

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

June 16, 1977
7:00 P.M.

Council Chambers
301 West Second Street

The meeting was called to order with Mayor McClellan presiding.

Roll Call:

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

Absent: None

The Invocation was delivered by Reverend Robert C. Parker, Assistant
Rector, All Saints Episcopal Church.

MINUTES APPROVED

Mayor Pro Tem Snell moved that the Council approve the Minutes of the
Meeting for June 9, 1977. The motion, seconded by Councilmember Trevino,
carried by the following vote:

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

EXECUTIVE SESSION

Mayor McClellan announced that the Council had been meeting in Executive
Session earlier in the day. At next week's Council Meeting, June 23, 1977,
appointments to boards and commissions will be made as follows: Ethics Review
Commission, one; Plumbing Board of Appeals, three; Commission on the Status
of Women, five.

Mayor McClellan said that it was in order to make board and commission
appointments at this time.

Arts Commission

Councilmember Mullen moved that the Council appoint Ms. Sandy Youman to the Arts Commission, representative for Laguna Gloria, for a term ending August 14, 1977. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

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

MHMR Board

Mayor Pro Tem Snell moved that the Council appoint Ms. Marva A. Bennett to serve an unexpired term on the MHMR Board, ending April 1, 1978. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

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

Hospital Board

Councilmember Cooke moved that the Council appoint Dr. Fred Hansen, Ms. Norma R. Saenz, Mr. Richard Fish, and Ms. Janis Robinson to the Hospital Board (two terms for two years and two terms for one year - to be determined by drawing lots as discussed near the end of the meeting). The motion, seconded by Councilmember Goodman, carried by the following vote:

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

Councilmember Goodman moved that the Council approve the appointment of James Pfluger for a one-year term as President Emeritus of the Hospital Board. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

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

WATERMELON PERMIT

REV. CECIL E. HENNINGER, Church of Christ, appeared before Council to discuss a permit for selling watermelons inside the City limits. He told the Council he had been approached by a member of the Health Department last week, who told him he could not sell watermelons, peaches and cantaloupe without a permit, and that he could not display the fruit he had for sale on the ground. He said he closed his display for the day and went to buy a permit, but he is puzzled regarding the stipulation that watermelons cannot be displayed on the ground. He wondered if people did not know that watermelon and cantaloupe grow on the ground. He said he did not understand that law. Rev. Henninger cited others who sell crops and products by the side of the road to make a living.

He said maybe the law "gets too high society and we don't understand, we don't walk in their steps and so we pass laws and don't really understand what we pass." He also questioned the reasons behind the need for a health permit to sell fruit by the side of the road.

Mr. Dan Davidson, City Manager, informed Rev. Henninger that Ms. Sue Prothro, Acting Administrator of the City-County Health Department, would brief the Council a little bit on what the ordinance does provide and then afterward, he said they would be happy to get with Rev. Henninger and explain some of the details and provide a written report to Council.

Ms. Sue Prothro told the council that produce selling is one small part of the ordinance, and it refers to the intra-City distributor's permit, which is a \$30.00 permit required for anyone who sells produce from a truck. There is a requirement in the ordinance that states fruit and vegetables must be displayed at least two feet off the ground in order that it be sanitary.

Mr. Davidson said that for Rev. Henninger's information, most of the rules were recommended by Health Physicians based on experience. He said information regarding this will be included in the report to the City Council. He said he did not think it would be appropriate for the City Council to try to take some action without further information. Rev. Henninger replied that was fine, but he thought the rules of the City should apply to everyone. He said the sellers in the Farmers' Market are not going by those rules. Mr. Davidson said he would have that checked, but would not speculate regarding someone else's violation without investigating. Ms. Prothro responded to Rev. Henninger by telling him that a letter has been sent to the Farmers' Market informing them of the ordinance requiring them to have an intra-City distributor's permit.

Mayor Pro Tem Snell wanted to know if there was any kind of a record of how many people had become sick from eating watermelons that had been displayed on the ground. He said he had eaten them that way for years, and even busted them open by throwing them on the ground. Mr. Davidson said that if a customer busts them on the ground, that is their business, but if somebody does it before they sell it, that is the City's business. He went on to say that they probably did not have any record of diseases because of the ordinance. Mayor Pro Tem Snell said there undoubtedly must have been some reason for this ordinance to be passed...there must have been somebody effected by this, and he wanted to know what it was. Ms. Prothro replied she would be glad to prepare the record for him.

PARADE PERMIT

Councilmember Trevino moved that the Council approve the request for a Parade Permit from Rosa C. Cuellar for Texas Farmworker's Union, to begin the Texas Farmworker's 1500th Human Right March to Washington, D. C., beginning at 8:00 a.m., June 18, 1977, from Capitol grounds, south on Congress Avenue, east on East 1st Street, out to 71. The motion, seconded by Councilmember Goodman, carried by the following vote:

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

Noes: None

PUBLIC HEARING ON AMENDMENTS TO FINANCIAL DISCLOSURE ORDINANCE

Mayor McClellan opened the 7:30 p.m. public hearing on amendments to the Financial Disclosure Ordinance. Councilmember Himmelblau told the Council her recommended amendments are as follows:

1. All board and commissions except the Planning Commission, Board of Equalization, and the Zoning Board of Adjustment are exempted from filing a financial disclosure statement.
2. Although all sources of income still need to be identified, amounts of income and rates of interest no longer are required to be reported.
3. Whereas, under the existing ordinance, all sources of income exceeding \$350.00 are required to be reported, under this amendment all sources of income in excess of \$500.00 are required to be identified.
4. Whereas, under the current ordinance, all real estate holdings are required to be identified, under this amendment all real property located within Austin or within five miles of Austin is amended to be identified.
5. Whereas, under the current ordinance, an updated financial statement is required to be filed in October, under the amendment the financial statement is required to be filed only once a year.
6. Councilmembers' aides are not required to file.

MARY BETH ROGERS, Chairman of the Ethics Review Commission, appeared before the Council to present that commission's views on Councilmember Himmelblau's amendments to the ordinance. They are as follows:

"The Ethics Review Commission makes the following recommendations on proposed amendments to the financial disclosure provisions of Ordinance No. 770303-A.

1. Instead of deleting boards and commissions required to file financial disclosure statements, as proposed in the amendments, the Commission recommends the addition of the following sovereign boards and commissions:

Joint Airport Zoning Board (city members)
Civil Service Commission
Employees Retirement Board
Explosives Appeals Board
Housing Authority
Board of Trustees for Mental Health-Mental Retardation (city members)
Solicitation Board
State Firemen's Relief and Retirement Fund
Urban Renewal Board
Vending Commission

In addition, the newly created Electric Utility Commission should be added.

The reasons for addition of these boards and commissions is based upon City Attorney Jerry Harris' opinion of February 14, 1977, relating to prohibited political activity by members of these bodies (and others already included in the ordinance) because of the sovereign nature of their powers and duties.

The Commission also applied the criteria of the relationship of the duties and powers of a board or commission to its role in influencing the potential value of land and real property as a result of any action it might take, as a basis for inclusion in the ordinance.

Where either of these elements -- potential influence on value of property or land, and the sovereign nature of power -- was involved, the Commission felt that the board or commission should be included in the reporting provisions of the ordinance. Because members of boards or commissions which have such power should be completely above any question of possible conflict of interest, the Commission strongly urges the inclusion of these additional boards and commissions under the provisions which will require disclosure of sources of income only, not amounts or categories.

2. The Commission is opposed to the deletion of provisions for reporting general categories of income and rates of interest which are now required for only four boards or commissions: the Board of Equalization, the Zoning Board of Adjustment, the Planning Commission and the Ethics Review Commission. For these bodies, the ordinance does not now require disclosure of specific amounts of income or rates of interest, only disclosure of broad general categories. Other boards and commissions included in the ordinance at this time are required only to reveal sources of income, not amounts or categories. The majority of the Commission (three in favor and one undecided) felt this provision should remain as it is now.

3. The Commission endorses the proposed amendment which would allow the sources of income to be identified to be raised from \$350 to \$500.

4. The Commission opposes the proposed amendment which would limit the identification of real estate holdings to real property located within Austin or the Austin ETJ. Because the affairs of the City of Austin now extend into other counties of Texas -- Williamson, Fayette, Matagorda, etc., and because the City may at some point contract for coal from Montana or other western states, the Commission felt it would be unwise to limit the information required on the disclosure statement to the Austin area only. Once again, members of boards and commissions should be completely above question on potential conflict of interest situations, and that can only occur if full disclosure is available, not limited.

5. The Commission endorses the proposed amendment to delete the requirement for an updated financial report to be filed in October if there is a significant change in the financial condition of a board or commission member. Members of the Commission felt this was an unenforceable provision and should be dropped.

6. The Commission would like to see retained Section 2-35, item (11), which deals with reporting of legal entities in which a board or commission member may own at least 5% interest.

7. The Commission would also like to see added to the ordinance a provision which would clarify the requirement of a board or commission member to file a financial disclosure statement for the full reporting period, if that individual accepted an appointment for any time covered by the reporting requirements of the ordinance. The Commission feels this is necessary to insure that persons who serve briefly, then resign, are still required to file the necessary reports.

8. While most of our recommendations refer to members of boards and commissions, Commission members believe that all elected officials, City department heads and Council aides should be fully covered.

The Ethics Review Commission appreciates the opportunity to present to you its views on this ordinance, and pledges to you its cooperation in trying to work out some of the differences between the proposed amendments and the Commission's recommendations."

Councilmember Himmelblau said she wanted City Attorney Jerry Harris to speak to sovereign boards that have been listed and the reasons it was felt they were covered in another part of some of the City ordinances and didn't need to be included in this. As far as sovereign boards go, replied Mr. Harris, all we've done from the legal standpoint is to determine which City officials, under the Court definition, exercise sovereign powers on behalf of the City as far as boards and commissions. He said that is a matter of going through each board and commission and determining who might have some final authority that may or may not be appealable as opposed to a purely advisory function. The Charter and case law mandates that these boards and commissions be included under any prohibitions contained in the Charter. It's up to the City Council whether to include any of these or additional ones, or fewer, or any other regulations that they might have regarding boards and commissions.

Councilmember Trevino asked if the Council had any authority over the Housing Authority, Urban Renewal, or MHMR Board. He said he thought they were pretty much on their own. Mr. Harris answered that the nature of those three boards has caused some problems and there are some legal questions as to their exact status. We have always included them as officials of the City.

Mayor McClellan asked how many people were in the audience to speak to this issue. To those who raised their hands she said she would appreciate it if they would keep their remarks to about three minutes.

RUTH EPSTEIN, representing the Travis County Democratic Women's Committee, appeared to say she was prepared to tell the Council that they hoped all the sovereign boards would be covered. She felt that Councilmember Himmelblau's amendments do not speak to this and wanted to make suggestions for what she felt would be improvement of the enforcement.

1. Automatic enforcement by the signing of a letter when a person is appointed to a board or commission stating his intent to file his financial disclosure statement. She said there should not be a 90-day wait for someone who has no intention of filing a statement.

2. Proposed a review by the Ethics Commission and a temporary suspension if a person has not filed their financial statement in 90 days. She also proposed a \$100-\$200 fine for anyone who was found in contempt of a regulation rather than the "\$12500 slap on the wrist" that had recently been handed out.
3. She said they felt enforcement and people covered are the most important things in the ordinance.

KATY DAVIS, Common Cause, read the following statement regarding recommended changes in the ordinance as devised by her organization:

1. Section 2-25e. Re: reporting all references to occupational income in excess of \$350. We recommend that the dollar threshold be raised to \$500.
2. Section 2-35(b). Re: requiring an October supplemental filing. We recommend that this supplemental filing be deleted.
3. Section 2-35(a). Re: who must file and when they must file. We recommend additional language to make it clear that anyone covered by this ordinance at any time during the reporting period must file a report, whether or not they serve through the full reporting period or resign before the period of filing is due.
4. Section 2-35(10) and (11). Re: reporting of landholdings. We recommend that if this section is to be changed at all, and it is not clear that this reporting requirement is sufficiently onerous to require change, that the scope for reporting landholdings should include land held in the State of Texas.
4. Section 2-34. Re: the scope of "City officials" required to report. This issue can be divided into two parts:
 - a. The current reporting requirements as regards elected officials, candidates, and City employees in policy-making positions remain as is in current ordinance. This includes coverage of Council aides.
 - b. Number of boards and commissions covered. There is some room for modification of this list. Some boards and commissions were left out of the current ordinance, which perhaps should be covered, while some of those currently covered may be deleted or have their required reporting modified. Thus we could create two classes of appointed officials required to report under this section.

Class A. Those who are members of boards and commissions with sovereign powers and who have direct responsibility for land and its usage. They would be required to file the same reports as elected officials and employees:

- 1) Board of Equalization
- 2) Zoning Board of Adjustment

- 3) Planning Commission
- 4) Citizens Board of Natural Resources and Environmental Quality
- 5) Navigation Board
- 6) Historic Landmark Commission
- 7) Housing Authority
- 8) Urban Renewal Board of Directors
- 9) Parks and Recreation Board
- 10) Ethics Review Commission (while not dealing with land, they oversee compliance with this ordinance and should comply with its most stringent reporting requirements)

Class B. Those appointed officials who do not deal directly with land. We suggest that these appointees file financial statements which cover only sources of income, holdings in stock, bonds and commercial paper, liabilities, and positions - but not landholdings.

- 1) Building Code Board of Appeals
 - 2) Building Standards Commission
 - 3) Heating, Air-conditioning and Refrigeration Appeals Board
 - 4) Electric Board
 - 5) Plumbing Board of Appeals
 - 6) Electric Utility Commission
6. Section 2-35e (12) and (13). Re: reporting of landholdings, assets, and liabilities of legal entities in which reported holds a substantial interest. We recommend deleting Section (13) entirely. This section requires filing a balance sheet of corporations in which a reporter owns, acquires, or sells more than 50% of the stock. This is discriminatory in that it has left out partnerships. It would be unnecessary if section (12) were modified to include disclosure of creditor of major liabilities of corporations in which reporter holds substantial interest.
7. Section 2-35(f). Re: reporting categories of amounts of income. This provision need not be mandatory for members of boards and commissions. We recommend reporting by categories of amounts be made permissive, since its purpose is primarily to protect the public official from charges of conflict of interest where an income source may in fact be inconsequential.

However, the ordinance should retain the requirement that categories of interest rates on liabilities be reported. It would also seem important to strengthen that section by requiring the reporting, by categories of amount, of liabilities.

8. Section 2-35e(2). Re: reporting retainers. This section may be unnecessary, as long as the provision requiring reporting of income sources contributing more than 5% of a firm's gross income is retained. Please note that under the existing ordinance, reporters are only required to identify the source of such income; they are not required to report amounts.

9. We would recommend additional language which would give the City Manager authority to require financial disclosure of employees of the City as he or she deems necessary.

Ms. Davis said that "it has come to the attention of Common Cause that the reporting forms as drafted by the City Clerk's office have in some cases misrepresented the actual reporting requirements of the current law. She said they thought it would be helpful if the City Attorney, when presenting the revised ordinance to the Council, would, at the same time, present his draft of the form that would be used so that everyone would know what they are talking about and they would not be operating under misunderstandings as they have in the past."

MR. C. J. CARL, member of the Ethics Commission, said that their report, as given by Ms. Rogers was unanimous except for one point which he dissented. That was, he said, whether it was necessary to have any boards and commissions report categories of amounts. He said that concerning the items that have to be reported, in addition to the 7 things Councilmember Himmelblau proposed, there should be the elimination of four items under 2-35 (e). He said if you look at the two ordinances, the item is a simple consolidation in one and serious doubt as to a consolidation in the other. Items 3 and 4 in the current ordinance have been consolidated into item 2 in the Himmelblau draft.

Likewise, he said, items 6 and 7 have been consolidated into item 4 in the Himmelblau draft. He thinks there is no substantive change in either. Mr. Carl went on to explain what he was saying. He said the elimination of item 11 of the current draft would be the most serious of all. He said he thought the reduction of coverage of boards and commissions would be a great loss, but he thinks to treat some boards and commissions which have different functions and effect the lives of people in a different fashion, categorize them, would be a realistic approach. In answer to Councilmember Cooke's question regarding his differing from the rest of the commission, Mr. Carl said they had met to discuss this issue a week and a half ago and since then he had other thoughts about it.

MR. DON WALDEN, Chairperson, Citizen's Board of Natural Resources and Environmental Quality, appeared before the Council to say he felt the financial disclosure is unfair and that some members of boards and commissions resign because of it. He concurs with Councilmember Himmelblau's amendments and hopes that they pass. When the ordinance was passed, he said, three members on his board resigned because they were attorneys and their partners did not wish to have their sources of income reported in public. Two other members almost resigned until their husbands went along with the reporting. He also disclosed that people employed by IBM cannot report their amount of income either, so that is another exclusionary. He said the Environmental Board has not sovereign power and feels it unfair that they should have to report.

JOHN LOWRY, Coordinator of Common Cause, said he supported Ms. Davis' idea of what the financial disclosure should be. He referred to Mr. Walden's statements concerning lawyers, accountants, etc., reluctance to reveal their source of income. He said it is true that an ethics ordinance and the financial disclosure requires a certain amount of onerous figuring by some of the members of the City staff or commission members....the wealthy ones, at least. But he said he felt the idea of open and honest government makes it worthwhile to

go to the trouble to do that. He said his point was that with a city as attractive as Austin, he thinks there are enough lawyers and accountants and people with various areas of expertise around who in the interest of public spirit will lend their expertise to the management of this City so that open government can be maintained.

Councilmember Cooke said that Mr. Lowry addresses the fact that clients may not support the spirit whereas the attorney might...yet in conclusion, he said, there are enough lawyers and accountants around that would be supportive, but Mr. Lowry ignored the fact that maybe their clients would not be receptive. Councilmember Cooke said there may be a lot of lawyers or accountants who may be very receptive, but he said, one has to look at the perspective that he brought up in regard to their clients. You have to find those who are receptive to the public spirit. Mr. Lowry said he was thinking about the type of person who is willing to lose income and take his knocks in his seriousness in promoting the good of the City and open government.

MS. NANCY BENE, President, League of Women Voters, stated the League completely agrees with the idea of financial disclosure. She said they had two concerns about the proposed amendments. First of all, if the changes apply to elected officials, City Manager, department heads, Municipal Judges, etc., they feel the amendments represent a real step backward in governmental openness and accountability. The actions of the City Council and officials have far reaching impact on the people of this community, and they think the citizens need to know and have access to information regarding financial interests. They do not think the present ordinance punitive. They urge careful consideration of the proposal and inclusion of Council aides as well. Secondly, the Board of Equalization, the Board of Adjustments and the Planning Commission are obvious choices for inclusion in the ordinance. However, they feel there are other boards and commissions who also represent conflicts of interest, particularly those dealing in land acquisition. Before revising the ordinance, she said, they want the Council to consider the list of sovereign boards that have been discussed tonight, and give the matter careful consideration.

MARILYN SIMPSON, speaking as a private citizen, told the Council she had hoped the proposed ordinance would die. She works with a neighborhood group, and says that every day boards and commissions make decisions which effect our lives. She said that under the present ordinance we can find out whether officials and board and commission members have a conflict of interest with the case or issue, but under the suggested amendments she feels we cannot. Ms. Simpson said she has heard some people find the present ordinance punitive, but in her opinion there "is no short supply of qualified applicants to boards and commissions even though vacancies on these bodies are not widely known. If anyone finds these provisions too restrictive, then they should not serve." She continued that in her opinion the ordinance amendment is a giant step backward and urges its defeat. She said those complaining about the present ordinance should be happy they are not dealing with the Federal government which requires divestiture of all conflicting interests. It was also her opinion that instead of decreasing commissions, they should add the Urban Transportation Commission. Mayor McClellan commented she was in total agreement for department heads and elected public officials to be required to report, and asked Ms. Simpson if she saw any merit in the categories. Ms. Simpson replied that the categories are so broad and thinks that putting boards and commissions into categories would be a good idea if they are decision-making bodies rather than policy-making groups.

TOM CURTIS, appearing on his own behalf, said he felt the amount of money, as distinguished from the source, is of little significance. He said he supports the proposed amendment. It is his contention that if an ordinance implies, "we will make you do this, we will make you do that," then it assumes the person on a board or commission is guilty. The citizens do have a right to know certain things, but he feels "in all sincerity, if someone wanted to hook you, and managed to get on a board or commission, he wouldn't have that much trouble getting around the ordinance." He wants everyone to be encouraged, if they want to, to serve on boards and commissions, rather than set up a presumptive guilt where, if you don't tell us all, then you have either done something wrong or you are about to. He agrees, he said, that people can be found to serve on boards and commissions with or without the ordinance. His request, he told the Council, is to make it so more people can serve on boards and commissions. Amounts, he felt, should be taken out of the disclosure.

JIMMY MIDDLETON, Chairman, Board of Plumbing Appeals, for about 16 years, appeared before Council to say he was just about to the point where he wished he had not come to the meeting. He said he had heard all of the ladies that night talking about "those of us who have spent literally thousands of hours on behalf of this City. I almost feel like a second-rate citizen. The lady who referred to the slap on the wrist was all the member got because he would not report his finances happens to be one of our board members. This man had served, and others like him, many hours. In the first place, we had to go out and recruit these people. I wonder who receives all of these so-called applications that you have of people wanting to serve on these boards. There are three applications on the Plumbing Board now, how many applications do you have that were voluntary?"

Councilmember Mullen answered "The answer is none, because we had a problem today with that board, to tell you straight out, in our executive session because we don't have enough people applying for the board."

Mr. Middleton replied that was because every time they had a vacancy, they had to go out and recruit people and convince them it is their civic duty to serve. "And then," he continued, "we come up and hear this kind of stuff." It takes about ten minutes to fill out the financial statement...who is going to check on the accuracy? He feels there are some questions that should not be on the statement, but they are there and rather than make an issue of it, he puts down figures to the best of his ability. "But what if I was wrong?" he asked, "has anyone ever checked it?" He said the figures were there, and what are done with them, except that a newsman will check them if someone does something wrong. He asked the City Attorney, "Do not we serve at the discretion of the City Council on these boards? Can't we be replaced, or resignations asked for at any time if we are improper?" Mr. Harris replied that there are very few things that could take anyone off a board except missing three meetings in a row, or three in a twelve-month period, or the request of the City Council that they leave a board. Mr. Middleton said that is what he meant, they serve at the discretion of the Council. He said he has never been able to figure out any way where he can gain financially from serving on a board. "What makes me so doggone mad....I don't mind someone questioning my ability and judgment, but just like the previous man (Mr. Curtis) said, I feel like you are questioning my integrity and my motives. Everyone of us, in 1964-65 worked a solid year re-writing the plumbing code. Mr. Kylberg, the one you are talking about who only got a slap on the wrist, wasn't that a fine re-payment for all of the time he gave this City. I wonder how many meetings you ladies attend that we have.

I've never seen a one of you at our meeting." Mayor Pro Tem Snell suggested he not debate this issue since the ladies could not answer. Mr. Middleton replied that the point is if anyone ever attended their meetings, he did not know how they could figure out a way that the members could financially benefit from them, and they would see the dedication the members work with to make them fair. Not one time in his experience with the board for the past 16 years has a citizen, or the City inspection people, appealed a plumbing board decision to the Council. So, he said, we must be doing something right. Mayor Pro Tem Snell said it was not the ladies who passed the ordinance, but the seven people on the last Council. Councilmember Himmelblau reminded him it was six. Mr. Middleton said that the people who he was referring to were speaking for the ordinance and he was speaking against it. Mr. Middleton also referred to a section of the City Charter, and was told by Mayor McClellan and Councilmember Trevino that point was being discussed, but the Charter cannot be amended by the Council....ordinances can be.

SID JAGGER, speaking for himself, said he was not there to speak for or against any particular draft of the ordinance. He said he is strongly in favor of the principle of financial disclosure and code of conduct for public officials. He does not think there should be a request for any information that is not necessary to determine a conflict of interest. One of the largest areas for potential conflict of interest is the area of land holdings. More information is asked for than is needed. He doesn't feel land owned in Houston or Dallas has an effect on what someone does in Austin. However, he does acknowledge and believe that any land that could be effected by any governmental decision should be reported, and is not sure a boundary could be accurately drawn to pick this up. He said it seemed to him that only those boards and commissions that have some effect on land use or value need report land holdings, and does not feel this has any relationship to whether or not they are sovereign. As an example, he feels the Environmental Board should be included in this. He also feels it is not necessary to have an amount on the disclosure.. conflicts of interest are either you are or you are not. One exception may possibly be, he said, categories on interest rates if the rate on one is very low. He feels the ordinance should be designed so that anyone who serves for any amount of time during a fiscal year should have to report during the time he/she serves.

Mayor Pro Tem Snell commented to Mr. Jagger that he thought, after much work and two proposals that were not acceptable, the last Council had submitted an ordinance that was acceptable to everybody. He said he was now surprised to see disagreement with the ordinance. Mr. Jagger answered he was not trying to disagree with the ordinance per se, but that as you work with ordinances, there are things that come up for strengthening or changing. Nothing is perfect. Mayor Pro Tem Snell indicated he was in agreement. Councilmember Trevino asked Mr. Jagger how they could determine land holding disclosure outside of the extraterritorial jurisdiction to be significant. He cited the power plant in Fayette County, the nuclear plant in south Texas, the City's purchase of coal from some western states. This totals millions or billions of dollars. How, he asked, can we find a balance? No one knows what type of action will be taken by future councils. The only way, he feels, citizens can be protected and assured of open government, is disclosure of land holdings. Mr. Jagger said that perhaps all land held in Texas should be reported. He said he personally had no objection to reporting whatever he owns.

RANDALL WOOD, an attorney, appeared to say he had been involved in passing the state financial ordinance law. He compared the ordinance to the state level and said the ordinance would deter people from serving if they have a conflict of interest.

ED WENDLER, representing himself, said he agreed with Councilmember Himmelblau on some of what she is trying to do. He believes sources is enough, without amounts. But he thinks it is a mistake to eliminate the corporate unheld land, and all of the boards and commissions that she listed. He felt categorizing the boards and requiring different reporting for different boards is a good idea. He hoped the Council would wait a week and consider the Common Cause proposal which he felt was in between the proposed amendment and the Ethics Commission.

HENRY PALMA, speaking for the Austin Citizen's League, supports the amendments to the financial disclosure ordinance proposed by Councilmember Himmelblau. They favor sufficient financial disclosure to reveal potential conflicts of interest that could undermine the integrity of municipal decision makers. Many citizens, who would make a valuable contribution to our government are now prevented from doing so from a personal desire of some degree of privacy in their lives. The Austin Citizen's League urges passage of the amendments.

Councilmember Goodman moved that the Council continue the public hearing until June 30, 1977, at 10:30 a.m. The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

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

PUBLIC HEARING ON PROPOSED COMMERCIAL SOLICITATION ORDINANCE

Mayor McClellan opened the public hearing scheduled for 8:00 p.m. on the proposed Commercial Solicitation Ordinance. She asked the City Attorney, Jerry Harris, to give a briefing on the ordinance. Mr. Harris said this is a Commercial Solicitation Ordinance that was proposed by former Councilmember Linn. Basically it is a registration ordinance designed to require that those who are going to sell items, merchandise, and service on a door-to-door basis, to register with the City of Austin prior to the time they engage in those activities. They would pay a fee permit of \$25.00, application would be filed with the City Clerk, and the Police Department would have the responsibility of checking out the information on the applications. Door-to-door solicitors would be required to wear an identification badge, including a picture. Certain door-to-door activities would be exempted, such as the selling of real estate, insurance, newspapers, religious material and political activities. A minimum fine of \$100.00 for violation of this ordinance is provided.

Mayor McClellan asked for a show of hands of proponents of the ordinance who were there to speak. No one indicated they were a proponent. A show of hands indicated many opponents. Mr. Davidson, City Manager, pointed out he had distributed an additional fiscal note indicating that the City's cost per year now estimated to enforce all aspects of this proposal would be about \$271,000 per year as opposed to the \$30,000 estimate that was originally submitted.

This figure has changed, he said, because of a closer evaluation and new interpretations of some of the responsibilities of the Austin Police Department if this ordinance is adopted.

Mayor McClellan said they were certainly willing to hear all of the opponents, but usually a public hearing has people attending on both sides of the issue, and this was unusual. She said she had received no phone calls, and only one letter in support of the ordinance, whereas she had received numerous calls and letters from those against the ordinance. Mayor McClellan indicated her concern with the proposed ordinance....checking into moral background which might create a false sense of security if someone rings your doorbell with a City tag on their clothing. Further, although it says in the ordinance that the City does not endorse a product, the badge may produce a different reaction in some people.

JOHN HATHAWAY, with the local Kirbey Company, said he was very much opposed to it. Their business is door-to-door solicitation. They hire and train new people each week, and some may only stay one week. If they had to pay \$25.00 for each license, they would soon go out of business.

Councilmember Mullen moved that the Council close the public hearing and DENY passage of the commercial solicitation ordinance. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

Noes: Councilmembers Goodman, Trevino

Mayor Pro Tem Snell asked if there was anyone in the audience who would be disappointed if they did not speak. No one indicated that they wanted to.

POLICE TRAINING GRANT

Councilmember Trevino moved that the Council adopt a resolution to authorize submission of an application to the Texas Department of Highways and Public Transportation for a Police Training Grant in the amount of \$14,230.00. (In-kind match of \$14,456.00) The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

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

Noes: Councilmember Goodman

Not in Council Chamber when roll was called: Councilmember Cooke

TRAFFIC ENGINEERING TRAINING GRANT

Councilmember Himmelblau moved that the Council adopt a resolution to authorize submission of a traffic engineering training grant application to the State Department of Highways and Public Transportation, Office of Traffic Safety in the amount of \$3,048.00. The motion, seconded by Councilmember Trevino, carried by the following vote:

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

CONTRACTS AWARDED

Mayor Pro Tem Snell moved that the Council adopt a resolution to award the following contracts:

AM GENERAL CORPORATION
32500 Van Born Road
Wayne, Michigan

- CAPITAL IMPROVEMENTS PROGRAM, Eight Transit Buses, Urban Transportation Department.
Item 1; 8 ea. @ \$74,317.00
Total - \$594,536.00

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

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

Mayor Pro Tem Snell moved that the Council adopt a resolution to award the following contracts:

Bid Award:

- Police Equipment, Police Department

BAILEYS HOUSE OF GUNS, INC.
Route 3, Box 327 A
Houston, Texas

- Items 1 through 3 - \$10,200.10

CALIFORNIA ELECTRONIC
POLICE EQUIPMENT COMPANY
1627 E. Edinger Unit C
Santa Ana, California

- Items 4 and 5 - \$11,310.18

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

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

Mayor Pro Tem Snell moved that the Council adopt a resolution to award the following contract:

GOLDTHWAITES OF TEXAS
8902 Broadway
San Antonio, Texas

- Riding Rotary Mowers, Parks and Recreation Department
Item 1; 5 ea. @ \$1,675.99
Total - \$8,375.00

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

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

PROFESSIONAL ENGINEERING SERVICES SELECTED

Mayor Pro Tem Snell moved that the Council adopt a resolution to select the firm of Freese and Nichols for professional engineering services for the design of the roadway and drainage improvements on Webberville Road (Springdale Road to Martin Luther King Boulevard) and Heflin Lane (Martin Luther King Boulevard to Webberville Road) for the Public Works Department. CAPITAL IMPROVEMENTS PROGRAM. The motion, seconded by Councilmember Trevino, carried by the following vote:

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

SOILS INVESTIGATION & ENGINEERING TESTING SERVICES

The Council had before it for consideration the selection of a firm for soils investigation and engineering testing services during design and construction of various swimming and wading pool facilities and improvements. CAPITAL IMPROVEMENTS PROGRAM.

Motion

Mayor Pro Tem Snell moved that the Council adopt a resolution to select the firm of Snowden & Myers. Councilmember Mullen seconded the motion.

Substitute Motion

Councilmember Himmelblau made a substitute motion to adopt a resolution to select Trinity Testing Laboratories, Inc., as suggested by the staff.

Mayor Pro Tem Snell said both firms were suggested by staff. Councilmember Himmelblau stated Trinity was at the top of the list. Mayor Pro Tem Snell reminded the Council about their affirmative action policy and said Snowden and Myer had more minorities in their employ. The Council wanted to know why the firm of Trinity Testing Laboratories, Inc., was shown as the prime recommendation. Mr. Davidson asked Mr. Halsted to answer. Mr. Halsted said he thought the main reason was that the City tries to rotate the awarding of contracts as best they can among qualified testing firms and it just happened to be their time up rather than any specific reason. Councilmember Trevino said the last Council set a policy, and he guesses it is still in existence, to spread the money around as much as possible. Mr. Davidson interjected we cannot talk about that without also stating that Trinity Testing is absolutely qualified in this work. The firms suggested are all equally qualified, he concluded.

Second to the Motion Withdrawn

Councilmember Mullen withdrew his second to Mayor Pro Tem Snell's motion.

Second to the Substitute Motion

Councilmember Trevino seconded the substitute motion to adopt a resolution to select the firm of Trinity Testing Laboratories, Inc., for soils investigation and engineering testing services during design and construction of various swimming and wading pool facilities and improvements. CAPITAL IMPROVEMENTS PROGRAM. Roll Call on the substitute motion showed the following vote:

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

NATIONAL ENDOWMENT FOR THE ARTS GRANT APPLICATION

Councilmember Himmelblau moved that the Council adopt a resolution to authorize submission of a grant application to the National Endowment for the Arts in the amount of \$3,210.00, for a folk and ethnic music festival. (In-kind match of \$4,795 and \$3,000 cash from Parks and Recreation Department) The motion, seconded by Councilmember Cooke, carried by the following vote:

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

BLACKSHEAR PROJECT

Mayor McClellan asked Mr. Harris to explain the disposition of Parcels R-1-4, R-1-6, R-6-1 in the Blackshear Project, Tx A-11-2. Mr. Harris told the Council an unfortunate incident has occurred. The low bid for Parcels R-1-4 and R-1-6 was placed by Mr. James Moseby who is still a member of the Hospital Board. State law prohibits him from purchasing land in the Urban Renewal project. Mr. Moseby's term was to expire in May, but since no one was appointed to take his place, under the ordinance he held over until his replacement was appointed. Mr. Harris explained that Mr. Moseby had been completely unaware of this, and it would be unlawful to approve this sale to him at this time. Since he was the only bidder on the property it is Mr. Harris' recommendation that the Council note this situation and send it back to Urban Renewal for re-bidding. The Council will be notified when Mr. Moseby is no longer a member of the Hospital Board and he will be able to participate in the re-bidding process.

Councilmember Trevino moved that the Council reject the bid for Parcels R-1-4 and R-1-6 and send it back to Urban Renewal for re-processing. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

Councilmember Mullen moved that the Council adopt a resolution to approve the disposition of Parcel R-6-1 in the Blackshear Project, Tex A-11-2 to Albert Lawson, Jr. The motion, seconded by Councilmember Trevino, carried by the following vote:

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

PUBLIC HEARING ON STREET NAME CHANGE SET

Councilmember Cooke moved that the Council adopt a resolution to set a public hearing for July 14, 1977, at 11:00 a.m., concerning changing the names of certain streets in the City of Austin. The motion, seconded by Councilmember Goodman, carried by the following vote:

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

INSURANCE RENEWAL

Councilmember Goodman moved that the Council adopt a resolution to authorize renewal of the boiler explosion hazard insurance policy. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

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

VISTA VOLUNTEERS

Councilmember Trevino moved that the Council adopt a resolution to enter into a Memorandum of Agreement with ACTION for six Vista Volunteers for the period of April 1, 1977 through March 31, 1978. The motion, seconded by Councilmember Goodman, carried by the following vote:

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

PUBLIC HEARING ON HILL COUNTRY AMBULANCE SERVICE

Councilmember Himmelblau moved that the Council adopt a resolution to set a public hearing for July 7, 1977, at 11:30 a.m. on the application of Hill Country Ambulance Service, 3709 North Interregional Highway, Austin, Texas, for a non-emergency transfer vehicle franchise. The motion, seconded by Councilmember Goodman, carried by the following vote:

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

DOBIE MALL SCHLOTZSKI'S SANDWICH SHOP

Councilmember Goodman moved that the Council adopt a resolution to approve the request of Mr. Douglas Thomas, President of Micardo, Inc., for permission to continue the sale of beer and wine at the Bobie Mall Schlotzski's Sandwich Shop, 2021 Guadalupe Street. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

LAND ANNEXATION

Mayor McClellan introduced the following ordinance:

AN ORDINANCE PROVIDING FOR THE EXTENSION OF CERTAIN BOUNDARY LIMITS OF THE CITY OF AUSTIN AND THE ANNEXATION OF CERTAIN ADDITIONAL TERRITORY CONSISTING OF 108.08 ACRES OF LAND, SAME BEING OUT OF AND A PART OF THE JOHN APPLIGAIT SURVEY AND THE JOHN C. BROOKE SURVEY IN TRAVIS COUNTY, TEXAS; WHICH SAID ADDITIONAL TERRITORY LIES ADJACENT TO AND ADJOINS THE PRESENT BOUNDARY LIMITS OF THE CITY OF AUSTIN, IN PARTICULARS STATED IN THE ORDINANCE; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

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

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

The Mayor announced that the ordinance had been finally passed.

ZONING ORDINANCE

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

AN ORDINANCE ORDERING A CHANGE IN HEIGHT AND AREA AND CHANGING THE HEIGHT AND AREA MAPS ACCOMPANYING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967 AS FOLLOWS: LOTS 1 THROUGH 14, BLOCK "D," R. C. LAMBIE RESUBDIVISION OF VOSS ADDITION IN OUTLOT NO. 71, DIVISION "O," INCLUDING ALL THE ALLEY ADJACENT TO SAID LOTS, LOCALLY KNOWN AS 801-907 CLERMONT AVENUE; 800-906 FLORES STREET, AND ALSO BEING BOUNDED BY EAST AVENUE AND SAN MARCOS STREET, FROM "GR" GENERAL RETAIL, SECOND HEIGHT AND AREA DISTRICT TO "GR" GENERAL RETAIL, THIRD HEIGHT AND AREA DISTRICT; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; AND PROVIDING AN EFFECTIVE DATE. (Campbell McGinnis, Robert C. McGinnis, Robert Clift McGinnis and Mike McGinnis, C14-77-033)

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

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

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

"SUNSET ORDINANCE" PUBLIC HEARING SET

Councilmember Cooke moved that the Council set a public hearing for July 7, 1977, at 11:30 a.m. on an ordinance to provide for periodic review of certain boards, commissions and committees of the City of Austin and providing for a procedure for terminating boards, commissions and committees. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

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

This ordinance was presented by Mayor McClellan. She pointed out that boards and commissions created or provided for in the City Charter, or by State or Federal law, which the Council cannot abolish or modify, will also be required to report to the Council for review before October 1 of each year. Another point of the suggested ordinance puts a specific date on when the report of all boards and commissions is due and it directs the responsibility of the Council to either abolish or modify them.

POLICY FOR BOARD AND COMMISSION APPOINTMENTS

Councilmember Goodman moved that the Council adopt a resolution establishing policy for Boards and Commissions appointments, changing A.1. from ten (10) to seven (7) days, with effective date being August 4, 1977. The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

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

Mayor McClellan explained that appointments to boards and commissions will be made by the City Council on the first Thursday of each month and in the event the Council does not conclude appointments on the designated day, the City Council may conclude such appointments on any subsequent Thursday so long as the new date is openly announced on the day originally scheduled for the naming of the appointees.

POLICY CHANGE LIMITING ALL COUNCIL APPOINTMENTS
OF BOARD AND COMMISSION MEMBERS TO TWO YEARS

Councilmember Himmelblau discussed a policy change which would limit all Council appointments of boards and commissions to two-year terms but not saying that people cannot be appointed for additional terms. She said she wanted to delete one board, appointed by the City Manager, and that is the Fireman and Policemen's Civil Service Commission. Mayor Pro Tem Snell asked about Mayor's appointments and Councilmember Himmelblau answered she would like to see all Mayor and Council appointments limited to two years. Councilmember Trevino asked if there were any boards or commissions that should be left at three year terms. Mr. Davidson, City Manager, said he had not looked at appointments from that standpoint, but one reason he agreed to the exclusion of the Civil Service Commission is because those terms are specified by State law. Councilmember Trevino said he had no problems with two-year terms but wondered if some issues might be served better with three years. Councilmember Cooke wondered if the opinions of the Chairmen of the boards and commissions had been sought. Councilmember Himmelblau stated she wanted this policy change to encompass the appointments made tonight to the Hospital Board. Mayor McClellan suggested that the change be drafted so that expiration time will be the same each year, rather than from the point when they are selected. She wondered if an ordinance change would be needed for this. Mr. Harris said yes, if the Council approves of the idea of limiting ~~terms to two~~ terms to two years, and to insure that the terms all expire during the same month, then the Legal Department will go through all the ordinances of all the commissions and as quickly as possible bring back the information as a big package to the City Council for final decisions. At this time the Council could decide if there was any commission that needed more than a two-year term. Councilmember Cooke said he thought this is a good proposal but wondered what would happen to those now serving who had been nominated for 3, 4 or 5-year terms. Would there be reconsideration of their appointments to bring it all in line?

Councilmember Himmelblau said she thought this should effect only appointments made from here on out. Councilmember Mullen wondered if there would be staggered terms, or if the whole board or commission would change every two years, and suggested they think about this point. Councilmember Goodman asked Councilmember Himmelblau if she would have any objections to sending notices out to the Chairmen of Boards and Commissions to ask them what they think about these changes. She said, "No, but I would like to ask Mr. Harris, what does this do to the appointments we made tonight?" Mr. Harris replied, "I think the Council needs to make it clear that the appointments made tonight, two of those people will be serving one-year terms and two will be serving two-year terms. I'll have that ordinance on the agenda for next week if

you care to. It should be fairly routine. The Council has the authority to do that. They will draw lots to see who serves which term, and I think those appointed tonight should be notified in advance that it is the Council's intention to so pass the ordinance." Councilmember Cooke wanted to know if this can be done as a policy change, or if specific changes must be made to the ordinances. Mr. Harris replied that they must amend each ordinance.

Councilmember Himmelblau asked Mr. Davidson if he would notify the Chairmen of the various boards regarding the proposed policy change. He said he would. Councilmember Goodman asked if any vote is required on this item from Council being discussed. Mayor McClellan said, "No."

ORDINANCE REVISION

Mr. Don Walden, Chairperson, Citizens Board of Natural Resources and Environmental Quality, in his report to the Council, requested modification of their ordinance, making the Director of the Health Department and Ex Officio member and deleting the Director of Parks and Recreation.

Councilmember Goodman made a motion, seconded by Councilmember Cooke, to accept the report and include the ordinance ~~amendment~~ in the June 30, 1977, agenda.

Roll Call on Motion

No roll call was requested.

ADJOURNMENT

The Council Meeting was adjourned at 9:50 p.m.

APPROVED

Carole Keeton McClellan
Mayor

ATTEST:

Grace Monroe

City Clerk