

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

March 4, 1976  
10:00 A.M.

Council Chambers  
301 West Second Street

The meeting was called to order with Mayor Friedman presiding.

Roll Call:

Present: Councilmembers Himmelblau, Hofmann, Lebermann,  
Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell

Absent: None

APPROVAL OF MINUTES

Councilmember Linn moved that the Council approve the Minutes for February 26, 1976, as amended with the five reasons for Mr. Perry's recommendations. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Linn, Trevino,  
Mayor Friedman, Mayor Pro Tem Snell

Noes: None

Not in Council Chamber when roll was called: Councilmember Lebermann

SQUARE AND ROUND DANCE DAY

Mayor Friedman read and then presented a proclamation to Chuck and Terri Wilson, proclaiming March 6, 1976, as "Square and Round Dance Day" in Austin and called on all residents to recognize the contributions of the men and women in this recreational organization. Mrs. Wilson thanked the Council for the proclamation on behalf of the Austin Square and Round Dance Association and selected Mayor Friedman as an honorary member of the association.

FREEDOM BELL MONTH

Mayor Friedman read and then presented a proclamation to Mr. Dell Sheftall, proclaiming the month of March, 1976, as "Freedom Bell Month" in Austin, and as Honorary Chairman of the Austin Chapter of the Freedom Bell Society asked the citizens of Austin to stand united with all Americans in professing admiration for this Country's enduring tradition of freedom. Mr. Sheftall thanked the Council for the proclamation.

ZONING HEARINGS

Mayor Friedman announced that the Council would hear the zoning cases scheduled for 10:00 a.m. for public hearing at this time. Pursuant to published notice thereof, the following zoning applications were publicly heard:

Zonings Postponed

EAST INDUSTRIAL DISTRICT Excluding Tracor and Motorola By Planning Depart- ment C14-75-126	3000-4800 Blocks of Ed Bluestein Boulevard 6000-6807 Martin Luther King Boulevard	From Interim "AA" Residence 1st Height and Area To "D" Industrial 1st Height and Area RECOMMENDED by the Planning Commission, excluding 50 feet of "A" Residence to be main- tained adjacent to the residential areas, subject to a 25-foot scenic area adjacent to Ed Bluestein Boulevard and East Martin Luther King, Jr. Boulevard and 6-foot privacy fence or landscape shield adjacent to the residential areas.
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Mr. Dick Lillie, Director of Planning, pointed out that a public hearing was held last month on the tracts that are occupied by the Tracor and Motorola sites that are between tracts 1, 2, 3 and 4. The total area, with the exception of the Craigwood subdivision, is designated industrial in the comprehensive plan. The area was annexed on December 31, 1975, and the staff proceeded to process the zoning application. Mr. Lillie commented that a petition was filed on the original case with an estimated 5% of the residents. A valid petition requires 20% of the property owners within 200 feet, therefore, at this time the petition does not achieve the 20% requirement. Any action to approve the zoning would require a majority of the vote. In response to Mayor Pro Tem Snell's question, Mr. Lillie felt that it would not have been possible to obtain 20% of the names in this area.

The Planning Commission recommended that this be granted with the 25-foot easement on Martin Luther King, Jr., Boulevard side of the property, and noted that there was one property owner that is not in agreement with this easement since the location of his property would not make the 25-foot easement possible. The other property owners are in agreement with the conditions as outlined by the Planning Commission. In response to Mayor Pro Tem Snell's question as to the area being designated as East Industrial, Mr. Lillie commented that this was just a geographical term for the area.

In response to Councilmember Himmelblau's question as to why this property did not come before the Council when the other tracts did, Mr. Lillie stated that some of the property owners were not at the hearing that was conducted by the Planning Commission and the Planning Commission wanted to meet with them before a second hearing was conducted. Mr. Lillie noted that tracts 3 and 4 had very few residents and there was no problem in this area.

Councilmember Linn was concerned that residential was allowed to develop in the middle of an industrial area. Mr. Lillie reviewed the history of the area and noted that as adopted by the Council in 1961, the entire area was designated as industrial. In the late 1960's, it was changed back to residential and this change included the Craigwood Subdivision and Tract number 2. The Commission and the Council agreed on this, and then one year later the owner of Tract 2 returned to the Council and requested that it be designated as industrial again. The Council and Commission granted this request. In response to Councilmember Linn's question as to the people buying in the Craigwood area being aware that they would be surrounded by industrial areas, Mr. Lillie commented he did not know, but probably not.

MR. TOM CURTIS, representing the applicant who is part owner of Tract 2, pointed out that by 1964 there were two main buildings constructed on the Tracor tract; the first section of Craigwood Subdivision was approved in 1969. Mr. Curtis agreed with the staff and the Planning Commission with respect to the "D" Industrial zoning and felt that with the safeguards that are included with this type of zoning, felt it would be controlled. Mr. Curtis felt that the 50 feet of "A" Residence on the west side of the tract and the drainage easement would create the necessary buffer for the homes adjacent to Tract 2. Mr. Curtis noted at this time there was not any intended use for the property.

Councilmember Trevino felt that if there was some assurance that if an industry did utilize this area, it would be a clean industry, then the area residents possibly would not object.

RUSSELL PAINT, representing Mr. Frank McBee, another owner of land that adjoins the Tracor tract, agreed with the remarks of Mr. Curtis and requested the "D" Industrial zoning change. He felt it would be appropriate for the area.

In response to Councilmember Himmelblau's question as to the platting of the Craigwood subdivision, Mr. Lillie noted it was in the 1960's. He pointed out that the developer proceeded to submit subdivision plans when the Craigwood area was designated residential. The final plat for Craigwood was accepted on March 14, 1969, and on Section 2, August, 1970.

Councilmember Hofmann suggested that this be postponed until the intended use of the area could be designated. Councilmember Himmelblau felt this could not be possible.

In response to Councilmember Lebermann's question as to the area being protected with the current recommendations of the Planning Commission, Mr. Lillie indicated that his primary concern was that the subdivision would not be crowded with buildings, and felt that with these recommendations of the Planning Commission there would not be any problems.

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Mr. Lillie noted that the owner only has a problem with the 25 feet on the Martin Luther King, Jr., Boulevard side, since he has parking there. Mr. Lillie noted also that nothing has been received from the owner as to his disagreement with this zoning change.

MR. ALEX POPE, representing the owners of a 6-acre tract of land in Area 1, stated that they were in agreement with the "D" Industrial zoning and the 25-foot setback as necessary. However, he requested a variation of this setback in a certain area and asked that the south 600 feet, as shown on the aerial map, be exempted from the 25-foot scenic setback. He noted no plans for the area.

MR. LOUIS HOFF, JR., commented that he had signed the petition that was presented to the Council concerning residents in the Craigwood subdivision opposing this zoning change. He pointed out that there were 115 names on the petition which consists of well over 200 voters. Mr. Hoff stated that the citizens of Craigwood, and other outlying areas, are united against industries coming into the area since they would create obnoxious and offensive odors to the area. He pointed out that wastewater treatment plant located less than 1-1/2 miles from the housing developments was approved even though the citizens opposed this. He commented that the people were promised a golf course and picnic areas which they have not received. Mr. Hoff indicated that he was not aware this was an industrial area when he moved there and he felt that the residents had not been warned properly that sewer and other things were located in the area.

Mr. Hoff requested that any action be postponed on this zoning change so the residents can investigate the 20% that was referred to by Mr. Lillie. Mr. Hoff disagreed that the petition was not valid.

Mayor Pro Tem Snell felt that if another plant similar to Motorola or Tracor were to be placed in this area, that it would not be accepted by the neighbors.

#### Motion

Mayor Pro Tem Snell moved that the zoning change be postponed one week so residents would have the opportunity to check the 20% of names required for the petition to be valid. The motion was seconded by Councilmember Linn.

In response to Councilmember Himmelblau's question as to the possibility of tying the zoning, if granted, to a conceptual plan to protect the neighborhood, Mr. Lillie stated that the Council can make a site plan requirement a part of the motion if they so desire.

#### Roll Call on Motion

Roll call on the motion to postpone the zoning change until March 11, 1976, showed the following vote:

Ayes: Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor  
Pro Tem Snell, Councilmember Himmelblau

Noes: None

Not in Council Chamber when the roll was called: Mayor Friedman

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CARLOS J. CACERES  
C14-75-119

1714 East 38th Street

From "A" Residence  
1st Height and Area  
To "C" Commercial  
1st Height and Area  
NOT RECOMMENDED by the Planning  
Commission

Mr. Caceres submitted a letter requesting that this zoning case be postponed until March 18, 1976.

Councilmember Himmelblau moved that the Council POSTPONE consideration of this case until March 25, 1976. The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Councilmember Trevino, Mayor Friedman, Mayor Pro Tem Snell,  
Councilmembers Himmelblau, Hofmann, Lebermann, Linn  
Noes: None

The Mayor announced that the case had been postponed.

#### Zonings Granted

CAROLYN KNAPE MARTIN  
By J. C. Martin  
C14-75-132

600 West 8th Street  
also bounded by Nueces  
Street

From "B" Residence  
2nd Height and Area  
To "O" Office  
2nd Height and Area  
RECOMMENDED By the Planning  
Commission subject to a  
restrictive covenant prohibit-  
ing removal of existing  
structures.

Mr. Lillie reviewed the area and noted that there was a correction in the Minutes for the Planning Commission and this correction was the negative vote by Mr. Rindy at the meeting. This zoning change was recommended by the Planning Commission subject to the condition. The applicant is agreeable to the condition. Mr. Lillie pointed out that he had not received any response on this from the neighborhood association.

Councilmember Himmelblau moved that the Council grant "O" Office, 2nd Height and Area District as recommended by the Planning Commission, subject to conditions. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Lebermann, Linn\*, Trevino, Mayor Pro Tem  
Snell, Councilmembers Himmelblau, Hofmann  
Noes: None  
Not in Council Chamber when roll was called: Mayor Friedman

\*Councilmember Linn commented that she felt this particular zoning was a mistake for this area since the neighborhood is attempting to preserve the buildings. The "O" Office District zoning would encourage people to move away from the neighborhood, and she felt the neighborhood organization should check into this. The Mayor announced that the change had been granted to "O" Office, 2nd Height and Area District, subject to conditions, and the City Attorney was instructed to draw the necessary ordinance to cover.

JACK SULLIVAN  
C14-76-002

Rear of 1401 Morgan  
Lane

From "A" Residence  
1st Height and Area  
To "O" Office  
1st Height and Area  
RECOMMENDED by the Planning  
Commission, subject to a 6-  
foot evergreen hedge for  
buffering along the eastern  
and northern borders and a  
50-foot building setback  
along the northern border.

Mr. Lillie reviewed the history of this zoning and noted that on the adjoining lot to the west there is a greenhouse nursery that is located in an "A" Residence District area. This application has resulted due to the owner wanting to expand his nursery. At this time, Mr. Lillie reviewed the area by use of slides showing the parking area and pointed out that the parking area was constructed after the zoning application was filed and before the Zoning Committee heard this case. Mr. Lillie reminded the Council that there are no permits required to pave a lot, however, Mr. Sullivan was informed that "O" Office zoning was required in order to use this for parking.

Councilmember Linn stated that she has asked that there be some type of a penalty ordinance written which would create a maximum penalty for this type of operation. Mr. Lillie continued the review of the area and noted that Mr. Sullivan was utilizing a driveway that he has not obtained a driveway permit for, and it is being used for access from Morgan Lane.

Mr. Lillie pointed out that the Zoning Committee reviewed a special permit with respect to the nursery, and the special permit does carry a recommendation with requirements. The area can only be used for nursery stock with no retail sales and no access to Morgan Lane. The owner is in agreement with these conditions. The fact remains, though, that the paving and use of this lot for parking and the driveway is presently in violation of the ordinance. Mr. Lillie stated that a commercial driveway could not be put through an "A" Residence area; however, Mr. Sullivan has connected the driveway on the nursery side.

City Manager Davidson noted that he became aware of this situation yesterday and appropriate charges would be filed.

Councilmember Himmelblau suggested that a fence could be placed to prohibit any access through the driveway. Mr. Jack Sullivan, owner of the property, indicated that the Planning Commission authorized a special permit if he would comply with the regulations. In response to Councilmember Himmelblau's question as to the fence requirement, Mr. Sullivan noted that the fence requirement would not pose any problem for him.

Councilmember Himmelblau moved that the Council grant "O" Office, 1st Height and Area District, as recommended by the Planning Commission, subject to conditions. The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Councilmember Trevino, Mayor Pro Tem Snell, Councilmembers  
Himmelblau, Hofmann, Lebermann

Noes: Councilmember Linn

Not in Council Chamber when roll was called: Mayor Friedman

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

#### RELEASE OF EASEMENT

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

The east two and one-half (2.50) feet of the Public Utilities Easement that covers the east portion of the west seven and one-half (7.50) feet of said easement and being out of and a part of Lot 20, Block G, NORTHEAST TERRACE, SECTION 2, also known as 2711 Thrushwood Drive. (Requested by Harvey Kappler, owner of Lot 20, Block G, Northwest Terrace, Section 2)

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

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers  
Himmelblau, Hofmann, Lebermann, Linn, Trevino  
Noes: None

#### COST DIFFERENCE PAYMENTS

Councilmember Himmelblau moved that the Council adopt a resolution authorizing payment to the following:

NPC REALTY COMPANY, Clyde Copus, Attorney-In-Fact, the cost difference of 12"/8" water mains and appurtenances installed in Wagon Crossing, Section 4 - \$6,363.48.

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

Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann,  
Lebermann, Linn, Trevino, Mayor Friedman  
Noes: None

Councilmember Himmelblau moved that the Council adopt a resolution authorizing payment to the following:

TOM JOSEPH, owner, DONALD JOSEPH, Trustee, the cost difference of 12"/8" water mains installed in Western Bank Plaza - \$2,322.28.

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

Ayes: Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann,  
Lebermann, Linn, Trevino, Mayor Friedman  
Noes: None

# RESOLUTION OF ASSURANCE CONCERNING THE HCD PROGRAM

Councilmember Linn moved that the Council adopt a resolution providing assurance that the City of Austin will comply with applicable laws and executive orders in carrying out the 1976-77 Housing and Community Development program. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell  
Noes: None

## ACCEPTANCE OF A GRANT

Councilmember Linn moved that the Council adopt a resolution authorizing acceptance of a grant in the amount of \$5,333.00 from the Texas Commission on Alcoholism to fund an In-Service Alcoholism Coordinator for Brackenridge Hospital. (March 1, 1976 through June 30, 1976) The motion, seconded by Councilmember Himmelblau, carried by the following vote:

Ayes: Councilmembers Hofmann, Lebermann, Linn, Trevino, Mayor  
Friedman, Mayor Pro Tem Snell, Councilmember Himmelblau  
Noes: None

## APPROVAL OF PARCEL IN THE BLACKSHEAR PROJECT

Mayor Pro Tem Snell moved that the Council adopt a resolution approving the disposition of Parcel R-1-16 in the Blackshear Project Area to Mt. Olive Baptist Church. The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Councilmembers Lebermann, Linn, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann  
Noes: None

## CONTRACT BETWEEN CITY OF AUSTIN AND UNITED CEREBRAL PALSY OF CAPITAL AREA

Councilmember Linn moved that the Council adopt a resolution authorizing the reassignment of contract between the City of Austin and United Cerebral Palsy of the Capital Area to transfer its administrative and fiscal responsibilities to United Cerebral Palsy of Texas, Incorporated. (September 25, 1975, Council awarded United Cerebral Palsy a grant award of \$36,642). The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor Pro  
Tem Snell, Councilmembers Himmelblau, Hofmann, Lebermann  
Noes: None

In response to Councilmember Trevino's question regarding the money being utilized in the City limits, Mr. Andy Ramirez, Director of Human Resources, commented it would be used within the City.



## APPLICATION TO THE AREA AGENCY ON AGING

Councilmember Himmelblau moved that the Council adopt a resolution authorizing the submission of an application to the Area Agency on Aging for funds in the amount of \$13,200 to provide for a staff member to coordinate and promote outreach efforts in support of the existing Title VII Senior Luncheon Program. (April 1, 1976 through March 31, 1977) The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Councilmember Trevino, Mayor Friedman, Mayor Pro Tem Snell,  
Councilmembers Himmelblau, Höffman, Lebermann, Linn  
Noes: None

## LEGAL DISPOSITION OF SUBSTANDARD STRUCTURES

Councilmember Lebermann moved that the Council accept the recommendations from the Building Standards Commission that the Law Department take proper legal disposition of the following substandard structures which have not been repaired or demolished within the required time:

- |                       |                                       |
|-----------------------|---------------------------------------|
| 1. 1805 Chicon Street | Charles Miles and Edward Hill, owners |
| 2. 5607 Wilcab Road   | Elmer Lowe, owner                     |

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

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers  
Himmelblau, Hofmann, Lebermann, Linn, Trevino  
Noes: None

Mayor Friedman requested that any action on the following substandard structure be postponed 30 days to allow the applicant to remove the structure:

1412 Tillery Street	Mattie Davis, owner
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## PUBLIC HEARING DATES ON CHARTER REVISION

Councilmember Trevino suggested that the Council not take any specific action in terms of dates ~~since~~ there is still some question as to the election date.

Mr. Jan Kubicek, Acting City Attorney, commented that the Council was not required to have the Bond Election on the January, April or August dates. As regards the Charter, if the Council calls an election before the second week in July, then it is locked into an August election. If action proceeds after the second week, then it would go into January. Mr. Kubicek pointed out that there was no reason that would allow for an emergency called election on this matter.

Councilmember Linn noted that there had already been nine months of public hearings and \$25,000 of the taxpayers' money had been spent; therefore, she felt everyone should be aware of what the Charter is all about.

Councilmember Lebermann felt that the Council had not had adequate time or sufficient public hearings on the total Charter. Councilmember Himmelblau wanted to establish some workshops for the Council on both reports on the Charter before any public hearings are scheduled. She felt the Council should have at least one or two more hearings before a ballot is authorized.

Mayor Friedman moved that the Council establish a work session on the Charter for March 31, 1976, at 7:00 p.m. in the Conference room. The motion, seconded by Councilmember Lebermann, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Trevino,  
Mayor Friedman

Noes: Councilmember Linn, Mayor Pro Tem Snell

Mayor Friedman stressed that this would be a Council discussion and not a hearing.

#### CONSULTING SERVICES

The Council had before it for consideration the selection of consulting services for the study of Police and Fire classifications and the classification and compensation for all other City employees. Ms. Andrea Beatty, Director of Personnel, reviewed this item and noted that funds were allocated for this project with particular attention to the parity between the Police and Fire classifications. Ms. Beatty enumerated the firms contacted to perform the study and the criteria used in evaluating the consultant's proposals. She recommended that the firm of Lifson, Wilson, Ferguson and Winick, Inc. be utilized in making this study.

Councilmember Linn moved that the Council select the firm of LIFSON, WILSON, FERGUSON and WINICK, INC. for consulting services for study of Police and Fire classifications and the classification and compensation for all other City employees. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Linn,  
Trevino, Mayor Friedman, Mayor Pro Tem Snell

Noes: None

#### ORDINANCE AUTHORIZING 5-YEAR APPROACH MAIN CONTRACTS

The Mayor introduced the following ordinance:

AN ORDINANCE AUTHORIZING THE CITY MANAGER OF THE DEPUTY CITY MANAGER TO ENTER INTO CERTAIN REFUND CONTRACTS WITH CENTRAL TEXAS SERVICE CORPORATION; ZILKER ASSOCIATES, LTD.; JAGGER PROPERTIES, INCORPORATED; STERLING HOLLOWAY; HIGHLAND LAKES NATIONAL MORTGAGE COMPANY; AND O. H. CUMMINS AND JOE GILBRETH. (Woodstone Village; Zilker Heights Subdivision; Village South, Phase 2; Bluff Springs, Center; Franklin Park; Shiloh, Phase I, Section 1)

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

Ayes: Councilmembers Hofmann, Lebermann, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell, Councilmember Himmelblau

Noes: Councilmember Linn

The Mayor announced that the ordinance had been finally passed.

#### AMENDING SECTION OF THE AUSTIN CITY CODE

The Mayor introduced the following ordinance:

AN ORDINANCE AMENDING CHAPTER 32 OF THE AUSTIN CITY CODE OF 1967 AUTHORIZING THE CITY'S INTERNAL AUDITORS ACCESS TO CONFIDENTIAL TAX LISTS, INVENTORIES, AND STATEMENTS; SUSPENDING THE RULE REQUIRING THAT ORDINANCES BE READ ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

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

Ayes: Councilmembers Lebermann, Linn, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann

Noes: None

The Mayor announced that the ordinance had been finally passed.

#### ZONING ORDINANCE

Mayor Friedman 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:

AN 826 ACRE TRACT OF LAND, LOCALLY KNOWN AS 9000-10731 F. M. 1325; 9061-9239 RESEARCH BOULEVARD (U. S. 183) AND ALSO ALL OF LONGHORN BOULEVARD, INDUSTRIAL TERRACE, NEILS THOMPSON DRIVE, REID DRIVE, BUSINESS DRIVE AND UNITED DRIVE, FROM INTERIM "AA" 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 DECLARING AN EMERGENCY. (North Industrial District 2, C14-75-127)

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

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Ayes: Councilmembers Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell, Councilmember Himmelblau, Hofmann, Lebermann  
Noes: None

The Mayor announced that the ordinance had been finally passed.

Councilmember Himmelblau expressed concern that the University of Texas would install their own industrial park and thereby compete with private business and also it would be tax free. Mr. Lillie noted that the park they are going to construct is not included in this tract.

# ORDINANCE TO LIMIT PARKING OF CERTAIN VEHICLES ON CITY STREETS

Mayor Friedman introduced the following ordinance:

AN ORDINANCE AMENDING SECTION 21-31 OF THE AUSTIN CITY CODE OF 1967 BY ADDING SECTION 21-31(1) PROHIBITING THE PARKING OF TRAILERS AND CERTAIN VEHICLES ON CITY STREETS OR ALLEYS FOR A PERIOD OF LONGER THAN SEVENTY-TWO HOURS; SUSPENDING THE RULE REQUIRING THAT ORDINANCES BE READ ON THREE SEPARATE DAYS; AND DECLARING AN EMERGENCY.

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

Ayes: Councilmember Trevino, Mayor Friedman, Councilmembers Himmelblau, Hofmann, Lebermann, Linn  
Noes: Mayor Pro Tem Snell

The Mayor announced that the ordinance had been finally passed.

# PARADE PERMIT

Councilmember Trevino moved that the Council approve a request from W. Gray Bryant for the National Foundation/March of Dimes for a parade permit for March 20, 1976, from 7:00 a.m. to 7:00 p.m., beginning in the east parking lot of Highland Mall, proceed to I.H. 35, via Middle Fiskville Road, go under U. S. 290 overpass, follow frontage road to North Lamar Intersection, cross under overpass and follow frontage road back to Highland Mall. The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann, Lebermann, Linn, Trevino  
Noes: None

AFTERNOON SESSION  
2:00 P.M.

Mayor Friedman called the afternoon session to order.

REQUEST FOR A PERMIT TO USE TOWN LAKE

Mr. Peter S. Strout, representing the Wichita University Crew Team, appeared before the Council requesting a permit to use a powered boat for the coach's use on Town Lake between March 12th and 20th, 1976.

Councilmember Himmelblau commented that she was concerned that this many people would be coming from out-of-state and using a City facility and felt that if this was going to be an annual affair there should be some way to compensate the City. She did not want this to interfere with any other usage of Town Lake.

Mr. Strout noted the reason for using a power boat and indicated that there would also be four members of the Olympic Team coming in addition to the Wichita University Crew Team. He commented that this request was approved by the Navigation Board.

Councilmember Himmelblau stated that it was too late to do anything about a fee this year, but for future instances such as this she would like to see a fee. Councilmember Himmelblau requested that the staff investigate the possibility of charging a fee for the future.

Councilmember Linn moved that the Council approve the request of Mr. Peter S. Strout for a permit to use a powered boat for the coach's use on Town Lake between March 12 and 20, 1976. The motion, seconded by Councilmember Trevino, carried by the following vote:

Ayes: Mayor Pro Tem Snell, Councilmembers Hofmann, Lebermann,  
Linn, Trevino, Mayor Friedman  
Noes: Councilmember Himmelblau

Councilmember Linn felt that this was exciting to have some of the Olympic crews come to Austin.

PRESENTATION OF CHECK

Ms. Ann Wendler, Project Chairperson, National Association of Women in Construction, Inc., Austin Chapter, and Mrs. Pat Turner, President of the Local Chapter, appeared before the Council to present a check in the amount of \$1,600.00 as a contribution toward the component of the geyser at Republic Square. Mayor Friedman noted that this is the group that put the gazebo on Town Lake as well as other projects to beautify Austin. He felt that this check was an indication of the interest that the citizens have in keeping Austin a quality place to live. Mayor Friedman thanked the association for their check.

## WATER AND WASTEWATER CONNECTION FEES

Mr. Joe Liro, Management and Budget Administrator, discussed the water and wastewater connection fees (Capital increment charges) and land development fees. He pointed out that up to this point, the City has used two mechanisms for financing water and wastewater capital improvement projects. This has been to borrow for the bulk of all capital improvements, with the exception of the water and wastewater connection fees. In this area, the City has had a policy of levying charges.

Since the failure of the Water and Sewer Bond Election, he has been examining alternative ways of raising capital funds for the water and wastewater system. One of the ways suggested is the Capital Increment Fee which is designed to recover from each new connection to the system a dollar amount that would be used to offset the cost of system expansions generated by the addition of new customers to the system. After calculating the fees at several levels, the \$300.00 level would generate 1.6 million dollars a year. These funds could be earmarked for water and sewer capital improvements and would reduce the need for borrowing.

JOE RIDDELL stated he supported the concept of a Capital Increment Fee as a move toward ending the subsidy of new developments. Mr. Riddell reviewed the estimates presented by Mr. Liro and presented some suggestions to his report. He noted that he was not confident about what the staff would produce on the rates. In response to Councilmember Linn's question as to whether Mr. Riddell would like to wait for a rate commission to recommend something, Mr. Riddell commented that he favored an increment fee but would not want to wait for a year to get the rates adjusted. He indicated that he was in favor of an increment fee that reflects more honestly the system demands placed upon our utilities by new connections. Mr. Riddell recommended that the staff be directed to prepare cost estimates according to service areas for the water; split the wastewater fees according to watershed; put a hold on new taps and connections; and adjust the rates as the case determines.

BILL GURASICH, representing the Austin Homebuilders Association, noted that he has studied the proposals to create the Capital Increment Fee and felt there were many unanswered questions as to the best and fairest way to react to the financial crisis that resulted as a failure of the Water and Wastewater Bonds. Mr. Gurasich indicated that it was not possible for him to explore all of the potential sources of revenue or expenses which are available to the system in the past 28 days. He requested that any action be deferred until he could work and study the matter and return to the Council after other alternatives have been studied. Also during this period, he hoped to develop several ideas which would result in a savings to the City and the homeowner.

In response to Councilmember Himmelblau's question as to the amount of time needed for the study, Mr. Gurasich commented it would depend upon the number of citizens that are involved but thought it would be approximately one or two months. Mayor Friedman asked if the study could proceed concurrently with the Capital Increment Fund and Mr. Gurasich felt it would be a premature way to handle the increase in the fee at this time. He noted that he could not endorse a fixed incremental fee without a reduction or a rate reclassification for the user. Persons were being asked to pay \$600 and also pay the bond debt of other people. Mayor Friedman noted that what is being asked from the home-building industry is nothing more than what is being asked of everyone else,

which is paying more of their fair share. Mr. Gurasich reiterated that other alternative sources of revenue have not been thoroughly investigated and this was his basic objection to this fee.

Mayor Friedman stated that the staff had recommended \$300.00 for water and \$300.00 for wastewater tap and connection fees and this would allow money for additional expansion when new places are created and would also provide money for relocations in streets of community district and other areas. As regards the request for a delay, Mayor Friedman felt that the points should be studied and come back with alternative revenue; however, he did not feel that the Council should refuse to take any revenue and do the work that they are committed to do while waiting for the report.

Councilmember Lebermann commented that it was not accurate to say that the community development functions would be effected if these fees are passed today. In response to Councilmember Lebermann's question regarding the moratorium on certain areas, City Manager Davidson noted that in some sections of the City a moratorium would have to be continued. If the Council adopts the Capital Increment charge, he hoped that the Council would also want to plan for the expenditure of those funds in accordance with the estimated revenue receipts that would result.

The additional critical projects listed in the February 4 report included the following:

1. Govalle Plant Improvements
2. Boggy Creek South Relief Main
3. Onion Creek Plant Engineering
4. McCarty Lane Water Main
5. Decker Lake Water Main
6. Ullrich Midservice Pump for Water

Also, City Manager Davidson recommended that \$750,000 be retained in each utility, both water and wastewater, for unforeseen situations that could develop. He requested that the Council consider these requests first.

Mayor Friedman felt that possibly there will be pressure on the Council as to whose project is the top priority and not the ones that the Council has already determined.

Councilmember Lebermann felt that Mr. Gurasich had an excellent suggestion as regards new ideas and continued moratorium should be considered. Councilmember Lebermann noted that he was hesitant to enter into a dramatic new fee structure on an interim basis without all the facts to make a valid judgement and preferred that it be delayed one month. Mayor Friedman felt that if it is delayed, then the suggestions of Mr. Riddell and Mr. Gurasich should both be considered and get all the information that everyone seems to want.

MR. JOHN MCPHAUL appeared before the Council and urged them not to adopt the proposed increment fee and felt that an unfair burden would be placed upon the future purchasers of new homes. By reviewing several examples, Mr. McPhaul pointed out to the Council how unfair the proposed increment fee is.

Motion

Councilmember Himmelblau moved that the Council grant a 60-day extension so a study could be performed before starting increment fees. The motion was seconded by Councilmember Lebermann.

Amendment to the Motion

Councilmember Trevino offered an amendment to the motion whereby the Council would instruct the City Manager to work with Mr. Joe Riddell and Mr. Bill Gurasich and examine their studies. Councilmember Himmelblau accepted this amendment.

City Manager Davidson pointed out that if the Council votes to delay for such a study, his staff would be pleased to work with anyone, including Mr. Riddell. In referring to a statement made by Mr. Riddell concerning errors and misconceptions, Mr. Davidson noted that there are many ways to calculate various water and sewer charges. The concept that was presented to the Council by Mr. Liro is not in error or a misconception.

Mayor Friedman suggested that during this time that the City Manager be instructed to authorize the Planning Department and Building Inspection to reinstitute the total moratorium on the City until the fees can be established. He felt that the industry had grossly misrepresented things and it is opposed to what Mr. Gurasich agreed to when talking with Mayor Friedman which was the assurance that the Austin Homebuilders Association would agree to a Capital Increment Fee if there was a study. Mayor Friedman felt there were undesirable activities occurring that he did not think the City should be part of.

Amendment to the Motion

Mayor Friedman offered an amendment to the motion whereby the City Manager would be instructed to authorize the Planning Department and Building Inspection to reinstitute the total moratorium on the City until the fees can be established. Councilmember Himmelblau did not accept the amendment.

Substitute Motion

Mayor Friedman moved that the Capital Increment Fees of \$300.00 for Water and \$300.00 for Wastewater be approved and implemented at this time; that the study for the rates and alternative revenues continue until such time as they are completed at the leisure or the pleasure of the industry, interested citizens' groups and the Council. The motion was seconded by Councilmember Linn.

Roll Call on Substitute Motion

Ayes: Councilmember Linn, Mayor Friedman  
Noes: Councilmembers Lebermann, Trevino, Mayor Pro Tem Snell,  
Councilmembers Himmelblau, Hofmann

The substitute motion failed to carry.



Roll Call on Amended Motion

Roll Call on Councilmember Himmelblau's amended motion, Councilmember Lebermann's second, showed the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Lebermann, Trevino,  
Mayor Pro Tem Snell

Noes: Mayor Friedman, Councilmember Linn

The Mayor announced that the amended motion had carried.

Mayor Friedman requested that the City Manager place on the March 11 agenda a listing of all projects and all potential expenditures of any water and wastewater funds that are unallocated at this time or allocated but not contracted for, as well as the proposal of a moratorium on all extensions to the system, for Council discussion next week.

PUBLIC HEARING ON LOBBY REGISTRATION  
(continued from February 26)

Mayor Friedman opened the public hearing scheduled for 2:30 p.m. on Lobby Registration. He explained that the revised ordinance had been distributed to the Council and then called upon individuals to speak for the ordinance.

ROBERT YOUNG stated that he would be covered under the ordinance but he had no objection to registering as a lobbyist. The ordinance was intended to inform the public better regarding who influenced and effected the decisions of local government. Similar Federal and State laws had existed several years. Mr. Young then discussed the ordinance and urged the Council to pass it.

In response to Councilmember Trevino's question, City Attorney Kubicek stated that intent of the ordinance covered direct compensation, not indirect through another party, such as a spouse. In response to Councilmember Lebermann's question, Mr. Young stated that the intent of the ordinance was to cover only individuals who were paid to lobby. Councilmember Lebermann stated that he felt the Council was decisively solving a problem that did not exist. He also felt that all lobby functions should be covered by the ordinance whether or not there was specific remuneration.

Mr. Young stated that the ordinance was intended to do something about public disclosure about how government worked before a major scandal or crisis occurred. Councilmember Himmelblau asked Mr. Young if it would be possible to register people quarterly if they dealt with City personnel and the Council on a weekly or twice weekly basis. Mr. Young stated that a lobbyist representing one specific interest on one specific issue would have to register only once. If the interest changed, the people compensating changed or the people being lobbied changed, then the registration had to be amended within five days.

In response to Councilmember Lebermann's question, City Attorney Kubicek stated that per se inquiries for public information did not require registration.

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In response to Councilmember Lebermann's question regarding a grace period for registering, Mr. Young felt that the grace period would be defined by an honest effort to comply.

In response to Councilmember Himmelblau's question regarding cost to implement the ordinance, Mr. Young saw no additional cost for City personnel. There would be minor costs for printing and filing space. Councilmember Himmelblau felt that all persons who lobbied the City should have to register. Councilmember Hofmann stated that she believed that the ordinance was a good thing because it led to open government, but she was concerned that the ordinance would produce a more closed situation. People would be somewhat uneasy about going to the Council because of some uncertainty about registration. Mr. Young stated that the ordinance was intended to cover paid lobbyists, not lay citizens. After passage of the State lobby law, he saw no drop in the lobbying activity level in the legislature. Councilmember Himmelblau felt that the concept of the ordinance was good, but it should be more inclusive. Mr. Young stated that there could be a constitutional question if unpaid individuals were covered under the ordinance.

WOODROW SLEDGE agreed with the doubts and reservations of Councilmember Lebermann; the ordinance did not really cover the subject, but went as far as it could go. He did feel that the real lobbyist would not be registered and cited examples. He asked that the ordinance be passed because it was good.

ED WENDLER spoke in favor of the ordinance. He pointed out that the intent of the ordinance was to cover only paid lobbyists. The purpose of lobby registration was not to let the Council know who was lobbying and what for, but to let the citizenry know. In response to Councilmember Hofmann's question, Mr. Wendler stated that there was now no provision whereby citizens could find out who represented whom and who was lobbying at the City level.

RUTH EPSTEIN, representing Travis County Democratic Women's Committee, favored the ordinance because more openness was needed. She was particularly concerned about how consultants were chosen. City Manager Davidson stated that there was not lobbying by consultants in each department. They were assembled in the Construction Management Department and anyone interested in future jobs for the City was interviewed. Regarding Councilmember Hofmann's suggestion that the procedure be reviewed, most consultants who had been contacted indicated that they had been dealt with fairly. Councilmember Linn stated that the Council was lobbied heavily by consultant firms and that she would be surprised if department heads were not also.

MAXINE FRIEDMAN favored the ordinance. As a member of the Human Relations Commission she wanted to know if people who contacted her were being paid to do so.

CRAIG DAVIS, representing Common Cause of Austin and Travis County, favored the ordinance. He wanted to restrict the ordinance to paid lobbyists. He suggested a sign-in procedure for lobbyists at each department, rather than registering through the City Clerk's Office. Mayor Friedman pointed out that whenever lobbyists called upon a department, they would be asked if they had registered with the City Clerk. Mr. Davis suggested that requests for information be exempted and that lobbyists be required to report only their business address.

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DICK BAKER stated that he had no objection to registering as a lobbyist, and he did not mind revealing who his clients were. He did object to the ordinance as it was drafted because he did not think its language was clear.

CHUCK CROFT, representing the Executive Committee of the Austin Chapter of the American Institute of Architects, felt that the proposed ordinance was not clear. Mayor Friedman stated that the ordinance would not interfere with day to day operations of people dealing with the City, but would effect them whenever they tried to influence some potential legislation.

ISOM HALE, Hale Associates Engineers, stated that under the ordinance as written there would be some problem with his firm's dealings with the City. He asked that some way be found to remedy that problem.

ALLEN JOHNSON, representing Southern Union Gas Company, shared some of the opinions of Mr. Croft and Mr. Hale. He asked that the language of the ordinance be clarified.

JIM WEBB, a Director of the Austin Citizens League, favored openness in government operations, but opposed the proposed ordinance. He objected to the definition of a lobbyist based on the \$50 compensation level. He asked that the Council vote against the proposed ordinance.

KEN ZIMMERMAN, representing the Home Builders Association, asked that there be an annual registration for people in his category, that the home address be omitted, and that registration be permitted at the departments. He did not feel that individuals should have to re-register if there were personnel changes within departments or boards and commissions. Referring to Sections 2 and 9, he felt that some unpaid lobbyists were more influential than paid ones. He also suggested that at some point the ordinance be reviewed to see if it was doing what it was intended to do and that it either be continued or discontinued.

PHIL MOCKFORD opposed any legislation which did not correct a specific need. He saw no need for the ordinance and particularly objected to the compensation element. He stated that many groups who would not be covered would try to influence legislation. Also, the public would not be aware of those groups. He felt that the ordinance would be restrictive in the information available to the Council and other people who were interested in the good of Austin. In response to Councilmember Hofmann's question, Mr. Mockford felt it would simplify matters to have registration slips available throughout City departments.

#### Motion

Councilmember Linn moved the Council waive the requirement for three readings and pass the proposed lobby registration ordinance. Mayor Friedman seconded the motion and offered an amendment that "residential address" be stricken. Councilmember Linn accepted the amendment.

#### Amendment to Motion

Councilmember Trevino offered an amendment that there be a grace period from Friday at closing time until Monday at the beginning of working hours. On those occasions when a person must talk to persons covered under this ordinance that person would be allowed to do so, but would be required to file the necessary information with the City Clerk by no later than Monday noon. Holidays would also be included. Councilmember Linn accepted the amendment.

Additional Amendment to Motion

Councilmember Hofmann offered an amendment that registration take place anywhere, even off the premises as long as the information slips were collected every day and taken to the City Clerk's office. After discussion among the Councilmembers concerning the logistics of collecting and returning the slips punctually to the City Clerk's office, Councilmember Linn did not accept the amendment.

Additional Amendment to Motion

Mayor Friedman offered an amendment that requests for information be exempted from the ordinance. Councilmember Linn accepted the amendment.

Mayor Friedman stated that the ordinance would be monitored and reviewed for possible changes. He did not think that registration in the City Clerk's office would generate an excessive amount of additional paperwork.

Roll Call on Motion

Mayor Friedman introduced the following ordinance:

AN ORDINANCE AMENDING CHAPTER 1 OF THE CODE OF THE CITY OF AUSTIN OF 1967; DEFINING AND REGULATING LOBBY EFFORTS RELATED TO MUNICIPAL AFFAIRS AND PERSONNEL; ESTABLISHING PROHIBITIONS UPON SUCH ACTIVITIES UNTIL CERTAIN INFORMATION IS SUBMITTED TO THE CITY CLERK; PROVIDING PENALTIES; PROVIDING FOR SEVERABILITY; AND DECLARING AN EMERGENCY.

Roll call on Councilmember Linn's motion to waive the requirement for three readings, declare an emergency and finally pass the proposed lobby registration ordinance effective immediately, with Mayor Friedman's second, showed the following vote:

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers  
Linn, Trevino, Hofmann\*  
Noes: Councilmember Himmelblau\*  
Absent: Councilmember Lebermann

\*Councilmember Himmelblau stated that she voted "no" because she wanted to see the ordinance more inclusive and because she was worried over the logistics of it.

\*Councilmember Hofmann voted "yes" because she believed in the principle that is a step toward open government. She was worried about some of the ramifications, nevertheless.

The Mayor announced that the ordinance had been finally passed.

FRANCHISE AND RATE ORDINANCES FOR SOUTHWESTERN BELL TELEPHONE  
Second Reading of Revising and Extending the Franchise

Former City Attorney Don Butler appeared before the Council to discuss the second reading of an Ordinance revising and extending the franchise of Southwestern Bell Telephone Company and passage of an Ordinance revising rates of the telephone company.

Mr. Butler noted that the franchise had been previously passed on first reading, however, there were two minor changes in the franchise ordinance. He was not sure if the company agreed with the provisions for either of them wholeheartedly. The two changes deal with (1) the increase in gross receipts tax to provide that it would go from 2% to 4%, but that it should never exceed the amount determined to be a fair and reasonable necessary cost of business by the Public Utilities Commission; and the further provision that it would never be less than any other city in the State of Texas over 50,000 population. Mr. Butler understood that the telephone company had agreed without qualification to go to 4% on the gross receipts tax as long as the company were allowed to pass that on. Now, it seems that Mr. Gray Bryant, District Manager, Austin Exchange of Southwestern Bell, has some reservations about that statement.

The second change (2) is in the provision which deals with payment to the consultants. Under the State statute, now in effect, there is a provision for payment to consultants, and that has been copied verbatim into the franchise so there would be no dispute about it. However, the company desires the qualification that their obligation not be any greater than the provisions of the State law, or some such language as that. Mr. Butler noted that he had attempted to draft a provision with that in mind, therefore, these were the two changes and he recommended the second reading.

In response to Councilmember Linn's question as to clarifying the 2% or 4% terms, Mr. Butler commented that the increase would amount to about a nickle per telephone and for the City the difference would be about \$750,000 per annum.

Mr. Gray Bryant, District Manager for Southwestern Bell, also stated that there had been an extensive work performed to create the gross receipts ordinance; however, there were some things that have occurred that he wished to tell the Council concerning two qualifications that his company must meet before proceeding in their agreement with the ordinance.

Mr. Bryant requested that paragraphs (e) and (f) be deleted from the ordinance. He noted that the most important thing he wanted to say is that he did make a commitment to the City Attorney, to the Council, to the City Manager and to everyone else that the telephone would follow through on their 2% addition. Also, that they would give the City the total of 4% gross receipts pass through tax to their subscribers. In conjunction with this, Mr. Bryant stated that there are some things that go with this commitment that have to be dealt with. He pointed out that he could not honor the commitment until reasonable changes are made and until these deletions of paragraph (e) and (f) are met. Mr. Bryant felt it would be better to be in the position that was originally made and that was particularly concerning paragraph (e) when it did not exist.

Mayor Friedman suggested that there was the possibility of returning to 4%, no qualifications and omit the two paragraphs. Mr. Bryant noted that this would be fine, but the main point he wished to stress was that he made a commitment on the additional 2% and if the other conditions are met, then he could meet the 2% additional. Mayor Friedman indicated that the 4% as agreed to by Mr. Bryant was without conditions.

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Mr. Bryant commented that the extra 2% would be incorporated into the rate increase. Mr. Bryant felt that the two ordinances being considered should be tied together, and that he could not give final clearance until the rate ordinance was considered. Mr. Butler felt it would be inappropriate for the City to try to lever the company into higher gross receipts through some device such as this. He noted the only qualification that Mr. Bryant ever had was that the City go to 4% with the provision that the company be allowed to pass that on; and the rate ordinance would certainly do that. He recommended that if the company is agreeable, that paragraphs (e) and (f) be stricken, and with the language that the 4% is in lieu of everything else that might possibly exist other than ad valorem taxes. If that language read "in lieu of everything except ad valorem taxes and other existing requirements of law" then we would just go by the State statute and/or the City Charter.

#### Motion

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

AN ORDINANCE GRANTING TO THE SOUTHWESTERN BELL TELEPHONE COMPANY, A CORPORATION, A FRANCHISE TO CONSTRUCT, MAINTAIN AND OPERATE A TELEPHONE BUSINESS AND SYSTEM IN THE CITY OF AUSTIN, AND PRESCRIBING THE TERMS, CONDITIONS, OBLIGATIONS AND LIMITATIONS UPON AND UNDER WHICH SUCH FRANCHISE SHALL BE EXERCISED.

Councilmember Linn moved that the Ordinance revising and extending the franchise of Southwestern Bell Telephone with the City of Austin be passed through the second reading only with the following amendments:

1. That paragraphs (e) and (f) be deleted
2. That a portion of the paragraph following paragraph (e) be amended to read "in lieu of everything except ad valorem taxes and other existing requirements of law."

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

Ayes: Councilmember Trevino, Mayor Friedman, Mayor Pro Tem  
Snell, Councilmembers Himmelblau, Hofmann, Linn

Noes: None

Not in Council Chamber when roll was called: Councilmember Lebermann

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

Mr. Bryant reiterated that their full agreement with the ordinance would have to be reserved until the rate ordinance was discussed.

#### Passage of Ordinance Revising Rates of Southwestern Bell Telephone Company

Mr. Butler noted that the ordinance provides for the increase that was recommended by the consultants plus the additional amount that would be necessary in order to cover the pass through of the increase in the gross receipts charges. The most significant thing that the Council might be interested in is the fact that the one-party residence rate would go from \$7.00 to \$7.15, which is not a complete 8% increase across-the-board as has been done in the past. During

the hearings of this case, it appeared that some disparity had developed between rates here in Austin and other places, whereby our rates seemed to be out of line. The reason for that in 1973, even though the increase was only about 9.5%, there was about a 20% increase applied at the instance of the company to the one-party residence and certain others.

Mayor Friedman noted this was over the objections of Councilmember Lebermann and himself.

Mr. Butler pointed out, since 1973 there has been a total of about a 30% increase that needed to be applied across-the-board, therefore, by applying this 30% to the old rate which was \$5.50, the new rate would be \$7.15. The installation charges are somewhat less than the company asked for, but they are a bit more than the 8% across-the-board. He recommended \$15.00 for residence and \$25.00 for business.

In referring to the rate structures that were distributed to the Council, Mr. Butler indicated that there were numerous other rates that needed to be examined but in view of brevity, he recommended that the company be given an increase at this time on the things that are known rather than hold them up just because other things have not been resolved. Mr. Butler also recommended that this increase be an interim one since there are other aspects that need to be looked at, one being consideration of the Western Electric transactions that the consultants mentioned.

In response to Councilmember Hofmann's question concerning installation charges being the same throughout Austin, Mr. Butler felt this installation charge should be examined and was aware that the company did have some proposals on this which could be looked at. In response to Councilmember Himmelblau's question as to the charge for the non-published numbers, Mr. Butler stated that this would be a monthly charge of \$1.00.

Mr. Bryant stated that the 2 million dollars recommended by Mr. George Hess, one of the consultants, will not be received by the company if the ordinance is passed as it is drafted now. It will only allow an increase of approximately \$800,000. The 2 million dollars would only be received some time possibly in the future, but it would not give the needed relief right now. One other point of interest is that the 2 million dollars needs to be a final ordinance and not an interim ordinance, so the company can begin to collect their money. Mayor Friedman noted this would not be possible until all of the tariffs were examined.

Mr. Bryant felt that the ordinance could be enacted today granting the money and within 10 days if certain restrictions are lifted that have been presently imposed, it could go into effect at the same time we begin collecting the \$800,000 which is authorized at the present time for purely a gross receipts pass through. He felt that the company had been delayed long enough and urged the Council to take final action. Mayor Friedman indicated that there were many details that were requested from the company and did not reach the City soon enough, and he felt it was not the City that has been delaying. Mr. Bryant disagreed with the Mayor, and noted that the City Attorney had the necessary figures to prepare this item for final action.

In response to Councilmember Linn's question as to whether the company was satisfied with the 1.9 million dollars, Mr. Bryant stated he was not, but this amount in final form, without qualification, would be accepted so they could move on to their next appeal.

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Mr. Donald Thomas, attorney representing Southwestern Bell Telephone, felt that the revenue needs of his client determined according to fair rate making principles had lost any consideration before the Council and the public. After reviewing past requests for increased rates, Mr. Thomas stated that under the proper methodology the company should have had the 6.4 million dollars that they asked for.

Mr. Thomas commented that the company wanted to go to Court and have the Court say that the approach that Mr. Hess took in arriving at the figures for an increase was consistent with the Constitution of the United States and the statutes of the State. He noted that the company was not concerned with the 2 million dollars, but were concerned about getting to the Court and getting the matter settled and getting a fair rate of return for their operation. Mr. Thomas felt that with this ordinance, the company would not be able to go to Court.

Mr. Thomas continued by saying that if the 2 million dollars were granted or if the company was totally turned down, overrule our motion for rehearing, agree that you will not contend that we will have further administrative procedures to follow, and he stated that the company would be in the Court and have the City under an injunction within 30 days. Mr. Thomas felt that the Western Electric reference was a charade in an effort to maintain jurisdiction in this Council and deprive the company from going to Court.

Mr. Bryant referred to his remarks on the Western Electric matter by stating that Mr. George Hess had stated in his testimony that Western Electric was not an issue in this case and quoted from the report that was presented by Mr. Hess.

In conclusion, Mr. Bryant referred to the rate schedule recommendation that was distributed to the Council and felt it was totally unsound, and was the reason why residence rates would be going up approximately 2%, and business rates would be going up 20%. He stated that his company could not be a part of a rate ordinance that has that kind of a conclusion. Mr. Bryant commented that the company could not go for the added payment required through the gross receipts if it must be collected via the present rate ordinance that the Council now has before them.

Mr. Butler wondered where Mr. Bryant was in 1973 when 20% was placed on residence, and practically nothing on the equipment charges, just where was his fairness? As for any delay, Mr. Butler felt that if the company had proceeded after the last rate ordinance was passed, which was May, 1975, to bring the case before the Council, it would have been settled before now.

In reference to the Western Electric matter, Mr. Butler felt that the Council could proceed in any manner they wished, whether the consultant recommended it or not. He recommended that the Council look at the Western Electric matter and all the evidence that is available. Mr. Butler also recommended that if Southwestern Bell would stipulate as to the record in this case before the Council and go to Court on that, then let us proceed in this direction without trying to sandbag somebody.

Mr. Bryant noted that this stipulation would not be given.



Mr. Jon Lawrence, attorney for Southwestern Bell, commented they were not trying to sandbag anyone. With the City Attorney's recommendation and the recommendation of the consultant that was presented and passed 3 weeks ago, the company has been suffering a \$5,000 a day loss. The way he saw it at the present time, unless the company was willing to give up some of their rights under the laws of the State by entering into a stipulation, they would not get to Court.

Mayor Friedman introduced the following ordinance:

AN ORDINANCE AMENDING ORDINANCE NO. 750508-B; DETERMINING THE RATE BASE OF SOUTHWESTERN BELL TELEPHONE COMPANY FOR THE AUSTIN EXCHANGE; DETERMINING THE PROPER RATE OF RETURN THEREON; DETERMINING AND FIXING THE SCHEDULE OF RATES FOR BASIC SERVICES IN THE CITY OF AUSTIN, TEXAS; PROVIDING A PROCEDURE FOR FILING COMPANY TARIFFS AND APPROVAL THEREOF; SETTING FORTH THE BASIS FOR THE FINDINGS CONTAINED IN THIS ORDINANCE; GRANTING A RATE INCREASE TO SOUTHWESTERN BELL TELEPHONE COMPANY ON AN INTERLOCUTORY BASIS; AND SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS.

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

Ayes: Mayor Friedman, Mayor Pro Tem Snell, Councilmembers Himmelblau, Hofmann, Trevino

Noes: Councilmember Linn

Not in Council Chamber when roll was called: Councilmember Lebermann

The Mayor announced that the ordinance had been finally passed.

Mayor Friedman pointed out that the increase would amount to approximately 15 cents a month increase for the residential phone.

Mr. Lawrence made the following statement: "So there is no misunderstanding, we do not accept the gross receipts ordinance. We do not accept the rate ordinance. We will not plan to put in the \$800,000. We are going to try to, what the Council authorize today, we are going to try to get to the Court house as soon as we can."

#### AMENDING CITY CODE TO ADJUST PARKS AND RECREATION FEES

The Council had now before it for consideration the ordinance to amend the Austin City Code, Section 24-2.1(a) through (f) to adjust Parks and Recreation Fees.

Mr. Jack Robinson, Director of Parks and Recreation Department, noted that as directed by the Council, the fees were examined again and revisions were made that deleted charges for the Learn-to-Swim classes and for golf cart registration fees for the elderly and the mobility impaired. The new proposal included special non-resident fees for selected activities.

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Objectives in selecting activities eligible for non-resident charges were to choose areas which met the following criteria:

1. Provides for administration without prohibitive cost.
2. Does not discriminate against children, students, or the elderly.
3. Minimizes any inconvenience to City of Austin residents.
4. Allows maximum flexibility in types of identification (University of Texas, Huston-Tillotson, St. Edwards identification; drivers license; voter registration; Austin Independent School District registration)

In addition, an administrative policy is recommended which will give first priority for reservations and registered activities to City of Austin residents at Parks and Recreation facilities. Recommendations on non-resident fees for golf will be forwarded to the Council with complete study of all revenues.

Mr. Robinson also noted that Councilmembers expressed concern over the rates for facility rental. In order to provide some basis for comparison, a copy of Auditorium rental rates was also attached to this proposal that was distributed to the Council. When comparing these fees it should be kept in mind that the Auditorium has an operating deficit which is supported by Hotel/Motel Tax.

The proposals as finally submitted will produce annual revenue of approximately \$80,000. Councilmember Linn was concerned with the increase in the swim cards, and Mr. Robinson stated that the reason was that they were trying to hold the basic 10 cent reduction for each swim. Councilmember Linn commented that she would like to set this fee at \$15.00.

MR. JOE RASUS, representing a hard ball team, appeared in opposition to the increased fees. He stated that unless these fees were reduced, they would not be able to play ball since people could not afford it. In response to Mayor Pro Tem Snell's question as to a \$15.00 fee, Mr. Rasus noted that this would allow more teams to play and would be better than the present fee. This would be the day charge.

Mr. Robinson pointed out that the fields have to be maintained and also noted that baseball is more expensive than softball, but he was not trying to hamper the playing of baseball but just to aid in recovering some of the costs in providing the field.

BELMAR WRIGHT, representing the Austin Softball Association, asked that if \$15.00 per day is going to be charged for hardball, that this same rate also be applied to softball. Mr. Wright also asked that if the rental fees were going to be charged, that the fields be made ready for play. Another suggestion was to have two prices for the fields. One would be where the fields would be ready for play, and the second price could be a cheaper one and the people renting the field could get it ready themselves. In response to Councilmember Linn's question concerning the fields, Mr. Wright noted that the City does line the fields for league play but not for a tournament. Mr. Robinson pointed out that if included in the fee for having the fields ready for play, that this should be stipulated that it would be ready at the beginning of the tournament.

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Councilmember Linn felt it would cost the City a lot of money if they had to prepare the fields on Saturday and Sunday morning, and she felt that the City should not get into the business of lining the fields. Possibly there could be a lower day fee imposed.

ROY BROOKS was concerned with the fee charged at the tennis courts, and Councilmember Linn noted that this referred to the matter of reserving a court.

Councilmember Trevino referred to the fees charged for the use of Fiesta Gardens and asked about the five-hour time element that was referred to in establishing this fee. Mr. Robinson commented that this referred to five hours of function and there are personnel at the Gardens five days a week to help with any questions someone might have that is renting the facility. Mr. Robinson reviewed some of the commercial uses of Fiesta Gardens and noted them to be dances, arts and crafts shows and during 1975 there were 114 non-commercial events.

Councilmember Trevino felt that this was quite a bit of money to charge for use of the facility. Mr. Robinson indicated that he would institute any rates the Council so desired. Councilmember Hofmann suggested that possibly the one renting the facility could be given half of his money back if the facility was cleaned when the function is finished. Mr. Robinson felt this was a good idea, however, the Parks and Recreation Department had tried it and it did not work.

Councilmember Trevino had some questions concerning the Austin Recreation Center Gym concerning the fee, and Mr. Robinson pointed out that this particular gym was not a regulation gym and this was the reason for the difference in price.

In response to Councilmember Linn's question as to the City making a profit from the increased fees, Mr. Robinson stated that he did not think the City would receive any profit from these rates. Councilmember Trevino felt that something should be done about increasing the fees, but he felt that with all of the other utility increases that these recreation fees, especially, should be given careful attention.

Councilmember Hofmann suggested that this be postponed a week to allow for more study of the fees. Councilmember Linn felt that there were not that many differences in opinions of the Councilmembers, since it seemed that the fee of \$10.00 for softball, \$15.00 for baseball and \$15.00 for a swimming card was agreeable to all. Councilmember Himmelblau noted that she would like the fees for non-residents of Austin to be charged across-the-board for the tennis centers and municipal swimming pools, particularly on the swim card.

Mr. Robinson felt that if this procedure was instituted that out-of-town residents should not be allowed to reserve tennis courts. Also, Mr. Robinson pointed out that the charge for an annual permit on the golf carts for senior citizens and mobility impaired was deleted and felt that on the schedule it should read "that this excepts seniors over 65 and the mobility impaired." Councilmember Linn felt that any out-of-town resident should pay 1-1/2 times what a resident pays for use of the recreational facilities or whatever. Mr. Robinson felt that it should be qualified that the senior and mobility impaired being exempted would have to be City residents.

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After discussion, the Council agreed that there were still several things that needed to be studied before making a decision, therefore, Mayor Pro Tem Snell requested that this item be placed on the March 11 agenda for action at that time.

#### WATER AND WASTEWATER MINIMUM RATES

Mr. Homer Reed, Deputy City Manager, stated that the staff had been working on a proposal, however, the Mayor has also been working with the staff in an effort to work out some other type of proposal and has suggested the outline that Mr. Liro will present today which has been included in the material for all Councilmembers.

Mr. Joe Liro, Management and Budget Administrator, reviewed the alternative that was suggested by Mayor Friedman which would be \$1.26/1,000 gallons of water, for a 5/8" meter, rather than the \$2.52/2,000 gallons currently charged. In wastewater service, the effective rate would be \$1.45/1,000 gallons rather than the \$2.90/2,000 gallons current minimum charge. This would reduce the combined bill for water and wastewater services from \$5.52 to \$2.71 for any customer who uses 1,000 gallons a month or less. If a customer uses 2,000 gallons or more the rate would be the same as the present charge. This would impact City revenues at about \$167,000 and the recommended way of recovering the loss would be by increasing the rate above 2,000 gallons by 0.42%. In response to Councilmember Linn's question as to the number of people this would involve, Mr. Liro noted it would be approximately 66,800 customers within the City limits. Approximately 12 would be governmental customers; 1,300 commercial customers.

Councilmember Himmelblau thought that the main objective would be to protect the homeowner or single residence. Mr. Liro felt that they would be protected by allowing this benefit to apply only in the case of a 5/8" meter, which is the typical size of a meter in a residential unit.

Councilmember Linn felt that a rate change such as this should be conducted as a public hearing.

MR. DOUGLAS LAYCOCK felt that the proposal was a definite improvement over the present minimum and this will help a number of people. He appreciated the effort that had been involved in creating this proposal and urged the Council to adopt it; however, he also urged the Council to go further and adopt the straight per 1,000 gallon rate. Mr. Laycock requested that the present minimum be reduced to half its present charge.

MAXINE FRIEDMAN, Vice Chairperson of the Human Relations Commission, presented a proposal from the Commission which stated that those persons on fixed incomes should be given due consideration when deciding the charges for water and wastewater. The present minimum fee discriminates against these people, and the Commission recommended that the 2,000 gallon minimum water and wastewater fees be eliminated and that a per gallon rate be instituted. The Commission unanimously recommended a more fair and equitable rate structure be considered.

Mayor Friedman felt that this proposal is aimed in this direction.

Councilmember Linn moved that the Council set a public hearing on Water and Wastewater Minimum Rates on March 11, 1976, at 3:30 p.m. and instruct the staff to prepare an ordinance showing the figures as presented in the proposal today and the 0.42% increase. The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

Ayes: Councilmembers Himmelblau, Hofmann, Linn, Trevino, Mayor Friedman, Mayor Pro Tem Snell

Noes: None

Not in Council Chamber when roll was called: Councilmember Lebermann

Mayor Friedman thanked the staff, both Mr. Liro, Mr. Johnson and the City Manager's office for proceeding on the work of this proposal.

#### VENDING COMMITTEE REPORT

Mayor Friedman pointed out that the only action the Council could consider on this matter would be to accept the reports, thank the Committee and dissolve the Committee since they will have no further function.

MR. MARK LETT, a member of the Vending Committee, noted that the Committee had met eight times during the Christmas season to make determinations on the licenses. After the Christmas season, two public hearings were held to hear testimony from those who were concerned about the ordinance. Mr. Lett felt that the first recommendation was very important, which was the "Open Market" concept whereby the market would be opened to both imports and artists and craftsmen. The majority of the Committee felt that in order to have a viable market, both imports and the products of artists and craftsmen must be available. There was considerable testimony from artists and craftspeople that limiting the market would not help the artists and craftsmen, but would in fact destroy the market.

Another strong feeling among the majority of the committee was that if the City was going to support a market, it should not try and restrict what is being sold in the market. If the Council has a pure arts and crafts market, then there will be the problem of how to define arts and crafts. Mr. Lett noted a unanimous opinion concerning the curfew and everyone agreed it was needed such as from 10:00 p.m. to 8:00 a.m.

Space size was almost unanimous in that it should be 8 feet by 7-1/2 feet as it is presently. If the spaces are retained at the present size, there will be approximately 140 spaces available when 23rd Street is closed. When the street is open and the vendors are confined to the spaces on the sidewalks, there will be approximately 86 spaces available.

The lottery was retained as much as possible and most people agreed that this was a fair and equitable way to distribute the spaces.

The Committee's recommendation is that the Council conduct a public hearing concerning this ordinance.

ALICE ROBERTS, a member of the Committee, was not in agreement with the report presented by Mr. Lett and wished to present her own. She also pointed out that another member of the Committee, Mr. Roland DeNoie, was in agreement with her report.

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## CITY OF AUSTIN, TEXAS

In her report, Ms. Roberts noted that the committee on vending was established to try to develop solutions for an overcrowded market made up of two groups which cannot exist together, the jobbers and the crafts people. She felt this committee has failed to solve these problems. Such proposals as those for a curfew, for limiting permits per business entity, and for closing 23rd Street on Saturday all sound fine. They are, however, only superficial solutions to the real problem which is that craftsmen cannot survive beside the jobbers. If the Council believes the solution proposed by this committee, similar to the one used last Christmas, then there are some facts that need to be considered.

She noted that the Christmas of 1974 saw nearly 1000 licenses for 100 spaces in the market. The Christmas of 1975 saw the number reduced to 399 licenses because of an October 1 cut-off date in permits, which means that 600 people were temporarily cut out of the market last Christmas. You can be sure that this will not happen a second time. Those 600 people will be prepared for any cut-off date of licensing in the future, as can be seen now. The market is full every weekend. Such statements as the one put before the committee by Intergalactic Imports, stating that there is "no space problem except November 15 through December 15" are totally false when only two weeks ago people connected with that very enterprise came physically against the display of Norm Beitch in an attempt to gain his space. Ordinances to solve crowding by limiting space and limiting permits to one per business entity have failed to stop violations in the past.

For example, on December 14, 1972, Ordinance No. 721214-B, stated that no person could use more than 7-1/2 feet by 8 feet of space. Then on November 29, 1973, the Council found it necessary to establish Ordinance No. 731129-A which stated that no person could use more than 10 feet by 5 feet in the market area. On November 29, 1973, the Council brought into effect Ordinance No. 731129-B which stated that no person could use more than 10 feet by 6 feet of space. August 22, 1974 the Council passed an Ordinance limiting permits to one per business entity. This ordinance was apparently not enforceable. Literally, within one day, jobbers who persist in more than one space had found loop holes and were out as usual with multiple spaces. October 9, 1975, a temporary ordinance was brought into effect which limited permits to one per person or business entity through December 31, 1975. The City Attorney's office, working with the vending committee, tried to seal all the loop holes this time. The committee revoked three permits for failure to comply but several appeared to be in violation, which were never heard.

When the committee had no time left in which to revoke further permits before Christmas, one jobber bragged of having eight people within the market selling his merchandise and reportedly offered \$1,000 to anyone holding a permit who would sell his merchandise. Currently, there are several people within the market taking two or more spaces with no action being taken. Any ordinance in the future on space and license restriction per person or business entity needs more teeth than ordinances of the past.

"Some jobbers claim that there would be no customers brought to the market without them and no one to sell in the market without them. I've been a vendor for 6 years the first three years of which saw the market nearly all craftsmen. There were 150 craftsmen at times on the Drag. Business was good. This is what encouraged the influx of jobbers. The Arts and Crafts Guild has 159 vendors and the other group claims 120 members of which they say 70 are craftsmen. That gives the market 229 craftsmen. The committee issued 140

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special arts and crafts permits and 105 non-arts and crafts permits last Christmas. Consider those 600 people cut out of the market last Christmas with the same ratio, that would give another 343 craftsmen or a total of 572 craftsmen using the market for which there are about 90 spaces. One committee member feels that there will be no one in the market to sell if it is limited to craftsmen. Well, praise the Lord! The over crowding would be solved. Anyone who fears that there might be an extra space left available all year, should have been forced to spend all the time we've spent before the City Council trying to get space. The proper spirit of the Renaissance market should be (even the term 'Renaissance' implies it) one in which there is extra space available to encourage the development of beginning craftsmen. All we have seen for some time now is jobbers getting bigger and bigger with more employees and more spaces being taken. This has stymied the development of new craftsmen and forced many regular craftsmen out of the market (of which I am one.)

The allusion to there only being 'isolated cases of violence' within the market is correct only in that there is not an all-out war. How many cases of 'isolated violence' will need to take place against the craftsmen before the Council will take action. On September 6, 1971, Frank Carrasco, a vendor was killed. That case still goes unsolved. Helen Mayfield was physically assaulted by one person and threatened with death by another. You are already familiar with the case of Norm Beitch.

If the market were restricted to arts and crafts people, it would qualify for future brochures at the tourist booths at points of entry into the state. There are funds of \$1,000,000.00 through CETA (Comprehensive Employment and Training Act) some of which the Renaissance market could apply and qualify for through the Arts and Humanities Commission. These funds could be used for such things as developing demonstration areas within the market for electric outlets, etc., for daily demonstration of arts and crafts being made. Also work could be done with the senior citizens centers who are producing arts and crafts to help provide the market as a place for the selling of their work."

Ms. Roberts pointed out that she had received from Berkley, California, an ordinance that proves that they had recently deemed it necessary to protect the arts and crafts people and had established the market just for arts and crafts people. Councilmember Linn asked for a copy of the ordinance.

Also, Ms. Roberts had with her a letter from Lawrence Miller, Director of Laguna Gloria Art Museum and the Texas Fine Arts Association, which the Council had copies of.

A majority of the people coming before this committee have been craftsmen pleading for the situation to be cleaned up. One night we heard 21 people, 15 of which were craftsmen, yet the committee chose to vote against the craftsmen, leaving the situation to fester. You will continue to see craftsmen coming before you pleading for help unless you choose to make good your publicly expressed desires last October for the Renaissance market to be for the preservation of the area arts and crafts people. Ms. Roberts submitted with her report to the Council a copy of her recommendations for the market.

Mayor Pro Tem Snell moved that the Council set a public hearing for March 25, 1976, at 3:30 p.m. on the Vending Committee proposals; dissolve the Vending Committee and receive the reports. The motion, seconded by Councilmember Linn, carried by the following vote:

Ayes: Councilmembers Hofmann, Linn, Trevino, Mayor Friedman,  
Mayor Pro Tem Snell :

Noes: None

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

#### EXECUTIVE SESSION ACTION

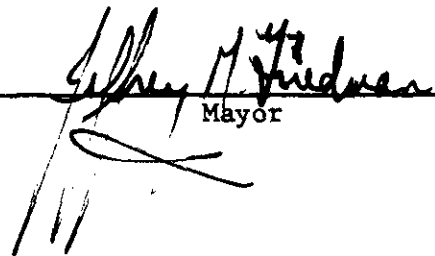
Mayor Friedman announced that the Council had met in executive session earlier to discuss legal matters and set a Council executive session for Friday, March 12, 1976, at 2:30 p.m. Next Thursday, there will be an executive session at noon to discuss appointments to the following boards and commissions:

Mental Health and Mental Retardation Board	- 3 appointments
Parks and Recreation Board	- 8 appointments
Community Development Commission	- 5 appointments
Human Relations Commission	- 2 appointments
Arts Commission	- 2 appointments


#### ADJOURNMENT

The Council adjourned at 7:50 p.m.

APPROVED

  
Mayor

ATTEST:

  
City Clerk