

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

November 3, 1977
10:00 A.M.

Council Chambers
301 West Second Street

Mayor McClellan called the meeting, scheduled for 10:00 a.m., to order.

Roll Call:

Present: Mayor McClellan, Councilmembers Cooke, Goodman,
Mullen, Snell, Trevino

Absent: Mayor Pro Tem Himmelblau

INVOCATION

Mayor McClellan announced that "Our Invocation this morning will be given by the Pastor John Auer from St. Martin's Lutheran Church." At this point, Madalyn Murray O'Hair, called from the audience. "I'm sorry it is necessary for me to interrupt this, Mayor McClellan. You know that prayers in a government establishment are unconstitutional and you should not be, at this point as the Mayor of the City, or the members of the City Council here, should not at this point be supporting something that is both illegal and unconstitutional. Besides that I am not quite sure that they are not immoral, and third, they are against the teachings of Jesus Christ given on the Sermon of the Mount, so I don't know why you as Christian representatives, for instance, believe you might know more than the person who instructed you in this, Jesus Christ." Mayor McClellan replied, "Mrs. O'Hair, I have every intention of continuing with the Invocation this morning." To which Ms. O'Hair answered, "I have intention to interrupt it."

Mayor McClellan stated, "I have checked..excuse me. I am speaking now. I have checked on the legality of this. I feel very comfortable with continuing this Invocation. It is the way that we start our Council meetings, and I am going to please ask that you be quiet while Pastor Auer..." Ms. O'Hair interrupted by saying, "I cannot be quiet while you continue to break the law."

It will be necessary for me to interrupt the prayer." Mayor McClellan said, "Let me assure you that I would be delighted to talk with you." "I am not interested in talking with anybody," interrupted Ms. O'Hair. Mayor McClellan continued, "...at any time, all of the Council would be delighted to talk with you, the City Attorney's Office is open to you to come talk with them about this matter, as is the City Manager's Office and my office. I would be delighted to talk with you at any time about it, but again, I have every intention of continuing with the Invocation right now, and I will also ask that if you want to speak to the Council, we have a procedure. You are welcome to sign up under Citizens..." Ms. O'Hair said, "My name is on the Council Agenda for the next six weeks. I will be here on a single different church-state separation issue for the next six weeks." Mayor McClellan told her, "You are welcome to come under Citizens Communications at any time to our Council meetings but you are not on the Agenda today, and I want to continue with the Invocation at this time."

Ms. O'Hair stated, "The prayer is on the Agenda today, and I must interrupt it, somehow, I will continue to talk during the prayer, or perhaps I should bring in music the next time, a jazz band..." The Mayor said, "No, ma'am, you will not continue to talk during the prayer..." and Ms. O'Hair said, "Yes, ma'am, I will, unless you do something to stop me. I have no intention of permitting this to go on." The Mayor said, "Well, I have every intention of the Invocation going on, and I would ask again that you please be quiet so that Pastor Auer can continue. "I cannot do that," answered Ms. O'Hair, "because I am an attorney, and as an attorney, I am sworn to uphold and defend the Constitution of the United States, Mayor McClellan. Are you not also?" "I most certainly am," replied the Mayor, "If you cannot be quiet while we continue with our order of business, and the Invocation is the first order of business..." Mrs. O'Hair interrupted, "It is not an order of business, for a City government. It is not an order of business, that's a religious ceremony."

"Mrs. O'Hair, excuse me, Mrs. O'Hair," the Mayor continued, "you are interrupting our meeting, and I would ask..you are interrupting our public meeting at this time. I would ask if you cannot..." "I am interrupting a prayer...religious ceremony," said Ms. O'Hair. "If you cannot be quiet, I will ask you to please leave the Council Chambers," said the Mayor. "I will leave the Council Chambers after I have stopped the religious ceremony," answered Ms. O'Hair, "because this is no place for a religious ceremony."

Mayor McClellan stated, "I am going to ask you one more time, Mrs. O'Hair, that we are going to continue with the Invocation. If you interrupt Pastor Auer, I will have to have you escorted from the Council Chambers." "That's perfectly all right, because it appears to me that what you are doing is unconstitutional, and your deliberate intent upon notification to continue this unconstitutional practice, will be demonstrated in your having me removed from the hall."

Mayor McClellan said, "Yes, ma'am. Pastor Auer will you please continue with the Invocation." "Let us pray together..." began Pastor Auer. "The Invocation is an..." interrupted Ms. O'Hair, "unconstitutional exercise, which should not be..." The Mayor said, "Excuse me but, Mr. Reed, if I could please, I would like Mrs. O'Hair escorted out of the Council Chamber, please."

At this point Chief of Police Dyson approached Ms. O'Hair and Ms. O'Hair said, "Don't touch me when you do it, or I will charge you with assault. I will go if you ask me to go." Chief Dyson stated, "You are under arrest. You are in violation of Article 42.05 of the State Penal Code." "All right," said Ms. O'Hair. "You are under arrest, come with us," stated Chief Dyson. "All right, good, good. All right, fine. Don't touch me," commented Ms. O'Hair.

Mayor McClellan repeated she would be glad to visit with Ms. O'Hair in her office about this matter.

"Mrs. McClellan, I wouldn't come to your office without the media being there...open confrontation..with all you Christians..." answered Ms. O'Hair. "I would welcome you to come to my office with the media there. My office doors are always open," said the Mayor. "I will see that you get as much of the exercise of open publicity," retorted Ms. O'Hair.

"I would not listen to her," said Councilmember Snell. "She cannot visit me."

As Ms. O'Hair was escorted from the Council Chamber, Mayor McClellan said, "Pastor Auer, I apologize for the interruption. If you please will, sir, we will continue with the Invocation."

Pastor Auer said, "Let us pray together. Dear Father, we come to you remembering that every good gift is from your hand. Especially, are we mindful today of the gift of government ordained among us in the City of Austin. Bless each home and family in this community that we may live together in peace and in love. Give to this City Council a special measure of wisdom that they may lead us with both purpose and understanding. For the many in our community who are disgruntled, who disturb the peace, or who may lack respect for the needs and rights of others, allow us each one as Councilmembers and as private citizens, to minister to such persons with a determined spirit, expressing firmness of purpose, but tempered with your love and forgiveness. All this we ask in your glory and honor, in the name of Christ the Lord. Amen."

"Thank you, Pastor Auer," concluded the Mayor.

APPROVAL OF MINUTES

Councilmember Cooke moved that the Council approve the Minutes for October 27, 1977. The motion, seconded by Councilmember Trevino, carried by the following vote:

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

BOARDS AND COMMISSIONS

Mayor McClellan announced that the Council had met in Executive Session on Wednesday, November 2, 1977, and said they had some appointments to make to Boards and Commissions. The appointments were made as follows:

Plumbing Advisory Board

Councilmember Goodman moved that the Council approve the appointment of Alex McNair to the Plumbing Advisory Board, representing appliance dealers, with lots drawn for length of term. The motion, seconded by Councilmember Trevino, carried by the following vote:

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

Human Relations Commission

Councilmember Trevino moved that the Council approve the following appointments to the Human Relations Commission:

Bob Perkins	- Expire November 1, 1978
Charles Eskridge	- Expire November 1, 1979
Father Joe Znotas	- Expire November 1, 1979
Janna Zumbrun	- Expire November 1, 1979
Lydia Gardner	- Expire November 1, 1979
Ms. Merle Miles	- Expire November 1, 1979
John Darrouzet	- Expire November 1, 1979
Irma Novoa	- Expire November 1, 1979
Daniel Roth	- Expire November 1, 1979

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

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

Parks and Recreation Board

Councilmember Mullen moved that the Council approve the appointment of Ray C. Hall to the Parks and Recreation Board for a term ending June 1, 1979. The motion, seconded by Councilmember Goodman, carried by the following vote:

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

Arts Commission

Councilmember Goodman moved, on behalf of Mayor Pro Tem Himmelblau, that the Council approve the appointment of the following for terms to the Arts Commission:

Rosalyn Martin, Ethnic Culture - Expire August 1, 1978
Barbara Breach, Dance - Expire August 1, 1978

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

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

Building Standards Commission

Councilmember Goodman moved that the Council approve the appointment of Craig L. Clark to the Building Standards Commission for a term ending June 1, 1979. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

Urban Transportation Commission

Councilmember Mullen moved that the Council appoint Sid Maxwell to fill a vacancy on the Urban Transportation Commission until January 1, 1978. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

Austin-Travis County Mental Health-Mental Retardation Board

Councilmember Cooke moved that the Council nominate the following individuals to the Austin-Travis County MHMR Board of Trustees so that they may be jointly approved as duly qualified and duly appointed members of the Board by the Travis County Commissioners Court and the Austin Independent School District Board of Trustees:

Travis Benford	- 1 year term
Marva Bennett	- 1 year term
Nancy Boyd	- 2 year term
Judith G. Yudof	- 2 year term

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

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

Motion to Reconsider

Councilmember Mullen moved that the Council reconsider the appointments made to the Austin-Travis County MHMR Board. The motion, seconded by Councilmember Snell, carried by the following vote:

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

Motion

Councilmember Cooke moved that the Council nominate the following for one and two year terms drawn by lot, so that they may be jointly approved as duly qualified and duly appointed members of the Board by the Travis County Commissioners Court and the AISD Board of Trustees:

Travis Benford
Marva Bennett
Nancy Boyd
Judith Yudof

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

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

Appointments to be Made

Mayor McClellan announced the following appointments will be made on December 1, 1977:

Arts Commission	- 2
Energy Conservation Commission	- 3
Ethics Review Commission	- 1
On-Going of Goals Assembly	- 4
Committee	
Commission on Status of Women	- 1
Citizens Traffic Safety Commission	- 1
Planning Commission	- 1
Community Development Commission	- 1
Human Relations Commission	- 1

Later in the day the Mayor announced they would also appoint the following on December 1, 1977:

Building Standards Commission	- 1
Solicitation Board	- 1

PUBLIC HEARING POSTPONED - CONCRETE TRUCK WEIGHT LIMITS

Mayor McClellan announced that the public hearing on Concrete Truck Weight Limits scheduled for 11:00 a.m. will be continued at another time. She asked if any one in the audience was there to speak to that issue, and if so they would hear them and continue the public hearing at another time. No one appeared to speak.

Councilmember Goodman moved that the Council postpone the public hearing on Concrete Truck Weight Limits until December 1, 1977, at 2:00 p.m. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

SCHOOL CLASSES RECOGNIZED

Mayor McClellan recognized two third-grade classes from St. Elmo's School who were in the audience. She asked that the classes stand and be recognized by the other members of the audience.

HEARING ON ORDINANCE
REPEALING TRUTH IN SELLING ORDINANCE

Mayor McClellan opened the public hearing scheduled for 10:30 a.m. on the ordinance repealing the Truth in Selling Ordinance. She asked that speakers stay within the five-minute time limit and announced that a vote on the ordinance would not be taken until after 3:30 p.m. that day, when the full Council would be in attendance.

ART BROWN, President of the Austin Neighborhood Council, appeared to say his group was disappointed in the way the ordinance was being handled and are opposed to the new ordinance that is being proposed.

MARILYN SIMPSON, First Assistant Coordinator of the Austin Neighborhood Council, appeared to say they are opposed to the new ordinance which is being proposed. She said it would shift the responsibility from the seller to the buyer if only a brochure were given to prospective homeowners.

RUTH EPSTEIN appeared to state she is against the new ordinance under consideration and suggested there were ways to improve the leaflet that has been proposed. She agreed with Mrs. Simpson and requested the leaflet be a part of the ordinance.

NANCY WOOD appeared before Council to say she is against the new ordinance which has been proposed because Austin needs protection for home buyers that will "stick" and requested a penalty clause.

NADINE WHITLEY also said she thought Austin needs a Truth in Selling Ordinance with teeth.

MARY ALICE BROWN, representing University Hills Neighborhood Association, thought the proposed Truth in Selling Ordinance should be much stronger than it is.

Motion

Councilmember Goodman moved that the Council close the public hearing on the Ordinance Repealing the Truth in Selling Ordinance. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

Noes: None

Absent: Mayor Pro Tem Himmelblau

Later in the day, the Council voted on the third reading of the Ordinance. Mayor Pro Tem Himmelblau was present in the Council Chamber for the vote.

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

AN ORDINANCE REPEALING ORDINANCE NO. 770113-C; AND PROVIDING AN EFFECTIVE DATE.

The ordinance was read the third time, and Mayor Pro Tem Himmelblau moved that the Council finally pass the ordinance. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

Noes: Councilmembers Trevino, Snell

The Mayor announced that the ordinance had been finally passed.

HISTORIC LANDMARK COMMISSION REPORT

MR. PHILIP CREER, Chairman of the Historic Landmark Commission, appeared before Council to say that the City of Austin has demonstrated its concern for historic preservation by its own ordinance for zoning and ownership of several historic structures. To further demonstrate this concern, he said the Landmark Commission was soliciting Council endorsement of Constitutional Amendment 4 on the ballot of November 8, 1977. Passage of the amendment, he said, would not mandate tax relief or abatement, but provide authority for local governing bodies to grant such relief in the future. He said this would be a factor in future preservation of historic structures.

Mayor McClellan said she appreciated Mr. Creer bringing this to the Council's attention. She said that the Council's endorsement would be of a permissive type. Councilmember Goodman asked what it would take to endorse the amendment. Mayor McClellan said it would take a simple motion, realizing that there is no commitment attached to it.

Councilmember Goodman moved that the Council endorse Constitutional Amendment 4 on the November 8, 1977, ballot. The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Councilmember Snell, Mayor McClellan, Councilmembers
Cooke, Goodman, Mullen

Noes: None

Absent: Mayor Pro Tem Himmelblau

Not in Council Chamber when roll was called: Councilmember Trevino

PUBLIC HEARING - GRANTING NEW FRANCHISE FOR
SOUTHERN UNION GAS COMPANY

Mayor McClellan opened the public hearing scheduled for 11:30 a.m. on granting a new Franchise for Southern Union Gas Company. She asked City Attorney Jerry Harris to update the Council on this matter.

Mr. Harris said, "Approximately two years ago Southern Union Gas Company wrote a letter to the City Council requesting it to consider certain amendments to the franchise that the City had granted to them. At that time there were several requested amendments by Southern Union Gas Company. On January 15, 1976, a public hearing was held on these particular amendments. At that public hearing, the Southern Union Gas Company, through Mr. Laczko presented the amendments which they were desirous of having pursued. In addition, various citizens spoke at that public hearing, which was closed at that time with the direction of the Council that continued discussion could occur between Southern Union Gas Company and various citizens and the City Attorney's office on further developing these amendments and the issues involved in these amendments. Since that time a meeting was held in the City Attorney's office when Mr. Butler was still City Attorney, between representatives of the development industry...I think Mr. McFall was there, and Mr. Laczko, and representatives from a consumer group. That meeting was adjourned, and since that time I have had various meetings with Mr. Laczko and the results of those meetings at this point have been merely a narrowing down of the type of amendments which my office thought worth discussing with the City Council. Since

that time the City has requested Southern Union Gas, if we are going to consider amendments, also consider the raise of the 2% gross receipts tax to 4%. At this time, as far as my office is concerned, we have basically narrowed down the amendments to the following:

1. The term of the franchise. The current franchise expires in 1988 and the Southern Union Gas Company is requesting that a new franchise be granted for a 25-year term.
2. One of Southern Union Gas Company's original request was that the extension policy be modified in the current policy.
3. The Southern Union Gas Company has requested an amendment in the non-refundable service charges provision of the current franchise.
4. There has been a request that the security deposit provisions be modified.
5. Raising the 2% gross receipts tax to 4%.

"I believe that this is the first time this Council has had an opportunity to look at the franchise the City has granted the Southern Union Gas Company. Therefore, I sent to you, in the agenda packet on November 1, a full copy of the franchise with the suggested wording requested by Southern Union Gas. In addition I isolated the old provisions and the new provisions dealing with extension policy and with non-refundable service charges, and security deposits. I would be glad to answer any specific questions you have. I think that one way of beginning this would be to hear from Mr. Laczko and let him explain in detail his company's requests."

Councilmember Goodman asked who has the authority to increase the gross receipts tax. Mr. Harris answered that at this stage, once a franchise has been granted, the City Charter says the franchise can only be amended with the consent of the franchise holder. So, at this particular point, with a valid franchise, it's sort of a negotiating situation. In other words, if we want it amended, it can only be done with the Southern Union Gas Company's consent and likewise, they would have to work with the City. Councilmember Goodman said, concerning the negotiating process, when Mr. Davidson, City Manager, contacted Mr. Laczko and asked if Southern Union Gas Company would be agreeable to increasing the gross receipts tax, Mr. Laczko answered yes, but we are going to try to renegotiate the franchise to achieve these certain changes. Councilmember Goodman said that Mr. Laczko has already agreed to increase the gross receipts tax, so that matter is aside, and we are debating as to whether or not we will agree to any of the terms Southern Union has requested. But in no way, he said, does it effect Southern Union's agreement to increase the gross receipts tax. Councilmember Goodman asked if this is correct, and wanted to clear it up before getting into any of the other points.

ROBERT M. LACZKO, District Manager, Southern Union Gas Company, appeared to clear up the point made by Councilmember Goodman. He said City Manager Dan Davidson had asked him if Southern Union would consider an increase in the gross receipts tax from 2% to 4% which was being discussed at the City's budget meetings. Mr. Laczko responded to Mr. Davidson by saying Southern Union would

consider the increase, provided the City enact a new 25-year short form franchise. Councilmember Goodman said they had received a memo from Mr. Harris which said essentially that the City Manager had asked, and you (Mr. Lazcko) had said yes, but there was no commitment on our part to agree to these things. We have already structured our budget, said Councilmember Goodman, based on an increase in the gross receipts tax. Now what I want to know, he said, if we agreed to none of these changes in the franchise, is Southern Union still going to agree to our request to increase the gross receipts tax. "No, sir," answered Mr. Lazcko, "what we have right now is what I would call a contract, and a contract requires agreement on both parties. When I said, 'yes, we would consider it,' I said we would consider it on this basis. Subsequent to that time, I have been working with the City Attorney's office and they have taken the stand that they are really not in a position where they would like to recommend the short form franchise which I had requested. As a result of that, we have rather than substituting a 25-year short term franchise, we have discussed amending the franchise which we currently have."

"So," said Councilmember Goodman, "you won't agree to the gross receipts tax now until we make these amendments." "Yes," answered Mr. Lazcko. "I would call that some pretty heavy arm twisting," commented Councilmember Goodman. Mr. Lazcko stated, "We have been attempting to get amendments to our franchise in excess of two years. We have talked, had public hearings, and I have sent numerous things to the Mayor and Council prior to this Council being seated. We have continued those discussions, even prior to the City's budget period because Southern Union has serious problems with the language in the existing franchise." "What relationship do any of those problems have with increasing the gross receipts tax?" asked Councilmember Goodman. "I am not saying they have any specific relation," answered Mr. Lazcko, "other than a change in the gross receipts tax is an amendment to the franchise, or would require a new franchise, just as the other amendments would."

Mayor McClellan said she has no problem with considering looking at what your concerns are for possible consideration on a reworded 25-year short term franchise. The problem is, she said, that the Council cannot commit itself concerning the franchise. There is alarm when they are told that in order to increase the gross receipts tax they must accept a completely reworded 25-year short term franchise.

Councilmember Mullen asked Mr. Lazcko if there was no leeway for negotiation. He answered that he has been discussing the matter for two or three weeks with Mr. Harris and Mr. Albrecht of the City Legal Department. He said he started out asking for a 25-year short term form franchise, and "we are now down to the existing franchise with some modifications in it. Our company is in a position to consider the gross receipts tax if the City Council is in a position to consider some amendments to the franchise."

Councilmember Goodman asked Mr. Harris what recourse the City would have if they did not want to agree to any of the specific terms that caused a snag in negotiations...any or all, and if they wanted an increase in the gross receipts tax which does not cost Southern Union a penny. Mr. Harris said if that were so, we probably would run the present franchise out until 1988 at 2%. Councilmember Goodman asked if the City would have any leverage in getting its point across. Certainly, answered Mr. Harris. Southern Union Gas wants some things changed in their franchise rather badly, but at this point

this is more or less like a contract and now the parties are wanting things changed. That is why we are negotiating between the Council and Southern Union. Mr. Harris said, "They think they have a very good franchise in the City of Austin and the Southern Union Gas Company would say it is a tough, narrowly written franchise with many provisions, so we would not come to the Council suggesting we scrap the entire franchise. Everything is wide open at this point as far as negotiations are concerned," concluded Mr. Harris.

Councilmember Goodman questioned Section 5. Extension of Facilities, as outlined by Mr. Laczko. "His letter says that back when there were problems with Southern Union and inflation, etc.; as a result beginning in 1974 Southern Union changed its policy regarding extension facilities so developers were required to advance 50% of the cost of gas mains in new subdivisions, etc." Councilmember Goodman wanted to know how that change in policy occurred...was it with the City's permission or did Southern Union arbitrarily decide it. "Yes, that is right," said Mr. Laczko. The franchise, as it currently is written, provides for certain minimum requirements in this particular area and for many years Southern Union had been operating under a policy regarding extension of facilities that was considerably more liberal than that which was required by the franchise, and we merely narrowed our requirements down to those more consistent with that required by the franchise. Councilmember Goodman asked, if when the requirement for advancement of cost was increased to 100% in 1976, this was also within the franchise. Mr. Laczko said it was. Councilmember Goodman asked if a change in the franchise was not necessary then, why is it necessary now. Mr. Laczko said the language requires that Southern Union provide on an ultimate basis at no cost to the customer the equivalent of 100 feet of gas main. Our request is that since 100 feet of main is now much more expensive than the net revenue from a customer, that we merely invest \$100 in each gas main for each customer rather than the equivalent cost of 100 feet of main. Mr. Harris explained that Southern Union Gas has always provided 100 feet of gas line to each customer free. When they first started doing this and found the developer needed more than 100 feet, they would foot the bill for the construction. Then they changed that policy, still within the framework of the franchise, by providing 100 feet free. Then they asked for 50% in advance for the addition which has now been increased to a request for 100%. Over a five-year period the developer would be eligible for a refund.

Mayor McClellan told the Council that it is not her intention to take any action today, but merely to hear what people have to say.

Mr. Laczko proceeded to give his presentation. The changes Southern Union Gas Company are asking are as follows:

"SECTION 5. EXTENSIONS OF FACILITIES

Prior to 1974, Southern Union Gas Company operated under a very liberal policy regarding extension of its system to provide service to new customers. The Company depended upon the growth and economic health of the communities it served and committed its resources to construct and operate its utility system. Although extensions of facilities were evaluated on an economic basis, the economics nearly always suggested that such extensions be made.

The Company's rates are directly effected by its extensions policy. The extension of facilities into new areas represents additional capital investment. The Company is permitted to earn a fair rate of return on all of its investment used to provide and maintain this service. Rates to the user are therefore

determined, in part, by this investment. In the past, these extensions generated a sufficient volume of business to justify the expense, and such investments were not a problem. Since 1960, Southern Union's customers have grown by 67%, but only four rate increases have been put into effect during that time as shown below:

<u>Year</u>	<u>Year End Customers</u>	<u>Percent Increase</u>	<u>Effective Dates of Rate Increases</u>
1960	51,917		
1961	53,708		
1962	55,581		July 25, 1962
1963	57,689		
1964	58,800		November 5, 1964
1965	60,843		
1966	62,098		
1967	64,839		
1968	67,160		
1969	69,204		
1970	71,186		
1971	74,198		May 14, 1971
1972	77,358		
1973	79,355		
1974	81,577		
1975	83,870		
1976	86,713	67.0%	January 3, 1976

In 1973, a number of situations prompted Southern Union to change its policies regarding extensions of facilities. First, our supplier, Coastal States Gas Producing Company - LoVaca Gathering Company - was permitted to increase the wholesale rates it charged its customers as a result of Gas Utilities Docket 500 which began a series increases in rates to customers ultimately reducing the average consumption per customer and average revenue per customer. Second, interest rates were climbing and the costs of obtaining capital were increasing. And third, a fairly high percentage of the new residential developments in the Austin area were being built in areas which required dynamite blasting for the installation of underground utilities. As a result, beginning in 1974, Southern Union changed its policy regarding extensions of facilities so that developers were required to advance 50% of the cost of gas mains in new subdivisions. The extension agreements under which these advances were collected provided for refunds over a five-year period of up to 100% of the amount advanced. This change in policy merely offset the increased costs of financing new installations, but did not deal with the problem of escalating investment per customer.

As long as an extension of facilities generates a sufficient volume of business to justify the investment, the Company's rate of return is not effected and the investment is not a problem. Because of the rapidly increasing costs of construction, and the gradually decreasing usage of gas on a per customer basis (with a corresponding decrease in revenue for the Company since the adjustments for cost of gas were merely a flow through of increased wholesale costs), Southern Union again in early 1976 changed its requirements for extensions of its facilities. At that time, we began requiring an advance of 100% of the cost of the mains to be installed. For those installations within the City limits, up to 100% of the advance was refundable over a five-year period and

outside of the City limits, a refund of \$100 per customer was available over a five-year period not to exceed 100% of the total advance required. We have been operating under these policies since, in full compliance with our City Franchise and Rules of Service for operation outside the City.

We have had proposals before the City Council since late 1975 to amend the Southern Union Gas Company franchise with the City of Austin which would, in effect, permit the Company to operate in the Austin area with the same requirements both within and outside of the City limits. This is the same proposal which we are making now.

Under the current Texas law and rate-making rules and regulations, the capital investment in new facilities becomes a part of rate base and the total rate base ultimately determines the rates which are charged for gas utility service. The cost of installation of new facilities in the Austin area far exceeds the return which can be obtained from the revenues derived from additional customers added to such new facilities. This results in a situation where old existing customers must face the prospect of paying higher rates to support the expensive installation of facilities for new customers. Existing Austin customers are already paying extremely high rates as a result of the high wholesale gas prices charged by our supplier and should not be additionally burdened with the increasing costs of providing service to new customers.

We would propose that Southern Union make an investment of no more than \$100 per customer in mains to serve new customers. We propose that the total costs for such new facilities, exclusive of the cost of the service line and the meter and regulator, would be advanced by the developer, person or persons seeking extensions of our facilities. After refunds for connection of new customers (\$100 for each permanent residential customer), the balance of the advance would be retained as a contribution in aid of construction which is a deduction from rate base in the rate-making process.

For the information of the Mayor and Members of the Council, the same procedure and handling of extensions of our facilities which we are proposing has been in effect outside of the Austin City Limits since early 1976 and such a procedure has not noticeably deterred subdivision development. Apparently, developers have rolled the increased development costs into the price of their lots or new homes and these increased costs have not noticeably deterred the sale of new homes in these subdivisions.

This change in the franchise would not reduce the investment in facilities already made but would slow the growth of rate base in the future and would reduce the frequency of future rate increases.

SECTION 6. CONNECT FEES

Many years ago, Southern Union was permitted through a franchise amendment to charge a non-refundable service charge of \$5.00 for establishing or re-establishing gas service or transferring gas service from one name to another at any location, or whenever a meter is reset or relocated on the same premises.

This is another franchise amendment which we requested in 1975 because, over the years, the cost of providing this service has increased and this cost is no longer covered by the charge made for it. In other locations, we have been able to increase this charge, but here the Austin franchise has prohibited us from doing so.

Just as investments in new facilities have an effect on rates, so do expenses. In this case, an operating expense is incurred each time service is established, re-established, transferred, etc. The beneficiary of this service should rightfully bear the cost of this service rather than the ordinary ratepayer, and we are again asking that the franchise language be changed to permit this increased charge.

Those customers who come on and off service, or who move most frequently would naturally have to pay increased service charges, but the proposed franchise language does provide for a reduced charge when only a meter reading and book-keeping and computer entries are required as compared to those instances which require lighting of pilot lights, leak testing, etc.

The Company does not expect these increased service charges to do more than offset the increases in the costs of providing these services which we have experienced over time. We have performed some research into the time and expenses involved and feel confident that this charge would cover our costs, but that is not to say that as labor costs, transportation expenses and other costs increase due to inflationary pressures that we will not have to be back at a later time requesting an increase in these service charges.

SECTION 7. DEPOSITS

Another requested franchise amendment made by Southern Union in 1975 was to permit the Company to require an increased security deposit. The current franchise permits a deposit of only \$5.00 which is no longer adequate under current operating conditions.

Security deposits should provide a "hedge" against potential uncollectible accounts and the inadequacy of the current deposit permitted by the franchise can be seen in the figures below which reflect the Company's bad debt experience over the past few years:

<u>Year</u>	<u>Uncollectible Accounts</u>
1972	\$ 36,144
1973	63,099
1974	71,031
1975	110,654
1976	168,314
1977 (eight months)	168,172

Our proposal provides for a refundable security deposit in the amount of 1/6 of a customer's estimated annual bill and provides for interest on deposits held at the rate of 6% per annum according to Texas statutes.

Southern Union would not intend to obtain a security deposit from any existing customers, but would request deposits from customers before gas service is established, re-established or transferred from one name to another.

SECTION 8. HEATING VALUE OF NATURAL GAS

Another proposal made in 1975 concerned the gross heating value of the gas furnished by Southern Union in Austin.

Although this is not a current problem, the Company is requesting that the minimum BTU content required by the franchise be changed from 1000 BTU to 950 BTU. The present franchise provides for potential punitive action by the City if the BTU content of the gas supplied by Southern Union falls below the minimum provision.

The Company has only one supplier of gas for its Austin customers, the same supplier that furnishes gas for the City's electric generating plants. At the present time, we are both stuck with this supplier who is not presently living up to contractual obligations and there are no other prospective suppliers available.

Southern Union has no control over the BTU content of the gas we are supplied nor do we have the capability of either reducing or increasing BTU content once it has been delivered to us.

We are hopeful that in the near future, other means may be available to eliminate BTU problems, but for the present, we are simply requesting the change from 1000 BTU to 950 BTU. This change would merely reduce the potential of being severely penalized for a problem over which we have no control."

Mr. Laczko said that in years past they have not had to appear before either the City Council or anyone else very frequently requesting adjustment in rates, but they anticipate that if they are unable to make a change in this particular area, it is conceivable they will have to be back in front of someone requesting adjustments in rates annually or every 3 to 6 months. Their rate base has been climbing extremely rapidly, and their revenues have not.

Mayor McClellan said that she wanted a full staff report on each of the requested revisions.

JOHN McFALL, representing himself and the Austin Association of Home-builders appeared before Council. He said he would restrict his remarks to the proposed amendment concerning the extension of service facilities. After making several remarks he concluded that any amendment should be that the gas company install its own equipment at their cost...or if the builder has to install the equipment and pay for it, then Southern Union should reimburse the builder.

JOE RIDDELL appeared to say it may be better to leave the franchise the way it is rather than accept security deposits, and that he is against the suggestions for changes in the franchise because there has not been enough time to study the proposals. He pointed out there are no cost figures to support service charges, nor figures showing benefits to Southern Union or the gas customers. He concluded that the Council does not have to agree to what Southern Union Gas Company wants.

JACK HOPPER, 2501 Barton Hills Drive, an economist, appeared before Council to say that it is bad business to let a utility company collect taxes for the City. He said he would like to see more figures on the effect of the proposals on the consumer, but for the most part does not think most of the changes are necessary. He did say he would not object to a non-refundable deposit. His recommendation would be to make Southern Union Gas Company bear the burden of proof and that the City should hire a consultant to study their proposals.

Mayor McClellan said that it is clear, from the Council's standpoint, that there is certainly no understanding, nor commitment on the part of the present Council that they will agree to any 25-year franchise rewording in the process of what they spoke to at budget time of going from 2% to 4%. She said they were looking at ways to diversify and get away from the heavy reliance on property tax. The Mayor said she thinks she speaks for the Council when she says there is no commitment, nor understanding on their part at all...the first time she had seen it was when she saw Mr. Laczko's letter and called the City Attorney to brief the Council on it. She also stated that they need a lot more information on all of the requests and thinks it would be good to make a decision on hiring consultants after they receive a staff report on the matter.

Councilmember Goodman moved that the Council continue the public hearing at a later date. The motion, seconded by Councilmember Cooke, carried by the following vote:

Ayes: Mayor McClellan, Councilmembers Cooke, Goodman, Mullen,
Snell

Noes: None

Absent: Mayor Pro Tem Himmelblau

Not in Council Chamber when roll was called: Councilmember Trevino

RECESS

The meeting recessed at 1:40 p.m. and resumed at 2:30 p.m. Mayor Pro Tem Himmelblau was present at the afternoon session of the Council.

HOW TO GET YOUR GOAT

MR. SAMMIE JOSEPH, JR., Vice-President of the Board of Big Brothers and Big Sisters of Austin, appeared before the City Council to present an award to the Mayor and Councilmembers. The award was a goat, which Mr. Joseph said he would take back if the Councilmembers pledged to find one Big Brother and one Big Sister to help one of the 142 children that are waiting to be matched with a big brother or sister. He said the organization presently serves 400 children in the Austin area. Mayor McClellan pledged the Council's support to the project and promised they would find volunteers to serve as Big Brothers and Big Sisters.

PARADE PERMIT

Councilmember Goodman moved that the Council approve the request from Mr. I. P. Bell for Austin-Travis County All Veterans Committee to obtain a parade permit from 9:30 a.m. to 10:30 a.m., Friday, November 11, 1977, beginning from 2nd and Congress, up Congress Avenue to 11th Street. The motion, seconded by Councilmember Trevino, carried by the following vote:

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

Mr. Bell spoke to the Council and Chamber audience and invited them to attend the parade and observe the ceremonies following on the Capitol steps.

BANNER

Councilmember Snell moved that the request of Mr. C. W. Hetherly for permission for Anderson High School to have a banner placed at 3829 Steck Avenue from November 7, 1977, through January 3, 1978. The motion, seconded by Councilmember Trevino, carried by the following vote:

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

LOS ALTOS APPROACH MAINS

MR. JOHN VAN WINKLE appeared before Council to discuss Council policy on Los Altos Approach Mains. He said the purpose of his request comes from his attempt to record a two-lot subdivision in an unrecorded subdivision on Lake Shore and West Lake Drive. He said the various department heads he consulted on this matter indicated to him that unlike approach main extensions all connections to the Los Altos approach main require annexation. Mr. Van Winkle told the Council his purpose in asking them to reconsider or clarify this is that it will require considerable delay in getting the subdivision recorded. He also requested consideration of the zoning which would come in as "AA" Interim Residence, if the property were annexed, which would immediately require him to rezone to "A" Residence if he wished to build duplexes, which is his intention. Mr. Van Winkle said that Mr. Curtis Johnson, Director of Water and Wastewater, had suggested he bring this issue before Council so they could study the reasons or motives behind the unique policy concerning Los Altos Approach Mains.

Mr. Homer Reed, Deputy City Manager, stated that the Council set the policy on this one line about two years ago. In all other areas adjacent to the City limits where we have a sewer line in place, the Council's policy is that a connection such as this one, where no further approach mains are required are routinely granted by the City staff. They do pay additional charges, of course, because they're outside the City limits. Mr. Reed said they would recommend that the same policy be applied in this case, that, in effect, Mr. Van Winkle's request be granted. "I believe," said Mr. Reed, "the intent of the Council when this policy on this Los Altos line was set a couple

of years ago could well be met by another part of the City policy which restricts service to customers in another City. That is now part of our policy, that we will not extend utilities...not extend sewer service to customers in another City. So," he concluded, "we would recommend approval of the request."

Councilmember Goodman moved that the Council approve Mr. Van Winkle's two-lot subdivision for water and wastewater connection without annexation. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

Noes: None

DISCRIMINATION AGAINST MUSLIMS

MR. HASSAN KARIM ABDULLAH appeared before Council to suggest that Muslims are being discriminated against in Austin. He said he had tried to have work done at the dental clinic and had been unsuccessful. Mayor McClellan reminded him that he had set up an appointment with the clinic the preceding Tuesday and had failed to keep his appointment. Mr. Abdullah also inferred discrimination against him in trying to talk to the Mayor or Councilmembers. Mayor McClellan informed him that he had made two appointments with her and had failed to appear for either one. None of the Councilmembers had any knowledge of his calling their offices for an appointment.

SATURDAY NIGHT NOISE ON GUADALUPE STREET

MS. LYNN GOODMAN STRAUSS appeared before Council to discuss the noise, drunken driving and obscenities on Saturday nights on Guadalupe Street following football games. She said it was terrible and more should be done about it. She played a recording of the noise. Mayor McClellan said she and the Council shared her concern and were having extra police on duty on Saturday nights after the football games. Chief Dyson appeared before Council and stated the number of police man hours that had been used to control the conditions on Guadalupe the past three weekends, and that they were also considering other methods of control. Mayor McClellan told Chief Dyson that there had been numerous complaints about the noise and revelry, but she thought the Police Department is doing an admirable job.

PUBLIC HEARING ON HOUSEBOAT ORDINANCE

Mayor McClellan opened the public hearing scheduled for 2:30 p.m. to amend Chapter 29 of the Austin City Code of 1967 providing procedures for the removal and impoundment of structurally unsound watercraft from City lakes; providing for regulations concerning marine sanitation and the lighting of houseboats; prohibiting the use of multiple air-filled displacement flotation units; providing for the registration of houseboats; and prohibiting overnight operation on Town Lake.

Mr. Lonnie Davis, Director of the Building Inspections Department, outlined the proposed ordinance before the Council. He stated that under the provisions of the ordinance, any officer of the City can refer a sub-standard houseboat back to the Navigation Board for review. Mr. Davis indicated that since his Department is charged with the inspection of boats, they were also empowered to impound houseboats if the need should arise. If the owner of the houseboat does not come forward, then the boat can then be either sold or demolished. Mr. Davis then made a slide presentation of some of the houseboats on City waterways.

MR. CONRAD FATH, Chairperson of the Navigation Board, told the Council that it was difficult to establish ownership of houseboats. He indicated that one thing they wanted to accomplish was the registration of houseboats and the displaying of identification on the boat itself. This would allow the City to determine ownership and responsibility. Mr. Fath indicated that there was also a problem with sanitation conditions of houseboats. He stated that the Navigation Board, in regard to the ordinance, recommended the deletion of Part A of Section 29-36 and the first word of Part B. The section would then read: "Marine sanitation - Carry-on portable toilet units may not be substituted for permanent facilities on houseboats regardless of the length of the houseboat." He indicated that this change had been recommended by the City Legal Department. In regard to Councilmember Mullen's inquiry as to a fiscal note study on the ordinance, Mr. Davis pointed out that \$5,000 had been budgeted in his department for the removal of houseboats that were in violation of the ordinance.

MR. PHILLIP WEST told the Council that other than portable toilet units, houseboat owners did not have much of an alternative because waste collection stations were not adequate for the purpose of sanitation. He felt that carry-on toilets should be made legal. Mr. Davis indicated that the Navigation Board was unanimously opposed to the use of carry-on toilets on houseboats. He pointed out that there were currently 2 waste collection stations in operation and that a third was being considered. Mr. West did not feel that this would help his situation because the waste collection stations seldom worked correctly. He stated that something better than the waste collection station was needed for houseboats. Mr. Davis stated that if there was any difficulty with any of the pump out stations that it could be taken care of. Mayor Pro Tem Himmelblau asked if the Council could have a report back on the matter. Deputy City Manager Homer Reed indicated that he would report back to the Council on the matter. Mr. Fath stated that without boat identification, there was no way for health officials to board a boat to conduct an inspection. Also, many houseboats do not have a means of propulsion and cannot get to the waste collection stations. Mr. Fath stated that some regulation was also needed in this area.

MR. BUCKNER HIGHTOWER stated that increasing houseboat traffic on the City waterways would cause a great deal of congestion. He also reinforced the fact that the waste collection stations were not operative. Mr. Hightower suggested having a floating pumping station located on the water itself. He recommended, also, that electric and composting type toilets be allowed on houseboats.

MR. SAM HERNANDEZ, as a matter of clarification, asked if the segment pertaining to the prohibition of overnight operation on Town Lake applied to just houseboats or other kinds of crafts. He was told that the ordinance would regulate the operation of any kind of watercraft. Houseboats being considered watercrafts would also be covered by this segment of the ordinance. Mr. Davis indicated that the Navigation Board specifically did not want houseboats to be on Town Lake overnight.

MR. LEE SHELBERG indicated that he was glad to see the development of regulation for houseboats. He stated that he owned property on the lake and took his water directly from the lake. The problem of houseboats dumping waste into the lake was of concern to him. Mr. Shelberg made the recommendation that houseboat owners fall under the same category as taxpaying property owners.

MS. ARLENE PETERSON, a home owner on Lake Austin, agreed with the previous speaker in that she felt that the ordinance was very much in order.

MR. ARLO STEMMER, Manager for the Pier restaurant, stated that the waste collection stations on the lake seldom worked. He pointed out that mobilizing houseboats to these stations would be dangerous. Mr. Stemmer felt that the issue of portable toilets should be left alone for a while.

MR. GARY BRADLEY asked if the Lake Austin study had addressed the problem of waste being dumped into the lake. Mayor McClellan indicated that it did not. Mr. Bradley felt that houseboats were some of the biggest offenders in regard to polluting the lake. He felt that enforcement was needed to make the ordinance work.

Mayor McClellan pointed out that there was a provision in the ordinance for a 30-day compliance period. She stated that there was no fiscal note on the ordinance and felt that the ordinance should be brought back at a later date after the fiscal note is received. Mayor McClellan stated that the problems with the waste collection stations could also be looked into.

Councilmember Goodman moved that the Council close the public hearing and bring back the Ordinance and request reports on November 17, 1977. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

EASEMENTS

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

A 7.50 foot public utilities easement out of the first resubdivision Redman Development Corporation. (Requested by Mr. A. M. Eldridge, Director, Construction Management Department.)

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

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

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

The entire electrical and telephone easement described in Vol. 4418 at Page 997 of the Deed Records of Travis County, Texas, which traverse Lot A, Central Insurance Addition. (Request by Mr. Harold L. Coit, Attorney for Mr. James Raper.)

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

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

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

Five inches (0.42 feet) of a wastewater easement twenty (20.00) feet in width which was retained when Red River Street between East 12th Street and East 15th Street was vacated by Ordinance dated January 22, 1977 and amended Ordinance dated March 18, 1976.

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

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

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

A 10.00 foot public utilities and underground telephone cable easement out of Lot 33, Block P, Windsor Park Hills, Section 3, a subdivision in the City of Austin, Travis County. (Requested by Lumbermen's Investment Corporation for the owners, Mr. and Mrs. Donald E. Buckner.)

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

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

DEED

Councilmember Trevino moved that the Council adopt a resolution authorizing execution of a deed (along with other participants in the South Texas Project) conveying the relocated Farm-to-Market Road 521 to the State of Texas. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

H.E.B. REQUEST

Councilmember Trevino moved that the Council adopt a resolution approving a request by the H.E.B. Grocery Company to waive the minimum separation distance requirement between their business which intends to sell alcoholic beverages and the El Buen Pastor Presbyterian Church. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

LOST CREEK MUNICIPAL UTILITY DISTRICT

Councilmember Trevino moved that the Council adopt a resolution granting preliminary approval of the terms and conditions of the Lost Creek Municipal Utility District \$1,875,000 Waterworks and Sewer System Combination unlimited Tax and Revenue Bonds, Series 1977. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

CASH SETTLEMENT

Councilmember Trevino moved that the Council adopt a resolution authorizing the following cash settlement:

LYNDON CRIDER
12701-A Research Boulevard
Austin, Texas

Cash settlement in lieu of a 5-year
8" wastewater approach main for
Balcones Oaks Subdivision
\$3,864.24.

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

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

CONTRACTS APPROVED

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

SCHMIDT CONSTRUCTION COMPANY
Star Route A, Box 635
Austin, Texas

- CAPITAL IMPROVEMENTS PROGRAM
Construction of Ken Avenue 12-
inch water main - \$45,379.60
C.I.P. No. 75/40-14

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

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

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

M. C. CONSTRUCTION COMPANY
1801 Santa Clara
Austin, Texas

- CAPITAL IMPROVEMENTS PROGRAM
Meter shop additions to line con-
struction building at Kramer Lane
Service Center - \$134,700.00.
C.I.P. No. 77/39-03

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

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

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

FEDERAL ENVELOPE COMPANY
6901 North Lamar Boulevard
Austin, Texas

- Envelopes for Utility Customer
Services. Twelve month supply
agreement including additional
six month extension.
Total - \$19,096.00 (estimated)

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

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

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

TWIN OAKS CAMERA SHOP
9538 Berkman Drive
Austin, Texas

- Photographic supplies for Public Information Department. Twelve month supply agreement including option for an additional three months extension.
Items 1 through 59, 72-79, 81-87, 89-91, 93, 94, 96 and 97 - \$41,443.60.

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

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

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

BURROUGHS CORPORATION
704 Wonsley
Austin, Texas

- Stock Paper for Data Systems Department. Items 1 and 2 - \$17,756.30.

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

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

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

HAUFLER CYCLE CENTER
4312 Gillis
Austin, Texas

- Police Motorcycles, Vehicle and Equipment Services Department.
Item 1 - 6 ea. @ \$3,165.32
Total - \$18,991.92.

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

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

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

AUSTIN ROAD COMPANY
428 East Anderson Lane
Austin, Texas

- CAPITAL IMPROVEMENTS PROGRAM -
East Extension of 26th Street
from Dancy Street to Manor Road -
\$177,293.95 C.I.P. No. 73/62-33

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

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

CONTRACT WITHDRAWN

The following contract was withdrawn from the Agenda:

COMMERCIAL MICROSYSTEMS &
REPROGRAPHICS, INC.
302 East 3rd Street
Austin, Texas

- Produce Microfiche from Computer
- Produce Magnetic Tape, Various
City Departments.
- Twelve Months Service Agreement
including option for twelve months
extension. Item 1.0 - Ext.
- Grand Total: \$37,448.00/year

WATER QUALITY SURVEYS

Councilmember Trevino moved that the Council adopt a resolution approving a request to continue using outboard motorboat on Town Lake in four U.S.G.S. (United States Geological Survey) Water Quality Surveys. (Period - October 1, 1977 through September 30, 1978) The motion, seconded by Councilmember Mullen, carried by the following vote:

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

SETTING A PUBLIC HEARING

Councilmember Trevino moved that the Council set a public hearing for December 1, 1977, at 3:00 p.m. to adopt an ordinance assigning the name "East Anderson Lane" to that part of U.S. 183 between Georgian Drive and U.S. Highway 290 East. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

SETTING A PUBLIC HEARING

Councilmember Trevino moved that the Council set a public hearing for December 1, 1977, at 3:30 p.m. on an amendment to the Fire Code to provide for Fire Zones. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

ORDINANCES ON BOARDS AND COMMISSIONS

Mayor McClellan introduced the following Ordinance:

AN ORDINANCE AMENDING ORDINANCE NO. 770421-B AND CHAPTER 40 OF THE 1967 CODE OF THE CITY OF AUSTIN, PROVIDING FOR TWO-YEAR STAGGERED TERMS EXPIRING JUNE 1 FOR MEMBERS OF THE BUILDING STANDARDS COMMISSION; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

The Mayor announced that the ordinance had been finally passed.

Mayor McClellan introduced the following ordinance:

AN ORDINANCE AMENDING THE AUSTIN CITY CODE OF 1967 BY AMENDING SECTION 46-3 TO PROVIDE FOR TWO-YEAR STAGGERED TERMS EXPIRING JULY 1 FOR MEMBERS OF THE CITIZENS' BOARD OF NATURAL RESOURCES AND ENVIRONMENTAL QUALITY AND TO PROVIDE FOR THE ELECTION OF A CHAIRPERSON BY THE MEMBERS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS AND PROVIDING AN EFFECTIVE DATE.

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

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

The Mayor announced that the ordinance had been finally passed.

Mayor McClellan introduced the following ordinance:

AN ORDINANCE AMENDING CHAPTER 29 OF THE 1967 CODE OF THE CITY OF AUSTIN, AMENDING SECTION 29-28 TO PROVIDE FOR TWO-YEAR STAGGERED TERMS EXPIRING FEBRUARY 1 FOR MEMBERS OF THE NAVIGATION BOARD; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

The Mayor announced that the ordinance had been finally passed.

771103 - F

6.4. Cancel Council meeting for
November 24, 1977, Thanksgiving
Day

Mayor McClellan introduced the following ordinance:

AN ORDINANCE AMENDING ORDINANCE NO. 760122-B TO PROVIDE FOR TWO-YEAR STAGGERED TERMS EXPIRING JANUARY 1 FOR MEMBERS OF THE URBAN TRANSPORTATION COMMISSION AND TO PROVIDE FOR THE ELECTION OF A CHAIRPERSON BY THE MEMBERS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS AND PROVIDING FOR AN EFFECTIVE DATE.

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

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

The Mayor announced that the ordinance had been finally passed.

COUNCIL MEETING CANCELLED

Mayor McClellan introduced the following ordinance:

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

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

The Mayor announced that the ordinance had been finally passed.

PAVING

Mayor McClellan introduced the following ordinance:

AN ORDINANCE DECLARING THE NECESSITY FOR AND ORDERING THE PAVING AND IMPROVEMENT OF PORTIONS OF CERTAIN STREETS IN THE CITY OF AUSTIN, APPROVING PLANS AND SPECIFICATIONS FOR SUCH WORK, AUTHORIZING THE CITY MANAGER TO ADVERTISE FOR BIDS, DIRECTING THE PREPARATION OF ESTIMATES, INVOKING THE ALTERNATE PROCEDURE PROVIDED BY ARTICLE I, SECTION 5 OF THE CHARTER OF THE CITY OF AUSTIN AND CHAPTER 106 OF THE ACTS OF THE FIRST CALLED SESSION OF THE 40TH LEGISLATURE OF TEXAS, DETERMINING THAT THE COST OF SUCH IMPROVEMENTS SHALL BE PAID BY THE CITY OF AUSTIN, PROVIDING A METHOD OF REIMBURSING THE CITY OF AUSTIN FOR A PORTION OF SUCH COSTS BY ASSESSMENT OF A PORTION OF SUCH COSTS AGAINST THE PROPERTY

ABUTTING SUCH STREETS OR PORTIONS THEREOF TO BE IMPROVED, AND FOR THE FIXING OF A LIEN TO SECURE PAYMENT OF SUCH ASSESSMENTS, STATING THE TIME AND MANNER PROPOSED FOR PAYMENT OF ALL SUCH COSTS, DIRECTING THE CITY CLERK TO CAUSE A NOTICE OF THE ENACTMENT OF THIS ORDINANCE TO BE FILED IN THE MORTGAGE OR DEED OF TRUST RECORDS OF TRAVIS COUNTY, TEXAS, AND DECLARING AN EMERGENCY.
(Springdale Road)

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

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

The Mayor announced that the ordinance had been finally passed.

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:

LOTS 6, 7, 8, 10, AND 11, RUTLAND DRIVE BUSINESS PARK, SECTION FIVE, LOCATED ON METROPOLITAN DRIVE, ENERGY DRIVE, AND RUNNING BIRD LANE, FROM INTERIM "A" RESIDENCE, INTERIM FIRST HEIGHT AND AREA DISTRICT TO "D" INDUSTRIAL, 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. (Mrs. Louise F. Boyer, C14-73-161)

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

Ayes: Councilmembers Snell, Trevino, Mayor McClellan, Councilmembers
Cooke, Goodman, Mayor Pro Tem Himmelblau, Councilmember Mullen
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 CHANGING THE USE MAPS ACCOMPANYING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967AAS FOLLOWS:

THE WEST 300 FEET OF LOT 2, 183 PARK ADDITION, LOCALLY KNOWN AS 1001-1023 ED BLUESTEIN BOULEVARD (U. S. HIGHWAY 183) AND ALSO BOUNDED BY CARVER AVENUE, FROM "LR" LOCAL RETAIL DISTRICT TO "GR" GENERAL RETAIL 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.
(W. W. Patterson, Trustee, C14-77-118)

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

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

The Mayor announced that the ordinance had been finally passed.

PUBLIC HEARING ON NEW TRUTH IN SELLING ORDINANCE

Mayor McClellan indicated that the new Truth in Selling ordinance was essentially the same as the last one except that some of the wording was changed. She stated that the new wording was of a more positive nature.

MS. NANCY WOOD told the Council that it was very easy for a home buyer to not be aware of zoning classifications within the area he was buying a home in. She stated that the City had a responsibility to protect the interest of its citizens and supported the inception of the ordinance.

MR. CHARLES BABB, attorney representing the Austin Board of Realtors, indicated that he appreciated the removal of the preamble from the ordinance. He stated that there was ample authority on the part of the State Real Estate Commission to stop any misrepresentation made by a realtor. Mr. Babb cited five things which the Real Estate Commission is empowered to do:

1. License cancellation.
2. Criminal penalization resulting in a fine and/or imprisonment.
3. Denial of a realtor's commission or fee.
4. Realtor could become subject to civil liability.
5. An injunction suit can be filed by the Commission to stop any unfair practices by realtors.

Mr. Babb indicated that private citizens can also appeal before the State Commission. He felt that the City ordinance was invading a field of legislation that has been pre-empted by the State legislation. Mr. Babb requested that the Council not pass the ordinance and simply refer any housing problems to the State Real Estate Commission. He felt that this would have more effect than the circulation of pamphlets. Mayor McClellan told Mr. Babb that the Council was looking for a means to inform citizens about zoning. She indicated that the City looked to the realtors to help distribute the pamphlets on zoning. Mr. Babb told the Mayor that the realtors would probably be delighted to help distribute such a pamphlet but would resent any enforcement to make them do so.

Ms. Wood indicated that it sounded like the taxpayers would be paying for the brochures. Councilmember Mullen objected to the fact that Ms. Wood was in favor of a new ordinance but blamed the Council for using tax money to make the ordinance operative.

MR. DOUGLAS JONES, a licensed real estate sales representative, felt that passage of the ordinance would necessitate an entire City department to keep abreast of the great amount of work that would be entailed. He stated that such increases in City personnel would be very costly to the taxpayer. Mayor McClellan indicated that there was a fiscal note study on the ordinance which listed projected costs involved with implementation of the ordinance. She stated that the City would be happy to share this report with Mr. Jones.

MS. MARILYN SIMPSON, First Assistant Coordinator of the Austin Neighborhood Council, stated that there was a good deal of misrepresentation in Austin and felt that this was a major problem. She felt that the Truth in Selling ordinance should be enacted to supplement the current State legislation. Councilmember Mullen asked Ms. Simpson how she would go about developing the ordinance. Ms. Simpson indicated that this should be left up to the City Legal staff. Councilmember disagreed and felt that the goals of the ordinance should be decided first by Council.

MS. GLORIA ORIANO, representing the Southwest Homeowner's Association, cited an example to the Council of zoning misrepresentation. She felt that home buyers had a right to know the zonings of areas close to their property.

MR. MOE TERRELL, President of the Austin Board of Realtors, told the Council that realtors were already over-burdened with regulations. Mr. Terrell cited some of the information that realtors are already required to present to a prospective home buyer.

MS. LAURIE PAXTON, representing the Savings Association of Austin, recommended that if the Council felt a real need for local legislation of real estate transactions, it should wait 30-45 days before taking action so as to give all parties involved time to volunteer input to the Council which would help in the drafting of the ordinance.

MR. RICH ELMER, a realtor, submitted that home buyers do not always take the time to completely investigate a home before buying. He felt that the City could not provide full protection for a home buyer and that buyer's protection in buying a home was contingent upon the home buyer himself. Mayor McClellan agreed that a home buyer had to avail himself of information relative to a home being considered for purchase but stated that circulation of the brochures would at least provide needed information if the home buyer chose to avail himself as such. Mr. Elmer also stated that the proposed \$200 fine for zoning misrepresentation would be ineffective because it would be nothing in comparison to the amount of commission a realtor would gain from completing a sale.

MS. BERNICE KING, a realtor, stated that zoning was not addressing the whole problem in regard to real estate transactions. She felt that the problem should be treated from the standpoint of community education rather than dealt with as an ordinance.

Councilmember Goodman moved that the Council continue the public hearing on the proposed Truth in Selling Ordinance on December 1, 1977, at 4:30 p.m. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

U.S.G.S. AGREEMENT RENEWAL

The Council had before it for consideration, renewal of the agreement between the United States Geological Survey of the Department of Interior and the City of Austin for installation, operation and maintenance of stream-gages throughout the Austin area, total cost being \$101,490, City of Austin's share, 50%. Councilmember Mullen asked if this study would interfere with a similar study currently being conducted by the City and the County. Mr. Charles Graves, Director of the Engineering Department, indicated that it would not as the City-County study was a ground water study whereas the proposed study concerned itself with surface water. Mr. Graves indicated that the County would be approached in regard to a joint City-County effort for the study of surface water quality. Mr. Graves stated that the U.S.G.S. had been asked by the City how it could improve on its water monitoring methods. He stated that automatic samplers placed on Bull Creek above FM 2222 would yield data as to the condition of the watershed. Mayor McClellan requested that the Council receive a report from the Environmental Board on the scope of the water quality monitoring system needed for the Lake Austin watershed.

DR. GUS FRUH, a member of the Environmental Board, stated that the water treatment plants were monitoring points but that the City did not currently have the personnel necessary to put this data together. He stated that the Water and Wastewater Department could aid monitoring with just the data they were already collecting. Dr. Fruh stated that his Board was currently engaged in reviewing package treatment plants and septic tanks as instructed by the Council and that the Water and Wastewater Department was currently better equipped to conduct water quality monitoring.

Councilmember Mullen asked Mr. Graves how long it would be before he could deliver some report on the status of the joint venture with the County. Mr. Graves indicated that the County would not seriously start discussing it until their budget deliberations, about the second or third week of December.

Councilmember Mullen moved that the Council adopt a resolution approving the renewal of the agreement between the United States Geological Survey of the Department of the Interior and the City of Austin for installation, operation and maintenance of stream-gages throughout the Austin area. The motion, seconded by Mayor Pro Tem Himmelblau, carried by the following vote:

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

Noes: None

POSTPONEMENT OF BOARD AND COMMISSION MATTERS

The following items were postponed to be put back on the Agenda for November 10, 1977:

1. Review and verification of Boards and Commissions reports.
2. Public hearing on Board and Commissions to determine if each Board or Commission should be continued, modified or terminated.

LAKE AUSTIN DEVELOPMENT STANDARDS

The Council had before it consideration of an amendment to Chapter 41 of the Austin City Code of 1967 to provide standards for development of land located within the watershed of Lake Austin as described by the resource maps of the Lake Austin Growth Management Plan. Councilmember Cooke asked if staff would address Section 41-11.1(d1) of the ordinance which refers to land area calculated to the nearest .1 acre of each slope class within the subdivision as delineated on the slope map. Mr. Charles Graves, Director of the Engineering Department, stated that calculations could not be made that closely, due to the quality of the slope map. Councilmember Cooke asked Mr. Graves what would be a more reasonable estimate. Mr. Graves indicated that they would more than likely study the developer's approach to slopes to determine if it was reasonable.

Motion

Councilmember Goodman moved that the Council amend Section 41-35.3 under Cut and fill, grading and building sites, to include as follows: "Roadway locations shall be based upon the need to preserve topographic features and minimize to the maximum extent feasible, the construction of roadway cuts and fills as well as a professional engineering analysis of generally accepted geometric standards for vehicular and pedestrian safety." The motion, seconded by Councilmember Trevino, carried by the following vote:

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

Mr. Graves indicated that this inclusion to Section 41-35.3 was in response to a request made by the Sierra Club to limit the amount of cut and fill in the Lake Austin area. He stated that it also allows engineers to take into consideration vehicular and pedestrian safety factors when designing a street.

DR. GUS FRUH, a member of the Environmental Board, stated that he felt some guideline was needed. He recommended, as an individual, that the amendment be accepted.

Motion

Councilmember Goodman moved that the Council amend Section 41-35.3 under Erosion Control to include "And reviewed by the Engineering Department and the Environmental Resource Management Department;" and Section 41-35.3 under Restoration to include "And reviewed by the Engineering Department and Environmental Resource Management Department." The motion, seconded by Councilmember Trevino, carried by the following

Councilmember Cooke indicated that he did not feel that the amendments were necessary. Deputy City Manager Homer Reed stated that both the Engineering Department and the Environmental Resource Management Department reviewed the operation of the ordinance and that enforcement was already contingent upon the Engineering Department. Mr. Graves felt that it would not be possible to inspect all of the various restorations. Wording changes were made so that the amendment would coincide with existing City inspection practices.

Motion on Point of Order

Councilmember Cooke moved that the Council set a public hearing for December 1, 1977, at 8:00 p.m. to discuss the Lake Austin Growth Management Plan. The motion, seconded by Mayor Pro Tem Himmelblau, carried by the following vote:

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

Roll Call on Goodman's Motion of Review

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

In regard to Section 41-35.3(e.2), Mayor Pro Tem Himmelblau indicated that she wanted to see the phrase "or average density" deleted from the Section. She stated that she also wanted included in the ordinance, exemptions for developments that have already obtained preliminary approval before the Planning Commission. Mayor Pro Tem Himmelblau indicated that she wanted to have discussions on the amount of impervious cover on slopes. In regard to preliminary approval of subdivisions, Mr. Dick Lillie, Director of the Planning Department, told the Council that prior to May of this year, 1466 acres had been approved with 569 recorded and 897 remaining and after May, 973 had been approved, 62 acres recorded and 911 remaining. This totalled to 2,439 acres approved, 631 recorded and 1808 pending. He further indicated that prior to May, 67% of the applications could meet requirements whereas 33% could not and after May, 87% of the applications could meet requirements whereas 13% could not. This totalled to 77% of the applications that could meet requirements as opposed to 23% that could not. Mayor Pro Tem Himmelblau felt that final approval should not be denied if preliminary requirements were met.

Mayor Pro Tem Himmelblau asked about the give and take of impervious cover in the ordinance. Mr. Lillie indicated that the original draft of the ordinance had 37% impervious cover on slopes of 0-15% and 20% impervious cover on slopes exceeding 15%. He stated that later the Planning Commission went to a 30-20-10 percentage and the Commission placed a transfer provision in the ordinance to allow developers to transfer impervious cover off steep slopes to lesser slopes to increase the amount of impervious cover from 30% to 40%.

Dr. Maureen McReynolds, Director of the Environmental Resource Management Department, stated that the two main concerns in drafting the ordinance were the water quality and the aesthetic quality of Lake Austin. She indicated that in drafting the ordinance, it had been considered desirable to limit development to a particular set of standards.

Mr. Lillie indicated that prior to the public hearing on the Lake Austin plan, he would come back to the Council with language for the ordinance that would allow the City to build the incentives program into the alternatives section of the ordinance so that even if the amount of impervious cover for a project was too high, but the developer still met the goals and objectives by ponding or some other method, variances could still be allowed for the project.

Councilmember Cooke also pointed out the need for funding sources for the ordinance to be identified prior to the public hearing of December 1, 1977.

CITY MANAGER REPORTS

In regard to the rest of the Agenda, Mayor McClellan asked Mr. Homer Reed to circulate a memo to the Council on the Monthly Financial Statement for the month of September, 1977, and to bring back the following week on November 10, 1977, the proposed changes for Insurance Benefits and the Optional Insurance Program.

ADJOURNMENT

The Council adjourned at 6:45 p.m.


Mayor

ATTEST:


City Clerk