

MINUTES OF THE CITY COUNCIL

CITY OF AUSTIN, TEXAS

Regular Meeting

January 12, 1978  
8:30 A.M.

Council Chambers  
301 West Second Street

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The meeting was called to order with Mayor McClellan presiding.

Roll Call:

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

Absent: None

EXECUTIVE SESSION

Mayor McClellan called the Meeting of the Council to order at 8:30 a.m. and announced that the Council will convene in a closed or executive session authorized by Section 2, Paragraphs (e), (f) and (g) of Article 6252-17, Texas revised Civil Statutes Annotated; and after such closed or executive session any final action, decision or vote with regard to any matter considered in the closed or executive session will be made in open session, should such action, decision or vote be necessary.

COUNCIL MEETING RECONVENED

The Council meeting reconvened at 10:00 a.m.

INVOCATION

DR. BROWNING WARE, First Baptist Church, gave the Invocation.

## APPROVAL OF MINUTES

Councilmember Mullen moved that the Council approve the Minutes for December 29, 1977 and January 5, 1978. The motion, seconded by Mayor Pro Tem Himmelblau, carried by the following vote:

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

Mayor McClellan noted that the spelling of Councilmember Mullen's wife's name had been corrected.

## BOARD AND COMMISSION APPOINTMENTS

Mayor McClellan announced that there were appointments to be made to Boards and Commission.

Board of Adjustment

Councilmember Goodman moved that the Council appoint David Brook as a regular member of the Board of Adjustment, term to expire January 1, 1980 and William Hunter as an alternate members, term to expire January 1, 1980. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

Mayor McClellan said appointments will be made to the Citizens' Traffic Safety Commission at Council Meeting on January 19, 1978.

Community Development Commission

Councilmember Snell moved that the Council appoint John Yeaman to a term on the Community Development Commission expiring March 1, 1978. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

The Mayor told Council appointments to the Energy Conservation Commission will be made January 19, 1978.

Library Commission

Mayor Pro Tem Himmelblau moved that the Council appoint the following to the Library Commission:

Mrs. Robert Davis	Mrs. Jack Balagia
Mr. Sam Whitten	Ms. Helen Spear
Mrs. Frances Dick	Mr. Willie Kirk
Ms. Gensie Hemphill	Mrs. August Harris
Mr. Robert Ledbetter	Ms. Barbara Divine

Ms. Judith Hellburn  
Mr. Fred Sackett

Mrs. Val Dunham  
Mr. Alan Minter

They will draw for terms to expire either January 1, 1979, or January 1, 1980. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

According to Mayor McClellan, one more appointment will be made to the Library Commission, January 19, 1978. Navigation Board appointments will be made February 2, 1978. Solicitation Board, Urban Transportation Commission, Vending Commission, Environmental Board (I), Arts Commission, Human Relations Commission and Building Standards Commission appointments will be made January 19, 1978.

#### Environmental Board

Councilmember Cooke moved that the Council appoint Dr. Exalton Delco, Mr. Maury Hood, and Ms. Evelyn Booth to terms on the Environmental Board, expiring July 1, 1979. The motion, seconded by Councilmember Snell, carried by the following vote:

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

Mayor McClellan reminded Council that other appointments to be made in February have already been announced.

#### COUNCILMEMBER'S DAUGHTER RECOGNIZED

Councilmember Goodman noted to Council and Chamber audience that Councilmember Trevino's daughter, Patricia Ann, is in the audience, and she was duly recognized by the Mayor and other Councilmembers.

#### MARIJUANA AND CITY LUNACY LAW

MR. BOB GARRETT appeared before Council to question the lunacy law. City Attorney Harris informed him that procedure for the law is enforced by the State Mental Health Code. In answer to Mr. Garrett's inquiries regarding the legalization of marijuana, Mr. Harris informed him that it would take an act of the State legislature to change the law.

#### EASEMENT

Mayor Pro Tem Himmelblau moved that the Council adopt a resolution to authorize eminent domain proceedings to acquire an easement for drainage purposes at the following location:

0.48 of one acre of land out of a 2-acre tract of land out of the Santiago Del Valle Grant, locally known as 2120 East Riverside Drive.

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

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

#### TEMPORARY STREET CLOSING

Mayor Pro Tem Himmelblau moved that the Council adopt a resolution to temporarily close the 2400 block of Pearl Street from 4:00 p.m. to 6:00 p.m., February 3, 1978, as requested by MS. ALICE ARNOLD of Kappa Alpha Theta Sorority. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

#### WATER LINE COST DIFFERENCE

Mayor Pro Tem Himmelblau moved that the Council adopt a resolution to authorize the following:

FIRST SERVICE CORPORATION	- The cost difference of 12"/8" water
John Mahone, President	line installed in Lakewood Section
	One - \$15,646.84.

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

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

#### CONTRACT AWARDED

Mayor Pro Tem Himmelblau moved that the Council adopt a resolution to authorize the following contract:

SOUTHWESTERN LABORATORIES	- Decker Unit #2 Stack Emission Testing
222 Cavalcade	for Performance Standards, Power
Houston, Texas	Production Division - \$26,980.00.
	C.I.P. No. 73/10-01

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

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

## BID AWARD

Mayor Pro Tem Himmelblau moved that the Council adopt a resolution to approve the following contracts:

Bid Award:	- Kitchen Appliances, Parks and Recreation Department.
GLASSTOV CAFE-HOTEL SUPPLY 724 South Flores San Antonio, Texas	- Item 1 - \$1,921.75
AUSTIN CARBONIC CO., INC. 501 East 3rd Street Austin, Texas	- Items 2, 3, 4, 5 and 12b - \$10,551.00
MID-TEXAS SALES & SERVICE 11424 North Interregional Hwy. Austin, Texas	- Item 13 - \$674.00

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

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

## WEATHERIZATION PROJECT

Mayor Pro Tem Himmelblau moved that the Council adopt a resolution to accept a \$10,000 grant from the Governor's Office of Energy Resources to evaluate the City's Weatherization Project. The motion, seconded by Councilmember Cooke, carried by the following vote: (\$5,000 in-kind match.)

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

HEARING SET  
OFF-STREET PARKING

Mayor Pro Tem Himmelblau moved that the Council adopt a resolution to set a public hearing for February 2, 1978, to amend Chapter 45 of the Austin City Code concerning off-street parking for private and parochial schools, at 10:30 a.m. The motion, seconded by Councilmember Cooke, carried by the following vote:

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

## STREET NAME CHANGE

Mayor McClellan introduced the following ordinance:

AN ORDINANCE CHANGING THE NAME OF A STREET FROM MISTLETOE TRAIL TO TAMARACK TRAIL; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

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

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

The Mayor announced that the ordinance had been finally passed.

ITEM WITHDRAWN  
BOARDS AND COMMISSIONS

Councilmember Mullen moved that the Council withdraw the following Agenda Item No. E.2:

- a. Library Commission (staggered terms and expiration date of January 1.)
- b. Vending Commission (staggered terms and expiration date of June 1.)
- c. Explosive Appeals Board (expiration date of February 1)

## ZONING ORDINANCES

Mayor McClellan introduced the following ordinance:

AN ORDINANCE ORDERING A CHANGE IN USE AND HEIGHT AND AREA AND CHANGING THE USE AND HEIGHT AND AREA MAPS ACCOMPANYING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967 AS FOLLOWS:

A 2.22-ACRE TRACT OF LAND, LOCALLY KNOWN AS 11654 RESEARCH BOULEVARD (U. S. 183) AND ALSO BOUNDED BY WEST DUVAL ROAD, FROM INTERIM "AA" RESIDENCE, INTERIM FIRST HEIGHT AND AREA DISTRICT TO "GR" GENERAL RETAIL, 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. (Melvin F. Hees, C14-77-027)

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

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

The Mayor announced that the ordinance had been finally passed.

Mayor McClellan introduced the following ordinance:

AN ORDINANCE ORDERING A CHANGE IN USE AND CHANGING THE USE MAPS ACCOMPANYING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967 AS FOLLOWS:  
A 42,000 SQUARE-FOOT TRACT OF LAND, LOCALLY KNOWN AS 7313 NORTH LAMAR BOULEVARD, FROM "A" RESIDENCE DISTRICT TO "C" COMMERCIAL DISTRICT; SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE. (Doyle Chapman, C14-77-157)

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

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

The Mayor announced that the ordinance had been finally passed.

Mayor McClellan introduced the following ordinance:

AN ORDINANCE ORDERING A CHANGE IN USE AND HEIGHT AND AREA AND CHANGING THE USE AND HEIGHT AND AREA MAPS ACCOMPANYING CHAPTER 45 OF THE AUSTIN CITY CODE OF 1967 AS FOLLOWS:  
(1) ALL OF BLOCKS A, B AND C, OAK FOREST VILLAS, LOCALLY KNOWN AS 12022-12070 JOLLYVILLE ROAD, 11900-11927 BROAD OAKS DRIVE, AND 11900-11926 OAK KNOLL DRIVE; FROM INTERIM "AA" RESIDENCE, INTERIM FIRST HEIGHT AND AREA DISTRICT TO "A" RESIDENCE, FIRST HEIGHT AND AREA DISTRICT; AND,  
(2) THE SOUTH 35 FEET OF LOT 4 AND THE NORTH 15 FEET OF LOT 5, GLENVIEW ADDITION, LOCALLY KNOWN AS 3404 KERBEY LANE FROM "A" RESIDENCE DISTRICT TO "O" OFFICE DISTRICT; AND,  
(3) A 2.4-ACRE TRACT OF LAND, LOCALLY KNOWN AS 3200-3214 ED BLUESTEIN BOULEVARD, 6310-6404 HAROLD COURT AND THE REAR OF 6301-6313 HUDSON STREET, FROM INTERIM "A" RESIDENCE, INTERIM FIRST HEIGHT AND AREA DISTRICT TO "C" COMMERCIAL, FIRST HEIGHT AND AREA DISTRICT; AND,  
(4) A 15,440 SQUARE-FOOT TRACT OF LAND OUT OF THE ANNIE GAFNEY SUBDIVISION, LOCALLY KNOWN AS 3513-3701 WEST AVENUE, FROM "A" RESIDENCE DISTRICT TO "LR" LOCAL RETAIL DISTRICT; AND,  
(5) A 9-ACRE TRACT OF LAND, LOCALLY KNOWN AS 1505 WALSH-TARLETON LANE, FROM INTERIM "AA" RESIDENCE, INTERIM FIRST HEIGHT AND AREA DISTRICT TO "A" RESIDENCE, FIRST HEIGHT AND AREA DISTRICT;  
SAID PROPERTY BEING LOCATED IN AUSTIN, TRAVIS COUNTY, TEXAS; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE. (City of Austin, C14-77-158; John Patton, C14-77-161; Usable Space Associates, Ltd. and Clifton and Ida J. Townsend, C14-77-165; Hulda Koester and Ray J. Rogers, C14-77-166; Beecave Development Co., Inc., C14-77-169)

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

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

The Mayor announced that the ordinance had been finally passed.

#### ZONING ORDINANCES WITHDRAWN

Councilmember Mullen moved that the Council withdraw the following zoning ordinances until conditions or requirements have been met:

JOE GILBRETH & CO., INC., ET AL By Phil Mockford C14-77-171	12938-12952 U.S. 183 and Fathom Circle	From Interim "AA" Residence 1st Height and Area To "GR" General Retail 1st Height and Area
J. HAYES BUILDERS, INC. By J.E. Hayes C14-77-142	13414-13470 U.S. 183 also bounded by Anderson Mill Road	From Interim "AA" Residence 1st Height and Area To "GR" General Retail 1st Height and Area
J. ALTON BAUERLE AND DENNIS O. BAUERLE C14-77-164	Rear of 2100-2124 South Lamar Boulevard 2119-2121 Oxford Avenue 2110 Kinney Avenue	From "A" Residence 1st Height and Area To "O" Office 1st Height and Area

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

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

#### PUBLIC HEARING ON PAVING ASSESSMENTS PASSAGE OF ORDINANCES

Mayor McClellan opened the public hearing scheduled for 10:30 a.m. in connection with paving assessments to be levied on the following streets; and passage of ordinances:

- a. CAPITAL IMPROVEMENTS PROGRAM, ALAMO STREET AND SUNDRY OTHER STREETS, covering approximately 41 blocks, CIP No. 75/62-20
- b. CAPITAL IMPROVEMENTS PROGRAM, ALAMO STREET AND SUNDRY OTHER STREETS, covering approximately 41 blocks (non-interest bearing) CIP No. 75/62-20.



- c. CAPITAL IMPROVEMENTS PROGRAM, BURLESON ROAD, covering approximately 10-1/2 blocks, CIP No. 73/62-22
- d. CAPITAL IMPROVEMENTS PROGRAM, WILLIAM CANNON DRIVE, covering approximately 31 blocks, CIP No. 76/62-21
- e. CAPITAL IMPROVEMENTS PROGRAM, WOODWARD STREET, covering approximately 12-3/4 blocks. CIP No. 73/62-11

Mr. John German, Director of Public Works, addressed Council as follows: "This is a public hearing to consider levying assessments for various paving improvements, which are nearing completion in the City of Austin. The projects specifically are Community Development District No. 1, which includes several streets in an area bounded by I.H. 35, Martin Luther King Boulevard, Rosewood and Comal. Also Burleson Road between Douglas and Ben White; William Cannon Drive between Manchaca and Brodie Lane; and Woodward between Congress and I.H. 35. All of these, of course, are Capital Improvement Program Projects. Prior to this public hearing, each of the property owners fronting on any one of the streets included in this program, has been advised of the cost for the paving as calculated by the criteria included in the Assessment Paving Policy, approved by the City Council in November, 1975. Each property owner was given an opportunity to take advantage of the 25% discount by paying the cost within 45 days of receiving the written notice. For all of the projects listed, a total of 343 parcels of land are involved. Owners of 198 of those parcels have actually paid early and are not a part of this public hearing. This represents about 58% of the total. The remaining 145 properties are being considered today. Of those, 63 property owners have signed inability to pay statements, indicating that the assessment generally is correct, but they just cannot pay at this time. Under state law, the City cannot levy assessments for an amount greater than the enhancement to the property as a result of the paving improvements. To evaluate each assessment, the City employed the services of an independent professional appraiser, to actually determine the amount that each property has been enhanced in value as a result of these paving improvements. The appraiser of course prepares a report and that becomes a part of these Council hearings.

"Today, we have two appraisers here to present their reports. The first is MR. HERBERT SLADEK, JR., who will handle items a., b., and e. on the agenda. The second is MR. TOM WILEY, who will handle items c. and d. on the agenda. We will hear from Mr. Sladek first and then ask for public comments regarding those particular projects. Later we will hear from Mr. Wiley and consider the other two projects."

At this time, said Mr. German, Mr. Sladek will report to Council regarding his findings for Community District No. 1 and Woodward.

Mr. Herman Sladek identified himself as a real estate appraiser and said: "I am an employee of Harrison Pearson Associates. I was requested by a member of the City legal staff and the Public Works Department to make an analysis of certain street and drainage improvements, and to form an opinion as to whether or not the abutting properties were enhanced in value to the extent of the individual property owner's cost for such improvements. My specific analysis covered 113 parcels in the Community Development District No. 1. Of this 113 parcels, 33 in our opinion were not enhanced in value equal to the cost. Additionally, 3 parcels were reviewed on Woodward Street and all of which, in our opinion, were enhanced in value equal or greater to that property

owner's cost. Our report on these individual properties are submitted to you at this time for your consideration.

MS. JEAN DAVIDSON, 1300 St. Bernard, appeared before Council to say that she was out of town until March and did not receive the letter dated February 25, 1977. She said she called the office number stated on the letter she received and tried to get clarification. She is unable to pay \$500 in a lump sum and inquired about monthly payments. Mr. German informed her that her piece of property is one that the appraiser does not think will be enhanced by paving and that instead of \$500.78, the enhancement is \$300.00. Mr. Harris, City Attorney, suggested someone talk to Ms. Davidson and determine whether there are still questions which need to be resolved. Mr. German then escorted her from the Council Chamber to talk with Ms. Alice Benson of his department concerning her questions.

At this point, MR. TOM WILEY appeared before Council to state: "I was asked by the Public Works Department to examine the paving and enhancement for the areas of Burleson Road and William Cannon Drive. There were some 8 parcels involved. Of the 8, there was one on Burleson Road that we found did not reach the enhanced value of the cost of paving. And this parcel is at 2809 Ware Road and we found a difference of \$165 over the cost of the charge of the paving as opposed to the market enhancement as we saw it. All the other parcels were enhanced."

Mr. Harris asked Mr. Wiley if he had prepared a report on these properties. Mr. Wiley replied he had and the report also includes some pictures at the time that property was inspected, including both ends of William Cannon Drive, which the parcels are involved in.

Mayor McClellan asked if there was anyone in the audience who wanted to speak to any property covered under Items c. and d.

MR. DANNY WOMACK, representing the heirs of the Debbie Ford estate appeared before Council, and stated, "They have two tracts of land fronting on William Cannon Drive. I am here to protest the proposed assessment on those two tracts. I think it is your procedure, but it would help me, if Mr. Wiley would give you his specific report on those two tracts and the values that they came up with before we get into it."

Mr. Harris asked Mr. Wiley if he had any additional copies of his report. Mr. Wiley said Ms. Benson has a copy and Mr. Harris has the other one. Mr. Harris gave his copy to Mr. Womack to peruse.

Mr. Wiley stated: "The two parcels in question on William Cannon in my particular report have been combined, since they are both concerned with the Ford estate. The total footage to be paved is 3,317.55 feet. Total assessed amount, \$46,233.38. We found that the enhanced benefit for the paving in our opinion was \$66,351. The report that you have shows William Cannon Drive approximately through the 15-acre tract. The street at this particular point is a street with an esplanade. Our particular research on the tract found that it was zoned "A" Residence, 1st Height and Area.."

At this point, Mr. Harris asked Mr. Wiley to stand next to the dais and point out, to the City Council, the location of the property on a map. Mr. Wiley then told Council, "For Council purposes this is my itemized assessment and valuation of the particular tract. This is the zoning map, picturing the

William Cannon Drive as it passes through the subject parcel. The rest of the report shows pictures of William Cannon Drive. ...I do not address severance or any other type of nature. This tract was a whole tract and the street is placed through it. I am only judging the enhancement to the paving facilities from, essentially, taking it from an unpaved facility to a paved facility." City Attorney Harris asked, "For the record, will you give us a little bit of your background?"

Mr. Wiley stated: "I have been in the appraisal business in the City of Austin for over 18 years. I presently hold the designation from the American Institute of Appraisers, IM and MAI, or member of the Institute. I am also a member of the Society of Real Estate Appraisers, holding the designate of Senior Real Property Appraiser. My particular firm is a real estate firm. We have property management, brokerage sales, and real estate appraisal. I am currently also a designated member of the Property Institute...Institute of Property Management, being a CPM."

Mr. Harris said, "Mr. Wiley, I would like to ask you if you could briefly tell the Council what you were charged to do in this undertaking, and how you approached discharging that responsibility."

Mr. Wiley: "Right, I am actually charged with assessing whether the enhancement of the paving to the parcel is beneficial to the property that we are looking at. In order to do that particular study, we have had a number of these...we have collected, or attempted to collect data involved in sales of parcels that were sold under conditions of paved and those that were sold very similar where paving was not present. We have attempted to evaluate these market sales to see what the difference might be attributable to such paving enhancement in the market place. A good part of this study was done this past summer of 1977. In that we found considerable variation, but the minimum enhancement appeared to be as far as residential is concerned, approximately \$20 per front foot, and commercial, \$30, with side yards being approximately \$10 and \$20 with the residential or commercial."

"All right," said Mr. Harris, "could you describe for the Council in a little more detail, these two particular tracts, which we are zeroing in on at the current time."

Mr. Wiley: "Well, these two particular tracts are a part of an approximate 15-acre tract, that is essentially parted down the middle with developable land on both sides of William Cannon Drive. It is presently zoned "A" Residence, 1st Height, as we find it in the zoning ordinance book. It is not Interim "A". I assume that some time in the...I believe the map may even show the date of the actual formal zoning ordinance for the parcel. It appears to be in '74 and another filing in '77 for that particular parcel."

Mr. Harris asked, "Mr. Wiley, can you tell us what is the size of each of these tracts?"

Mr. Wiley answered that he believes it to be about 11 to 12 acres for both tracts. Mr. Harris asked how much frontage each of these tracts has on William Cannon Drive. Mr. Wiley answered, "We are showing 1,658.2 feet frontage for each of the tracts. And there is a difference here, with 1,659.35, making a total of 3,317.55 front feet."

Mr. Harris asked, "Mr. Wiley, could you tell us in a little more detail, then, how you arrived at the enhancement figures on those particular tracts?"

Mr. Wiley replied, "Well, being zoned residential, feeling that this under the zoning ordinance is the highest and best use that I could ultimately look at at this particular time, we are using \$20 a front foot as the enhancement value for the total frontage. I believe that ultimately the total use of this property will probably be other than single-family residence. The property adjoins an "O" zoned tract on the northeast corner, and a "BB" zoned tract on the southeast corner, and William Cannon being approximately 120 feet in width, the ultimate use of that probably will not be single-family residence but for this purpose, looking at the legal zoning constraint to the subject parcel, the enhancement was held to \$20 a front foot.

"In other words," said Mr. Harris, "under your analysis that you referred to earlier of using \$20 per front foot for single-family residential because of the zoning ordinance, you used a \$20 figure in this case instead of the \$30 figure that you referred to earlier." That's correct, answered Mr. Wiley. "What was the total enhancement figure?" asked Mr. Harris. Mr. Wiley answered, "\$66,351 was the total enhanced figure. The total assessed figure is \$46,233.38." "And it is your opinion that due to this paving project, the paving of William Cannon Drive, that those two tracts together have been enhanced by that figure?" "That's correct," answered Mr. Wiley. "Thank you, Mr. Wiley. I had one additional question. Mr. German may have to answer. And was that the amount of assessment on the property? Did we assess it at that amount?"

Mr. German replied, "We are proposing to assess this for an amount of \$46,233.38, but it is actually enhanced \$66,000." Mr. Harris asked him to explain the difference there. Mr. German said, "The difference is based upon the method of calculating the paving cost in accordance with the assessment paving policy of the City of Austin. For the two tracts, we calculated the frontage on each tract, and based upon the contract cost for this particular project, the paving cost will be \$11.25 per front foot, and the curb and gutter costs are \$2.68 per front foot, for a total of \$13.94 per front foot, so this is basically the difference. Mr. Wylie has estimated on the basis of enhancement of \$20 per front foot."

Mr. Womack appeared again and said he wanted to ask Mr. Wiley a few questions. "Now," he said, "you appraised this as if one tract, is that correct, although it was two tracts?"

Mr. Wiley: "We had two assessment letters. We put the total together, one being on the north side and one on the south side."

Mr. Womack: "What value did you find the north side to be enhanced, and what value did you find the south side to be enhanced? ...Would you have thought that the property would have been enhanced the same value if just a normal residential street had been put through there, past this residential property?" Mr. Wiley answered, "Yes." Mr. Womack asked, "In your opinion the fact that this is a great old big road didn't enhance it any more?" Mr. Wiley replied, "No, I limited because of the "A" residential zoning." Mr. Womack said, "Right. Would in your opinion perhaps "A" Residential property be worth less because a major arterial road is running in front of it?" Mr. Wiley answered, "No." Mr. Womack: "All right, now the \$20 front foot figure that you got, did that come from sales of residential lots within subdivisions?"

"Yes, it did," answered Mr. Wiley. Womack: "Were these sales of interior street lots, or were they sales of lots on major arterial streets?" Wiley: "They were interior street lots." Womack: "So you don't have any sales of "A" residential property on major arterial streets." Wiley: "That's correct." Womack: "Okay. And I notice in your report that there aren't any sales information at all attached to it that you have presented to the Council here. You have it, but you didn't put it in your report you gave to the Council?" "That's correct," answered Wiley. Mr. Womack asked, "Would it be your opinion that both tracts were enhanced equally. In other words, I can take this \$66,000 figure and divide it by 2 and that is the enhancement to each side, or was there more enhancement to one side?" Wiley: "No, there is more enhancement to one side than the other, but the difference amounts to \$23.00...a total of \$23.00." Womack: "As you understood your appraisal problem, you have got a 15-acre tract, they were going to take a road out of the center of it, and you were to find the value of whatever is left, is that correct...I am sorry, the enhanced value of the remaining property?" Wiley: "That's correct."

Mr. Womack then addressed the Council as follows:

"Okay, I don't have any further questions, Mr. Wiley, I wish...I thought we would have some visual aid to see this particular piece of property, but as Mr. German has told you, and as I understand the law, and I am sure Mr. Harris will correct me if he thinks I am wrong, all you can assess a piece of property for paving is that amount of money in which you have enhanced it, caused by the improvement you placed before it. Now I think it might be necessary to give some background. This piece of property was brought into the City, of course, as Interim "A" as all property is. They immediately came down to the Planning Department to...their intention was to file for "GR" or "C" zoning. After talking with Planning, they decided that the best they could hope for was "BB." They asked for "BB." They were granted "A." And so, Mr. Wiley kind of indicates that maybe, you know, this amount of money is all right, because the property can be used for a higher use somewhere down the line. Well, that's not the fact before us. The fact is that it was very recently zoned "A." It is going to stay "A" for a long, long time, perhaps forever.

"The two tracts...Mr. Wiley is wrong about what he thought he was appraising, because it is not a 15.021 acre tract, that a strip is taken out of the middle of. The 15.021 acres is the remainder after the road was there. There are two tracts. They are both very narrow. The tract on the north side of the road is 1,659 feet long. It is 198 feet wide at one end and 294 feet wide at the other. The south side is 1,658 feet long. It is 190 feet deep at the west end. 117 feet deep at the other end. So it is obvious that if you have to use it for "A" Residential property, you are only going to get one lot out of each strip, as far as depth is concerned. You are not going to have 3 or 4 streets back worth of houses. You are just going to have one set of houses fronting on William Cannon Drive. Now if I understand what public works and Mr. Wiley was saying to you, that putting a major arterial street in front of "A" Residential property will increase the value of "A" Residential property \$66,000. And they have asked this person to only pay \$46,000...\$23,000 on each side approximately.

"In order to believe that, you are going to have to accept the idea that the average Austinite wants a house on a street with a high traffic count, lots of air pollution, lots of noise, that he loves the idea every morning of backing his car into a heavily travelled street out of his driveway in order to go where he wants to go, and that he is just enthralled with the idea that he has got a street with an esplanade in front of it, so that no matter where he wants to go, he is going to have to start there in the same direction. If he is on the north side, he is going to have to start traveling west, and if he is on the south side, he is going to have to start any trip he makes traveling east.

"Some of the members of the Council are new, but Councilman Trevino, and Snell and Councilman Himmelblau, Mr. Davidson and Mr. Harris, and I have spent I guess, at least 3 years listening to Austin citizens assure us that that is not what they want as "A" Residential property and that because of changes we were making on off-ramps and whatever on MoPac, that their property was greatly decreased in value, if not altogether destroyed.

"I also have an appraisal report. Mine is a little different, contains some sales information, done by Bolton-Graef & Co. It is signed by Steve Graef, who is also an MAI, and I asked them to look at this piece of property and tell me, what in their opinion was the enhancement, if any, from William Cannon Drive, if you got "A" Residential property. I am not going to read you the report. Don't want to bore you with it. I am going to give it to you, though. I can summarize what it says. It says there is no enhancement and there is probably a depreciation in the value of that piece of property because of William Cannon Drive if it has to be zoned "A" Residential, which it does. That is supported by information that they have come up with that has shown that houses that back up to William Cannon Drive, presently, stay on the market for something like 200 days before they can be moved, and when they are sold, they are sold for less money than houses on the interior street...that the houses on interior streets average on the market something like 40 days in this particular area. It is shown that rental property fronting on major arterial streets has a greater occupancy...a greater vacancy period than rental..slack rental property on interior streets, and therefore on a cash basis, when they are sold, bring less money.

"Added to this problem is a requirement by the City...a requirement they have made on other subdivisions in the area, and we can assume that they will make on this same piece of property, and the Planning Department, recognizing the nuisance, the problems and the danger of having driveways come off of William Cannon Drive, have required people that develop the property to provide a 20-foot alley on the back line of the property for ingress and egress. So essentially what you are doing is asking these people to pay \$46,000 for William Cannon Drive, which they will not be able to pull out onto. They are going to have to get on and off of their property from an alley that they must provide from a connecting street. Now because of this requirement, there is added cost of development. You have paid for a street in front of you, which is about all most developers have to do, but you are still looking at 40-foot worth of paving running all the way down the back of the property...20 feet on each side, in order to develop it at all.

"Now if you can enhance a piece of property in value by making it less desirable as a residential lot and improve..and increasing the cost of development, I am at a loss as to how you get there. I think there are no benefits, no special benefits. There is the benefit that the people who own this property can get to other places in town and from other places in town back to their property quicker, because William Cannon Drive is there. But that is a general benefit. That is one that all of us share. A special benefit as I understand it has to be a benefit peculiar to that particular piece of property. Considering the type improvement you are putting in place, as well as the use that can be made of that property...if this property were zoned "C" or "GR" or something like that, you know, I wouldn't be here. Safeway is not here. They are right down the street, and they front on this thing."

Discussion followed with Mr. Davidson, Mr. Womack, Councilmember Goodman and City Attorney Harris speculating as to how much the land value would be enhanced if the acres were divided into duplex lots.

Mr. German offered some information regarding the method of determining the City's assessment cost. "This is zoned "A" Residential, and according to the paving policy, we can only charge the portion of the paving cost that we would normally assign to a residential lot. We cannot, on this particular property, assess for the full cost of the street, which we could do if this were zoned Office, or some other commercial use, or non-residential use." Mr. German went on to give more details concerning the policy along that line. A question arose concerning curb cuts and Mr. Lillie was asked to answer to that. (Mr. Lillie was not in the Council Chamber at this point, but later the question was put to him and he said driveways will be permissable on William Cannon Drive at that point.)

There was more discussion and then Mr. German informed Council that Mrs. Davidson, who had appeared earlier, and another woman, Mrs. Caldwell, met with people in his department, their problems solved, and they have no need to return to Council.

Mayor McClellan asked if there was anyone else who wanted to speak to any of the paving assessments.

MRS. MESSINA, who lives at 3317 Burleson Road, appeared and stated she had been struck by a catastrophic illness which rendered her incapable of working. She said the notice which came to her telling of the 45-day discount allowed had been delivered when she was in the hospital and her husband was out of town. She wondered if Council would consider allowing her to pay the discounted price that she had been offered last year. Mr. German said that his people would be happy to meet with her...there is no way she can pay the discounted rate, but "we do make provisions for paying out the assessment over a 5-year period, if she would like to do that on a monthly basis."

A point was made about method of appeal if someone feels their assessment is too high, and Councilmember Goodman said, "Why isn't there any way that a person can, during the period when a discount rate is being offered, make the appeal and then have the determination made more quickly. And then the person

pays the discounted rate, if that person loses the appeal. Part of the reason Mrs. Messina is here now is that she couldn't have appealed earlier and discussed it. I hear her saying she is willing to pay the discounted rate if she has to, and she didn't have the opportunity to appeal it before. ...It is kind of a little catch, if you appeal, you are not going to get the discounted rate, regardless."

City Attorney Harris said, "I think that question has been raised, and Mr. German and I have talked about it from time to time, and we are looking at what other cities do and what might be able to work out within the City framework from administering this policy, but we do not have a good answer to that at this time. I think we can meet with Mrs. Messina and then come back to Council and see if we can recommend anything that can be done. Councilmember Cooke said that while he sympathizes with Mrs. Messina, he does not think it would be fair to the others concerned in the matter to let her have a discount at this point and not the rest.

Mayor McClellan said she thinks the issue is how someone can appeal and get their appeal heard and still be able to pay the discounted price within that time frame.

MRS. HINE, 3401 Burleson Road, appeared to state she had received an assessment notice informing her that she would have to pay the City over \$2000. The City discounted a portion of that because they needed some of her property for a right-of-way, but her assessment is still \$1,725.41 and she cannot see how her property is enhanced by the paving. She said her lot is pie-shaped, and unfortunately, the point of the pie is not on the paved side. The right-of-way was acquired by the County and she was told by the County that she would not have to pay for paving. Subsequently, her property was annexed by the City and she is now being assessed for the paving.

After more discussion, Councilmember Goodman asked if the appeal process is changed in the next few weeks, whether or not people in this assessment case can come back and ask for a discounted rate. Mr. Harris said the main problem is applying whatever policy you have fairly to all those who came under the policy at a certain date. Councilmember Mullen asked why Council had been spending an hour and a half listening to people with problems when they can't change any of them. Mr. Harris replied, the people have been presenting a couple of types of problems. Discussion ensued as to what Council had been listening to and talking about. Then Mr. Harris asked Mr. Wiley to restate why he believes Mrs. Hine's property is enhanced by that amount of dollars so the Council can make a judgement whether that is convincing evidence or if they want to make some other judgement.

Mr. Wiley re-appeared and said, "One of the things that happens with paving to any property is that we have better market appeal, and this is due to the fact that it is easier to get there... It controls any water or drainage that might be occurring in the street rather than coming onto the property. We have less dust factors involved. The new paving assessment eliminates a considerable amount of pot holes and bumpiness so that there is an enhancement to residential properties. ...I don't know whether it is nature or what, but these items do work and it is a very evident enhancement. I don't think we would have the complete paving program we have in the City if the enhancement



did not work. Also, the number of property owners who are willing to pay must feel that there is an enhancement here to their own property for doing this. Looking at this lady's property from a market standpoint, not her personal standpoint, I am saying it is enhanced because it is a better property, because of the street and the convenience involved and the market will reflect this..."

Mr. German told Council that if they liked, and if there is a real problem with information, he will be glad to prepare a complete packet on both Mrs. Hine's property and Mrs. Messina's property and bring it back at a later date. Mayor McClellan stated she thought it would be helpful to defer both of these cases.

#### Motions on Ordinances

Mayor McClellan introduced the following ordinance:

AN ORDINANCE CLOSING THE HEARING GIVEN TO THE REAL AND TRUE OWNERS OF PROPERTY ABUTTING UPON SUNDRY STREETS IN THE CITY OF AUSTIN, TEXAS, WITHIN THE LIMITS HEREINAFTER DEFINED, AS TO SPECIAL BENEFITS TO ACCRUE TO SAID PROPERTY AND THE REAL AND TRUE OWNERS THEREOF BY VIRTUE OF THE IMPROVEMENT OF SAID STREETS WITHIN SAID LIMITS, AND AS TO ANY ERRORS, INVALIDITIES OR IRREGULARITIES IN ANY OF THE PROCEEDINGS OR CONTRACT THEREFOR; FINDING AND DETERMINING THAT EACH AND EVERY PARCEL OF PROPERTY ABUTTING UPON SAID STREETS WITHIN THE LIMITS DEFINED WILL BE SPECIALLY BENEFITED AND ENHANCED IN VALUE IN EXCESS OF THE AMOUNT OF THE COST OF SAID IMPROVEMENTS PROPOSED TO BE, AND AS, ASSESSED AGAINST SAID ABUTTING PROPERTY AND THE REAL AND TRUE OWNERS THEREOF, AND LEVYING AN ASSESSMENT FOR THE PAYMENT OF A PORTION OF THE COST OF IMPROVING SAID STREETS WITHIN THE LIMITS DEFINED, FIXING A CHARGE AND LIEN AGAINST ALL SAID ABUTTING PROPERTIES, AND THE REAL AND TRUE OWNERS THEREOF, PROVIDING FOR THE ISSUANCE OF ASSIGNABLE CERTIFICATES UPON THE COMPLETION AND ACCEPTANCE OF SAID WORK, THE MANNER AND TIME OF PAYMENT THEREOF, AND PROVIDING FOR THE MANNER AND METHOD OF COLLECTION OF SAID ASSESSMENTS AND CERTIFICATES; DECLARING AN EMERGENCY, AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS PASSAGE. (Alamo Street and Sundry other streets, CIP 75/62-20)

Councilmember Goodman moved that the Council waive the requirement for three readings and finally pass the ordinance effective immediately. The motion, seconded by Councilmember Snell, carried by the following vote:

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

Noes: None

Not in Council Chamber when roll was called: Mayor Pro Tem Himmelblau

The Mayor announced that the ordinance had been finally passed.

Mayor McClellan introduced the following ordinance:

AN ORDINANCE CLOSING THE HEARING GIVEN TO THE REAL AND TRUE OWNERS OF PROPERTY ABUTTING UPON SUNDRY STREETS IN THE CITY OF AUSTIN, TEXAS, WITHIN THE LIMITS HEREINAFTER DEFINED, AS TO SPECIAL BENEFITS TO ACCRUE TO SAID PROPERTY AND THE REAL AND TRUE OWNERS THEREOF BY VIRTUE OF THE IMPROVEMENT OF SAID STREETS WITHIN SAID LIMITS, AND AS TO ANY ERRORS, INVALIDITIES OR IRREGULARITIES IN ANY OF THE

PROCEEDINGS OR CONTRACT THEREOF; FINDING AND DETERMINING THAT EACH AND EVERY PARCEL OF PROPERTY ABUTTING UPON SAID STREETS WITHIN THE LIMITS DEFINED WILL BE SPECIALLY BENEFITED AND ENHANCED IN VALUE IN EXCESS OF THE AMOUNT OF THE COST OF SAID IMPROVEMENTS PROPOSED TO BE, AND AS, ASSESSED AGAINST SAID ABUTTING PROPERTY AND THE REAL AND TRUE OWNERS THEREOF, AND LEVYING AN ASSESSMENT FOR THE PAYMENT OF A PORTION OF THE COST OF IMPROVING SAID STREETS WITHIN THE LIMITS DEFINED, FIXING A CHARGE AND LIEN AGAINST ALL SAID ABUTTING PROPERTIES, AND THE REAL AND TRUE OWNERS THEREOF, PROVIDING FOR THE ISSUANCE OF ASSIGNABLE CERTIFICATES UPON THE COMPLETION AND ACCEPTANCE OF SAID WORK, THE MANNER AND TIME OF PAYMENT THEREOF, AND PROVIDING FOR THE MANNER AND METHOD OF COLLECTION OF SAID ASSESSMENTS AND CERTIFICATES; DECLARING AN EMERGENCY, AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS PASSAGE. (Alamo Street and sundry other streets [non-interest bearing] CIP 75/62-20)

Councilmember Goodman 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 Snell, carried by the following vote:

Ayes: Councilmembers Cooke, Goodman, Mullen, Snell, Trevino,  
Mayor McClellan  
Noes: None  
Not in Council Chamber when roll was called: Mayor Pro Tem  
Himmelblau

The Mayor announced that the ordinance had been finally passed.

Mayor McClellan introduced the following ordinance:

AN ORDINANCE CLOSING THE HEARING GIVEN TO THE REAL AND TRUE OWNERS OF PROPERTY ABUTTING UPON SUNDRY STREETS IN THE CITY OF AUSTIN, TEXAS, WITHIN THE LIMITS HEREINAFTER DEFINED, AS TO SPECIAL BENEFITS TO ACCRUE TO SAID PROPERTY AND THE REAL AND TRUE OWNERS THEREOF BY VIRTUE OF THE IMPROVEMENT OF SAID STREETS WITHIN SAID LIMITS, AND AS TO ANY ERRORS, INVALIDITIES OR IRREGULARITIES IN ANY OF THE PROCEEDINGS OR CONTRACT THEREFOR; FINDING AND DETERMINING THAT EACH AND EVERY PARCEL OF PROPERTY ABUTTING UPON SAID STREETS WITHIN THE LIMITS DEFINED WILL BE SPECIALLY BENEFITED AND ENHANCED IN VALUE IN EXCESS OF THE AMOUNT OF THE COST OF SAID IMPROVEMENTS PROPOSED TO BE, AND AS, ASSESSED AGAINST SAID ABUTTING PROPERTY AND THE REAL AND TRUE OWNERS THEREOF, AND LEVYING AN ASSESSMENT FOR THE PAYMENT OF A PORTION OF THE COST OF IMPROVING SAID STREETS WITHIN THE LIMITS DEFINED, FIXING A CHARGE AND LIEN AGAINST ALL SAID ABUTTING PROPERTIES, AND THE REAL AND TRUE OWNERS THEREOF, PROVIDING FOR THE ISSUANCE OF ASSIGNABLE CERTIFICATES UPON THE COMPLETION AND ACCEPTANCE OF SAID WORK, THE MANNER AND TIME OF PAYMENT THEREOF, AND PROVIDING FOR THE MANNER AND METHOD OF COLLECTION OF SAID ASSESSMENTS AND CERTIFICATES; DECLARING AN EMERGENCY, AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS PASSAGE. (Burleson Road, CIP 73/62-22)

Councilmember Goodman moved that the Council waive the requirement for three readings and finally pass the ordinance effective immediately, with the exception of the two cases under study, 3317 and 3401 Burleson Road. The motion, seconded by Councilmember Snell, carried by the following vote:

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

Noes: None

Not in Council Chamber when roll was called: Mayor Pro Tem Himmelblau

The Mayor announced that the ordinance had been finally passed.

Mayor McClellan introduced the following ordinance:

AN ORDINANCE CLOSING THE HEARING GIVEN TO THE REAL AND TRUE OWNERS OF PROPERTY ABUTTING UPON SUNDRY STREETS IN THE CITY OF AUSTIN, TEXAS, WITHIN THE LIMITS HEREINAFTER DEFINED, AS TO SPECIAL BENEFITS TO ACCRUE TO SAID PROPERTY AND THE REAL AND TRUE OWNERS THEREOF BY VIRTUE OF THE IMPROVEMENT OF SAID STREETS WITHIN SAID LIMITS, AND AS TO ANY ERRORS, INVALIDITIES OR IRREGULARITIES IN ANY OF THE PROCEEDINGS OR CONTRACT THEREFOR; FINDING AND DETERMINING THAT EACH AND EVERY PARCEL OF PROPERTY ABUTTING UPON SAID STREETS WITHIN THE LIMITS DEFINED WILL BE SPECIALLY BENEFITED AND ENHANCED IN VALUE IN EXCESS OF THE AMOUNT OF THE COST OF SAID IMPROVEMENTS PROPOSED TO BE, AND AS, ASSESSED AGAINST SAID ABUTTING PROPERTY AND THE REAL AND TRUE OWNERS THEREOF, AND LEVYING AN ASSESSMENT FOR THE PAYMENT OF A PORTION OF THE COST OF IMPROVING SAID STREETS WITHIN THE LIMITS DEFINED, FIXING A CHARGE AND LIEN AGAINST ALL SAID ABUTTING PROPERTIES, AND THE REAL AND TRUE OWNERS THEREOF, PROVIDING FOR THE ISSUANCE OF ASSIGNABLE CERTIFICATES UPON THE COMPLETION AND ACCEPTANCE OF SAID WORK, THE MANNER AND TIME OF PAYMENT THEREOF, AND PROVIDING FOR THE MANNER AND METHOD OF COLLECTION OF SAID ASSESSMENTS AND CERTIFICATES; DECLARING AN EMERGENCY, AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS PASSAGE. (William Cannon Drive, CIP 76/62-21)

Councilmember Goodman 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 Snell, carried by the following vote:

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

Noes: None

Not in Council Chamber when roll was called: Mayor Pro Tem Himmelblau

The Mayor announced that the ordinance had been finally passed.

Mayor McClellan introduced the following ordinance:

AN ORDINANCE CLOSING THE HEARING GIVEN TO THE REAL AND TRUE OWNERS OF PROPERTY ABUTTING UPON SUNDRY STREETS IN THE CITY OF AUSTIN, TEXAS, WITHIN THE LIMITS HEREINAFTER DEFINED, AS TO SPECIAL BENEFITS TO ACCRUE TO SAID PROPERTY AND THE REAL AND TRUE OWNERS THEREOF BY VIRTUE OF THE IMPROVEMENT OF SAID STREETS WITHIN SAID LIMITS, AND AS TO ANY ERRORS, INVALIDITIES OR IRREGULARITIES IN ANY OF THE PROCEEDINGS OR CONTRACT THEREFOR; FINDING AND DETERMINING THAT EACH AND EVERY PARCEL OF PROPERTY ABUTTING UPON SAID STREETS WITHIN THE LIMITS DEFINED WILL BE SPECIALLY BENEFITED AND ENHANCED IN VALUE IN EXCESS OF THE AMOUNT OF THE COST OF SAID IMPROVEMENTS PROPOSED TO BE, AND AS, ASSESSED AGAINST SAID ABUTTING PROPERTY AND THE REAL AND TRUE OWNERS THEREOF, AND LEVYING AN ASSESSMENT FOR

THE PAYMENT OF A PORTION OF THE COST OF IMPROVING SAID STREETS WITHIN THE LIMITS DEFINED, FIXING A CHARGE AND LIEN AGAINST ALL SAID ABUTTING PROPERTIES, AND THE REAL AND TRUE OWNERS THEREOF, PROVIDING FOR THE ISSUANCE OF ASSIGNABLE CERTIFICATES UPON THE COMPLETION AND ACCEPTANCE OF SAID WORK, THE MANNER AND TIME OF PAYMENT THEREOF, AND PROVIDING FOR THE MANNER AND METHOD OF COLLECTION OF SAID ASSESSMENTS AND CERTIFICATES; DECLARING AN EMERGENCY, AND PROVIDING THAT THIS ORDINANCE SHALL BECOME EFFECTIVE IMMEDIATELY UPON ITS PASSAGE. (Woodward Street, CIP 73/62-11)

Councilmember Goodman 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 Snell, carried by the following vote:

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

Noes: None

Not in Council Chamber when roll was called: Mayor Pro Tem Himmelblau

The Mayor announced that the ordinance had been finally passed.

#### URBAN MASS TRANSPORTATION

Mayor McClellan opened a public hearing scheduled for 11:30 a.m. on an application for Section 5 funding to Urban Mass Transportation Administration in the amount of \$439,340 for Operating Assistance. Mayor McClellan asked Mr. Joe Ternus, Director of Urban Transportation, to make his presentation, which he did, as follows:

"Mayor and members of the Council, pursuant to Federal guidelines, notices to hold this public hearing were published in newspapers throughout the community. The notices provided a brief description of the project, its cost, and the impact of relocation, environment, comprehensive planning, and the elderly and the handicapped. The purpose of this public hearing is to afford an opportunity to interested persons or agencies to be heard with respect to the social, environmental and economic aspects of this project. This project is a Section 5, Operating Assistance Grant from the Urban Mass Transportation Administration in the amount of \$439,340.00 for improvements in regular route and special transit services."

Mayor McClellan asked if there was anyone in the audience who wanted to speak to this issue. No one appeared to be heard.

Councilmember Goodman moved that the Council close the public hearing and approve the application submission for Section 5 funding to Urban Mass Transportation Administration in the amount of \$439,340 for Operating Assistance. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

Noes: None

Not in Council Chamber when roll was called: Mayor Pro Tem Himmelblau

## RECESS

Council Meeting recessed at 12:30 p.m. and resumed at 2:25 p.m.

## VOLUNTEER BLOOD DONOR MONTH

Mayor McClellan presented a proclamation to Mr. John Kemp and Mr. Jack Knight, which designates the month of January as Volunteer Blood Donor Month.

## SOUTHLAND CORPORATION

Council had before it for consideration a resolution authorizing execution of a Lease Agreement with Southland Corporation for location of a 7-Eleven Store at Lamar and Koenig Lane. Mr. Joe Morahan, Director of Property Management, told Council the lease agreement is for the land only, not a building because Southland Corporation will build its own. Councilmember Mullen questioned terms of the proposed lease and said he thought there should be a cost of living escalation clause in the lease. Councilmember Goodman asked if there would be an advantage to selling the property rather than leasing. Mr. Davidson, City Manager, said it could be sold but staff does not recommend it. The Mayor asked if representatives of Southland Corporation, who were in the audience, had anything to say today on the matter. They answered that they do not. Mr. Morahan suggested this item be deferred one week for further consultation with Southland Corporation.

PUBLIC HEARING ON AMENDING CHAPTER 32 EXEMPT-  
ING HISTORICAL LANDMARKS FOR AD VALOREM TAXATION

Mr. Dick Lillie, Director of the Planning Department, told the Council that an amendment made to the State Constitution last November allows that municipalities, by local option, may abate taxes for historically significant structures. He stated that the Historic Landmark Commission has recommended that the Council consider total abatement on all property taxes on structures and lands zoned historic by the City Council. There are presently 73 structures which are zoned Historic, of which 49 will be effected by the proposal at an estimated abatement of \$35,000. The other 24 structures are already tax exempt. Mr. Lillie pointed out that the State amendment provides that the abatement can be granted in full or reduced to a lesser percentage if the Council desires.

MR. PHILLIP CREER, Chairman of the Historic Landmark Commission, outlined the alternatives for a structure to be tax exempt as determined by the Commission. They are as follows:

1. Property must be zoned Historic and a registered Texas landmark. This would involve only 24 properties that would be zoned by a State agency.
2. The property must be zoned Historic or a registered Texas landmark. This would involve some 71 structures at an abatement of \$52,000. No one on the Commission was in favor of this alternative.

3. Property must be zoned Historic, constructed prior to 1900, and a visible architectural or historic significance to the public. This alternative was abandoned due to the pressure that would be exerted upon building owners to bring their buildings into standards.
4. The structure would have to be built prior to 1900.

Mayor McClellan asked Mr. Creer if exemptions on structures and a 40-60% exemption on lands had been considered. Mr. Creer replied that this would be another alternative.

Mr. Jack Klitgaard, Tax Assessor-Collector, told the Council that total exemption of historical landmarks would put building owners in a very advantageous position with competitive properties. Mr. Klitgaard made the following recommendations to the Council:

1. Provision for a renewal of applications on a periodic base.
2. The inclusion of a roll-back tax as an incentive for people to maintain their property.

Councilmember Goodman asked about the possibility of initiating a system of credits for improvements made on structures. Mr. Klitgaard stated that Mayor McClellan's suggestion of exempting structures and giving only partial exemptions on lands could be another alternative. Councilmember Goodman pointed out, however, that this would be a universal exemption and not the same thing as a system of credit. Councilmember Mullen indicated that he would be more in favor of the across the board exemption rather than the system of credit alternative. Mayor Pro Tem Himmelblau stated that she had mixed emotions on a 100% exemption on historical structures that are used for commercial purposes. She stated that she wanted to see a list of uses for each structure before deciding upon tax exemptions.

MRS. ERNEST WALKER, representing the Austin Women's Club, told the Council that her organization currently supports a structure which has been recognized as a registered Texas landmark and has been zoned historical. She stated that a tax relief would be of great help in continuing their program.

MR. BILL BURNETTE, County Tax Assessor-Collector, told the Council that deleting any structure from the ordinance would be an obvious sign of discrimination, and that it would lead to trouble later on. He recommended giving individual tax exemptions for each structure based on individual assessment of the subject property. Mr. Burnette indicated that the matter could be referred to the Board of Equalization.

MRS. ANNA DRAYER, a member of the Historical Landmark Commission, told the Council that the Commission recommended allowing exemptions of lands as well as structures because it would give property owners an incentive to retain the properties for historical purposes.

MR. CHARLES BURNS, representing the Texas Classroom Teachers Association, told the Council that his organization was in favor of total abatement for historical structures. The Association currently owns and supports three historical structures in the City.

Mayor McClellan stated that she wanted to get a recommendation from the Board of Equalization on the matter. Ms. Drayer again reiterated the fact that commercial/historical structures are at a disadvantage to neighboring commercial establishments that can arbitrarily change the exteriors of their buildings in order to enhance their businesses.

Motion

Councilmember Cooke made the following motion and statement:

"I think that although in trying to access the comments about commercial buildings that are profit-making ventures not be included in this, I think there have been some good points to be made to the opposite. I've heard several in the last few minutes and at this time I would like to move that we close the public hearing and that we do ask for some advice from our Board and, likewise, I know when the Texas Legislature made this move, they certainly had a lot of information available to them. Probably information on what other cities in this country have been doing regarding this, and I would like to instruct staff to see if we can come up...or at least get...if there's any information available in the City, since the Capitol is here, see if we can find out what precipitated this by whoever sponsored this legislation and what might be going on in other cities regarding this particular point on excluding or not excluding profit-making ventures."

The motion was seconded by Councilmember Mullen.

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

Mayor McClellan instructed City Manager Dan Davidson to provide whatever staff help is necessary to carry out the instructions in the motion. Mr. Davidson indicated that he would do this. The Mayor also extended thanks to the Historic Landmark Commission for bringing the matter before the Council.

CITY/COUNTY JAIL CONTRACT

The Council had before it consideration of closing out the contract providing for the use of City jail facilities for the housing of County prisoners. Councilmember Mullen asked if the City has recovered the additional cost it has invested. City Attorney Jerry Harris indicated that the cost was recovered within the first seven months of rental payments.

Councilmember Mullen moved that the Council adopt a resolution to close out the contract providing for the use of City jail facilities for the housing of County prisoners. The motion, seconded by Councilmember Trevino, carried by the following vote:

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

## CONTRACT APPROVED

The Council considered approving the following contract:

JAY SMITH CHRYSLER PLYMOUTH  
841 West 6th Street  
Austin, Texas

- Sedans, Police Department  
Item Sheet S-4  
1. 11 each @ \$5,283.00  
2. 1 each @ \$5,383.00  
Total - \$63,496.00

Councilmember Goodman indicated that he had already had his questions answered by Police Chief Frank Dyson.

Councilmember Cooke moved that the Council approve the above mentioned contract with Jay Smith Chrysler Plymouth. The motion, seconded by Councilmember Mullen, carried by the following vote:

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

## CONTRACT APPROVED

The Council considered awarding the following contract:

OLIVER ROOFING SYSTEMS, INC.  
911 McPhaul Street  
Austin, Texas

- CAPITAL IMPROVEMENTS PROGRAM,  
Alterations to roofing and sheet  
metal for South Austin Recreation  
Center - \$19,475.00

Mr. Al Eldridge, Director of the Construction Management Department, told the Council that the project was an attempt to bring the roof at the South Austin Recreation Center back into a new condition by spot repairs. Councilmember Mullen asked what guarantee the City had that the job would be completed. Mr. Eldridge indicated that the City did not have a bond but that the company has been in business for quite some time and that he had every expectation they would continue. Councilmember Cooke asked if such building alterations were typical and Mr. Eldridge indicated that they were not. Councilmember Cooke indicated that he would like to see the matter referred to the Construction Advisory Committee and Mr. Eldridge stated that he would be willing to do this. City Manager Dan Davidson stated that he would like to see the project approved as soon as possible to prevent additional damage being done to the floor of the Center.

Councilmember Mullen moved that the Council adopt a resolution to approve the contract and have the Construction Advisory Committee look into the reasons for the roof damages. The motion, seconded by Councilmember Trevino, carried by the following vote:

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



CONSIDERATION OF BIDS RECEIVED  
SOUTH AUSTIN FIRE STATION

The Council had before it consideration of bids received on the South Austin Fire Station Construction Contract, C.I.P. No. 73/83-05. City Manager Davidson told the Council that he was recommending the second lowest bidder for the contract. This recommendation was in opposition to that of the Construction Advisory Committee. Mr. Al Eldridge, Director of the Construction Management Department, summarized the performance record of the Williams Floor Company, who was the lowest bidder. Mr. Eldridge indicated that it was difficult for him to recommend this company, however, due to the fact that the company did not have any experience in the particular area of work called for by the contract. He stated that they recommended Royce Construction Company.

Motion

Councilmember Goodman moved that the Council adopt a resolution to approve the contract as recommended. The motion was seconded by Councilmember Trevino.

MR. BILL REULAND, Executive Director of Associated General Contractors, told the Council that they wanted to see the establishment of a procedure which will determine contractor qualifications prior to bids being made public. City Manager Davidson assured Mr. Reuland that this concern would be addressed in the future.

Substitute Motion - Failed

Councilmember Mullen made the following Substitute Motion and statement:

"If people can get bonded, and they bid a job that's going to save the City \$36,000 over the next persons, I think they should have the job and if they can't get bonded they shouldn't and I would like to make a substitute motion that we approve Williams Floor Company. I agree, I don't think that we should put them up for bids, people go to the effort of doing it. If they're not qualified for a bond, fine, but if they can get bonded, then the financial liability is removed from the City and I would prefer to go with Williams Floor Company."

The substitute motion was seconded by Councilmember Cooke.

Mayor McClellan indicated that she was hesitant to go against the recommendation of the Construction Advisory Committee. Mr. Eldridge pointed out that in the future they will be providing instructions to bidders to advise the City when they are going to bid. In this way, the Construction Management Department can inform questionable bidders prior to that bidder going to any financial trouble. Mayor McClellan stated that they should not always accept low bids just because they were low bids because other factors were involved in making a determination.

Roll Call on Substitute Motion - Failed

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

Councilmember Cooke made the following statement during the roll call:

"I think Mr. Mullen has some good points, I also think that staff has some good points. I do support the fact that we should go with the low bid on this particular one and I vote yes.

Amendment to Original Motion

Councilmember Goodman amended his motion to include an instruction to the staff to include some specific guidelines for bidders to follow in the future. Councilmember Trevino also seconded the amendment.

Roll Call on Original Motion with Amendment

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

Councilmember Mullen made the following statement during the roll call:

"I continue to be amazed at the ease with which we give thousands of dollars of the taxpayers money away without a blink of an eye. I vote no.

## PUBLIC HEARING

## EXPANSION OF THE LAKE AUSTIN DEVELOPMENT ORDINANCE

Mayor McClellan opened the public hearing scheduled for 3:30 p.m. on expanding the proposed Lake Austin Development Ordinance to cover land in the Colorado Watershed located on the east side of Lake Austin from Mount Bonnell south to Tom Miller Dam. Mr. Dick Lillie, Director of the Planning Department, told the Council that the area not included in the study is the area south of Mount Bonnell to MoPac Expressway and then through the west part of town back towards Tom Miller Dam. He stated that the area encompasses about 2,000 acres of land and that it was not originally included in the study because about 95% of the area is already developed. Mr. Lillie made a geographical presentation of the area. He stated that all of the recommendations to be received from the Planning Commission in February will not include the 2,000 acres.

MR. ALAN McCREE, 2107 Scenic Drive, representing the West Austin Neighborhood Group, told the Council that his organization, by unanimous vote of the Executive Committee, was in full support of the expansion down to Tom Miller Dam. He stated that the area has steep slopes as well as a shallow river bed which is subject to sedimentation. Mr. McCree stated that expansion into the area would give the City more control over water flow into the Albert

Davis Treatment Plant, which services the area. He also pointed out that previous consultant reports recommended no development be initiated in the area.

Councilmember Cooke did not see the point in expanding the Lake Austin Development Ordinance to cover this particular area as 95% of the area is already developed and the Ordinance would only cover a remaining 50 acres. He pointed out to Mr. McCree that the presence of homeowners like himself in the area actually contributed to the amount of run-off going into the lake. Mayor McClellan asked Mr. Lillie why this particular area was not included in the study. Mr. Lillie stated that the area was not included because of the extent of development already in the area and, in light of the amount of money that was allocated to the study, it was felt that the study should be aimed at the areas that were currently developing as opposed to one that was already developed.

#### Motion

Councilmember Goodman moved that the Council close the public hearing and add the subject tract to the Lake Austin Development Ordinance. The motion was seconded by Mayor McClellan.

MR. HOWARD FERGUSON spoke in favor of expansion of the Ordinance. He stated that this area was vital to water quality since it is so close to the Albert Davis Treatment Plant.

Councilmember Cooke asked Mr. Curtis Johnson, Director of the Water and Wastewater Department, if water in this area would be more difficult to treat. Mr. Johnson indicated that it would be to a small degree. He stated that the amount contributed from the undeveloped area would be minimal in comparison to that contributed from the developed area.

#### Roll Call on Motion

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

Noes: Councilmembers Cooke, Mullen

Councilmember Mullen made the following statement:

"I agree with Mr. Cooke. I think we're picking out 25 acres and going after it and I am very sorry to see it happen. But I knew it was a losing cause, Lee, even though...that's why I didn't say a word."

Councilmember Cooke felt that the Council was kidding itself. City Attorney Jerry Harris indicated that he would bring back the ordinance the following week.

## GARDEN CAFE

The Council had before it a resolution to consider a request by the Garden Cafe, 413 West 23rd Street, to waive the minimum separation distance requirement between their business, which is to sell alcoholic beverages, and the Congregational Church of Austin.

Mayor Pro Tem Himmelblau questioned, "Why didn't this go before the Board of Adjustments for a variance? Why is it coming out of the Council?" Mr. Lonnie Davis, Director of Building Inspection, answered, "There is an ordinance passed, Mrs. Himmelblau. Their zoning is proper. It's just that they are within 300 feet of a church and Council passed an ordinance last year in May..." Mayor Pro Tem Himmelblau answered she did not remember the ordinance but asked if a variance would do, or would they have to come to the Council for this. Mr. Davis said the ordinance specifically provides for the Council to handle it.

Mayor Pro Tem Himmelblau moved that the Council adopt a resolution to grant the request of the Garden Cafe, 413 West 23rd Street, to waive minimum separation distance requirement between their business which intends to sell alcoholic beverages and the Congregational Church of Austin. The motion, seconded by Councilmember Snell, carried by the following vote:

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

Noes: None

Not in Council Chamber when roll was called: Mayor McClellan

MESSAGE BUSINESS  
THIRD READING OF ORDINANCE

The Council had before it the third reading of an ordinance relating to the regulating of massage business.

Motion

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

AN ORDINANCE AMENDING THE CODE OF THE CITY OF AUSTIN OF 1967; PROVIDING FOR THE REGULATION OF MASSAGE BUSINESSES; PROVIDING FOR SEVERABILITY; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

The ordinance was read the third time, and Councilmember Cooke moved that it be finally passed. The motion was seconded by Councilmember Mullen.

Councilmember Goodman asked if the word "race," Section 18-3 needs to be included in the ordinance. City Attorney Harris answered that if one is checking criminal i.d. it is just a further means of identification.

Amendment to Motion

Councilmember Goodman made an amendment to the motion to strike the word "race" from Section 18-3(a). The motion, seconded by Councilmember Cooke, carried by the following vote:

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

Amendment to the Motion - Failed

Councilmember Goodman made an amendment to the motion that "residence address" be deleted from Section 18-4(a). The motion was seconded by Councilmember Snell.

City Attorney Harris stated that if someone is being looked for, it would be a good idea to know where they are. Councilmember Mullen commented that all licenses issued require a statement of the home address.

Roll Call

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

Councilmember Goodman said he would like to have Section 18-4(i) deleted from the ordinance which requires a certificate executed by a practicing physician in the City showing that the applicant is not afflicted by an active venereal or other communicable disease. He said the list of communicable diseases goes on and on. Mr. Harris told him a list of communicable diseases can be obtained from the Health Department. Councilmember Mullen reminded him that the ordinance was to control a business dealing with health and felt the point of communicable diseases is valid, but could stand clarification. Mayor McClellan told Council that when the ordinance is passed, it can be amended to include a clarification of communicable diseases.

Amendment to the Motion

Councilmember Goodman made a motion to read: All felony convictions or offenses involving prostitution of the applicant within five years of the date of application, other than misdemeanor traffic violations, fully disclosing the jurisdiction in which convictions occurred, the offenses charged and the date of such convictions, which is a change in Section 18-4(f). The motion, seconded by Councilmember Trevino, carried by the following vote:

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

Amendment to the Motion

Councilmember moved that the Council delete Section 18-8(c) from the Massage Business Ordinance (which concerned revocation of license within the past five years from this City or any other City.) The motion was seconded by Councilmember Trevino.

Councilmember Goodman said this is risky when we say another city because we do not know if their criteria is the same as ours. Mayor Pro Tem Himmelblau thought by keeping this section in, it would save Austin some grief. Councilmember Trevino said he does not believe massagers should be punished because of other cities' laws.

Friendly Amendment to the Amendment to the Motion

Councilmember Mullen made a friendly amendment to the amendment to exclude the wording pertaining to other cities from Section 18-8(c) to read: "The applicant has had a massage business operator's license, a massager's license denied, revoked or suspended by this City, within five (5) years prior to the date of application; or,"

Councilmember Goodman and Trevino accepted the friendly amendment to their amendment to the motion.

Roll Call on Amendment to the Motion with Friendly Amendment

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

Amendment to the Motion

Councilmember Goodman made a motion to strike the words, "or where the licensee or any employee of the licensee, including a massager, is engaged in any conduct which violates any state law or City ordinance at the licensee's place of business, and the licensee has actual or constructive knowledge of such violation" from Section 18-11(a) from the ordinance. The motion, was seconded by Councilmember Cooke.

After discussion on this point the following vote was taken:

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

Amendment to the Motion

Councilmember Goodman made a motion, seconded by Mayor McClellan, that a sentence be added to Section 18-11(c) to the effect that the effective date of revocation of license shall not be put in until all due process has been exhausted.

City Attorney Harris, after discussion on this point, concluded that such language can be added to Section 18-11(c), first paragraph.

Roll Call on Amendment to the Motion

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

Councilmember Goodman said he felt one of the most serious faults of the ordinance is in Section 18-11(c) second paragraph, where it states that City Manager shall make the final decision concerning proceedings for the revocation or suspension of a license and made the following amendment to the motion:

Amendment to the Motion - Failed

Councilmember Goodman made a motion that the City Council have final appeal on proceedings for the revocation or suspension of a license. The motion, seconded by Councilmember Snell, failed to carry by the following vote:

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

Amendment to the Motion

Councilmember Goodman moved that in Section 18-11(d) that a hearing on an appeal to the City Manager shall have a decision within 30 days. The motion was seconded by Mayor McClellan.

City Attorney Harris stated there would be no problem with this provision.

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

Amendment to the Motion - Failed

Councilmember Goodman made a motion, seconded by Councilmember Trevino, that the hours of business, stipulated in Section 18-15 should not be applicable to a massage business that is located in a "C" Commercial zone.

Mr. Harris stated that hours of regulation of massage business have been upheld no matter where they are located. Councilmember Goodman said this whole ordinance came about because of complaints regarding a massage business in a neighborhood and that there have been no complaints about massage business in "C" Commercial zones.

Roll Call on Amendment to the Motion

Roll call showed the amendment to the motion failed to carry by the following vote:

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

Roll Call on Motion

AN ORDINANCE AMENDING THE CODE OF THE CITY OF AUSTIN OF 1967; PROVIDING FOR THE REGULATION OF MASSAGE BUSINESSES; PROVIDING FOR SEVERABILITY; SUSPENDING THE RULE REQUIRING THE READING OF ORDINANCES ON THREE SEPARATE DAYS; AND PROVIDING AN EFFECTIVE DATE.

The ordinance was read the third time and was finally passed as amended today. Roll call showed the following vote:

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

Noes: Councilmembers Snell, Trevino, Goodman

The Mayor announced that the ordinance had been finally passed.

Councilmember Goodman stated "You know, I haven't felt very comfortable having to defend massage parlors. I realize that's not very politically expedient. It would be politically expedient to offer this ordinance with these restrictions on massage parlors. I understand there have been a couple of popularity polls that reinforce that view. I hope that those who are voting for this overly restrictive, unwarranted ordinance are around when the zoning takes care of all those that are in existence and causing problems, and when there is no more need for this as the zoning change will take care of the situation. I hope you all remember your responsibility and rescind this ordinance because what we are really defending, over here, on this end, is civil liberties. And this is truly an infringement on the civil liberties of those people who go to massage parlors, who operate massage parlors..legitimate ones, or whatever...we have no business dictating to them the things we are dictating in this ordinance. Fortunately, much has been removed and that makes it somewhat more palatable but in the final analysis, not acceptable to me at all, and I vote No."

City Attorney Harris commented, "A point just came to my mind. We had written the hours requirement to say within 100 feet of any land zoned "SR," "AA," Interim "AA," "A," or Interim "A." Now in that zoning ordinance we had mentioned church, public school, and those sorts of things. Now, admittedly, most churches and most schools probably are on property zoned Interim "A" or something like that. There may be some that are not, and if not, this 100 foot description would not apply. Now on additional problem to putting it in right now, there is a recent court ruling out of Houston that says you have to define "church"...that it is no longer good enough to just put church in there and we are working on a definition of that now so that if it wants to be included in a zoning ordinance, we can. So I just wanted to point that out." Mayor McClellan asked if his advice was to say that's our intent or if we should hold. Mr. Harris answered to hold until they can firm up a legal definition of church to bring back to Council. The Mayor asked Mr. Harris to bring that definition back to Council when he also brings back the clarification on diseases and other matters.

Councilmember Goodman said, "I just want to be real clear about the communicable diseases thing. What I think that we need to further consider that situation, that the Council needs, is a complete list from whatever medical authorities we can obtain this list from, of all communicable diseases and what



tests there are for all communicable diseases, and which ones for which there are no tests." Mr. Harris said he wondered if it wouldn't be a more practical approach to consult with some of the medical people and ask them which communicable diseases should be included in a massage parlor situation.

MEDICAL PROFESSIONAL OFFICE BUILDING  
BRACKENRIDGE HOSPITAL AREA

Councilmember Goodman proposed requesting a staff report on the feasibility of seeking competitive proposals for lease of a City-owned site in the Brackenridge Hospital area for construction of a medical professional office building. He said this is something that has been discussed for a long time and he is not certain why nothing has ever been done. He said there is no planned use for the property he is talking about. He said that at this point the City is still responsible for the well being of Brackenridge and it would be to Brackenridge's advantage to have an office building adjacent to it where doctors can practice conveniently. He said this is an arrangement that works well economically for the hospital involved. Doctors send patients to the hospital, and visa versa. Mr. Goodman does not want the City to spend any money to build or operate the building, but is to ask the staff to develop a recommendation as to how the land would be made available to some private enterprise group. It would be put out for bids and Council would select the best one. He said he has talked to both Deputy City Manager Reed and Director of Property Management Joe Morahan about this and they have told him the idea is feasible. Mr. Reed had suggested giving the land to a developer, and they would put a floor or two on top of the Brackenridge Parking structure...or make some other exchange for the land we are really not going to give them, but lease over a 50-year period, or so.

Councilmember Goodman moved that the Council request staff to report on feasibility of seeking competitive proposals for lease of a City-owned site in the Brackenridge Hospital area for construction of a medical professional office building. The motion, seconded by Mayor McClellan, carried by the following vote:

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

HOSPITAL MANAGEMENT PROPOSALS

The Council had before it a request that the City seek proposals from hospital management firms for management of Brackenridge Hospital. The item was jointly presented by Mayor Pro Tem Himmelblau and Councilmember Goodman. Mayor Pro Tem Himmelblau indicated that she had asked the staff to develop specifications for the companies so they would know what their proposals should entail.

Mayor McClellan stated that she did not think that management was the real problem at Brackenridge Hospital as much as the policy. Councilmember Goodman felt that management is part of the problem at the hospital. He stated

that the fact that the City has already switched management at the hospital and has shaved money off its deficit is an indication that management is part of the problem. Councilmember Goodman stated that regardless of the type of resolution the Council decides upon, whether there is a hospital district, a hospital authority or an independent board, a management firm would complement any of the options chosen. He stated that this was a trend all over the country. Councilmember Goodman felt that the City, on a local level, could not provide the same type of resources that hospital management firms do. He recommended that the staff develop a request for proposal and then bring it back to the Council for approval. He stated that the firm could be on the job by April. Mayor McClellan stated that she did not think a management firm could necessarily come in and do any better job than people already working for the City. Mayor Pro Tem Himmelblau stated the staff would be coming back to the Council with the necessary specifications.

Councilmember Mullen felt that they would be asking the persons to be replaced to come up with the standards to replace them. He questioned how the City would save money if it did not change policy at the hospital. Mayor Pro Tem Himmelblau felt that it was necessary to change policy. Councilmember Mullen then suggested changing the policy and then making a decision.

Councilmember Goodman pointed out that hospital management firms have specialists for detecting any single flaw in third-party reimbursement programming. He indicated that the City might recover to \$400,000 in the first month. Mayor McClellan stated that she was willing to look at the format that is developed by the staff for seeking proposals but that she was not ready to authorize it. She wanted to look at the format prior to authorizing seeking a proposal.

Councilmember Mullen expressed concern that the cost of hiring a management firm might exceed the amount of money the firm could save the hospital. Councilmember Goodman cited for an example, Thomason Hospital in El Paso, Texas, and stated that a clause could be included in the contract stipulating that the firm would not claim fees if it did not do the job of saving money for the hospital. Councilmember Goodman indicated that he would be willing to include this stipulation in the contract with the firm.

Mayor Pro Tem Himmelblau stated that she was also interested in cutting out some other City personnel policies along with bringing in a management firm. Councilmember Mullen indicated that he wanted some of the parameters for the proposal stated. Councilmember Goodman stated that it was going to be up to the administration and Deputy City Manager Homer Reed if he needs some parameters. He felt that it was important that Mr. Reed understand the general principles that are going to be involved in the contract. Mr. Reed indicated that he was glad the discussion was being tape recorded and that he would play it back and bring back option to the Council that could be in the proposal. In regard to Mayor Pro Tem Himmelblau's statement on cutting out City personnel policies, Councilmember Goodman stated that this would probably have to wait until the authority or district or independent Board is established. City Attorney Jerry Harris indicated that this was correct. Mayor Pro Tem Himmelblau stated that the City should have separate policies for the hospital under the City personnel policy. Mr. Reed added that they could not simply compare hospital jobs with other City jobs but would have to compare them with other hospital jobs.

Lastly, Councilmember Goodman stated that the City could save much more money than the management fee is going to cost. He stated that there is probably any number of firms that will accept it once they've seen the fertile situation at Brackenridge for saving money. The City could also make clear that if the firm doesn't earn it, they don't claim it.

Councilmember Goodman moved that the Council instruct the City Manager to bring back a format for Council review. The motion, seconded by Mayor Pro Tem Himmelblau, carried by the following vote:

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

#### ENFORCEMENT PROCEDURES FOR THE INDUSTRIAL WASTE ORDINANCES

Dr. Maureen McReynolds, Director, Environmental Resources Management, presented a report on the enforcement procedures for the Industrial Waste Ordinance. She said the ordinance itself provides that three elements must be in this procedure. First, there must be written notice of the alleged violation. Second, there must be opportunity for the violator to come into compliance with the ordinance. Third, if there is no evidence of compliance, then the water and/or sewer can be cut off or other court actions may be taken. The exact procedure varies between the two ordinances, the Sanitary Sewer Ordinance and the Storm Sewer Ordinance, and provides different time frames for different types of violations. A serious threat will require immediate action. If it is a simple problem, a written notice is filed with the alleged violator, who will have five days in which to show compliance if Storm Sewer Ordinance and 15 days if it is the Sanitary Sewer Ordinance. The difference in the time frame relates to experience the departments have had with the ability of violators to come into compliance. Longer time periods will be allowed if the problem is more complex. Dr. McReynolds called attention to the outline of the enforcement procedure for each ordinance which Councilmembers have received.

Councilmember Mullen thanked Dr. McReynolds for preparing the report for Councilmembers.

#### PAVING ASSESSMENTS

Mr. Bluntzer, Assistant City Attorney, presented a report on paving assessments, Riverside Drive, Kassuba Tract. Mr. Bluntzer reported that Mr. Dumas, attorney for Riverside Drive Property Owners, sent a message that he would not be able to attend today's Council meeting. He also noted that assessments will be discussed at a public hearing at a later date.

Mr. Davidson, City Manager, told Council they may simply want to accept the report and study it between now and the hearing. He said he was certain the property owner or attorney will be in touch with Councilmembers if there is a problem.

Councilmember Snell moved that the Council accept the report on paving assessments, Riverside Drive, Kassuba Tract. The motion, seconded by Councilmember Trevino, carried by the following vote:

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

#### ZONING SET FOR PUBLIC HEARING

The City Clerk reported the following application has been heard by the Planning Commission for recommendation and has been set for Public Hearing before the City Council on February 2, 1978, at 11:00 a.m.

NPC REALTY COMPANY	1422 Fairfield Drive	From "BB" Residence
By Phil Mockford	1507 Peyton Gin Road	1st Height and Area
C14-77-180		To "O" Office (Tract 1) and "GR" General Retail (Tract 2) 1st Height and Area

#### ZONINGS SET FOR PUBLIC HEARING

The City Manager reported the following applications have been referred to the Planning Commission for recommendation and have been set for Public Hearing before City Council on March 2, 1978.

WAYNE M. LAYMON	12902-12936 U.S. 183	From "A" Residence
By John Lewis	North	1st Height and Area
C14-78-001		To "GR" General Retail 1st Height and Area
ESTATE OF MRS. E. V. CATTERALL	815 West 11th Street	From "B" Residence
By Joel Mitchell		1st Height and Area
C14-78-002		To "O" Office 2nd Height and Area
ALEX L. CALDERON AND ELEUTERIO LAREDO	4201 Marathon 1004-1006 West 42nd Street	From "A" Residence
By Terry Sasser		1st Height and Area
C14-78-003		To "O" Office 1st Height and Area
ADOLPH A. KREMEL, JR.	1401-B West 29th Street corner of Oakhurst and West 29th Street	From "A" Residence
By Tom Curtis		1st Height and Area
C14-78-004		To "BB" Residence 1st Height and Area
L. L. COX	12126-12440 U.S. 183	From Interim "AA" Residence
By C. Carpenter	(new)	1st Height and Area
C14-78-005	11835-12011 U.S. 183 (old)	To "C" Commercial 2nd Height and Area

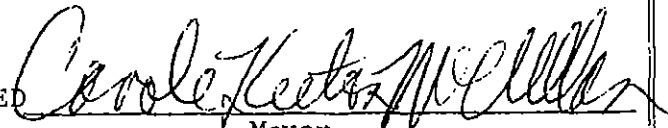
HARRY E. MONTANDON By John Joseph C14-78-006	6401 Hudson Street also bounded by Ed Bluestein Boulevard	From Interim "A" Residence 1st Height and Area To "C" Commercial 1st Height and Area
FORREST N. TROUTMAN, TRUSTEE By Tom Curtis C14-78-007	13700-13712 U.S. 183 10000-10002 Hidden Meadows Drive	From Interim "AA" Residence 1st Height and Area To "GR" General Retail 1st Height and Area
CITY OF AUSTIN By Property Manage- ment Department C14-78-008	1004-1010 Wheless Street 1005-1011 Lydia Street	From "C" Commercial 1st Height and Area To "A" Residence 1st Height and Area
CITY OF AUSTIN By Property Manage- ment Department C14-78-009	1506 Parkway 1509 Parkway 1516 Parkway 1104 Enfield Road 1106 Enfield Road 1117 Enfield Road	From "B" Residence 1st Height and Area To "A" Residence 1st Height and Area
DICKSON PROPERTIES, INC. By William Bray C14-78-010	2700 Montopolis Road	From Interim "A" Residence 1st Height and Area To "D" Industrial 1st Height and Area (Tract 1) and "D" Industrial 3rd Height and Area (Tract 2)
AUSTIN CATERING SERVICE, INC. AND WILL THURMAN, JR. By W. Terry Bray C14-78-011	700-800 block of William Cannon Drive 6600-6616, 6700-6724 IH. 35	From "A" Residence 1st Height and Area To "C" Commercial 1st Height and Area
NORTHCROSS ASSOCIATES, LTD. By W. Terry Bray C14-78-012	7688-7698 Northcross Drive 7700-7762 Northcross Drive	From "A" Residence 1st Height and Area To "B" Residence 1st Height and Area (Tract 1) "O" Office 1st Height and Area (Tract 2) "LR" Local Retail 1st Height and Area (Tract 3)
SHIRLEY S. SLAUGHTER By Malcolm Robinson C14-75-068	1608 West 34th Street also bounded by Jefferson Street and Glenview Avenue	From "A" Residence 1st Height and Area To "GR" General Retail 1st Height and Area
WILLIAM B. COTTON By Melvin Ware C14-75-100	3401 Ed Bluestein Boulevard	From Interim "A" Residence 1st Height and Area To "DL" Light Industrial 1st Height and Area

W. T. CASWELL ESTATE By W. L. Allison C14-75-113	410 Chicon Street, also bounded by East 4th	From "B" Residence 2nd Height and Area To "D" Industrial 2nd Height and Area
DAVID C. T. WOLLETT By Roanne Puett C14-77-003	501 West 38th Street	From "A" Residence 1st Height and Area To "B" Residence 2nd Height and Area
JOHN A. PARKER By P.M. Bryant C14-76-093	1601-1623 Cameron Road 1600-1610 Future Drive	From Interim "AA" Residence 1st Height and Area To "C" Commercial 1st Height and Area
EARL HOWARD AND JO SUE HOWARD By R.E. Kammerman C14-77-174	1715-1721 West Avenue 713-719 West 18th Street	From "B" Residence 2nd Height and Area To "O" Office 2nd Height and Area
PATRICIA HOWARD HARRIS By M.L. Schoenfeld C14-77-181	7101-7125 Springdale 7030-7124 Ed Bluestein Boulevard	From Interim "AA" Residence 1st Height and Area To "GR" General Retail 1st Height and Area
CAPITAL CITY STEEL By Bob Burns C14-77-185	Rear of 5717 Circle S Road	From Interim "A" Residence 1st Height and Area To "DL" Light Industrial 2nd Height and Area
MALCOLM L. MILBURN, SR., TRUSTEE By Bob Burns C14-77-186	521-613 St. Elmo Road 4501-4519 Terry O Lane	From Interim "A" Residence 1st Height and Area To "DL" Light Industrial 2nd Height and Area
JOHNSON HOME American Legion Travis Post #76, owner C14h-77-023	2201 West 1st Street	From "C" Commercial 1st Height and Area To "C-H" Commercial-Historic 1st Height and Area
ST. EDWARD'S BAPTIST CHURCH St. Edward's Baptist Church, owner C14h-77-045	406 Montopolis Drive	From "A" Residence 1st Height and Area To "A-H" Residence-Historic 1st Height and Area
RUTHERFORD HOUSE Mr. and Mrs. Edmund Key, owners C14h-78-001	2102 Nueces Street	From "B" Residence 2nd Height and Area To "B-H" Residence-Historic 2nd Height and Area

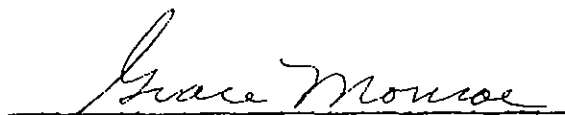
ADJOURNMENT

The Council meeting adjourned at 5:30 p.m.

APPROVED

  
Mayor

ATTEST:

  
City Clerk