

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

June 10, 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, Linn, Mayor
Friedman, Mayor Pro Tem Snell

Absent: Councilmembers Lebermann, Trevino

The Invocation was delivered by REVEREND RANDY ASHCRAFT, Associate
Minister, First Baptist Church.

APPROVAL OF MINUTES

Mayor Pro Tem Snell moved that the Council approve the Minutes for June
3, 1976. The motion, seconded by Councilmember Hofmann, carried by the following
vote:

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

Noes: None

Absent: Councilmembers Lebermann, Trevino

RECOGNITION

At this time, Mayor Pro Tem Snell introduced Mrs. Mattie Jones, who
received the Senior Citizen Award for 1976 and congratulated her on this award.
Mayor Pro Tem Snell read and then presented a resolution to Mamie Ewen; Roland
Hayes; Mrs. Venett Johnson, Karen Johnson, Carlin Johnson and Mrs. Mattie Jones,
noting that June 19, 1865 heralded the beginning of official emancipation for
all slaves in the territorial boundaries of the United States and a special
significance is attached to "Juneteenth" by all citizens as a matter of important

historical tradition. Mayor Pro Tem Snell stated that June 19, 1976, is officially recognized as a special day of celebration; that the Black citizens of this City are commended for their many important contributions toward the betterment of this community; and that all citizens are urged to join the Council in this special recognition. Mrs. Mattie Jones thanked the Council for the resolution and she invited everyone to attend the celebration and parade.

SUMMER SAFETY FESTIVAL DAY

Mayor Friedman read and then presented a proclamation to Mr. Don Harris, Rosewood Neighborhood Center; Marvin Douglas, Human Resources; and Novella Cabin, Parks and Recreation Department, proclaiming June 16, 1976, as "Summer Safety Festival Day" in Austin and urged all citizens to join the Council in promoting improved safety habits and in recognizing the festival sponsors and participants for their contributions to the welfare of our community and its residents. Mr. Douglas thanked the Council for the proclamation and invited everyone to attend the festival on June 16, 1976, at Doris Miller Auditorium. At this time, Mr. Douglas presented the Council with Smokey the Bear stickers.

APPEARANCE TO REQUEST COUNCIL'S APPROVAL TO DISPOSE OF CERTAIN IMPROVEMENTS ON LAND IN CONNECTION WITH FAYETTE POWER PROJECT

Mr. Charles Herring, General Manager, Lower Colorado River Authority, had requested to appear before the City Council to request the Council's approval to dispose of certain improvements on land to the highest and best bidder in connection with the purchase of land for the site of the Fayette Power Project; however, Mr. Herring was not present at the meeting so City Attorney Jan Kubicek reviewed the request with the Council.

In brief, City Attorney Kubicek stated that there are 14 properties for which disposition authority is being requested from the Council and allowing the Property Manager to concur in the highest and best bid as determined. The properties being considered are as follows:

<u>Formerly Owned by</u>	<u>Improvements</u>
Charles Polasek, Jr. (Cedar Creek)	Frame House on Blocks - built in 1961 - 1140 square feet
John Schuhmacker, Sr. (Cedar Creek)	2 Frame Houses Connected by Porch - Total - 3,773 square feet
Howard Gready (Baylor Creek)	Frame House built around a Log House - 2666 square feet. Metal Barn
Marvin Otto (Baylor Creek)	Brick Veneer House - 2,263 square feet Milking Barn - Pole Barn
Howard Mills (Cedar Creek)	Brick Veneer House - 2,376 square feet
Oran Milton (Baylor Creek)	Frame House (old) - 2,188 square feet Pole Barn - Milking Building

<u>Formerly Owned By</u>	<u>Improvements</u>
Bennie Schmidt (Cedar Creek)	Frame House - 1,271 square feet Frame House - 2,306 square feet Seed and Feed Shed (no Floor) Storage (no Floor)
Betty Shearer (Cedar Creek)	Frame House - 2-1/2 Story 2,754 square feet - Barn
Terrance Stewart (Baylor Creek)	Pole Barn - 960 square feet
Harry Anderson (Cedar Creek)	Barn - 28 feet x 50 feet Part Concrete Floor
Albina Hilsher (Cedar Creek)	Frame House - Garage - Barn, etc.
Raymond Cox (Cedar Creek)	Frame House (old) - 1,744 square feet Concrete Brick Storage Building - 20 feet x 20 feet
Charles Rose	Pole Barn
Jim Rhode	Old House

In response to Councilmember Linn's question concerning the need to make arrangements with the Building Inspection Department to inspect each house to be moved for structural soundness and that an estimate of its worth be presented, City Attorney Jan Kubicek commented that the disposition of these parcels would not necessarily be in the corporate limits of the City. He did suggest that the City's Property Manager concur in the determination of the highest and best bidder on each of the aforementioned properties. City Attorney Kubicek recommended that this request be granted.

Councilmember Himmelblau moved that the Council approve the request from the Lower Colorado River Authority to dispose of certain improvements on land as outlined above to the highest and best bidder in connection with the purchase of land for the site of the Fayette Power Project, and that the City's Property Manager concur in the determination of the highest and best bidder on each of the properties. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

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

Noes: None

Abstain: Councilmember Linn

Absent: Councilmembers Lebermann, Trevino

PARADE PERMIT

Councilmember Linn moved that the Council approve a request for a parade permit from Mr. W. H. McGregor, Department Adjutant, The American Legion, Department of Texas for the American Legion Boys State on June 15, 1976, 8:15 a.m. to 9:30 a.m., beginning from Martin Luther King, Jr., Boulevard along North Congress Avenue south to State Capitol, circle Capitol and on west and arrive at steps by marching up south Congress walkway from 11th Street. The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

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

*Mayor Friedman pointed out that the American Legion needed to clarify their policy for the permission for mobility impaired students to participate in the Boys State program and the City is concerned about this.

RELEASE OF EASEMENT

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

The Public Utilities easement that covers all of the South ten (10.00) feet of Lot 14, Block W, Northwest Hills Cat Mountain Section Amended, also known as 4207 Cat Mountain Drive. (Requested by Terry and Nancy Wadsworth, owners of Lot 14, Block W)

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

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

RELEASE OF EASEMENT

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

A portion of Sanitary Sewer Easement that crosses Lot 1, of the proposed Cross Creek Subdivision, out of that certain 318.46 acre tract of land out of the John Applegait and George W. Davis Surveys in Travis County, Texas. (Requested by William L. Garwood, Attorney representing the Cross Creek Properties, a Texas Limited Partnership, owners of proposed Cross Creek Subdivision)

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

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

In response to Councilmember Linn's question, Mr. Reuben Rountree, Director of Public Works, stated that the Sanitary Sewer Department felt it was not good to have the existing sanitary sewer line in the bottom of this particular drainage ditch and they would like to get it relocated. Mr. Rountree commented that the applicant had submitted a letter of credit for approximately \$20,000 to pay for the relocation of the line. The applicant was present.

APPROVAL OF CONTRACT FOR LOCATION OF A LIBRARY MOBILE TRAILER

Councilmember Linn moved that the Council adopt a resolution approving a contract between Hancock Center and the City of Austin for the location of a library mobile trailer on the parking lot at the Hancock Shopping Center each Thursday. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

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

CONSIDERATION OF ALTERNATIVES IN THE CITY-LOVACA CASE

MR. DON BUTLER, Legal Counsel, stated that this proceeding comes about because of contracts that were made starting in the early 1960's by San Antonio, LCRA, Austin and others. He pointed out that almost every major gas company in Texas is involved and has made a contract with LoVaca. The contracts as originally made were appropriate and the people that made them did so in good faith and could have been performed by Coastal and LoVaca; however, commencing in 1970 Coastal and LoVaca began a course of action whereby they dissipated their ability to perform their contracts. No effort was made by the Texas Railroad Commission to ascertain what was happening. Commencing in 1971 it was apparent that the necessity existed to investigate what was happening because of legislation which was proposed by Coastal; however, this was not successful.

In 1973 this rate case was filed by Coastal and it was learned that the problem was very serious. On September 27, 1973, the interim order was entered into the case which provided that Coastal would be able to pass on its cost of gas plus 5 cents for transportation charges. A special supervisor manager was appointed for Coastal-LoVaca who immediately ran the gas prices out of sight for everyone in Texas. The Railroad Commission was warned by Austin officials just exactly what was happening and what was about to happen, but no action was taken by the Commission.

In April, 1974, the Director of the Gas Utilities Division, Mr. Walter Wendlet, Examiner in the case, filed this report and recommended a course of action which would have provided some relief for the customers. That report has been ignored and no action by the Railroad Commission has been taken.

In 1975 Austin and other customers filed proceedings whereby we attempted to have the Railroad Commission review certain other contracts that were made by other customers and special treatment was given. This came to be known as the Austin versus the Texas Railroad Commission, and the Supreme Court held that the Railroad Commission had the authority to take the action Austin was requesting but it did not have to do this. The Railroad Commission took no action.

Throughout this proceeding Austin has felt that it should be resolved at the administrative level and every opportunity has been given for it to be resolved. Since it has not been resolved by the Railroad Commission, there is no other course of action to take except to file a law suit which has been transferred to Waco. At this time Mr. Butler introduced Mr. Cullen Smith associated with the law firm engaged in this proceeding. The law suit was filed against Coastal only because Austin's contract was with them; however, LoVaca intervened in the case.

Now Austin is called upon to take some specific action again. On April 12, 1976, the Railroad Commission entered the final order. Mr. Butler stated that after reviewing the order, Austin has a choice of going back to the old contract rate or of going to a rate which would be about what Austin is paying now. These choices are not viable and are really no choice at all. The gas prices have already increased at the wellhead and will never be down again. He felt that nothing could be gained by Austin in taking the higher rate. The election period, which everyone was given to exercise its option, expires tomorrow. Mr. Butler felt that the responsible position would be to attempt to resolve this out of court since it is the only way to resolve the confusion that has been created in this case, and somehow restructure this problem out of the inaction that has heretofore existed.

Mr. Butler suggested that this negotiation proceed to reach something in the public interest and also that we indicate we do not object to any extension; however, we should object to any extension of any other time period; we should object to any increase in our increased rates above the contract rates by the Commission; we should indicate that some of the plans which have received wide-spread publicity and have been filed with the Commission heretofore do not meet public interest tests and are not acceptable to Austin. Mr. Butler also suggested that Austin indicate it does not waive any rights that it might have in court. He asked that the Council instruct him as to how they would desire the law firm to proceed.

Mayor Friedman felt it should be made clear that the statement to be filed with the Railroad Commission in no way indicates any support from Austin for any of the actions taken by the Railroad Commission at this time. He stated that the Railroad Commission had abrogated their authority and responsibility to the citizens of Austin and throughout the state by allowing LoVaca to "rip-off" the public to the extent they have without any indication of help from the Railroad Commission. The Railroad Commission has not offered any help and he felt the Council did not agree with the Railroad Commission in trying to suffer all the vestiges of past robber baron attitudes on the citizens of Austin. We will fight for our rights in court and in any other agency; therefore, he felt we should continue in this course of action.

Mr. Butler referred to the motion that was distributed to the Council and stated that Austin did not agree to any rate set by the Commission in excess of Austin's contract rate and did not waive any rights under such contract.

Mayor Friedman felt that at this point, nothing was needed but to file the motion that was distributed to the Council and to continue studying and monitoring the situation to keep the Council informed of any decisions that might be made.

MR. CULLEN SMITH, associated with the law firm in Waco that is handling the case, stated that he was honored to have the opportunity of representing Austin in this case. He complimented the employees of the City for their help in this matter.

CONTRACTS AWARDED

Councilmember Linn moved that the Council adopt a resolution awarding the following contract:

LARSON-PUGH, INC. P. O. Box 5156 Austin, Texas	- Burleson Road Street and Drainage Improvements from 50' ± South of Douglas Street to 800' ± North of Douglas Street - \$147,748.16
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The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

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

Councilmember Linn moved that the Council adopt a resolution awarding the following contract:

TIDE-AIR, INC. P. O. Box 40009 Houston, Texas	- Air Compressors for Decker Unit #2 - \$81,003.00
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The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

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

In response to Councilmember Linn's question, Mr. R. L. Hancock, Director of Electric Utility, stated that one of these units is for Holly Power Plant because the present equipment is not operating properly.

Councilmember Linn moved that the Council adopt a resolution awarding the following contract:

ROBERT C. GRAY CONSTRUCTION COMPANY 2007 Rutland Drive P. O. Box 9442 Austin, Texas	- Construction of Brackenridge Parking Structure - \$1,830,000.
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The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

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

Noes: None

Absent: Councilmembers Lebermann, Trevino

Mr. A. M. Eldridge, Director of Construction Management, stated that the construction time on this project would be approximately 308 days.

CHANGING DATE OF PUBLIC HEARING ON ORDINANCE RELATING TO CONSTRUCTION
AND REPAIR OF SIDEWALK, CURBS, GUTTERS, DRIVEWAYS AND SETBACKS

The Council had before it for consideration the changing of a date set for a public hearing to consider the proposed Ordinance relating to Construction and Repair of Sidewalk, Curbs, Gutters, Driveways and Setbacks. (Public hearing originally set for 10:30 a.m., June 24, 1976) City Manager Davidson commented that Mr. Charles Graves, Director of Engineering, would be out of town on business on this date. City Manager Davidson respectfully requested that the date be changed.

Councilmember Linn moved that the Council adopt a resolution changing the date for a public hearing to consider a proposed Ordinance relating to Construction and Repair of Sidewalk, Curbs, Gutters, Driveways and Setbacks from June 24, 1976 at 10:30 a.m. to July 8, 1976 at 10:30 a.m. The motion, seconded by Councilmember Hofmann, carried by the following vote:

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

Noes: None

Absent: Councilmembers Lebermann, Trevino

SETTING PUBLIC HEARING ON AN APPEAL OF A SPECIAL PERMIT

The Council had before it for consideration the setting of a public hearing on an appeal of a Special Permit granted to Bob Bailey for apartments at 4511-29 Avenue A.

MR. JOHN YOUNG presented a petition that had been signed by approximately 28 residents in this area opposing this permit and also asking for a postponement until the end of summer and more of the homeowners can be present at this meeting.

Mr. Dick Lillie, Director of Planning, noted that the setting of this date is the Council's decision, and the Special Permit has a two-year life to it. If no construction occurs within two years, then the permit lapses and would have to be reheard and resubmitted. With the appeal pending, the project cannot begin.

MR. BOB BAILEY, owner of the property under consideration, stated that the property had been zoned "BB" Residence several months ago with the request from the Planning Commission that he submit an application for a Special Permit on the project. Originally, there were three homeowners that objected but after discussions with them an agreement was reached. When he came before the Planning Commission for the Special Permit there was no opposition and the Permit was granted. Mr. Bailey pointed out that the letter presented by Mr. Young contains nine names of people that are not property owners in this area but residents. He stated he had spent considerable time and money on this project and would like to set the public hearing as soon as possible.

Councilmember Himmelblau stated that she felt it would be an imposition to delay this development for several months and would be agreeable to set the hearing for discussion in two weeks.

Motion - Died

Councilmember Himmelblau moved that the Council adopt a resolution setting a public hearing on an appeal of a Special Permit granted to Bob Bailey for apartments at 4511-29 Avenue A at 10:30 a.m., June 24, 1976. The motion died for lack of a second.

Councilmember Linn's concern was that the majority of people involved in this case work during the day and are unable to attend a day Council meeting.

Motion

Mayor Friedman moved that the Council adopt a resolution setting a public hearing on an appeal of a Special Permit granted to Bob Bailey for apartments at 4511-29 Avenue A for July 15, 1976, at 7:30 p.m. The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

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

RECONSIDERATION OF NON-RESIDENT FEES AT MUNICIPAL GOLF COURSE

Mayor Pro Tem Snell commented that in checking with the various golf courses in Austin, he found that the non-resident golf fee was creating a problem to enforce and that it was not as profitable as had been anticipated. He stated that he would like to see this fee deleted from the program entirely. At this time, Mayor Pro Tem Snell read a statement from Councilmember Trevino as follows:

"Regrettably, I am forced to be out of the City today on Capital Area Planning Council business. The purpose of this statement, though, is to inform the public and have read into the record, my views on the "Non-Resident Golf Fees."

I wholeheartedly support Mayor Pro Tem Snell's efforts to rescind these fees. While, in principle, I support the notion of charging more for the provision of recreational services to non-residents, the

practical application of this fee has brought an unwarranted burden to bear on our own residents. The fiscal impact has been to generate no additional revenues, and the problems greatly outweigh the benefits.

I hope that the Council in its wisdom will see fit to abolish this non-productive, in fact, detrimental fee."

In response to Councilmember Hofmann's question, Mr. Buddy Hamilton, Manager of Golf, commented that the City does charge fees for out of town residents on other sports such as swimming, tennis and in some instances softball. Councilmember Hofmann felt if the fee was going to be deleted for the non-residents on golf then maybe the Council should investigate doing the same for the other sports as well. City Manager Davidson stated that this information concerning the non-resident fees for golf was compiled at the request of Mayor Pro Tem Snell, and Mr. Davidson noted that if the Council so desired, he would also investigate the other sports and the non-resident fees. Councilmember Hofmann stated she would like this done.

Mayor Pro Tem Snell moved that the Council instruct the staff to bring back an ordinance on June 17, 1976, to rescind the non-resident fees at Municipal Golf Courses. The motion, seconded by Councilmember Himmelblau, carried by the following vote:

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

Noes: None

Absent: Councilmembers Lebermann, Trevino

REQUEST FOR WORK SESSION ON THE AIRPORT MASTER PLAN

City Manager Davidson stated that there are a number of decisions that the Council needs to aid the staff with before the Airport Master Plan can be completed. He respectfully requested that the Council set a time within the next 30 days so the Council can examine the options associated with this plan. Mayor Friedman suggested that the work session be set for July 1, 1976, following the Council meeting. City Manager Davidson stated that this would be fine.

STREET LIGHTING IMPROVEMENTS

City Manager Davidson commented that this report described for the Council a number of major street lighting installations that are about to begin. These projects have been on hold since 1973 and he asked that the Council concur in the proposal to proceed with the installation of these street lights. Adequate funding does exist to cover the cost, and he recommended that the Council authorize the administration to proceed with these installations. The following memo from City Manager Davidson was filed with the Council:

SUBJECT: Street Lighting Improvements

Although funds have been available in the Capital Improvements Program, we have had a moratorium on construction of additional arterial street lighting since 1973. It is recommended that this moratorium be terminated and that a modest program of street lighting improvements be initiated.

As the first project to be undertaken, we propose street lighting improvements on both East 6th Street from San Jacinto to IH 35, and West 6th Street from Lavaca to West Avenue. This project provides for relocation of ornamental street lighting standards from West 6th to East 6th and the installation of new units on West 6th Street. This project has been recommended by the East 6th Street Conservation Association and approved by the Citizens Board of Natural Resources and Environmental Quality. The project is estimated to cost \$92,465.

We also plan to proceed with two residential street lighting projects in the university area and in South Austin. The university project provides for 117 new lighting fixtures to substantially improve illumination levels in the west university neighborhood. The South Austin project provides for 26 additional units to improve lighting levels on ten different streets. The university project is estimated to cost \$15,541 and the South Austin project is estimated at \$5,050.

We are beginning engineering work on residential street lighting in the newly annexed areas. The City Council will be advised when we are prepared to begin installations.

Motion

Councilmember Hofmann moved that the Council authorize the administration to proceed with the street lighting installations. The motion, seconded by Mayor Pro Tem Snell, carried by the following vote:

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

ANNOUNCEMENT CONCERNING BOND SALE

Mr. Norman McK. Barker, Administrator of Finance, stated that he had recently returned from New York City after attending an orientation for the underwriters, who are the potential bidders on the City of Austin bonds. This bond sale is a very important sale to the City since in the Revenue Bond area ratings are being reduced throughout the country. In the General Obligation Bonds, Austin received a "AAA" rating from Moody's Investors Services, Incorporated, and a "AA" from Standard and Poors. On the Revenue Bond area, Austin received a "AA" rating from both of the credit houses.

Mayor Friedman announced that the Council would now recess and go into Executive Session and return in approximately 30 minutes.

EXECUTIVE SESSION ACTION

Mayor Friedman announced that the Council had met in an Executive Session and discussed a personnel matter with no decision being reached. The Council also had a briefing from the City Attorney concerning a legal matter pending before the Council and the Council took under consideration the information concerning this matter which was now before the Council. (Court decision regarding the naming of Martin Luther King, Jr., Boulevard)

Councilmember Linn made the following motion:

"I move that we instruct the City Attorney not to appeal the decision of the 3rd District Court of Appeals and that we further instruct the City Attorney to prepare for the City Council the proper ordinances necessary in order that we comply with our interpretation of the Court's ruling; and that these be presented for action on the June 24, 1976, meeting."

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

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

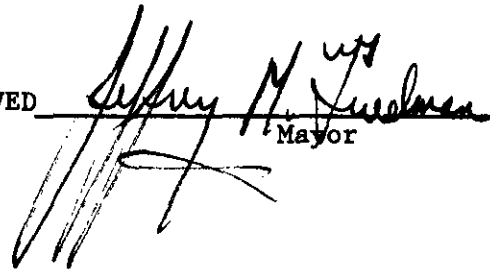
Noes: None

Absent: Councilmembers Trevino, Lebermann

ADJOURNMENT

The Council adjourned at 11:35 a.m.

APPROVED


Mayor

ATTEST:



City Clerk