection in Austin at 7:00 P. M., February 22, at the Electric Auditorium, involving all three parts discussed and inviting the public. The motion, seconded by Mayor Pro Tem Love, carried by the following vote:

Ayes: Councilman Nichols, Mayor Pro Tem Love, Councilmen Lebermann, Friedman, Handcox, Mayor Butler, Councilman Dryden  
Noes: None

In discussion, Councilman Nichols stated he would like for the County to make some committment before the City starts this off.

Mayor Butler asked that the City Attorney present to the Council before the hearing a memorandum listing the remedies available.

Mayor Butler stated there was another item that he would like included in the study pertaining to security deposits in the apartment house matters, and perhaps the present ordinance covering this should be dove-tailed or accomodated in this same act.

Discussion ensued on the security deposit in apartment houses. It was stated that the security deposit was not classified as a deceptive business practice.

Colonel Pearson was recognized and made a brief presentation of his contacts with the F.T.C., Special Assistant to the President of Consumer Affairs, and Representative Jake Pickle, stating there had to be some legal protection against deceptive advertising. Colonel Pearson stressed his point that there must be a legal basis for action against deceptive advertising.

Mrs. Wilmot, National Retired Teachers and A.A.R.P. Associations, have a project going which is called the Consumer Information Desk, and stated they were in the process of organizing such a thing in Austin.

The CoChairman of the University of Texas TexPIRG wanted to go on record that TexPIRG is in full support of the public hearing at that time.

#### DRAG VENDOR ORDINANCE

Ms. Mary Walsh appeared before the Council, stating friends of the Drag Vendors had spoken before the Council to gain assurance that the streets selling ordinance would not be selectively enforced. In yesterdays events, it was apparent that the ordinance was being used as an oppressive tool. She alleged they had been misled in that the ordinance was to be equally enforced.



They demanded an explanation of their actions. She pointed out a number of alleged violations on which no action had been taken.

Mayor Pro Tem Love asked the City Manager if he had instructed the Police Department in limiting the enforcement of the ordinance.

City Manager Davidson stated he had not; he had a clear understanding of the Council Policy. The Police Department and the Building Official have instructions to enforce the provisions of that ordinance throughout the City. Prior to the time any action was taken by a vendor on Guadalupe or anywhere else, notices were taken to businesses who had violations 10 days prior to any arrest made of any vendor. He explained that the Building Official enforces the ordinance as to the use of sidewalks by abutting property owners, such as those on Red River Street. The Police Department enforces the ordinance as it pertains to people who are using the sidewalks who are not abutting property owners. The Police Department will also enforce the ordinance when merchants who are also abutting owners, place items on the sidewalks and this enforcement measure is underway at this time.

Councilman Friedman stated that when these people saw the violations they should report them; and that while the ordinance is in effect, it has to be enforced. Such violations could be reported to the City Manager, any Councilman or the Police Department.

Mr. Hank Wessells had made a request to be heard. Councilman Friedman stated that Mr. Wellell, after discussion with Councilman Friedman and City Attorney Butler, had worked out his problem and had withdrawn his request.

#### REQUEST FOR "PEACE ACTION DAY"

Mr. Derek Jefferson, Coordinator of Student Mobilization Committee, requested that the Austin City Council go on record against the war; and declare Saturday, January 20th, "Peace Action Day in Austin." They believed the only acceptable action by the United States in southeast Asia is the immediate withdrawal of all forces.

#### HARPER CREEK

The City Manager stated on January 11, 1973, the Council heard from residents from the Harper Creek area and what had taken place there. The Council asked that he and his staff attempt:

- (1) To determine the facts as soon as possible, whether or not any City ordinance had been violated; and
- (2) To end up with some possible areas that could be studies; that might lead up to a method whereby the City could protect the natural areas that exist at the time people develop their property keeping in mind the property owners' rights.

Mr. Stuart Henry presented a report and some recommendations. He described the property of 11 acres west of I.H. 35 and north of Woodland Avenue, this property being in the Harper Branch Watershed. Prior to clearing, which was ordered by the property owner, the entire tract was covered with trees and miscellaneous ground cover. He gave a history of the property as to ownership

and the zoning to "LR". The applicant had made various commitments to the Council as to how the property was to be developed, but the commitments were not made a part of the official records. Subsequent purchasers were not bound by those commitments. The property has changed hands.

The South River City Citizens Association had proposed that this tract be purchased by the Highway Department as a scenic easement.

Mr. Henry stated the Council might want suggestions as to what might be done to enable the City to protect as many natural areas as possible; and time tables. The following suggestions were made:

That the Council direct the Planning Commission to study performance standards within the zoning ordinance with a view toward including any reasonable means of protecting natural features which enhance the City's environment. Features would include trees and topographical areas of the City or water courses.

That the Council direct the Planning Commission to consider the creation of a special zone for use to adjacent water ways in the City; such idea to be similar to the ordinance on the Town Lake zoning; that consideration of a requirement in the flood plain ordinance require a special permit prior to the grading or clearing any virgin land located in certain distance of a creek or drainage acre within the city.

That the City Attorney examine practices used at this time to record commitments of property owners to extend as they obtain zoning changes as desired by the Council.

That the City Attorney can examine practices used at this time to record commitments of property owners, as they obtain a zoning change. There are certain commitments that should be made a part of the record in such a way that they would be binding on subsequent property owners.

If desired by the City Council, the Manager's Office would gather materials from cities across the nation who have dealt with this problem recently. It may be that some unique and reasonable ideas have been adopted by those cities that would give some guidance. This material would be reviewed by the Citizen's Board of Natural Resources and Environmental Quality for proposals they may desire to submit for Council consideration.

Councilman Nichols stated, beginning with Item 5, that the materials be reviewed by the Citizens Board and then go through other procedures. Councilman Friedman inquired who would determine major water ways. Discussion ensued.

Mayor Butler pointed out the necessity of doing something through zoning. It is necessary that the factors that influenced the Planning Commission and the Council be placed in the record some way and that the zoning not be approved until the actual construction is started. He asked if the land changes hands should the zoning start all over?

City Attorney Butler stated the method now is to get restrictive covenants covering the conditions. These restrictive covenants are recorded with run and run with the land. He explained the zoning was for a particular use - not on the specific design. He stated the best that could be done would be to be more certain about the restrictive covenants.

The City Manager stated that the need of too many restrictive covenants pointed out there was something wrong with the Ordinance and that it should be changed or amended. He suggested that the Council might want to ask the Planning Commission to look at the zoning ordinance with that in mind.

Councilman Lebermann stated there were lands by their nature which should be public lands.

Councilman Lebermann moved the Council adopt this recommendation that it be one sense of the Council that this be implemented as presented and to move ahead. He stated this would be a concept as they would be moving on as presented. The motion, seconded by Councilman Friedman, carried by the following vote:

Ayes: Councilman Nichols, Mayor Pro Tem Love, Councilmen Lebermann, Friedman, Handcox, Mayor Butler, Councilman Dryden  
Noes: None

Mr. Henry stated part of the final recommendation would be to submit in 60 days any recommendation from the Planning Commission or from the Citizens Board.

Mrs. Jean Mather said they had met with the Aesthetic Committee of the Environmental Board on January 16, 1973, with representatives of South River City Citizens and unanimously adopted the following resolution:

"That the Austin City Council formally request the Texas Highway Department to investigate as soon as possible the feasibility and dedication of the Harper Branch Tract of Land bounded on the North by Riverside Drive and on the east by I.H. 35 as a scenic easement

They would present the resolution to the Planning Commission at the next meeting of the Environmental Board.

Mr. Teague stated he had engaged the firm of Forrest and Cotton that will present a site plan to the Council and to the Planning Commission and that it will be ready next week. They were meeting with representatives and Senator Herring. Mrs. Mather stated they had support from Mr. Jagger.

The Mayor said the Council would want to hear from the property owners.

#### HEARING ON PROPOSED TELEPHONE RATES

Mr. Frank Denius appeared before the City Council to submit further information and to answer specific questions raised by the Council. There was an increase of employees of 41%. The average increase in employee wages was 64% during the time from 1959 to 1970, the test year. There was an increase in the rate base from 21.5 million in 1959 to the present when they are asking a rate base of 68 million. The reason that the rate base has gone up proportionately

larger than the number of employees, is that there was an increase in efficiency, and much of the work is contracted out to independent contractors.

Second, the rates for service had not been changed since 1959, while new equipment service packages have been priced the first time they are put in service on the same basis to all similar type users needing that particular equipment, and there would be no elevation on that price without prior Council approval. Their third question was relative to the amount of the company's rendition for purposes of tax payments to the City. Mr. Denius pointed out that the City in 1959 and through the years subscribed to the understanding that there is a difference between rate base for rate-making purposes and the value of the property that is rendered for tax purposes.

Also, there was an increase in the number of subscribers of 87% between 1959 and 1970; while the number of employees rose only 41%. This was an increase from 54 main telephones per employee in 1959 to 72 telephones per employee in 1970.

Fifth, as to tax liability of the company, the rate base, the revenues, and expenses calculated fully reflect tax payments by the company in the tax year. Also, the tax liability of the company's requested rate change is also shown. Sixth, in 1959 21% had extension phones. In 1970, 51.2% of all residents have a second phone. The seventh question, do the number of phones in service at year's end accurately reflect the number of phones in use from one month to the next. Before 1970, the peak was reached in December. In 1970 and to date, a slightly higher peak resulted in November.

At this time, Mr. Lloyd Doggett, attorney, having presented some questions to the phone company, gave his evaluation. He hoped this would be helpful to the Council. He had asked for the company's net earnings after taxes for each year since 1959; however, the phone company gave net earnings only in 1959 and 1970 and indicated that they do not provide annual operating statements for the intervening years. Another question was about the rate base established in 1959. Therefore, there was no way to compare these two years. Also the company notes its rate of return for 1959 was 5.52%, but Mr. Doggett was at a loss to determine how they arrived at this, and also what the rate of return for the intervening 11 years was. Mr. Doggett also felt that the company should provide information as to their earnings from long distance revenues.

Mr. Nichols inquired of Mr. Klitgaard, Tax Assessor-Collector regarding the assessed valuation of 1972, which was \$47,113,920. The appraised value was \$62,818,560. Mr. Lebermann asked which part of that was used as a basis for rate making, which was 70% according to the City Attorney. Mr. Don Butler said if the assumption were used that 78% of the total property is within City limits, and 70% of the total property is used for local as opposed to long distance, and compare this with the rate base given, there is quite a spread, even though these are somewhat different things. There is quite a difference of some 24½ million dollars between the amount on the City tax rolls (53.2 million dollars), and what they would have from the rate base (77.7 million dollars).

There was some discussion as to how the rate base was figured. The City Attorney, Mr. Don Butler, felt that using the fair value rate base is the best means to get to something close to market value. Mr. Denius explained the telephone company had a difference of opinion as to how to get the rate base.

The next item discussed was the difference in rate between intrastate long distance calls, and those out of the state. It was explained by Mr. Denius

that out of state calls were made more often and were therefore cheaper.

Upon a question by Mayor Butler asking for the percentage increase in rates, Mr. Denius explained that on the company's computation of a rate base at 69.8, the percentage increase would be 21.7. On Mr. Nalle's rate base of 62½, it would be \$3,410,000 or 18 percent. That would yield a 7.94% rate of return, after taxes, and income taxes and an allowance for ad valorem taxes and allowance for increased gross receipts taxes. However, the telephone company is only asking for a 5.87% rate of return based on a rate base of 69 million dollars.

The possibility of a 15% increase across the board was mentioned, which would produce \$3,000,000 on the 1971 figures. However, there was no 1971 rate base available. There was further discussion of the 15%, which was approximately 25% less than what the phone company asked for. On the 62 million rate base, this would mean a return of 5.9% according to Mr. Denius. Questions regarding amount of overhead charges are expense, and the money paid to Western Electric for equipment were discussed.

In later discussion, the following people participated: Mr. Kenneth Nowotny; Mr. Charles Fitzsimmons; and Mrs. Edith Buss, who asked for an evening meeting.

At this time, Mr. Denius offered the auditor's report of the telephone company for the Council's information. There was discussion of the costs such as depreciation cost in making the rate base. Mr. Joe Nalle, of the Committee to Study Telephone Rates, used the low one, and the phone company the high one.

Mr. Bob Lusk pointed out that in utility regulation it is taken as a matter of course that maximum earnings are calculated as a percentage of investment in plant and equipment; however, the telephone company is like no other utility.

Other speakers were Mike Dugan of the Northwest Austin Little League, who felt that reconstructed cost new was not valuable in determining the rate base. Mr. Lusk said that it should be predicated on original cost less depreciation, while Mr. Dugan said the simple figure, original book cost new, should be used to compare between every city and every utility. Another spokesman was Mike Hart, a university student and a member of the University Student Lobby. Also from the University Student Lobby was Mr. Don Sullivan. Jack Hopper, an economic consultant and public utility economist, compared the different points of view, and referenced the Hope decision, which said, "Rates which enable the company to operate successfully to maintain its financial integrity to attract capital and to compensate to its investors for the risks assumed certainly cannot be condemned as invalid." The return to the equity owner should be commensurate to the returns on investments in other enterprises having corresponding risks. He recommended a return somewhere between 5.5% and 10% on equity. Mayor Butler complimented the interested citizens on their preparations. Mr. Denius noted and Mr. Don Butler agreed that rates of return in the State of Texas had to be on fair value of the property used and useful for utility systems. Mr. Denius also quoted from the Alvin case that the rate of return determined must be high enough to attract ample capital, but need not be beyond that.

The Council considered all this, and Councilman Handcox recommended that the Council do not act this day, but give some time for consideration to all the proposals for about a week. Councilman Friedman suggested the Committee

meet together with interested citizens and come up with a recommendation. Councilman Nichols said he was not for an across the board increase. Then the next Thursday, Councilman Handcox noted, the Council could ask the City Manager to have drawn an ordinance, set a public hearing, and pass those ordinances on the first reading. The first hearing then would be February 1. It could be resolved on the 15th - that would be the third reading. Mr. Denius noted that rates do not become effective for 10 days following the third and final passage, which would make it March 1.

After some discussion, it was decided to call a legal meeting on January 24, Wednesday at 5:00 P. M.; which would be a called meeting, and then a public hearing on the night of January 25, with passage through the first reading. The City Clerk will get in touch with interested persons who have spoken.

#### ZONING ORDINANCES

Mayor Butler 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 39,323 SQUARE FOOT TRACT OF LAND, LOCATED ON WEBBERVILLE ROAD, FROM "C" COMMERCIAL, SECOND 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 DECLARING AN EMERGENCY.

Councilman Nichols moved the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilman Lebermann, carried by the following vote:

Ayes: Mayor Pro Tem Love, Councilmen Lebermann, Friedman, Handcox,  
Mayor Butler, Councilmen Handcox, Dryden, Nichols

Noes: None

The Mayor announced that the ordinance had been finally passed.

Mayor Butler 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 6, BLOCK 1, HERMANN W. STEINLE ADDITION, LOCALLY KNOWN AS 502 WEST 35TH STREET, FROM "A" RESIDENCE, FIRST HEIGHT AND AREA DISTRICT TO "B" RESIDENCE, SECOND HEIGHT AND AREA DISTRICT; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

Councilman Nichols moved the Council waive the requirement for three readings, declare an emergency and finally pass the ordinance effective immediately. The motion, seconded by Councilman Lebermann, carried by the following vote:

Ayes: Mayor Pro Tem Love, Councilmen Lebermann, Friedman, Handcox,  
Mayor Butler, Councilmen Handcox, Dryden, Nichols

Noes: None

The Mayor announced that the ordinance had been finally passed.

#### CAMP FIRE GIRL MONTH

Mrs. Dan Gardner spoke in behalf of Mr. Allen Searight, and appeared before the Council to present three Camp Fire Girls in connection with Camp Fire Month. In appreciation of the Council for the work it does, the Camp Fire Girls presented each member a complimentary box of candy.

#### DOOR-TO-DOOR SALES

Mr. Dick Ziegfeld, Manager of the Fountain Terrace Apartments at 610 West 30th Street, reported in the past nine or ten months since he had become manager, he found one of the more irritating and more difficult problems to deal with has been door-to-door sales. Current ordinances do not apply to this nuisance. He had observed that often times profit organizations came around claiming they were non-profit, and used a deceptive approach to get into the homes or the apartments in his complex. They even use deceptive sales practices claiming research programs, etc.

City Attorney Don Butler stated the Law Department was drafting an ordinance covering this matter and that ordinance would require that those in town or out must register and have an I.D. card.

Councilman Friedman added for further information that several on the Council are very actively pursuing Consumer Protection; and this activity will be included in the Consumer Protection Ordinance whereby the consumer could be informed. He stated it would all be tied in together and would be ready in the near future.

#### TAX APPEALS

At 2:00 P. M., Mayor Butler opened the hearings on tax appeals.

Mr. Paul Angenend stated Mr. Phillip Robinson of their firm had filed this appeal and is unable to be present at this time. Mr. Angenend stated this is an appeal from the tax evaluation placed on the Central Freight Terminal property on North Interregional. Central Freight has acquired this property through the years, and the last parcel acquired in August, 1970, cost about .15¢ a square foot. The appraisal by the Board of Equalization worked out to .42¢ a square foot appraised valuation.

Mr. Jack Klitgaard, Tax Assessor, called attention to the three appeals to the Board and one to the Council in 1970. The values remained unchanged through all of the appeals. The value placed on the property by the Tax Department in an effort to measure the market value is \$1.00 a square foot on the property on Interregional Highway; \$20,000 an acre on the land on St. Johns and the side road, and \$10,000 an acre on the isolated corner with no frontage road. The land purchased for .15¢ a foot was in addition to the tract used for freight business. They purchased two residential lots behind the property which would sell at the same price as other residential lots, and would be a different market than what is being attempted to measure for the subject property which has a commercial use. He compared this property to that across the road which

sold in 1972 at \$2.25 a foot. He stated the value placed on this land by the Department is a reasonable measure of the present value of the property. Mayor Butler stated the assessment placed on the property in this area appears to be a low assessment.

Mr. Angenend stated Central Freight feels the assessment is too high for the value they are getting out of the tract, particularly the section that is land locked. After consideration, Councilman Nichols moved the Council uphold the Board of Equalization at such rate as suggested as follows:

Parcel No.	Land	\$221,550
2-2915-0142	Improvements	135,960
	Total	\$357,510

The motion, seconded by Councilman Dryden, carried by the following vote:

Ayes: Mayor Pro Tem Love, Councilmen Lebermann, Friedman, Handcox,  
Mayor Butler, Councilmen Dryden, Nichols  
Noes: None

Kenneth Neans

Mr. Dale E. Mueller was present at the 11:00 A. M. hearing but had to take a plane and could not be heard in the afternoon. Councilman Nichols asked that this be postponed and added to the next group of those making appeals. Mr. Mueller was to be notified of this schedule.

Robert Penn Fowler

Councilman Nichols said that Mr. Robert Penn Fowler had withdrawn his tax appeals on seven parcels. Councilman Nichols moved the Council uphold the values placed on the properties by the Tax Board of Equalization and the Tax Department as follows:

Parcel No.	Land	\$2,130
1-0202-1120	Improvements	3,050
	Total	\$5,180
Parcel No.	Land	\$1,750
4-0109-0114	Improvements	7,850
	Total	\$9,600
Parcel No.	Land	\$1,600
4-0201-0611	Improvements	9,610
	Total	\$11,210
Parcel No.	Land	\$ 530
9-1-3222-0105	Improvements	0
	Total	\$ 530
Parcel No.	Land	\$1,860
9-1322-0121	Improvements	0
	Total	\$1,860
Parcel No.	Land	\$1,850
9-1-3222-0122	Improvements	0
	Total	\$1,850



Parcel No.	Land	\$6,290
9-1-322-0401	Improvements	0
	Total	\$6,290

The motion, seconded by Councilman Friedman, carried by the following vote:

Ayes: Councilman Nichols, Mayor Pro Tem Love, Councilmen Lebermann,  
Friedman, Handcox, Mayor Butler, Councilman Dryden  
Noes: None

ADJOURNMENT

The Council, having no further business, adjourned.

APPROVED: *Roy Butler*

Mayor

ATTEST: *Grace Monroe*

City Clerk