



Austin City Council MINUTES

SPECIAL CALLED MEETING - MARCH 18, 1992
8:30 P.M.

Mayor Todd called to order the special called meeting of the Council, noting the presence of all members of the Council. The Mayor announced the purpose of the meeting was to consider the following Ordinance:

1. Adopt an Ordinance ordering a special election to be held May 2, 1992, for the purpose of submitting to the qualified voters the Save Our Springs Initiative Ordinance.

A complete transcript of the meeting is attached.

Motion - FAILED

Councilmember Nofziger made a motion, seconded by Councilmember Garcia to waive the requirement for three readings and finally pass an Ordinance ordering a special election to be held May 2, 1992, for the purpose of submitting to the qualified voters the Save Our Springs Initiative Ordinance. MOTION FAILED by a vote of 3-0-4 with Mayor Pro Tem Urdy, Councilmembers Epstein, Larson and Reynolds abstaining.

Motion to Adjourn

The Council, on Councilmember Garcia's motion, Councilmember Epstein's second, voted to adjourn the meeting at 9:53 P.M. 7-0 Vote.

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MAYOR: All right, let me repeat that we need to make sure the aisle ways are unobstructed and that we have clear passage for Fire Code purposes. We need to get as many people seated as possible. If I could, we have a lot of people here, let me make the same appeal that I did Monday, we have some issues to deal with and it is critically important that the Council and the public work together. We understand the sentiment that is here and we hear you. We do have some business we must conduct so at this time I will call to order the Austin City Council Meeting, Special Meeting, of March the 18th. We have on this agenda three items and I am going to call the first one and ask for our Legal counsel to give us recap of what has happened in the legal arena for the last couple of days and then I will call for a motion and obtain Council consideration on that issue. The first item, which is a repeat of the item we had Monday is to adopt an ordinance ordering a special election to be held May 22, 1992 for the purpose of submitting to the qualified voters the Save Our Springs Initiative Ordinance. I would like at this point and time to call on Diana Granger to tell us what has transpired over the last few days and what our legal options are today.

DIANNA GRANGER: On March 17th there was a hearing before District Court Judge Jeanne Muerer at that time the Judge issues a Writ of Mandamium ordering the Austin City Council to call the May 2nd Election for the S.O.S. Petition Ordinance. It requires that the election be called by March 18th, 1992. Today the City filed an appeal through the Judge together Mr. Roy Minton who is representing some of the individual council members and asked to reconsider her order and asked to file a motion for rehearing. So there was arguments here by all sides, the judge declined to grant the motion. The City Attorney's Office has filed a notice of appeal with the Court of Appeals this morning after Judge Muerer declined to grant a motion for rehearing. The City Attorney's Office and Mr. Roy Minton on behalf of four of the council members went to the Court of Appeals and requested and filed a motion for leave to file a petition for writ of the injunction. We never had a hearing on the matter, I understand that a judge or some judges read the pleading, read the petition, read the brief as well as those submitted by the other parties and after a few hours what was issued by the Clerk of the Court was a letter to the attorney for the City and for the individual council members which said please be advised that the referenced to the above that the Realtors motion for leave to file petition for writ of injunction this day submitted and overruled. What this means for the City is that Judge Muerer's order stands in effect and it further requires the City Council to call the election today for May 2nd, 1992.

MAYOR BRUCE TODD: Ms. Granger will you please explain the number of votes that will be required to adopt the ordinance tonight and the ramification of not adopting the ordinance by those number of votes.

DIANNA GRANGER: The City Council will be required to call for the election by an ordinance adopted by five (5) votes of the council and it would have to pass on one reading and to do so under the requirements of the Code of the City of Austin five (5) votes have to be taken in the affirmative. If there are not five (5) votes to put this election on the ballot, the City Council could be held in contempt by the Court and which could result in being fined or even

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imprisonment. The sanctions that might be imposed by the court would have to be appropriate for many people to accomplish to end what is in the order.

MAYOR BRUCE TODD: All right, thank you. I'd like to recognize Council Member Nofziger's for a motion at this time.

COUNCIL MEMBER NOFZIGER: So moved Mayor the election on May the 2nd 1992.

MAYOR BRUCE TODD: Is there a second?

COUNCIL MEMBER GARCIA: Second.

MAYOR BRUCE TODD: Second by Council Member Garcia. If there are council members who want to make individual comments I'll recognize them at this time otherwise I'll move for a roll call.

COUNCIL MEMBER LARSON: Mayor?

COUNCIL MEMBER REYNOLDS: And I'd like to say something real quick.

MAYOR BRUCE TODD: Council Member Larson, then Council Member Garcia, then right after Council Member Reynolds. No, no, I meant Council Member Larson first, then Council Member Reynolds.

COUNCIL MEMBER LARSON: I'd like to address the City Attorney, by your statement are you saying that we don't have any option here tonight.

UNKNOWN PERSON: You don't have.....

MAYOR BRUCE TODD: Let me make one statement and I'm going to make it one time, OK this is fine but any other outburst or any interference is something that we will simply not tolerate, period. Strike one. Please help us get through this petition. Council Member?

DIANNA GRANGER: The court has issued it's order Council Member Larson, the order required that you call an election today for May the 2nd, and I think the order is clear.

COUNCIL MEMBER LARSON: Well, let me try again, are you saying that we have no options?

DIANNA GRANGER: Council Member, as a Council Member you are free to decided how you want to vote on this matter, as on any other matters, but there is an order in place.

MAYOR BRUCE TODD: Okay, go ahead.

RONNEY REYNOLDS: I'd like a copy of what is suppose to be passed nothing was delivered to my room, to my office concerning this. I don't know whether the rest of us have what was posted today.

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MAYOR BRUCE TODD: We have copies here, thank you. We had those Monday night. Are there any other questions by Council Members?

COUNCIL MEMBER NOFZIGER: No questions Mayor.

MAYOR PRO-TEM URDY: Hold up Mayor.

MAYOR BRUCE TODD: Mayor Pro-Tem?

MAYOR PRO-TEM URDY: I have no question, but I have a statement and I would ask you to indulge for a moment. I have all of these years try to exercise some restraint here and I've tried to avoid calling names when I've discussed this but you pushed the wrong button this time and you shouldn't do that. Now, we had a meeting on Monday night and we voted on this issue and I cast my vote. I abstained and I said why. And I said at that time also that I have a responsibility to the people of Austin and I intend to exercise that responsibility. In order to get through, you need to understand where I am and how I got here. It will also show you that I have another responsibility and in order to do that cause let me just say that this is where it takes me back all the way back to 1967. Let me tell you what has happened when I heard and nobody called me to court, I have not been, I did go up today voluntarily I have not heard in that court when I heard that there had been an order issued for me to vote today and if I did not then I would be subject to criminal contempt and I knew right then that I would need a good criminal lawyer because I knew where I was headed. And who is going to pay that lawyer? Darryl Schlusser asked that today and I was sort of getting up to here at that point and I told him the same person who is going to pay David Risher, I know David quite well. I was wrong and I'm sorry I said that, but I was mad anyway. The person who is going to pay is the same person who pays for my house note and the same person you know you better talk to and the same person who pays my car note and who personally pays my wife her medical bills. That is who will pay and they will have to suffer through with me for whatever it will cost. I don't know what it will cost and I don't care. And let me tell you why. Back in 1967 or thereabout, I walked up and down these streets of Austin along with thousands of other citizens for one of the purposeful reason was for the right to vote. Civil rights is what we called it in those days and the other was the right to swim in Barton Springs. And a lot of folks in those days went to jail, I didn't. A lot of folks died in those days and I didn't. And you see I sit up here and what it means to me is those people allow, the people of Austin to let me make these decisions all for the cause of those folks who died and those folks who went to jail and then it comes down to Monday and I said I would abstain and you know I abstained and I have done it before on a few things and I tried to abstained and talk about all of these things. Some of them said I do that and there wrong or what ever, all that stuff is wrong, but I abstained, because as many of us have when there is an issue a motion and when you agree with part of it and you don't agree with part of it and I tell you I am incensed, I am incensed that the Austin American Statesman for the editorial in which they talked as if abstaining on that issues was their elective duty and I am incensed at the Mayor, the Mayor who is the presiding officer of this Council to sit up there and consider that there was some scurvy going on because I abstained and I said why I was abstaining and I am incensed that to be true because he said We were suppose to be which was in

contradiction with what the what the City Attorney said to us the other night. All of these things are to be taken no concern as to whether it is right, wrong or indifferent. And I'm incensed about all of that and it takes me back to why I, it is possible for me to be here. It is possible because of all of that and I thought, Mayor, I thought very seriously about that I knew where I was that if I can take advantage of that resolution that allowed me to be here. If I can sit here and then when my time comes that I can say, "No, not me," then I'm going to run and hide. It would be a violation of every trust of everybody to my mother to this point on and I can't do that and I'm not going to do that. I'm going to tell you and I'm going to tell all the citizens of this city and I'll tell the Council and I'll tell the court I have a responsibility to the people of this City who elected me and they elected me to vote on this issue and I voted and I abstained and because of the reasons that I have stated and they are legitimate and everybody who is talking about that made that and that was my vote then and I still because of the fact that the City Charter of the City of Austin tells us that we have sixty days to consider several things, the Charter of Austin, never at anytime did I indicate that I would not follow what dictates in that Charter and you can ask the City Attorney about that meant and she said it. Your adoption by placing it on the May 2nd ballot now? The only one who had the option of taking 60 days to consider what we would do with that ordinance and then at that time we had to pass it or place it on the election ballot and also specified by that Charter we could put other items on there. And I'll tell you we were talking, we were going to talk we never got to that about the other items that we were talking about putting on that ballot. Specifically the 55 million dollar bond election and if you would have gotten to that because some people have said it was scare tactics and whatever I was going to tell you then was not scare tactics, but prepared tactics. I'm the one who is scared I'm not trying to scare anybody and what I am scared of, what I'm scared of is exactly what is happening, much worse then what I ever thought it would be. That's what I'm scared of, I'm scared that I would be placed in a situation that is a violation of my own personal, my own everything that I stand for or to have to at the end where everybody stands that you have to back down. That's what I was saying and I said it specifically I wasn't scared of the bond election I said I was afraid of the same thing happening that always happens. What always happens? I'm 68 years old, born in Central Texas and I've been here all this time. I live in America and I can tell you about what happens and that is what is happening right now. My concern is, where are they clearly? What will be the economic impact of this and any other ordinance? And anything that we do in this City and it is always has been that and it never will change as long as I'm here and we the City Council of the City of Austin have never been stuck in any of those things. We have an obligation to the people to discuss those issues and we have an obligation to if we find there is a necessity to put an item on the ballot if that could clear up some of the pick-it-apart put that on. Read that amendment and I said that on Monday night. And so here I sit, I cast my vote on Monday. I cast my vote on Monday and I said the reason why. Those bonds are my responsibility to the Citizens of Austin and I don't believe, I know I'm not a lawyer and I'm not trying to practice law but I do believe if the court wants to set an election that is the court's prerogative and I don't have anything to do with that, but I don't believe in the United States of America that anybody can order you to vote a certain way at a certain time. Not in the United States of America. If they can, if they can, Mayor? If they can,

if they can, then I don't have any business being here because all of what I have stood for all of my life and I never one time in this country in Central Texas, Austin, Texas African-American and in all the laws that we have had I have never been sent with this criminal sentence, never _____ being in American has and if that is the way it goes then that's the way it goes. I don't believe that, I can't believe that and still it is true that I can not sit here and exercise my right an elected member of this body to in our best interest to vote on behalf of the citizens of Austin then I don't want to be here. I won't be here. And you can stay. If that is the case, because if that is the case and I'm not sure if some people care about that some of those people who are clapping and I've heard you call names tonight and I don't really care, I've noticed what is going on in South Africa today, that is the same thing. That is no different. No, no, and you can boo hoo all you want to. You see I've heard all of that, I'll tell you I have marched up and down these streets with the same folks booing and hooing going on I don't care you can say all of that that you want to but I'm telling you right now and right here I voted on Monday on this issue and I voted in my best to accomplish the best that I could see with what I had before me on Monday and on Wednesday I'll vote the same identical way.

MAYOR BRUCE TODD: Council Member Garcia? Council Member. OK! Folks I am serious if I need to adjourn this meeting I'll do it. Let's listen to what the Council Members have to say and take the vote. Council Member Garcia?

COUNCIL MEMBER GARCIA: My comments will be very brief. I just want to apologize to that Council Member who felt offended by my comments but the newspaper called and I commented candidly like I usually. I feel that the media is the best way to communicate and I, to the general public. So I commented honestly, as honestly as I know how, but if it offended somebody, my apologies. I think the community is concerned about the division of this issue that has been brought before the council and for that I regret it, I regret that it brought this division. Earlier in the evening there was a meeting in East Austin with people talking about crime in that area and asking why other Council did not address that issue because we talked about the Chamber of Commerce Glen, so tentatively and the role Chamber and their businesses and quite frankly, like the Mayor Pro-Tem the call that I have from the community in Place 5 which I represent is for me do to other things that are far more serious perhaps to this community then maybe Barton Springs is. Maybe not. But in the eyes of many of the Hispanics in this community, crime, gangs, killings are far more important and they are wanting me to address those issues. I want to get this issue off this table. Let the voters decide on it. I've talked on it. I hope that whether the election is on May 2nd or August 8th that my office will help to facilitate the flow of information as to what is involved and that is the role that I want to play. I told Council Member Reynolds when we talked about this we passed on a vote of 6 to 1, we passed an ordinance to protect Barton Creek, Barton Springs and they have tackled it. Obviously the people did not think that that ordinance went as far as was necessary so they took it up on their own a right that they have by City Charter, so, I view my responsibilities to the one as facilitating that process, period. And like I said earlier it is in the process and it was a heated process, when some of you have helped to speed up the process some and that is fine, that's the American system, like I told you

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all on Monday I love the way people in this country deal with the issues. I am quite disappointed with the number of you that vote. Today in South Africa 85% of the people voted. 85% of the people voted! On an extremely emotional issue, much more emotional then Barton Springs, Barton Creek and the Edward's Aquifer and they resoundingly an all white population, because they don't allow Africans, Black Africans to vote. In a resounding manner they did away with most, most, most of the provisions of apartheid, but there is still some things that need to be worked out, but those people realize that apartheid was tearing up their country and that they needed to do something about it and what an enlightened way to show it, 85% turn out in an resounding support of Prime Minister De Clarke. I think that you need to learn a lesson from the South Africans of white minority in South Africa and proceed in a democratic way to address the issues that are before us. Thank you Mr. Mayor.

MAYOR BRUCE TODD: Council Member Larson?

COUNCIL MEMBER LARSON: Thank you Mayor. I just got back in town about an hour ago and maybe it is a good thing for me that I haven't had a chance to read the paper or I might be as upset as Dr. Urdy is tonight. But I haven't had a chance to look at the paper for the last couple of days and I'm not upset yet. I do want to say that I find it interesting that a Judge, I don't know the Judge but a Judge who thinks that she is going to make up our minds for us on how we are going to vote. I guess that is not why I decided to run for City Council so that I can sit here and let somebody decided how to vote for me. That's my own perspective but not having read the papers yet I won't make any further comment. And I can't add much to it really from what Dr. Urdy had to say. I just want to say this and I hope that the whole city realizes it tonight as I do. I have a new understanding on just how lucky this city is to have Charles Urdy as Mayor Pro-Tem. I don't think that there is anything that I could say would anything to what Mayor Pro-Tem's statement already had, so that's all I have Mayor thank you.

MAYOR BRUCE TODD: Council Member Epstein?

COUNCIL MEMBER EPSTEIN: Thank you Mayor. There are several issues before the Citizens of Austin today as we get stuff by the City Council. It is the date that we set an election for the system dutified by the citizens of this community not the substance of the petition but the date that the election will be held. The other issue here is concerns us today is that a Judge has determined that election must be set she is further telling this City Council that we are the ones that must set it and we must set it at a certain time for a certain date. Now if the Judge who really believes as a matter of law an election must be held on May 2nd, then that Judge should exercise her authority vest in her by the State of Texas in her seat to set that election. That has not what has happened today. The Judge says that we must do it but doesn't tell us to do it. The people of this country, the men and women of this country have fought to long and too hard for the right to vote for a group of Council Members to and the citizens of this community will have that right to vote granted by the City Charter and in the State Constitution. I owe a debt of gratitude to the Freedom Fighters who have given us this sacred opportunity and I will not in the spare of the moment blow away the right of the Citizens of Austin who

elected me to evaluate information and who have entrusted me to make a decision with making that decision I will not let a moment go by and throw all of that away. Nobody, nobody, nobody is going to tell me how to vote. On Monday, we asked the City Attorney to public state what her opinion was as to this Council's latitude in setting an election date. We did more than confer with the City Attorney. The City Attorney brought in private legal council in Austin who has advised us on numerous matters and brought in a firm from out of town, but in State to advise us. One voice was heard when the question of a date of an election arose and the date mentioned by the opponents was August. You remember that when I asked the City Attorney to for the purpose of letting the public know what their position was what in fact we were authorized to do and not to do and she made it very clear that in her opinion the May date was nowhere mandated by law. I asked her before she made that public statement to explain it to me because I didn't understand that that was clear from within the City Charter. The City Charter as has been stated many times now talks about the date in two separate items. It says that we have after a Clerk certifies a petition 60 days to review that petition and if we choose we can make it law without the voters or we can take that whole petition, analyze it, which I know I haven't had a chance to look at it since we've gotten certified. We have 60 days to make that decision. And then you have 90 days just to put it on the ballot. Is this so confusing about that section of the City Charter is that 60 days and then 90 days is an "or" in between those clauses and it's hard to tell if the 60 days really means 45 days or do you have 90 days for the whole thing. It is all very confusing. So I asked the City Attorney to clarify that and she handed me a copy of State Law Section 41.005 accessing that she and the Attorney that she met with agreed upon that we would be operating off of this section and it was not the City Charter that was used, the City Charter combined with the State Law that she used to justify our latitude in setting an election in either May or in August date. Section 41.005 says this and I'm going to read it to you. This is the State Constitution. If a law outside this code, that is outside this State Constitution requires the general election for officers of a political subdivision to be held, that's not an election for officers, but an election that we set, to be held on a date other than a uniform election date the governing body of the political subdivision shall set the election date. That in the City Attorney's opinion is what gives us the latitude. It's not as clear as mud to me that that works, but the Attorney thinks it works. Attorneys can be wrong, but we have three sets of attorneys and they all agreed on it and they were attorneys that are staffed picked. So that is hard for me to take that advise when it's jives so beautifully with common sense that some being that the City Council could just be the authority to make decisions and that it is something that must be done that has to be done that a court determines has to be done then the court can set that. The Court has not taken that option. And I will not be a puppet for the Judge who lives outside of Austin.(?)(?). I mean no disrespect to the Judge here that I believe was acting in all good will, but I don't believe that it makes any sense in the United States of America for anybody to tell elected officials how they make vote, when they make vote. That is not the way this country operates. That is all I have to say.

MAYOR BRUCE TODD: Council Member Reynolds. Council Member Reynolds.

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COUNCIL MEMBER REYNOLDS: Mayor, I would like to make a couple of comments, and this morning, I have calmed down a little bit but I want to hear some information and I want some explanation. I never viewed what the paper has said and I have also never talked about another Council Member and I have talked in private but I have not talked in public to the media concerning my concerns. Nor do I make accusations. I was told and this will be the exception, I was told by the reporter that somebody said that our vote was orchestrated and if you read my quote that said this is absolutely incorrect, let me explain. That is not what I said first. I said it's an absolute lie and I was mad. And then I backed up and I said did one of my council members say that. And they said yes. I said that is not correct the means to say that in public and my disagreement with a council member and so I changed it to say absolutely incorrect. I tried to tone it down. But when it says that Mayor Bruce Todd said he believes the controversial abstentions by Reynolds, Louise Epstein, Bob Larson and Charles Urdy were planned before the vote and approached and I haven't asked the Mayor if the quote is correct, that was orchestrated and choreographed right down to the final curtain call. He said it's hard for me to believe that they didn't talk beforehand. I did talk to Bob Larson at 6:00 that evening. I was talking to him about what he was going to do and I was also encouraging him to go through the process. He said well, I'm leaning toward the May vote but I will at least listen to the public and see what they have to say and then what did the public do and there is a picture in the Statesman and I meant to say Thank You Statesman for taking a picture of me with my hands in front of my eyes. I appreciate that. You know, I started at 6:45 that morning and I was tired, but the picture said it very well, it said, people trying to convince Bob Larson to vote a particular way raising recall signs at the same time. Are you trying to intimidate people is that the only way that we work in Austin, Texas. This is not right, it is not right. At 9:00. I thank you for waving those dollar bills right there, you're doing real good and I'll just tell you what my son had to say about that. He read an article in the Chronicle and it said that Reynolds, subject to the fact that he is lining his pockets and he ran across to me and said Daddy if your lining your pockets then why are we so poor? Now, that meant something to me. This is not right. Now I have to sit up here and take this particular abuse I had an ex-council member come up to me, excuse me he called on Tuesday and wrote a little note that said what happened last night is the reason I didn't run again. There is something wrong that we are doing in Austin, Texas that bothers me and it really bothers me because I was born and raised here. And in fact my first relative was here in 1839. So all of you people that want to roll up the fences and not let anybody in, take a hike, because I'm tired of it. I'm tired of it. Now.. That is correct somebody said

MAYOR BRUCE TODD: Quite down now and let him finish his comments.

COUNCIL MEMBER REYNOLDS: you just like this place because it's clean. Let me give you one more quick story. I was born and raised here. I left Austin because there were no jobs in 1970. I went to work at a CPA Firm in Houston. The largest CPA Firm in the world, I worked there for 10 years, I got married I had a four month old baby, a three month old baby at the time and I walked in and I said, I'm going home, I'm going back to Austin. I had a mortgage on our house, I had a wife not working and a three month old baby and I

turned around and they said do you have a job? I said no, but I'm going home. I came home because of the clean air, because of the clean water and I came here because of the park and the swimming pool and I do not appreciate and there is nothing I can do about the under stance of some people, but I do not appreciate being called anti-environmental when I'm doing my best to balance the environment with the need of creating jobs because remember when I left in 1970 I could not get a job in Austin, Texas, although I could get a job with the largest and renown CPA Firm in the world in that particular time. That bothers me, we have got to do something the right way and Mayor the reason I bring this particular thing up here and I said that I talked to Bob at 6:00, I was trying to find out where he was and then about 45 minutes before we voted I walked out in the back and I talked to him and I said you know, what are you going to do. Dr. Urdy was there as well. We heard what Dr. Urdy was going to do and I knew what I was going to do and Bob said and he was stalling a little bit but he said I really haven't made up my mind, but I have been listening how the presentations are. When I sat here and when the vote came down until the vote took place, I didn't know where Bob Larson was going to vote. I did know where Dr. Urdy was going to vote, I did know where Council Member Epstein was going to vote and I knew what I was going to vote, but I didn't know where Bob was going to do and I figured he would go for the May as he has said before and for that reason is the reason we had on the agenda some amendments to be put on there. Hastily called. Radically called. Real problem. That we have to try to do something to let in my mind the people know what the problems where. We have an obligation we've said. And I think we need to hold to that right there, the first line we forget or the second one, excuse me, we have the option of passing it in 60 days. We have the option of issuing an ordinance without amendments in 90 days. And we have the option of a putting it on the ballot with an alternative ordinance. Who gave us to who picked the last part away from us. Who picked the first part away from us. There has been discussion among the Council to initiate it immediately there have been some concerns, real concerns about this ordinance but if not done immediately there may be ways in which to make adjustments. Somebody says okay can it be done in two years? Maybe three, maybe not three. All I'm saying is the Judge, now let me back up, I'm going to agree with her right there and I apologize for running on but I'm getting some things off my chest. Now we hired an attorney, we hired a criminal attorney because we were told that this could be criminal complaints filed against us. There is a statement out there and I have already heard it, and heard it. Well you've got one of Jim Bob's attorneys. No. No we've got the best criminal attorney that there is in Austin Texas and that's Roy Minton. And let me also state to you that the attorneys, our attorney did not mention that the City is also represented by outside counsel, Barney Knight. I want to let you know that we are being represented both by the City and we were represented individually. Why were we represented individually? Because also in the paper it starts talking about excuse me at the in the paper about what the Mayor said that the intention may have been reason for the vote the way they were. We, let me back up, I voted to abstain because I wanted to vote for continuation of the process that I did not want to vote I did not want to vote against the initiative. I had not made up my mind until tonight and my administrative aide who is sitting right over there he knows that is the truth and I have my family in the audience and I have been kind of watching how I should vote based a little bit about you know are they really worried because this is a serious, serious thing that I

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clearly should not do. A judge has the right to order anything that he or she wants but a Judge does not have the right to tell a legislator how to vote an issue. If this Judge wants to issue, if this Judge wants to say the election is such and such a date she has the right to do that, but she does not have the right to take these options away from us and let me give you two or three real concerns that I've got concerning the ordinance. And maybe we can put something with the amendment to it. I'm concerned that water and wastewater lines, sewer lines can not be fixed if they are too close to the creek. Is that what you want? I'm concerned if we are required to have a variance to clean up Barton Creek, excuse me Barton Springs because of the flood or because of the dredging because it is in the creek you will close Barton Springs for two years because this ordinance says there can be no variances. I ask for a City Attorney's opinion on this because this has been going around she does not have enough information at this time to give that opinion so I need to know that. Because I don't think these people out here want to close down Barton Springs for two years. I don't think you do. And if you vote, if you have without some amendments or something else on the ballot you have the potential maybe of closing down Barton Springs for two years. Let me go to the last one. There are a number of issues, but under the ordinance if your business let's say a small 7-Eleven, a small 7,500 hundred square foot apartment, 3,500 hundred square building or anything larger than that if it burns down, if it burns down, you can not rebuild it based upon what I have read in the ordinance. I haven't had time to follow up on that as well. I hope I'm wrong on all three. I hope I'm wrong, but at the present time I do not have the answers. We have an obligation and a responsibility to all the citizens of Austin and let me follow up and say, pity the herd, what is the rush. We, nobody said that we were not going to call an election, but we did say that we need to go through the process and I respect you for your opinions. I respect you for going out and getting signatures and I commend you for doing that, but nobody took the right that we have to make sure the public understands what we have. It's my understanding and what was my goal is that we took the petition that it is now been presented and remember we got this on Friday evening. Today is Wednesday, five days in which to take that ordinance as presented by S.O.S. send it back to the board and commissions and have there opinions on it, bringing it to the Council and we need to either vote it up or down and if we have to vote it down and no amendments then we have to put it on the ballot. That is the Austin way and that is what we were elected to do and the process that we were elected to do and I believe that we need to stay with that process we need to make sure we are doing it right and Mayor I hope that I don't have to stay in jail too long.

MAYOR BRUCE TODD: Council Member Nofziger.

COUNCIL MEMBER NOFZIGER: I thank you Mayor. I'd like to start off by addressing one of Ronney's points about what is the rush. Well there isn't a rush really but this City does have other problems to deal with other issues before us certain issues and as I have stated earlier I think it would be a good thing for our community in general to go ahead and resolve this issue just as quickly as we can. There is no reason to delay, no good reasons for delay at any rate there maybe some reasons that some of the developments chance an present an opportunity for them but there is no good reason to delay it and I will give you a great example. Council had it's work session every Wednesday,

and we had a work session scheduled for this afternoon that has been scheduled for weeks in advance at 1:30 p.m. and the topics of discussion at the work session is police and city finances. Two pretty important topics. I think everyone would agree. When 1:30 p.m. comes the Mayor, Council Member Garcia and myself were the only council members there to discuss those topics. Where were the other Council Members? Well two went off on a junket together to Florida and the other two we learned were sitting in Judge Muerer's courtroom with their counsel that they had hired outside council and they were not going to be available to attend the work session on police and city finances. Our City Attorney advised that you should be in attendance at the Judges chambers and so we had to cancel that meeting a work session on police and city finances so you could go deal with this matter. Now that is one of the reasons that it would be very good no matter what side your on that we go ahead and take care of this matter so we can go onto other issues. A couple important issues coming up in August we are going to be in the middle of the City Budget that is a billion dollar issue. Very important, and I would sure like to see the Council Chambers this full when we adopt the budget because it is that important of an issue. There is another very important issue of August the 8th and that there is a bond election for some repair and up-keep of this City that we sorely need, we've gotten way behind on parks maintenance, on road maintenance and on other things that it takes to keep a city of half a million people running. That is a very important bond election and there has been an on-going effort to have this election delayed so that it will fall right in the middle of budget, that it will overshadow that huge issue and that it will overshadow and have an impact on the bond election. That is bad public policy. That is terrible public policy and you have the option to go ahead and set a May date that will resolve the issue so that we can get onto other issues. Water quality is a huge issue. I have been fighting for water quality in this town for 13 years that I have been running for office. And I still believe that it is important and I surely want to take the time to make sure the citizenry knows that it is important, so that they know what they are voting on, but we have been talking about this very intently for the last two years. There have been task forces, there have been subcommittees there have been a lot of players, the people are ready to vote. So that is the reason really folks that we ought to go ahead and do this thing. Now we heard some pirate speakers tonight. But I'll tell you there is nothing noble in going to such extremes then coercing _____ people. There's nothing. And the talk we've heard tonight about by God no Judge is going to tell me how to vote after people have fought and died. I've been sitting on this council for five years and I have cast a lot of votes never has a judge told me how to vote. The only time it has happened and this is how extreme this is people you better be concerned because this is an idea, this is just how extreme this is is that a Judge had to tell this Council to follow the law. Yea. That is the only time, that's the only time. Now Dr. Urdy has been here longer than I and maybe he has voted in the past since he has been here since '81 under a court order to do the right thing but, in the five years I have been here that has not happened. There is no coo by the judiciary here in Austin, that is not what is happening. What's happening is a Council majority that is going to great extremes, extremes, I mean voted against the charter and their State law took it to the appeals, the appellate judge says and it took about three minutes to decide, she says you have to call the election that's clear. The Council majority wouldn't accept that hired the developers attorney to go

back to that same Judge and ask for a rehearing. I was there this afternoon at that rehearing, it took the Judge about a minute to decide. Now here they appear to the next court for the Third District of Texas then we get to the Judge there folks and a Clerk decided. So, so, there's still an extremely unusual situation, I've not been here as long as Ronney, but I've been here since 73 and I've never seen anything like this where a Judge is telling us to follow the law and apparently we have some Council Members who are not going to do that and here is the thing that you've got to be concerned about you've got to be concerned at the length to which some people will go to serve the developers. It's that serious, it's that extreme. We are seeing it happen here, it's not a pretty site, it's not going to be pretty over the next couple of months. No, no. I'm telling you that what you are seeing here is a disappointment to me frankly. This is something that I would not have thought that I would have witnesses here in Austin, Texas. It's very unusual, it's very extreme, it's very scary and there is not anything noble about it.

COUNCIL MEMBER BOB LARSON: Mayor if I can answer one question about the work session today and the insinuation about maybe some Council Members aren't interested in the crime problem. My assistant was prepared to be at that meeting and take notes for me and to also tape it so that I could watch the tape when I returned to town and I just wanted to change the inference that maybe some of us are not concerned about the crime problem.

COUNCIL MEMBER NOFZIGER: Well we didn't have a quorum.

MAYOR BRUCE TODD: Okay, let's go to Mayor Pro-Tem Urdy.

MAYOR PRO-TEM URDY: All right, thank you Mayor. I think the audience is hearing about things that happened earlier that I simply am going to have to respond to and that just for me. It's 1992 and I can not believe that in this City of Austin, 1992 that the citizens find it applaudable to 85% of a white minority in South Africa voted to start to unravel apartheid. In 1992. You think that's great? I think that's appalling.

UNKNOWN PERSON: Well at least they are getting around to it.

MAYOR PRO-TEM URDY: Yes, and you probably would have voted against it if you had been there.

MAYOR BRUCE TODD: All right now calm down, let Dr. Urdy finish his comment.

DR. URDY: Now Max, I'm going to have to tell and I don't want to go into that but I was there in 76 and I was there when all of these folks _____ and all of this junk about the developers I've known Roy Minton longer than anyone in this audience, I've known him the most. He is a good criminal attorney. And this afternoon let me tell you, I needed a good criminal attorney. I resent all that stuff about hiring the developer's attorney, I don't know of any developer's attorney that I know of. And the state of what I said is I'm tired of the personal insults and I'm going to tell you that why I say that because I'm telling you, I'm telling you, I'm telling you and I'm

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staring in your face of what some of our leaders have said could be criminal contempt citation and I'm telling you that that on the blood of a whole lot of folks that I love that if the penalty is handed down, I'm still going to do the same thing.

MAYOR BRUCE TODD: Council Member Garcia.

COUNCIL MEMBER GARCIA: Just a brief comment. I agree with the Mayor Pro-Tem that it is despicable that we have to wait until 1992 to see South Africa, that government start to dismantle apartheid but it is encouraging that we have leaders like President F.W. De Clarke to have the courage in the midst of a lot of threats to stand up and say I will take the leadership and that is what I was referring to, I was not referring to the fact that 1992 was a good year.

MAYOR PRO-TEM URDY: I understand that.

COUNCIL MEMBER GARCIA: All right.

MAYOR BRUCE TODD: Council Member Epstein.

COUNCIL MEMBER EPSTEIN: Thank you Mayor, I'm very distressed that what I'm seeing here today, Council Member Larson and I went to a military base to see what could, the people who defend this country do and to see what a military base could be.....

MAYOR BRUCE TODD: Okay, let her finish.

COUNCIL MEMBER EPSTEIN: We saw a beautiful military base among other things a civilian prison. We saw, we went with approximately 35 other Austinites, people who are on the advisory board, people from the Bergstrom Conversion Task Force, people from the Bergstrom Community Council. We saw a lot. I came back to hear the shot fired from the mouths of Council Members at one another, and I choose not to read that paper before I came to this meeting but we are seeing more of it right here and I don't think 1992 is the year that we have a total break down in communication on the Austin City Council. I look forward to the fresh start when this City Council took over in June. I heard about the consensus building by you two and our Mayor, but I don't see this, all of us moving away from the issues and attacking one another and I think Council Member Reynolds is an example of the best one and that is not to take shots no matter how they are encouraged to by the media, not to take shots at one another in the newspaper. This is not the place for that either. What happened to the consensus building skills that we are so willing to sit through our downstream neighbor, where are those efforts. Some members of this Council are, all of us from time to time have made tough decisions but you think and argue are the right ways to get to the same destination to have a better city. I think that is what all of us want. But I think when this body reverts to a mob mentality and ceases to use logic, the argument itself, persuasive techniques and resort to name calling, using the media as a tool to manipulate a mob that we do not deserve to be called the leaders of this community. Certainly we are not worthy now and wouldn't expect the voters who elected to do anything except for what is in the best interest of this community. I believe that it is in the best interest of

this community to deliberate carefully about all the decisions that we are going to make. Look at the issues, to analyze the issues. Use all of the assets that we can to make the right decisions and to discuss these openly and fairly and to respect the differences of opinion on this council that are the essences of our strength. You can appreciate that each one of us was brought here by the community and each one of us has a different perspective and together we can make the best Austin that we have ever had. As we leave these chambers today, let's promise ourselves that no matter what happens or what disagreements we will work together for a fine future for this wonderful community that all of us love. Please remember that and ask and remind your leaders on the dais, because we forget and when we get embroiled in the heat of the battle that you want us to represent you to some degree of respect and dignity and I think we will do a better job in the future.

COUNCIL MEMBER REYNOLDS: Mayor?

MAYOR BRUCE TODD: Council Member Reynolds.

COUNCIL MEMBER REYNOLDS: Let me just make one comment and one statement. There are some people over here that are doing a great job of trying to have the quorum and respect and I respect you for that. You are trying, no clap here we are going to have some differences of opinions but I hear that some people and I don't know who they are but I'm not looking to find out but there telling people hey, cool it, calm down and relax and just have and don't do the cheers. We have got to change the way that we do business at City Hall. And one of those ways is to say let's have respect for each other. Just like this now, you clapped because it was just the opposite of what I was just saying or just thought but that's okay and I didn't respond or try to be critical by but I will tell you that we have got to gain some respect in here. There needs to be respect going both ways and I acknowledge that but as we go and I appreciate Council Member Epstein when she said as we leave here we need to work towards seeking out a way to do legislation without the bark and with that in mind I may acknowledge a problem that I had today, something that I did with Council Member Garcia who I was extremely upset with him today he came by to talk or came by to walk me out and he reached out his hand to shake my hand and I refused to do that and I want to apologize for that because there is no reason and there is no rhyme for that I was furious and I understand that and he got my impression that I was. But there is still no call for that and I want to apologize to Gus for that and as we leave here I will come and if he will shake my hand we will go from there.

MAYOR BRUCE TODD: At the conclusion, is everyone finished with their comments? At the conclusion of my comments we will call for roll call vote. That vote is not going to please everybody in this room and it is going to be a test of this council and to this audience to see how we handle this and to some extent that test starts tonight. I'm going to ask after that vote is taken that you all be respectful at each other as you depart from this chamber and try to exercise the common courtesy that almost every member of the Council has talked about tonight although we are not very good about following our own advise a number of times. Let me say to Dr. Urdy and Council Member Reynolds if you take offense to the comments in the paper I do apologize I have no reason to believe

that anyone was engaged in any sort of violation of the law and whatever discussions that may have taken place. I was angry about the failure to appear for the meeting on Sunday and for the vote on Monday, but I have no reason to believe that you acted in anything other than in good faith in terms of the way you cast that vote. I disagree with it, but that is your right. Let me talk though about this issue and what it means to our community and the sort of test that this is for the community and for the council. I have been here since 1968 and thought that Austin was the only place that I thought I wanted to live. When I got out of college, like you Ronney I sort of made that decision about leaving and if things were different, but it was much more profitable to leave but choose to stay for all the same reasons that everyone in this room has chosen to live here. The beauty of our environment, the friendly people, the relatively cooperative spirit that we have had and I use that word lightly. I have been through devices of debate that Council Member Garcia, Dr. Urdy and others, there Housing Ordinance Debate, the South Texas Nuclear Project debate, I was in the very middle of that serving in the City Commission, the Airport Debate, the Airport Debate and the Airport Debate. And those things are part of the devices, friends, there is no dishonor in disagreeing with each other. There is absolutely no dishonor in that. You can hold up your signs for recall, you can hold up your signs that verge on profanity if you would like but there is no dishonor in disagreeing with what people have to say as long as they say it with honesty they seek their convictions and they vote their convictions. You have, there has been a lot of talk tonight about what the courts have said or not said. Well the only court that really matters is the court of public opinion and through these last four or five days this council has not done much to _____ and educate and provide assistance to that court of opinion in making a very difficult decision. If anyone tells you that this ordinance that we are living under today is not without problems and complexity, if the S.O.S. Ordinance is not without promises and complexities, they are wrong. Any ordinance that we have that affects the rights of people, individual land owners and the rights of the public is wrong. They are complexed and there is room for disagreement, but the truth of the matter is however this vote comes out and whatever happens to be the ordinance there is more at stake then just the environment and I am not trying to minimize that in anyway, but what is at stake is how this community believes in each other. I did run as a consensus Mayor and I feel today that I have not been very successful in achieving that purpose. That this date and this issue in the way we handle it from this day forward may have much more to do with what our community looks like and feels like to the other people coming into town then in the next year, the next ten years and beyond then just this one particular issue. I am convinced that this community will ultimately, because the people will demand it, require us to prevail on our environment. I think that feeling is growing and it's not growing just because of the people in this room it is there because it is a city wide and a nation wide demand that whether we are talking about toxic waste dumps or we are talking about foiling our dishes or we are talking about the Aquifer there are people that are not going to let us get away with that anymore and they ought not to let us get away with that anymore. But what the fact is, it's more than just that issue it is what are we going to do as a community. When I talk to people around the country and we've got the Chamber of Commerce that is working so hard to make sure that we recover from the problems that we had in the ways, out of regular subsidize work that they do, the Real-estate Council and other

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people all working for our effort a lot of what we hear from people who live Austin is I'm living here because of the environment, it's so nice, because it's a great place to live. They also talk about the friendly people. I'm not sure they could see us that way tonight and think that we are very friendly people. And we've got to do something about that. The healing must begin and it must begin now or we will never be able to appropriately and satisfactorily address the issues. So let's try to do what are parents have taught us. That is not a hard thing to do. Let's try to remember that other people have the right to different opinions and they have the right to lobby successfully those opinions and they have the right to elect or un-elect us, me included and that right comes at the ballot box. We ought not to have any fear of democracy. That is what we are trying to set in motion tonight. And I would hope as I refer to _____ that that love for democracy and what we can do would apply to everybody in authority regardless of how you feel about this particular singular issue. And I would call the vote. Call for the roll right now.

MR. ALDRIDGE: Mayor Todd - Yes
Mayor Pro-Tem Urdy - Still Abstain
Council Member Epstein - Abstain
Council Member Garcia - Yes
Council Member Larson - Abstain
Council Member Nofziger - Yes
Council Member Reynolds - I Abstain

MAYOR BRUCE TODD: Okay, let me finish the business please. There being, there being, there being three ayes no no's and four abstentions the motion fails. Is there a motion to adjourn?

COUNCIL MEMBER GUS GARCIA: I move.

COUNCIL MEMBER LOUISE EPSTEIN: So moved

MAYOR BRUCE TODD: Moved by Council Member Garcia, seconded by Council Member Epstein all in favor say aye. "AYE". We are adjourned.

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