

City Council Chamber, City Hall, Wednesday, November 12, 2008

A Regular Meeting of the Houston City Council was held at 9:00 a.m. Wednesday, November 12, 2008, with Mayor Bill White presiding and with Council Members Anne Clutterbuck, Wanda Adams, Mike Sullivan, M. J. Khan, P. E., Pam Holm, James G. Rodriguez, Peter Brown, Sue Lovell, Melissa Noriega, Ronald C. Green and Jolanda "Jo" Jones; Mr. Arturo Michel, City Attorney; Mr. Harlan Heilman, Division Chief, Claims & Subrogation Division, Legal Department; Ms. Claudia Vasquez, Director, Citizens Assistance Office; Mr. Anthony Hall, Chief Administrative Officer, Mayor's Office; Ms. Martha Stein, Agenda Director and Ms. Marta Crinejo, Assistant Agenda Director, present. Council Members Toni Lawrence, Jarvis Johnson and Adrian Garcia out of the city on city business.

At 8:32 a.m. the City Secretary read the descriptions or captions of items on the Agenda.

At 9:26 a.m. Mayor White called the meeting to order and stated that Council Member Clutterbuck would lead all in prayer. Council Members Sullivan, Holm, Brown and Jones absent.

At 9:26 a.m. Council Member Clutterbuck led all in the prayer and pledge. Council Members Sullivan, Holm, Brown and Jones absent.

At 9:27 a.m. Mayor White requested the City Secretary to call the roll. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Sullivan, Holm, Brown and Jones absent.

Council Members Khan and Green moved that the minutes of the preceding meeting be adopted. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Sullivan, Holm, Brown and Jones absent. MOTION ADOPTED.

Mayor White stated that there was a public hearing and an issue of appointments and a number of those people were present if those two things could be taken before the public session. Council Members Sullivan, Holm, Brown and Jones absent.

Council Member Green moved the rules be considered for the purpose of considering the hearing and Items 2 and 3 at this time,, seconded by Council Member Khan. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Sullivan, Holm, Brown and Jones absent. MOTION 2008-0835 ADOPTED.

Mayor White stated that they would move to the public hearing. Council Members Sullivan, Holm, Brown and Jones absent.

### **HEARINGS - 9:00 A.M.**

1. **PUBLIC HEARING** on proposals for the City of Houston to enter into separate strategic partnership agreements with the below named districts in Harris County and Fort Bend County; on separate proposals by the City of Houston to annex for limited purposes certain territory within said Districts and certain territory in the vicinity of certain Districts; and on separate proposals by the City of Houston to amend the regulatory plans for limited purposes of certain territory in the vicinity of certain Districts:
  - a. Amending the existing strategic partnership agreement with **Chelford City Municipal Utility District;**
  - b. Amending the existing strategic partnership agreement with **Harris County**

- Water Control and Improvement District No. 36;**
- c. **Addicks Utility District;**
  - d. **Harris County Municipal Utility District No. 500** involving the Towne Lake Management District;
  - e. **Harris County Municipal Utility District No. 501** involving the Towne Lake Management District;
  - f. **Harris County Municipal Utility District No. 503** involving the Towne Lake Management District;
  - g. **Cinco Municipal Utility District No. 2;**
  - h. **Cinco Municipal Utility District No. 5;**
  - i. **Harris County Municipal Utility District No. 49;**
  - j. **Harris County Municipal Utility District No. 71;**
  - k. **Harris County Municipal Utility District No. 106;**
  - l. **Harris County Municipal Utility District No. 144;**
  - m. **Harris County Municipal Utility District No. 165;**
  - n. **Harris County Municipal Utility District No. 166;**
  - o. **Harris County Municipal Utility District No. 278;**
  - p. **Harris County Municipal Utility District No. 371;**
  - q. **Harris County Municipal Utility District No. 383;**
  - r. **Harris County Utility District No. 15;** and
  - s. Amending regulatory plans for certain territory previously annexed for limited purposes located in Harris County and Fort Bend County, located in the vicinity of various municipal utility districts and other similar entities as listed in the ordinance

The City Secretary stated that Ms. Margaret Wallace would make comments on the hearing; and stated that no one had reserved time specifically stating they were reserving for this hearing and upon questions there were gentlemen who indicated they wished to speak and the City Secretary stated that they would be called upon after Ms. Wallace made her comments. Council Members Sullivan, Holm, Brown and Jones absent.

Ms. Wallace stated that for Chelford City Municipal Utility District the City would amend the existing agreement by adding new territory, that there was no territory outside the MUD to be included in the annexation, the area was entirely commercial, there were no residents, that the City would levy a 1% sales tax, which it would divide evenly with the utility district, the City would enforce the fireworks ban in the area to be annexed and it would not provide any other public services; that for Harris County WCID No. 36 the City would amend an existing agreement by adding new territory; there was no territory outside the MUD to be included in the annexation, the area was entirely commercial and there were no residents, that the City would levy a 1% sales tax, which it would divide evenly with the MUD, the City would not enforce the fireworks ban in the area to be annexed, nor would it provide any other public services, that for the following districts the City would execute a new Strategic Partnership Agreement, there was no territory outside any of the utility districts to be included in the annexation, the areas were entirely commercial, there were no residents, that the City would levy a 1% sales tax, which it would divide evenly with the utility districts and it would not provide any other public services; that these districts included Addicks Utility District, Harris County MUD 500, Harris County MUD 501, Cinco MUD 2, Cinco MUD 5 and for the following districts the City would execute a new SPA and there was territory outside the District to be annexed, the Districts were entirely commercial and there were no residents; that the City would levy a 1% sales tax, which it would divide evenly with the utility district, the City would enforce the fireworks ban on the area to be annexed and it would not provide any other public services; that these districts included Harris County MUD 49, Harris County MUD 71, Harris County MUD 383, Harris County MUD 106, Harris County MUD 166, Harris County MUD 144, Harris County MUD 278, Harris County MUD 371, Harris County MUD 503 and Harris County Utility District 15; that for the following District

the City would execute a new SPA, there was territory outside the Utility District to be included in the annexation, the area was entirely commercial, there were no residents; that the City would levy a 1% sales tax, which it would divide evenly with the MUD, the City would not enforce the fireworks ban in the district territory to be annexed but would in the non District territory in the vicinity of the District, it would not provide any other public services and that was Harris County MUD 165 and in addition for all existing regulatory plans that included, as part of their provision, Chapter 33 of the Fire Code for Territory in the vicinity of, but not part of existing SPA, the City would amend those regulatory plans to read, the City of Houston would enforce Chapter 33, Section 3301.2.2 of the 2000 International Fire Code or any successor chapters, that since the City did not have a zoning ordinance the area would not be zoned and no other services would be provided. Council Members Sullivan, Holm, Brown and Jones absent.

The City Secretary stated that there were two speakers and they were listed on the Speakers List and called on Mr. Jim Pianelli. Council Members Sullivan, Holm, Brown and Jones absent.

Mr. Jim Pianelli, 112 E. 4th Street, Houston, Texas 77007 (713-864-3333) appeared and stated that he was present to voice opposition to the proposed SPA with the exception of MUDS 36 and 165; that he was an attorney representing the Texas Fireworks Association Harris County Chapter, business men and women engaged in the retail sale of consumer fireworks, property owners who lease property to operators who sell commercial fireworks in the impacted areas; and asked that Council consider two issues, first how it displaced lawful, permitted businesses who had been in business in the counties for many years and secondly, the safety; that it was their opinion outlawing fireworks in county areas did nothing to affect, impact or help the City of Houston; that he represented folks who sold fireworks for four decades and each was permitted to sell by the state in the locality in which they operated and all contributed to nonprofit organizations, one of which contributed \$300,000 a year to his local church; that as for safety there was already authority under Chapter 352.51a of the Local Government Code to restrict the sale of certain fireworks when the Texas Forest Service declared a drought emergency in the effective counties; that conclusions for firework fires and safety issues he would ask Council look at the Trade Organizations copulation of data at the American Power Techniques Association which was readily available on the web and the conclusions were for every 100,000 pounds of consumer fireworks there were less than 3.3 injuries for consumer fireworks and fires in Harris County from data provided by the county was minuscule and according to the Texas Fire Marshall State Wide less than 4% of all fires in the State of Texas were attributed to fireworks; and in closing they opposed and asked Council to consider and review once again in opposing all the SPA's which would impose a total ban on fireworks in the impacted area; that they believed Council could accomplish all their goals and concerns if they simply prohibited the sale and discharge. Council Members Sullivan, Holm, Brown and Jones absent.

Council Member Khan allowed Mr. Pianelli to continue; and Mr. Pianelli stated that they thought all concerns could be resolved if they prohibited the discharge of fireworks in the impacted area, but not prohibit the possession or sale in the impacted areas; and upon questions, Mr. Pianelli stated that he was opposed to all except MUD numbers 36 and 165 because agreements in place with those two districts did what he proposed, they did not totally exclude and prohibit possession and sale of fireworks in those districts. Council Members Sullivan, Holm, Noriega and Jones absent.

Mr. Johnny Pate, 5220 Humble Camp Road, Dickerson, Texas 77539 (281-227-5494) appeared and stated that he was present to oppose all districts except MUD 36 and 165; that he had been in business 41 years and lost 6 stands because of the MUD's in Houston deal; that he could not see how outlawing a legal, licensed business could be a service; and again wanted to stress he opposed it. Council Members Sullivan, Holm, Noriega and Jones absent.

Council Member Khan moved to close the public hearing, seconded by Council Member Lovell. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Sullivan, Holm, Noriega and Jones absent. MOTION 2008-0836 ADOPTED.

2. REQUEST from Mayor for confirmation of the reappointment of the following as **Full-Time Municipal Court Judges** for two year terms:

**NANCY J. BAILEY**  
**GLADYS T. BRANSFORD**  
**MARIA E. CASANOVA**  
**GRANTHAM HARLAN COLEMAN**  
**HERBERT GEE**  
**KATHY K. HAN**  
**GORDON G. MARCUM II**

**ESMERALDA PEÑA GARCIA**  
**IMELDA REYES-CASTILLO**  
**LEIGH F. SAINT-GERMAIN**  
**ADAM SILVERMAN**  
**ELAINE M. TIMBERLAKE**  
**FRANCELIA E. TOTTY**

- was presented, moved by Council Member Khan, seconded by Council Member Lovell. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm, Noriega and Jones absent. MOTION 2008-0837 ADOPTED.

3. REQUEST from Mayor for confirmation of the appointment or reappointment of the following as **Part-Time Municipal Court Judges** for two year terms:

**WALTER SCHROEDER**, reappointment  
**SCOTT K. BOATES**, reappointment  
**SHERILYN EDWARDS**, reappointment  
**MARGARET MUNOZ-HARKINS**, reappointment  
**FAD WILSON, JR.**, reappointment  
**CATHERINE N. WYLIE**, appointment  
**DAVID QUAN**, reappointment  
**ANDREW MARTIN**, reappointment  
**ANGELA P. PHEA**, reappointment  
**URSULA HALL**, reappointment  
**JOHN CHASE, JR.**, reappointment  
**SHERRY APPLEWHITE**, reappointment  
**KERRI J. DORMAN**, appointment  
**OSWALD J. SCOTT, JR.**, reappointment  
**JOSEFINA NELSON**, reappointment  
**ROBERT ROSENBERG**, reappointment

**RAUL RODRIGUEZ**, reappointment  
**JACQUELINE MILLER**, appointment  
**JOELLEN SNOW**, reappointment  
**NIKITA V. HARMON**, reappointment  
**ARTURO DELEON, JR.**, reappointment  
**BURHAN NOMANI**, reappointment  
**STEPHAN HONORÉ**, reappointment  
**TRI NGUYEN**, reappointment  
**MARIO MADRID**, appointment  
**LYDIA JOHNSON**, reappointment  
**WILLIAM A. ALLEN**, reappointment  
**MIN UN LEE**, reappointment  
**BARBARA HARTLE**, reappointment  
**AMPARO MONIQUE YAÑEZ**, reappointment  
**MIMI MALICK BERKOWITZ**, appointment  
**HOWARD L. SPEIGHT**, reappointment

- was presented, moved by Council Member Khan, seconded by Council Member Lovell. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm, Noriega and Jones absent. MOTION 2008-0838 ADOPTED.

Mayor White stated that he wanted to thank and congratulate those appointed. Council Members Holm, Noriega and Jones absent.

Council Member Green stated that it was a long process over the past five years as they attempted to redefine the court with judges and today had a great mix of seasoned judges and those who in a short time would become seasoned judges; and asked that they all stand to be recognized. Council Members Holm, Noriega and Jones absent.

Council Member Lovell thanked Judge Mejia for all the work in putting together such a fine group of people and thanked all the judges for taking time to serve their city; and recognized Ms. Kerri Dorman who was her son's Godmother. Council Members Holm and Jones absent.

Mayor White stated to each present and to their colleagues that what they did was important, there were so many citizens who passed through the courts daily with cases or jurors or witnesses and they thanked them for always striving for a degree of professionalism daily; that sometimes it was a heavy burden to be in front of the public where their demeanor and actions and attention to detail in discharging jobs was visible; that each at the Council Table were mindful most of the time of the standard they set for professionalism as it reflected over some 20,000 city employees and there were more people who observed the conduct of the presiding officers in the Municipal Courts daily than any member of the City Council and they were truly representatives of over 20,000 people who worked for this City and the example they set was very important; that they were striving to be the most responsive and efficient as well as lawful court system in the country and it was a challenge; and finally he would say both the Chief Prosecutor and the Chief Judge and to those judges here he would say and ask them to impart that around the Council Table they took very seriously the impact the Municipal Court System and the citations could have on public safety within the community and separate and apart from that involving vehicles, which was the largest cause of death and injury, outside of natural causes within the community there was a whole range of issues encompassed by Neighborhood Protection and the Municipal Courts was on the frontline of those things to create a civil neighborhood environment within the City. Council Members Holm and Jones absent.

Council Member Khan stated that he wanted to thank Judge Mejia and all judges as the City of Houston was grateful to them; that they took the challenge of being a Municipal Court Judge; that they only wanted judges to be just, it affected the lives of many people; and thanked them for their help, time, effort and on behalf of the City of Houston.

Council Member Clutterbuck stated that on a point of personnel privilege she wanted to acknowledge several good people who just joined everyone present, members of the Leo Group, a life enrichment of Houston group which was in its 27th year in Houston, Texas; that they were a group of senior citizens who met at Bethany United Methodist Church; and she was very glad they were present today; and asked them to stand to be recognized.

Council Member Adams moved to suspend the rules to allow Mr. Don Short and Ms. Doreen Stoller at the top of the speakers list, seconded by Council Member Khan. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. MOTION 2008-0839 ADOPTED.

Council Member Green moved to suspend the rules to take Item 4 out of order at this time, seconded by Council Member Khan. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. MOTION 2008-0840 ADOPTED.

4. REQUEST from Mayor for confirmation of the reappointment of **MR. JAMIE MIZE**, to Position One, to **the BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER THREE, CITY OF HOUSTON, TEXAS (MAIN STREET MARKET STREET ZONE)**, for a term ending December 31, 2008 and as Chair for a term ending December 31, 2008 – was presented, moved by Council Member Khan, seconded by Council Member Green. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. MOTION 2008-0841 ADOPTED.

Mayor White stated that he respected the work Manette Basil had done as a leader of this particular board, it had been very responsive to the City and Chair Mize had served a long time and he appreciated the partnership.

Council Member Lovell moved to suspend the rules to add Ms. Olga Moya, Mr. Mark Witte and Ms. Mary Lou Henry to the two minute Speakers List, seconded by Council Member Khan. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. MOTION 2008-0842 ADOPTED.

Council Member Rodriguez stated that he wanted to offer his congratulations to Mr. Mize as well; that they worked closely together and he looked forward to working with him in his new capacity.

At 9:54 a.m. Mayor White stated that they would move to the public session and the City Secretary began calling the public speakers.

Mr. Don Short, 3 Remington, Houston, Texas 77005 (713-529-6621) appeared in support of Agenda Item 35 and stated that the Hermann Park Conservancy had a development agreement with the City and during Phase I the City contributed \$10.3 million and the park through the Conservancy raised \$16 million; that they were now in Phase II with the City and the City would be investing \$10.1 million during this phase and the Conservancy would raise \$35 million and this was the most important part of the fund which was the pairing of MacGregor, not only would they be able to then have easy access to the Medical Center, but also would return 10-1/2 acres of public park space back to the park and all should applaud that, this was important to the park and the City and they supported the pairing of MacGregor which would allow easy access with the Cambridge Bridge and get the park space back. Council Member Holm absent.

Mayor White thanked Mr. Short for his service and for being present. Council Member Holm absent.

Ms. Doreen Stoller, 804 Harold Street, Houston, Texas 77007 (713-524-5876) appeared in support of Agenda Item 35 and stated that she was the executive director of the Hermann Park Conservancy and wanted to thank the Mayor and Council for the amazing partnership they had in restoring the park and pairing the MacGregor's would help restore the historic carriage loop which had the 90 year old Live Oaks which went around the golf course; that this was an amazing partnership success story and the pedestrian underpass was the lynchpin which connected all the various projects and private and public funds.

Council Member Brown stated that he wanted to thank Ms. Stoller for all her work and the great work the Hermann Park Conservancy did and Mr. Short for all his work and efforts related to the park and for them making Houston a much more attractive and livable city; that they were the type of partner the City would like more of and he was very impressed with the improvements to the park which would be a legacy for generations to come; and upon questions, Ms. Stoller stated that they were working hard as they developed the master plan to reconnect to the neighborhood and in addition to the street having trail and pedestrian connections, the pairing of the MacGregor's was important for transportation reasons, they needed safe, high and dry access to the Medical Center and around and underneath the paved roads would have the comprehensive infrastructure for pedestrian and bicyclists which was an important part of the project. Mayor White absent. Vice Mayor Pro Tem Lovell presiding.

Council Member Holm thanked Ms. Stoller for being present and stated that the Hermann Park Conservancy had been an incredible partner and example of contributing and being a part of City improvements; that this was in their plan a long time and she was glad to see it come to fruition. Mayor White, Council Members Adams, Brown and Jones absent. Vice Mayor Pro Tem Lovell presiding.

Ms. Anne Culver, 3015 Richmond Avenue #220, Houston, Texas 77078 (832-385-9924) appeared in favor of Agenda Item 16 and stated that she was executive director of Scenic Houston and they strongly supported the recommendation of the On Premises Task Force to adopt a prohibition on commercial use of attention getting devices in Houston and they joined many management districts, super neighborhoods and business groups. Mayor White, Council Members Clutterbuck and Jones absent. Vice Mayor Pro Tem Lovell presiding.

Ms. Deborah January Beavers, 3015 Richmond Avenue #220, Houston, Texas 77078 (832-385-9924) appeared in favor of Agenda Item 16, presented information and stated that she was executive director of the Quality of Life Coalition and was supporting the ban on attention getting devices; that the On Premise Task Force had done a study on comparative cities who also banned the devices Dallas, Baltimore, Atlanta, etc., and she brought an ordinance Dallas had passed last April if they were interested. Mayor White and Council Member Clutterbuck absent. Vice Mayor Pro Tem Lovell presiding.

Ms. Hedy Wolpa, 3211 Harrisburg, Houston, Texas 77003 (713-928-9916) appeared in favor of Agenda Item 16 and stated that she was present as the interim president of the Greater East End Management District which comprised 16 square miles from downtown to the Port and home to over 85,000 residents, 2,500 businesses and was the oldest and most historic area of Houston and they supported a citywide ordinance banning attention getting devices and thanked the Council for their efforts in beautifying the city. Mayor White and Council Member Clutterbuck absent. Vice Mayor Pro Tem Lovell presiding.

Mr. Bill Gocke, 2600 Citadel, Houston, Texas 77008 (713-866-6098) appeared in favor of Agenda Item 16 and stated that he was over property and risk management nationally with Weingarten Realty and on the Board of the Institute of Real Estate Management and they were in 22 states and in most markets they had property and attention getting devices were not allowed and businesses still did strive and as a landlord they were prohibited in their leases. Mayor White and Council Members Rodriguez and Green absent. Vice Mayor Pro Tem Lovell presiding.

Council Member Sullivan thanked Mr. Gocke for coming; and upon questions, Mr. Gocke stated that yes, the Weingarten Realty he represented was part of the public real estate development; and Council Member Sullivan stated that he had been trying to reach someone within his company for the last two weeks to complain about a property in his district and hit a brick wall and while he was present on opposing the attention getting devices which he also opposed he would like as much attention given to working with District Council Members on issues within their Council Districts; and Mr. Gocke stated that he would resend an email to him which was sent regarding his request; and Council Member Sullivan stated that they were looking for a phone call; that they could dodge by saying email's but they just wanted good corporate citizens who cooperated with them when they were trying to represent their District. Mayor White and Council Members Rodriguez and Green absent. Vice Mayor Pro Tem Lovell presiding.

Mr. Barry Klein, 1509 Edward, Houston, Texas 77009 (713-224-4744) appeared in opposition to Agenda Item 16 and stated that he was with the Houston Property Rights Association and protesting the suggestion of new regulations on property, the proposed restriction of attention getting devices would be a violation of property rights as well as a violation of the First Amendment, the right to commercial speech; and asked that the item be rejected as the esthetic preferences were being cloaked by a concern for public safety. Council Members Adams, Rodriguez and Green absent.

Ms. Olga Moya, who was previously added to the speakers list, appeared in favor of Agenda Item 16 and stated that she wanted to applaud all for taking the issue on and looking at

all pros and cons; that it was time to cleanup Houston from attention getting devices, Council had a great list of those who wanted them banned as they felt they were an eyesore, distraction and visual blight; and urged support. Council Members Adams, Rodriguez and Green absent.

Council Member Holm thanked Ms. Moya and everyone who did so much work and stated that she was very opposed to some of the attention getting devices, but she hoped if this should pass they would consistently look at things as they had other bans; that her greatest concern was they were not banning the devices they were banning specific devices which many did not like, if they were to ban them they should look at them comprehensively and set standards, it was important to be consistent, fair and equitable in looking at things when cleaning up aesthetics; and Ms. Moya stated that she agreed. Council Members Khan, Rodriguez, Lovell and Green absent.

Mr. Mark Witt, who was previously added to the speakers list, appeared in favor of Agenda Item 16 and stated that he was with J. A. Phillip Company, a commercial office and industrial real estate development company, and also an officer of Houston Real Estate Council and present speaking on its behalf; that the membership of the Houston Real Estate Council was composed of real estate development and management companies including office retail, medical, office warehouse, industrial, multifamily, etc., and they did support banning attention getting devices and concluded it was not necessary to use them to promote the business within the properties and had safety issues; that the ban would level the playing field for business small and large. Council Members Khan, Holm, Rodriguez, Lovell, Green and Jones absent. (NO QUORUM PRESENT)

Ms. Mary Lou Henry, who was previously added to the speakers list, appeared in favor of Agenda Item 16 and stated that she was an urban planning consultant, past president of her civic association and member of a super neighborhood board and the devices did what they were intended to do, they distracted a driver and were particularly dangerous along the freeways; and urged the proposed amendment be passed and eliminate the devices. Council Members Khan, Rodriguez, Lovell and Green absent.

Ms. Lori Foster, 20922 Twisted Leaf, Cypress, Texas 77433 (713-213-5265) appeared in opposition to Agenda Item 16, presented information and stated that she had many reasons she was against the proposed ordinance, there was a misleading representation of a safety issue, that National Highway Safety Administration Report showed that driver inattention was the major cause of accidents, but the inattention was a driver engaged in a secondary task such as phones, drowsiness, changing radio stations, etc., non-specific eyeglance away from the forward roadway and the number of accidents caused by non-specific eyeglance it was 2% of the baseline and eyeglance meant seeing someone playing ball, an attractive person walking by, etc., the report stated that analysis of eyeglance behavior indicated that total eyes-off-road durations of greater than 2 seconds significantly increased near-crash/crash risk whereas eyeglance durations less than 2 seconds did not and the only report written in the proposed ordinance that even mentioned road side advertising was the University of Toronto report which said various advertising along an expressway in Toronto, the average duration of the glances for the subjects was 0.57 seconds and that was 1/4 the dangerous time the National Highway Administration said provided a dangerous situation; that there was no recorded accident in the world for an inflatable. Council Members Khan, Rodriguez, Lovell and Green absent.

Council Member Clutterbuck allowed Ms. Foster to continue; and Ms. Foster stated that their balloons were temporary structures and they removed every balloon before the hurricane and there were no recorded incidences; that she had insurance and had been in the business 15 years and never filed a claim, they were not a safety issue; that the safety issue was the giant signs; that businesses who lost their permanent signs were asking for them to bring

inflatables so people would know they were open. Council Members Khan, Lovell and Green absent.

Upon questions by Council Member Noriega, Ms. Foster stated that she was not a part of the committee which discussed this, they asked to be notified two different times and they found out about the proposal the day before it came; that no one on the taskforce represented attention getting devices, but there was one with a sign company who would probably be against it because they provided a less affordable form of advertising; and Council Member Noriega stated that she had done a lot of work and they received a lot of emails with her perspective; that they appreciated all her work and she was a very compelling speaker. Council Member Green absent.

Council Member Lovell stated that when they put together stakeholders it was probably their mistake she was not added, but since then they had committee meetings, public hearings and she and others had opportunity to come and she wanted to clarify that her opinion was not shut out and she had opportunity to present information and give her side of the story and every issue had differences of opinion; and Ms. Foster stated that they met and decided to send this to Council and yet changes in the proposed ordinance were different than the one at the committee meeting such as changing the date the ordinance would go into effect to May 1, 2009 from October 1, 2009 and the wording commercial businesses was added, she understood the city and schools would still be allowed to use them but commercial businesses would not so obviously the city knew her form of advertising worked and yet they would deny it to small businesses; and Council Member Lovell stated that they were aware it was commercial businesses and wanted that to be clear but was not aware of the date; and Council Member Lovell thanked Ms. Foster for bringing it to their attention. Council Members Clutterbuck and Green absent.

Council Member Jones thanked Ms. Foster for coming and frequently they would send things to Legal to be drafted and maybe that was why the date was changed, but it was nothing sinister in that of itself; and Ms. Foster stated that there were so many other reasons the ban was wrong; that also in the ban it said rooftop inflatables, but a subsection of the sign ordinance said seasonal was allowed and she asked if a giant Santa would be illegal even though it was seasonal and she was told yes, because it was a rooftop inflatable, but it was also a seasonal; that she could not see how her inflatable was any more distracting than a 40 foot tree in the Galleria area; that this was being the taste police. Council Member Green absent.

Mr. Tommy Friedlander, 5333 Gulfton, Houston, Texas 77081 (713-662-7745) appeared in favor of Agenda Item 16 and stated that he was president of RPI Management Company and served as chairman on the On Premise Taskforce and in June Mayor White had formed the taskforce to review and improve the manner of which business signage was regulated in Houston, they were a broad base group of individuals who operated under a set of principles and they made the decision attention getting devices had to be dealt with separately and immediately, they did not provide business identification of information of service or product but distracted the eye from the road and were potential safety obstacles and visual blight and their illegal proliferation was a problem; that in all of Houston only 10 attention getting device permits were secured this year; that they selected 11 cities Houston competed with and researched their sign ordinances and the study showed most of the cities dealt with attention getting devices by banning them all together and others banned anything the wind could move and they believed that showed cities could be competitive in the absence of those devices; and the taskforce recommended the ban on attention getting devices. Council Members Holm, Noriega, Green and Jones absent.

Council Member Brown thanked Mr. Friedlander for his work on the taskforce and stated the item had his full support. Council Members Holm, Green and Jones absent.

Council Member Khan thanked Mr. Friedlander for his work on the taskforce and stated that they did a wonderful job; that he mentioned visual blight and safety, but the speaker before him challenged the safety issue; and upon questions, Mr. Friedlander stated that Mr. Icken had the studies but in addition information put out by the inflatable association basically..., the devices according to their information showed the devices were not withstanding winds over 20 mph and with a city 640 square miles how could the balloons be looked after; and Council Member Khan stated that when he spoke of safety he was speaking of the devices not being safely anchored; and Mr. Friedlander stated there was the driver distraction issue, they were called attention getting devices; that Mr. Larry Schank and Mr. Icken had studies. Council Members Adams and Green absent.

Mayor White thanked Mr. Friedlander and members of the taskforce for their service and stated that this was an issue with a great deal of passion within the community and a silent majority wanted safety and appearance of the community improved and choices were never easy because change was not easy, people made investments and with change some did lose; and upon questions, Mr. Friedlander stated that he was involved in the sign ordinance 15 years ago when the sign ordinance was dealt with and they intended to ban AGD's then, this was never easy but he did think the city had benefited from changes made 15 years ago and it was time to review again and if they could not move forward on this issue his view of making progress on "on premises" signs generally was zero. Council Member Green absent.

Council Member Holm thanked Mr. Friedlander for his work and stated that he had a long history of this and during her time he had attended every committee meeting and shared his expertise and opinions and she was appreciative; that she wanted to go on record that they needed the support of the community and stakeholder and citizen taskforces to help guide Council Members with information and if they did not vote exactly as recommended it did not mean they were not supporting them. Council Member Green absent.

Mr. Jonathan Day, 1825 Albans, Houston, Texas 77005 (713-220-4715) appeared in favor of Agenda Item 16 and stated that he would briefly address several issues, first, it was important to note the ordinance did not implicate any issues under the first amendment, there was no speech and as such legal review was not under scrutiny of the first amendment and it was simply an equal protection issue; that the ordinance was thoroughly vetted by Mr. Schenk and Mr. Morrison, the City's outside council and nationally recognized expert on sign issues and all agreed this was enforceable; that the effective date was deliberately delayed until January 1, 2010, to accommodate a reasonable period where the devices could be utilized and moved to other venues, the ban would not be effective for more than a year and would include this and the next Christmas seasons. Council Member Green absent.

Council Member Noriega stated that she would go ahead and give her thoughts on this, several speakers spoke of safety on one side or the other of this and she needed to say she did not think the safety issue was what this was about; that she thought this was about what kind of community consensus they had, whether they liked these things or not, she was stunned at the committee hearing of the breadth and depth of the community consensus represented by the taskforce, they met for a year and opponents had opportunity to speak and she listened to what they said and thought some of their points were accurate, she did not think safety was the issue, what she did think was the community did not like them; that she saw them in the same category of billboards and the point was very prominent folks very involved in the nonprofit community had put time and effort into this for a long time and they said they thought Houston did not want this, but they should also be open to revisiting this in a year or so to see if it did make a difference, but other cities did ban them because they saw them as visual blight; that she did appreciate everyone who came on both sides. Council Member Green absent.

Council Member Holm thanked Mr. Day for his work on these issues; and upon questions, Mr. Day stated that he believed the effective date was January 1, 2010, it was in the draft he was provided; and after hearing someone from the audience stated that he was corrected he was told the date was now May 1, 2009, they readily agreed to the January 1, 2010, date, but he was not provided the latest draft. Council Member Green absent.

Council Member Clutterbuck thanked Mr. Day for appearing; and upon questions, Mr. Day stated that the January 1, 2010, date would be acceptable to him, all the neighborhood associations and management districts as well as the Quality of Life Coalition actively endorsed the previously draft. Council Member Green absent.

Council Member Lovell thanked Mr. Day and stated that the draft she had stated May 1, 2009, but 2010 would be fine with her; that they were cognizant of those in the business and it would give them time, she felt 2010 would be a good compromise. Council Member Green absent.

Mr. Dallas Foster, 20922 Twisted leaf, Cypress, Texas 77433 (713-213-5265) appeared in opposition to Agenda Item 16, presented information and stated that he was with Dallas Foster Texas Balloons, Inc., and he did not believe 3 minutes was time to give input when they had months and years to look at and review and he would present solutions; that Mr. Icken in Public Works stated that he could not enforce the current ordinance and because Code Enforcement could not do their job it did not mean others should lose their jobs and was it they could not enforce it or just did not enforce it; that if it was being enforced there would be tens of thousands of dollars in fines from the attention getting devices out there; that sign administration told them the current ordinance was not being enforced and that was why only 10 permits were on file, the permit was the customer's responsibility, but he would be more than happy to make it his; that last week Public Works said a permit was available for \$15.00 and after years of planning he would think they knew it was not \$15.00 or \$20.00 as stated on the paperwork, but it was \$25.00, every time he went it was \$25.00 and also on the information provided by the city there was a wrong address and wrong phone number and they should not expect the people to get a required permit when the right information was not even provided to them; that also on the permit was the wrong year; that a solution brought to him by customers was a monthly permit fee, just like Grand Prairie, Texas, right outside of Dallas, it was \$50.00 a month and it generated revenue; that other cities around Houston now allowed such devices like Pasadena and Sugar Land and they were permitted and enforced. Council Members Brown and Green absent.

Council Member Lovell thanked Mr. Foster for coming and stated that he said 3 minutes was not enough time, but they had far more than that to address the issue, they had two committee meetings and opportunity to meet with her in her office and to meet with every Council Member if he chose, they did take information they had provided and looked at it; and she would apologize again, this was poor work by the City and she thanked him for bringing it; and Mr. Foster stated that he met with her staff member and contacted every Council Member present; and Council Member Lovell stated that there was a great deal of difference of opinion on this and no one proved to her having a pink gorilla in a bikini brought more business, but as a Council Member she had a long list of people who overwhelmingly said they did not want to see this and in weighing their decision they were listening to what he had to say but also listening to those who did not want to see it; and Mr. Foster stated that the information provided showed the attention getting devices did increase sales 30% to 100% and he would love to meet with her; and Council Member Lovell stated that she was given a survey which was different than statistics; and Mr. Foster stated that they should then allow people to vote Council Members Brown and Green absent.

Council Member Clutterbuck thanked Mr. Foster for appearing as many times as he had and for meeting with her and her colleagues; that she also thanked him for bringing constructive suggestions on how to go forward and if this did pass his suggestions would be extremely constructive and helpful in going forward as they implemented other aspects of the sign code regulations; that a form containing the wrong price, address, phone number and calendar would lead to non enforcement and that seemed to be the problem over the decades which all would say needed to be addressed and she would urge including Mr. Foster in future sign code discussions. Council Members Brown and Green absent.

Mayor White thanked Mr. Foster for coming and stated that he wanted him to know there may be differences of opinion, but when he met with Mr. Icken on October 14th he did get a briefing of the meeting and his concerns and he did understand some merchants believed attention getting devices did give them a competitive advantage and did understand someone thought if it was being used they had to use it to and that created a situation in which government needed to create a level playing field and that was one thing they were trying to do; and Mr. Foster stated this did create a level playing field, businesses they did business with could not afford tv commercials and giant adds in news papers and this created a landmark for them and it brought excitement to the entire strip center so it did not affect one business but all businesses within the center. Council Members Brown, Green and Jones absent.

Mr. Percy Creuzot, 2025 McDuffie, Houston, Texas 77019 (713-569-9333) appeared in support of Agenda Item 16 and stated that he served on the taskforce and was president of Frenchy's Chicken and had two restaurants; that he did not use attention getting devices, but at a hearing it was said he had a giant cowboy but that was not his restaurant; that he represented a small business on the taskforce and he did not think small businesses would fail as a result of not having attention getting devices, instead he thought more business and residents would come with a cleaner looking city; and urged a vote for the item. Council Members Holm, Green and Jones absent.

Mayor White thanked Mr. Creuzot for his work on the taskforce. Council Members Holm, Green and Jones absent.

Council Member Khan stated that he wanted to thank Mr. Creuzot for being on the taskforce and for his input today, it was important to him. Council Members Green and Jones absent.

Council Member Brown thanked Mr. Creuzot for being on the taskforce and stated that it was important to hear from small businesses. Council Members Holm, Green and Jones absent.

Council Member Adams thanked Mr. Creuzot for accepting to participate on the taskforce; and to the Mayor she had questions of how this would be enforced, enforcement was questioned on the ordinance as it was, over 600 inflatables were used and there were only 10 permitted; and Mayor White stated that issues involving sign enforcement, the number of FTE's, he would make a couple of points, at the request of a number of Council Members they added personnel who greatly assisted sign enforcement and there was a consensus they needed inspectors in a variety of different types and they had different processes to ensure fairness and he knew a number of people were being interviewed and the second issue was under the current ordinance which would be changed and for reasons he could not understand it said no funds whatsoever would be expended from the sign permitting fund authorized under the Sign Code for any cost including cost of enforcing current law against regulating attention getting devices and he did not know why it was in there, but he invited people to do oversight and understand what was being done in Sign Administration. Council Members Sullivan, Holm and Jones absent.

Mr. John Franks, 18818 Pine Trace Court, Houston, Texas 77346 (713-594-1292) appeared in opposition to Agenda Item 16 and stated that he prepared a statement but after hearing speakers he would change his approach, this problem in his opinion was a small business problem, not Macys or Sears, etc., but a small business man who had his entity in a small shopping center, who maybe put a sign on his truck and who could not come to Council Meetings, who may not even be aware Council was proposing a change but being subjected to what would happen; that they would not be able to say they were coming soon or having a grand sale and what stressed him more than anything else he heard today was the fact there was a permit system not being taken care of and Council was saying they would change the system by putting in more features, rules and regulations and stopping this, when they could not enforce what was on the books and if there was something saying they could not take permit fees to hire inspectors would it not be more cognizable to say lets fix the rule and charge a fee each month and get much more money coming in and still take care of the small business man who were the people of the city. Council Members Adams, Holm and Jones absent.

Mayor White stated that Mr. Franks had a few views and expressed them well and thanked him for appearing. Council Members Adams, Holm and Jones absent.

Mr. Al Ross, 14303 Gulfview Trail, Houston, Texas 77059 (713-306-9154) appeared in support of Agenda Item 16 and stated that he was president of the Greater Houston Sign Association and president of National Signs here in Houston and he agreed with some on the safety issue, but nothing said anyone was killed because of an inflatable balloon, but the Houston Sign Code required on premises signs to meet the 110 mph wind load, if it was higher than 30 feet they had to have a professional engineer stamp their work and on premises signage was the cheapest advertising, if they took a sign and divided it the amount per month was not that much, an inflatable was not as cheap as one may think and Houston was a world class city, but many visitors did not walk away with that feeling. Council Members Adams, Holm and Jones absent.

Council Member Sullivan stated that he was going to bring up damaged signs from the hurricane, the speaker stated signs were designed to withstand a 110 mph wind and he saw numerous signs broken and destroyed and he wondered what power the city had to make sure that did not become standing blight in the future; and Mayor White stated to Ms. Stein that he knew she was getting information at this time, but it would be good to get a report from Mr. Icken and Council Member Holm was engaged in this regarding the impact Ike had on those signs, on one hand they were focused on getting debris off streets, street lights working, etc., but he knew within Sign Administration there were concerns on the Sign Code, the Billboard Code had provisions on damaged signs and there would be a time where the structures needed to be removed otherwise cited and they probably needed a report and game plan on it and encourage people to talk to Council Members on what they thought; and Mr. Ross stated that sometime ago the Greater Houston Sign Association put together a five point presentation to the Administration, the Mayor's Taskforce, and one thing was enforcement and they would like stricter guidelines, some damaged signs had been up for years; and Mayor White stated that if he would not mind making another copy and Council Members were also sets of eyes and ears and he would encourage folks to read the memo on October 7th about this. Council Members Khan, Holm, Noriega and Jones absent.

Mr. Phillip Schneidau, 4265 San Felipe, Houston, Texas 77027 (713-621-3222) appeared in favor of Agenda Item 16 and stated that he was president of BMS Management, a commercial real estate firm and member of the Sign Taskforce and he was speaking on behalf of BOMA, the Building Owners and Managers Association and they favored the ban of attention getting devices; and as a property manager such had blown and affected power lines, etc., and he was an officer of the Westchase Association and through deed restrictions banned attention

getting devices and they had successful businesses. Council Members Khan, Noriega and Jones absent.

Upon questions by Mayor White, Mr. Schneidau stated that he was a native Houstonian and had real estate experience around the city; and Mayor White stated that people around 1960 were very concerned about property value; and upon questions, Mr. Schneidau stated that much needed to be tightened on the sign ordinance and attention getting devices were just first, they needed better enforcement, more clarification, better restrictions; and Mayor White thanked Mr. Schneidau for being on the taskforce. Council Members Khan, Noriega and Jones absent.

Mr. Daniel Burns, 5939 Lodge Creek, Houston, Texas 77066 (281-580-9231) appeared in opposition to Agenda Item 16 and stated that he said this with respect, but today apparently some Council Members did not know why they were present, they were not deciding today whether to ban attention getting devices because there were thousands not included in the proposed ban, rather today they were deciding on whether to allow small business owners the right to use effective and affordable advertising; that he was present because he did not want to see all those who would be affected by this undergo economic calamity, denying them effective and reasonable advertising would be shameful, especially during this time of hard economic times, if Council banned this they would be saying they did not matter, it was a troubling message which should not be sent. Council Members Khan, Noriega, Green and Jones absent.

Mayor White thanked Mr. Burns for appearing; and stated that no one took what he said as being disrespectful. Council Members Khan, Noriega, Green and Jones absent.

Mr. Lonnie Mercer, 9415 Dornoch, Spring, Texas 77379 (832-671-8212) appeared in opposition to Agenda Item 16 and stated that he hoped to convey the feelings of the majority of citizens, this ban on inflatables was unnecessary, the consensus was people enjoyed the balloons; that Eyewitness News did a survey in San Antonio and the majority of callers liked them; that he also encouraged Council to look at the overwhelming response of comments on line and as of last night according to the Houston Chronicle 71% of the population were against the ban and 11% were for with 8% not caring; that on ABC, 13, 100% were against the ban and CBS, 11, 84% were against the ban, 8% were for it and 8% undecided and on former Council Member Berry's website there was a survey and 95% said balloons did not bother them; that with all due respect each Council Member flooded the streets, parks and schools with election signs which could be considered much more of a distraction than an advertising balloon and after elections signs remained cluttered without penalty to deteriorate throughout the city, obviously it was important for each of them to catch someone's eye for recognition so why did small businesses not deserve the same opportunity. Council Members Green and Jones absent.

Mr. Dan Matthews, 5625 Jacksboro Hwy., Ft. Worth, Texas 76114 (no phone) appeared in opposition to Agenda Item 16 and stated that he also came with a speech, but what happened in Dallas almost happened here, they had a taskforce and they went through regulations of other cities and did not invite citizens, but they came in at the end, it did not get coverage like in Houston and it was passed through; that this was not a safety issue and the way the ordinance was written, it was suggestive, you could consider almost anything being an attention getting device; that he felt opinions here were falling on deaf ears and it was people's lives. Council Members Green and Jones absent.

Upon questions by Council Member Clutterbuck, Mr. Matthews stated that he did not present a copy of the Dallas Ordinance to Council Members, but he was opposed to the ordinance which had sporadic enforcement; and Council Member Clutterbuck stated that she would like to be told who presented the ordinance to Council Members, there was no name; and

was told Ms. January-Beuers presented the ordinance. Council Members Green and Jones absent.

Council Member Holm stated that she was looking for the same clarity because while this was distributed, it was really about special purpose signs which included some of these devices as opposed to attention getting devices. Council Members Green and Jones absent.

Upon questions by Council Member Noriega, Mr. Matthews stated that Grand Prairie, Texas, allowed balloons, rarely did any city say no balloons, they had them all over the country and they pulled permits for them; that the best way to fix it would be to figure out, in San Antonio they had a laptop and pulled in front of a business with a balloon or anything regulatory where a permit would be involved and they could type an address and it would show if and when a permit was pulled and at that time they could cite them, etc., Council Members Clutterbuck, Green and Jones absent.

Mr. Sam Foster, 19477 FM 1314, Porter, Texas 77365 (832-434-3502) appeared in opposition to Agenda Item 16 and stated that he got the impression this was already railroaded and voted on and a date set to take effect, but he knew it wasn't; that the ban would hurt all including the city, free enterprise was healthy to all and using a balloon should be choice, obviously they worked or they would not still be around; that many small and large businesses were closing throughout the nation and why would Council even consider limiting a useful form of advertising at this time, was Council the taste police, would they start banning older, junky cars, it seemed Council was more concerned with looks then how people would be affected; that the working class needed help and not obstacles. Council Members Lovell, Green and Jones absent.

Mayor White thanked Mr. Foster for coming and stated that they were listening to all comments. Council Members Lovell, Green and Jones absent.

Mr. Tony Jones, 1950 Spenwick #318, Houston, Texas 77055 (713-935-0011) had reserved time to speak but was not present when his name was called. Council Members Lovell, Green and Jones absent.

Mr. Bob Wright, 1515 Studemont, Houston, Texas 77007 (713-868-3344) appeared in opposition to Agenda Item 16 and stated that he owned Party Boy and they used balloons for the past 15 years; that they did 20% to 30% more with a balloon up and never had a problem of one blowing away; that it was a competitive world and he had about 120 employees, he learned a long time ago you could not sell a secret, a balloon gave them an edge, he had a lot of payroll to meet and attention getting devices worked. Council Members Lovell, Green and Jones absent.

Upon questions by Council Member Khan, Mr. Wright stated that he had been in business since 1985 and used balloons for Mardi Gras, Halloween, various occasions and his business was increased by 30%. Council Members Sullivan, Brown, Green and Jones absent.

Mr. Russell Miller, 20910 Katie Maria Court, Cypress, Texas 77433 (832-439-0019) appeared in opposition to Agenda Item 16 and stated that he did not use or supply the attention getting devices, he came for the view of the people, he was a native Houstonian and heard many arguments for and against and the squeaky wheel got the grease, he was here to say the balloons did not bother him and in fact he and his children liked them and the consensus of his coworkers were the same; that this involved people's livelihood and it was very important for them to not be banned, he saw many billboards with cows hanging off or with a man or woman scantily clad and to him those were attention getting devices, Council had to stop banning such

things and concentrate on more important things to this city. Council Members Sullivan, Khan, Brown, Green and Jones absent.

Council Member Adams allowed Mr. Miller to continue; and Mr. Miller stated that he heard of people taking their eyes off the road to look at the attention getting devices but they had to wonder if a purple gorilla was causing the accident, he believed today they were here because of larger companies who had more industrialized signs and if they wanted to clean up Houston they should look at the litter of billboards, signs exploiting sex. Council Members Sullivan, Khan, Holm, Brown, Green and Jones absent.

Mr. Michael Foster, 3010 Reynolds Creek Drive, Spring, Texas 77388 (no phone) appeared in opposition to Agenda Item 16 and stated that he represented Sky Watcher Outdoor Advertising and today was present to have Council consider businesses who would be put out of business, businesses who provided the devices such as Sky Watcher which was founded in the early 1980's; that Sky Watcher provided inflatables to City events and they were a small business which could not afford to lose business within the city limits; that he joined them in 2001 and he and the others would have trouble finding or doing anything else. Council Members Khan, Holm, Brown, Green and Jones absent.

Council Member Noriega stated that his argument was the most compelling to her; that if she thought for a minute these were dangerous it would be the end of the discussion, the question was small businesses used them and small businesses sold them and one discussion was putting the enforcement deadline off to give people time to manage; that they were after billboards to, but he had a very compelling point and she did get it and was concerned, but there was a significant representation who wanted them to go away; that they had a group make recommendations and she felt they had some responsibility to respond to them; and Mr. Foster stated that this was their lives and they had no other source of income. Council Members Adams, Khan, Holm, Lovell and Jones absent.

Mr. Chris Purtee, 25211 Burgh Castle Drive, Spring, Texas 77389 (no phone) appeared in opposition to Agenda Item 16, presented information and stated that today Council would vote on banning inflatables and there was no factual data to support the reasons for the ban but only emotional, subjective opinions; that facts were Houston's population was growing almost 15% since 2000 and it was one of the best cities to live, work and play according to Kiplinger Finance & Forecasts; that most businesses who would be affected would be small businesses and one in two Americans in the private workforce were employed by or operated a small business and small businesses comprised 99.7% of all employers and provided 50.4% of jobs in the U. S.; that they heard people would not come because of tacky pink gorillas, but the balloons were around 30 years and the fact was in the last five years business continued to grow and Houston's GMP skyrocketed in the last 5 years and was now the 5th largest in the nation; that there was zero data on them being a danger and to say they were safe during Christmas, he would like to see the study, they were either safe or they were not; that it was all about aesthetics and courts already ruled that aesthetics of a city did not constitute a sufficiently compelling government interest to warrant restrictions of free speech. Council Member Jones absent.

Council Member Brown stated that he would refer him to the Supreme court where the ability of municipalities dealing with aesthetic issues was ruled in the affirmative where cities had rights to make them beautiful as well as functional, and he would challenge his statistics, he was in Houston City Council and not in Pearland, Sugar Land or areas where the large growth he referred to was occurring and in those areas there were strict regulations and Houston was trying to keep up with those getting the growth; and Mr. Purtee stated that attention getting devices were used in the surrounding areas of Houston. Council Members Green and Jones absent.

Council Member Khan stated that he made a very impressive presentation and he did agree with him a lot of this beauty was subjective, he thought as a community they needed to make the city as beautiful as they could and he agreed with him on the safety aspect as he tried to find backup research on that and no one gave him actual research and to him this was not a safety issue, he could argue putting on makeup, etc., caused more distraction than a gorilla and if he supported it was not because of safety. Mayor White, Council Members Rodriguez, Green and Jones absent. Vice Mayor Pro Tem Lovell presiding.

Mr. Milton Court, 22210 Loop 494, Kingwood, Texas 77339 (281-743-7933) appeared in opposition to Agenda Item 16 and stated that he listened to this and much was said, he represented Pop's Ice House and Niko's Place in Kingwood, Texas, and his own business with balloons and this was not a safety issue, the real issue was the City had failed with adequate enforcement and as a small business owner and one who worked for small business owners they were not able to compete with the larger businesses with larger signs and with his own experience he was not allowed by city ordinance to produce the same sign as a Sears store across from him and when he asked Weingarten Realty about it he was told he was not a branded store and it was a real disadvantage; that these smaller businesses had families, etc., and he sponsored more swim teams than he could remember names of and the larger brand name stores did not participate in such; that small businesses could not waste money on things that did not work and he heard staggering numbers of people not bothered by the devices; that the city was strong and would survive and he did not think a purple gorilla would take anyone away. Mayor White, Council Members Rodriguez, Green and Jones absent. Vice Mayor Pro Tem Lovell presiding.

Council Member Clutterbuck thanked Mr. Court for coming today along with everyone else and moved to extend the meeting past the noon hour, seconded by Council Member Khan. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Rodriguez, Green and Jones absent. Vice Mayor Pro Tem Lovell presiding. MOTION 2008-0843 ADOPTED.

Ms. Michelle Cruse, 27241 Kane Lane, Oak Ridge North, Texas 77385 (713-305-5372) appeared in opposition to Agenda Item 16 and stated that there was an emergency in the City of Houston for almost 20 years because that was how long council had been trying to pass this ordinance and just like Mr. and Ms. Foster, the committee Mr. Friedlander talked about, they were not invited to sit on it either so nothing had changed; that all decided now the attention getting devices were safe, so she would guess they were using that as a smoke screen and they were temporary devices and many were up for less time than the Christmas tree on Westheimer and would they take down the tree when a driver could not see a store; that her question was today if beauty was in the eye of the beholder or in the eye of the dollar holder; that the attention getting devices they said were blight had been used by the Greater Houston Partnership, Uptown Business Groups, Rockets, Astros, Shell Oil, Museum of Natural Science and the George R. Brown opening; that were they saying the city being the big government and big buck holder they could use the devices, but if they were a mom and pop pizza shop they could not and her last point was lack of enforcement, if they could not enforce then just ban it so since they could not enforce speed limits ban cars and place all on public transportation and because they could not stop underage drinking or drunk driving bring back prohibition; that either this was very specific and specious reasoning or Council was at the top of a very slippery slope. Council Members Adams, Khan, Green and Jones absent.

Upon questions by Council Member Noriega as to clarification on a previous speakers point about the Ninth District Court, Mayor White stated that there was an issue and he knew there was a member of Mr. Purtee's family who was in litigation with the City and so he would

not misspeak because of this he would make sure she received a prompt response. Council Members Adams, Khan and Green absent.

Mr. Allan Muir, 4017 Trey, Houston, Texas 77084 (281-463-0080) appeared in opposition to Agenda Item 16 and stated that they had been fighting this fight 20 years, he and Michele appeared in front of this Council offering their same arguments, they were old companies and his was Bear Creek Balloons, they operated safely and he was happy to hear Ms. Noriega say there was no safety or health issue, they were getting to the crux of the matter and that was aesthetics, surveys were on line and more than 70% of the people did not have objections or did like them and if they had been involved from the beginning as they should have since they were the most affected then they could have given adequate input; that they would be happy for the City to pass an ordinance all could live with and to consider this under such economic circumstances it was fool hearted and made no sense; and urged it be carefully considered. Council Member Green absent.

Council Member Noriega stated that she wanted to clarify, she was not saying the balloons were safe, but if she voted against them she was not going to hide behind an issue she did not think was compelling enough to be the reason; that his and other arguments was it was their livelihood and that was a serious argument, the other side was a large group did not want them and as representatives of the City they had a responsibility to both sides; that he was also right they fought this 20 years; that she was concerned with them having enough time, economics was a big part, but she was not convinced they needed them to sell goods. Council Members Clutterbuck and Green absent.

Council Member Jones stated that she did not believe there was a safety issue, but she did have overwhelming calls from those not wanting them; and upon questions, Mr. Muir stated that he started his business in 1976 and inflatables started about 1983 and he and Michelle were within about a week of each other putting them up in this city and he had been involved in the issue since the issue began in the late 1980's and the fact they were not notified that the committee was meeting again, if they had not heard from someone this would have just gone by without any dissension at all from those most affected; that his employees depended on the season, he could have 3 to 5 installers at one time or him and one other; that he did not know how many worked in the business, but when the Super Bowl was here the big trophy was supplied by one of the largest manufacturers in the country here in Houston. Council Members Clutterbuck and Green absent.

Mayor White thanked Mr. Muir and his colleagues for coming today and expressing their concerns. Council Member Green absent.

Council Member Lovell stated that while all were present she would like to pull the item out of order; and moved to suspend the rules to take Item 4 out of order, seconded by Council Member Khan. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Member Green absent. MOTION 2008-0844 ADOPTED.

16. **ORDINANCE AMENDING SECTION 28-37 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS**, relating to the regulation and prohibition of Attention-Getting Devices; containing definitions; making various provisions and findings relating to the foregoing subject – was presented. Council Member Green absent.

Council Member Clutterbuck moved to amend Item 16 by striking the effective date of May 1, 2009, and replacing it with January 1, 2010, seconded by Council Member Khan. Council Member Green absent.

Mayor White stated that the Administration supported the amendment. Council Member Green absent.

Council Member Lovell stated that she would also support Council Member Clutterbuck's amendment, but before moving on she wanted to make remarks, first she had owned a small business and found the best way of getting business was to produce a good product for a very fair price; that she listened today and was still unconvinced that having a large inflatable on top of your business made it any better; secondly, the issue of notifying people to come, they had public meetings, posted them properly and others found out and came and she was not convinced they tried to slip it past anyone; that she also wanted to clarify the fact that she believed the Fosters had met with her staff at least three times for at least 30 minutes and with her chief of staff and she thanked them for the letter they sent thanking her for those meetings; and in checking her phone records no one else called asking for a meeting on this issue where they were ever denied; that this was a difficult decision for all Council Members as they did have empathy for business owners, but they also had to listen to all those people who did not want them and today she would be voting to ban an ordinance of which they had no way to enforce and was voting to go with those who asked them to ban them; that if it turned out they were wrong and people were going out of business, she would be the first to bring it back up and admit they were wrong for doing it and ask it be put back the way it was. Council Member Green absent.

Council Member Khan stated that based on the discussion today all knew it was a very important issue to many people and would effect the lives of people and businesses; that he was supporting the item, he looked at it from various different perspectives and he would request of Mayor White to shed light on the Administration's support of the item; that to him it was not safety, he looked for evidence on these causing accident or injuring people and could find no research; that he also believed it did help businesses increase business, he believed there was valid testimony to say that and he thought it helped new businesses coming up; that advertising did have a place even if you did have the best product though over the long run a business did have to rely on more than just placing inflatables; that he was disappointed as to how ordinances were not being enforced, it was embarrassing to see an application with so much wrong information and they were responsible for it and on behalf of the City of Houston he was embarrassed there was such lack of enforcement and if it went on in this instance he was sure it was going on elsewhere and he would request the Administration to look into why they were not enforcing in a proper fashion; that he did speak to many constituents and he also appreciated those in the industry visiting with him it all helped with his decision; that as a city they did need to do what was needed to make it more appealing and beautiful in many ways, but in the end it was his constituents wanting him to support the ordinance, he had many businesses in his district which used the inflatables, but many associations, etc., gave almost unanimous advise in voting for the ordinance. Council Member Green absent.

Mayor White stated that Council Member Khan and others in the Council body and those they reported to charged them in part for making sure property values in Houston were preserved, that it was a desirable place to live and work and that visitors found it attractive enough to visit again or relocate to; that one thing they were working on was air quality and another was the amount of greenspace and amenities and another was just reducing blight which did affect the value of a neighborhood; that this was not just a matter of taste, a blighted neighborhood whether it be buildings, etc., cities commonly regulated; that no ordinances were perfect and change of any sort affected businesses; that any job for the Mayor and Council was easier and more effective when they asked a broad base of citizens such as existed on the taskforce to do a lot of homework in organizing stakeholders and talking to merchants and industries and applying their skills to make sure it was the most balanced and with them being diligent he would try and back what they did and see if it could be implemented into law and that was his explanation; that in particular he did meet with Council Members before this year and

took notes on what they wanted to see on the Agenda and he remembered one Council Member having this close to the top of their list; that this was being addressed because of the strong view expressed to him that progress should be made on the issue. Council Member Green absent.

Council Member Sullivan stated that along the property value he had in the back of his mind neighboring businesses which may be opposed to the attention getting devices and had no power, authority or recourse to have them taken down; that if he was a tenant in a strip center and the device was there he was left to suffer; that there was still a number of uses for the attention getting devices and he did not think anyone would go out of business. Council Member Green absent.

Council Member Brown stated that he vigorously supported the Mayor's reasoning for passing the ordinance and wanted to make it clear all Council Members supported small businesses, they did a lot to help small businesses, but Houston had a problem with visual blight and he saw this as one; and fully supported the ordinance. Council Member Green absent.

Council Member Holm stated that as one of the strongest advocates for community process and that the city had an obligation to establish standards which enabled businesses of all sizes to be prosperous she supported the fair, equitable and objective standards and consistency and was the first chairman who brought this up and she was happy it was now being addressed; that she could appreciate those who thought they were not a part of the committee process as she believed they had been, but at this point she believed they had heard all perspectives and was the time to address it though she was not able to support it at this time as she did not think it was fair and equitable; that she remembered in July this year when they changed the Sign Code and allowed one of the biggest new attention getting device in downtown Houston solely because an area said they needed it for economic viability and as an elected person it was not up to her to establish a business plan, but she did think a shortcoming was good enforcement and process and she respected all on this; that at this time she wanted clarity, it was the amendment before Council at this time; and Mayor White stated that this would be the amendment on the table at this time. Council Member Green absent.

Council Member Jones stated that she did not believe it was a safety issue, but a quality of life issue for the City; that some recently became involved, but many more contacted her in favor of the ban and though it was a serious issue it was on that basis she would support it, the attention getting devices as she understood could still be used; and Mayor White stated that was correct, there would still be a market, not as much of a market; and Council Member Jones stated that earlier a lady spoke and stated that she was told she could not use a Santa even if it was seasonal if it was a rooftop; and upon questions, Mayor White stated that he did remember the speaker; and upon questions, Mr. Michel stated that Mr. Schenk may be better to comment on that; and Mayor White stated that they would get her an answer and at this time they vote on Council Member Clutterbuck's amendment. Council Member Green absent.

A vote was called on Council Member Clutterbuck's motion to amend Agenda Item 16. All voting aye. Nays none. Council Member's Lawrence, Johnson and Garcia out of the city on city business. Council Member Green absent. MOTION 2008-0845 ADOPTED.

Council Member Noriega stated that she believed the question on the table was if a rooftop seasonal balloon display was allowed and she would also like to know if the City would use the devices at functions as it did not seem fair; and Mayor White stated that he would first say he agreed with Council Member Holm's comment and would make a comment; that they had good citizens here on Council, in departments, coming before them and having said all that his observation was Houston was big, bigger than 16 states and there was a tendency

sometimes to do government as a smaller town; that no one around the table should kid themselves to the fact that part of the duties of public servants was making judgments, the part of their job was to make sure they had the right balance which changed over time and he would say to the extent there was an ambiguity he would ask people come up with a draft of rules and regulations and make them concrete and there should be formality in the process and they should try and make principal judgments; and upon questions, Mr. Schenk stated that the RCA which contained the information to the permissible use of banners, seasonal holiday displays or real estate signs was referring to provisions in the existing sign code which permitted those kind of uses and in turn the ordinance presented today was merely a 180 of the ordinance currently on the book in the sense that those issues or uses that were controlled before would now be prohibited so they were not extending the scope of the prohibition any further than the scope of the uses permitted and intended to be regulated under the old ordinance, so they had the original sign ordinance and this ordinance going hand in hand with regard in regulating these uses, the sign ordinance and permissible uses under that ordinance would still be on the books and allowed, those uses permissible but regulated under this ordinance would now be prohibited and they inserted the word "commercial" business as they noticed it was actually in the prior ordinance and for some reason it was left out it was again inserted to insure Council the uses and issues being addressed were not one bit more than what was attempting to be regulated under the old ordinance; and Mayor White stated that he wanted Mr. Schenk's or Mr. Michel's opinion on this, would it be fair to say if a particular judgment was to be made on if it was simply a celebration display as opposed to something advertising someone would have to use their judgment; and Mr. Michel stated that was exactly right and that occurred under ordinances daily. Council Member Green absent.

Council Member Jones stated that her specific question was if there was a Santa or Turkey on a rooftop was it considered rooftop or seasonal, it was her understanding seasonal could have words; and Mr. Michel stated that he understood what she was saying and those were the judgments the City would be making and they would want to be clear and he would think an ambiguity in many instances would be where the City would not enforce unless they found more facts it was commercial activity rather than a seasonal display and Legal in advising and Public Works in enforcing would be very careful it was prohibited conduct. Council Member Green absent.

After Further discussion Council Member Adams's stated that they were going on three hours now; and Mayor White stated that City employees made judgments daily and he understood there would be loopholes, but they were trying to preserve property values while respecting individuals rights to celebrate holidays; and called for a vote on Item 16 as amended. Council Member Green absent.

A vote was called on Agenda Item 16 as amended. Council Members Holm and Clutterbuck voting no. Balance voting aye. Council Member's Lawrence, Johnson and Garcia out of the city on city business. Council Member Green absent. ORDINANCE 2008-992 ADOPTED AS AMENDED.

Mayor White stated that they would continue with the speakers at this time. Council Member Green absent.

Mr. Khandaker Rob, 1516 Bay Area Blvd. #U-10, Houston, Texas 77058 (281-282-9714) appeared and stated that he was present with a personal issue, he had tried a long time to get a job in the City of Houston and applied almost every month; that he did this almost four years and no one has called and he would like to know what to do, he needed help. Council Members Green and Jones absent.

Mayor White stated that he currently worked at Walgreens and this was his current address and information; and Mr. Rob stated that was correct; and Mayor White thanked him for coming. Council Members Green and Jones absent.

Mr. J. Alchatta, 9511 Vilven, Houston, Texas 77080 (713-423-5388) had reserved time to speak but was not present when his name was called. Council Members Green and Jones absent.

Mrs. Michelle Alchatta, 9511 Vilven, Houston, Texas 77080 (713-423-5388) appeared and stated that she received a water bill in the mail about three weeks ago in the amount of \$8,293.04 and she had been at this home nearly nine years; that it was stated if she did not pay it by November 12th it would be increased to \$9,122.34 and claimed it was for nearly one million gallons of water, they also claimed they had a reading in 2000 when the bill was transferred into her and her husband's name, but they did not go out to check for eight full years to physically check and said the transmitting unit was sending the wrong amount of consumed water usage, however, she did not see how she should be held accountable for their faulty sending unit; that she lived in a 1,400 square foot house and they both worked full time; that they claimed to reduce the bill to \$1,471.60 because by ordinance they were only allowed to charge for 24 months, if you calculated 24 months by 1,471 it was \$61.32 a month, plus what she paid monthly which was about \$30.00 to \$40.00 so they were saying a 1,400 square foot home should have a water bill of \$100.00 a month and she found it hard to believe a family of four would have over a \$100.00 water bill. Council Members Sullivan, Holm, Rodriguez, Lovell, Green and Jones absent.

Council Member Khan stated that he would be shocked and angry to receive a bill for a million gallons and he appreciated her demeanor; and upon questions, Ms. Alchatta stated that she contacted the department and spoke with several people and they claimed by city ordinance they were allowed to charge for 24 months and charged \$1,471.60 and she paid in full, but they claimed they gave credit and there was no credit; and she never had a late payment in nine years. Council Members Rodriguez, Lovell, Green and Jones absent.

Mayor White stated that they had been at this a while, first to put things in context there were policies instituted well before any of the current Mayor and Council Members were here and designed to protect water consumers against city employees who essentially could give gifts, etc., so little discretion was given to those on a complaint or billing problem; that too many cases reached way back with billing errors and the person sending the bill had some responsibility for a billing error, people count on bills being right while making their budgets and that was why during this Administration, this Council passed rules which said the max you could go back was 24 months, which knocked off the \$6,800 from what they prorated, but the next thing was when someone said they did not think it was being estimated right, to make it more transparent they had a hearing; and upon questions, Ms. Alchatta stated that she felt like fighting the city was a waste of time and paid it so it would not be cut off and that was why she had not had a hearing, she thought the meter was incorrect; and Mayor White stated that he asked Council Members some weeks ago and had discussions with Mr. Marcotte, they already had this about 24 months, but they ought to have where someone could call in to a hearing instead of driving and they wanted to move to an automated system to save taxpayers money, but in a dispute they should try to get to the right answer and to Mr. Norman stated that he would like someone to trace this case through to him on the issue of why did they think there was an amount used within 24 months that was \$1,471 worth of water, what was the basis; that he did not want defensiveness, someone saying they made a mistake and how could they make it hard for the Mayor to figure out because he would figure it, so if it was a mistake they should still just put it out there; that they would work this through. Council Members Noriega, Brown, Green and Jones absent.

Council Member Khan stated that a water meter issue should be easy to resolve, if they went forward to see what they used over the next six months; and Mayor White stated to Mr. Norman if they thought a million gallons was missing why didn't the inventory control system, he wanted to understand the flow readings and how the fiscal operations of water flows could be reconciled to the bills and he would like to see the billing recollection disaggregated to the lowest possible unit and do it over a sub period of time so they could reconcile fiscal deliveries of water with the amount fiscally billed. Council Members Clutterbuck, Noriega, Brown, Green and Jones absent.

Council Member Sullivan stated at a hearing he heard officers say they were constrained by what they could do, it was a fruitless effort as they had no authority to do any decisions independent of what the ordinance stated; and Mayor White stated that was what he needed to know, if they had no authority to make a decision there was no use to have a hearing. Council Members Clutterbuck, Noriega, Brown, Green and Jones absent.

Mr. Timothy Brandley, 4414 Oak Shadow Drive, Houston, Texas 77091 (no phone) had reserved time to speak but was not present when his name was called. Council Members Clutterbuck, Noriega, Brown, Green and Jones absent.

Mr. Chris Patronella, 12601 Mossycup, Houston, Texas 77024 (713-819-2575) had reserved time to speak but was not present when his name was called. Council Members Clutterbuck, Noriega, Brown, Green and Jones absent.

Mr. Steven Williams, no address (no phone) had reserved time to speak but was not present when his name was called. Council Members Clutterbuck, Noriega, Brown, Green and Jones absent.

Mr. Steve Vigder, 10607 Raydell, Houston, Texas 77031 (713-484-5244) had reserved time to speak but was not present when his name was called. Council Members Clutterbuck, Noriega, Brown, Green and Jones absent.

Mr. Jimmy Garrison, 6205 Trescon Drive, Houston, Texas 77048 (713-731-4553) appeared, presented information and stated that he was presenting a proposal; that Mayor White was on television asking for the best proposal to get rid of debris after Hurricane Ike and he would have something for them; that his proposal was this, in his neighborhood there was a safety issue, a big landfill where they dug dirt and left them open, a street went into it and one was now filled with water and a child fell into a sandpit so they then pulled debris away and now there was nothing to keep cars from going into the pit; that he thought the sand holes could be covered and then filled and maybe make it a little park for his neighborhood. Council Members Khan, Holm, Rodriguez, Brown and Jones absent.

Upon questions by Mayor White, Mr. Garrison stated that he was not sure who owned the sandpit, but it was a safety issue, there were no barricades and if someone flew through at night they could go air born; that the little street went straight on through over there and they could make a little park; and Mayor White stated that it would be looked at. Council Members Khan, Holm, Rodriguez, Brown and Jones absent.

Council Member Adams thanked Mr. Garrison for coming and stated that his observations were correct about the area off Fuqua and since they cut down the trees it made it more inviting; that it was an old sandpit and businesses used to come and dump their sand there and then take it to build communities, but now they cleared out the sand and the water she understood was about 30 feet deep and kids were going there; that Fuqua was already a narrow street and it was a safety hazard; that they were trying to be stricter with apartments fencing pools and they should also be stricter for business owners putting fences around such areas as this; that

she did not know if it would hold storm debris to place a park on it or not, but it was a concern to the community and the president there shared the same concerns as Mr. Garrison and she would like to see what they could do in getting the business owner to secure it; and Mayor White stated that they would get on it and find out who owned it and work with the Council Member; and thanked Mr. Garrison for bringing it to their attention; and Mr. Garrison stated that they would like a little park or trail, this was why they were drawn here because they had nothing and one had already fallen in; and Mayor White stated that he did not know what could be done but would work on it with the Council Member. Council Members Khan, Holm, Rodriguez, Brown and Jones absent.

Mr. Kyle Wills, P. O. Box 4093, Houston, Texas 77210 (713-758-9250) appeared and stated that he was present looking for funding for a small business; that he met with his attorney who said not to go into details of it unless he was with someone in private. Council Members Khan, Holm, Rodriguez, Brown and Jones absent.

Upon questions by Mayor White, Mr. Wills stated that it was an intellectual property issue; that he was looking for financial support for a small business which he had on a shoestring budget; that he had prototypes and needed funding to develop it; and Mayor White stated that there was an organization called Houston Technology Center and they had gotten some assistance with funding from the City and they had a network of early stage investors and professionals; that he was not saying they would invest; and Mr. Wills stated that he received a letter from Mr. Tom Kraft of the Houston Technology Center who said no funds were available; and Mayor White stated that he should attend their meeting, the Center itself was not an investor but they had groups of people there who were early stage investors and did meet and he needed to go in front of them and find every program they had; and upon questions, Mr. Wills stated it was in the line of mobility, transportation; and Mayor White stated that there were various people who were angel networks who specialized in funding various devices which would be used for vehicles and transportation and he needed to email and write like crazy to anyone who funded such projects before and if he thought he had protection and no one would steal it many times when people had royalties from patents it was people who sold their idea to someone in the business. Council Members Holm, Rodriguez, Brown and Jones absent.

Mr. Stormy Newton, 10222 South Gessner, Houston, Texas 77071 (713-270-1943) had reserved time to speak but was not present when his name was called. Council Members Holm, Rodriguez, Brown and Jones absent.

Mr. Marvin Holmes, 3211 Mclhenny, Houston, Texas 77004 (832-206-9383) had reserved time to speak but was not present when his name was called. Council Members Holm, Rodriguez, Brown and Jones absent.

Ms. Debra Monahan, 1313 Story, Houston, Texas 77055 (832-654-5499) had reserved time to speak but was not present when her name was called. Council Members Holm, Rodriguez, Brown and Jones absent.

Mr. William Beal, 4718 Boicewood, Houston, Texas 77016 (713-633-0126) had reserved time to speak but was not present when his name was called. Council Members Holm, Rodriguez, Brown and Jones absent.

President Joseph Charles, P. O. Box 524373, Houston, Texas 77052-4373 (832-407-5344) appeared and stated that again he requested more time to sepak, he was President of the U. S.; and Garcia was not qualified for Sheriff; and continued expressing his personal opinions until his time expired. Council Members Sullivan, Holm, Rodriguez, Brown and Jones absent.

Mr. James D. Robinson, 3602 Burke, Pasadena, Texas 77540-2353 (713-378-0693) appeared and stated that he was present for the third time asking for help from the Mayor and Council in getting help with HPD complying with the law; that they falsified a report stating he rear ended someone, when actually he was the one sideswiped. Council Members Sullivan, Holm and Brown absent.

Mayor White stated that this was looked at and he did not think the opinion would be changed for what it was worth; and Mr. Robinson stated that he did not think he was treated fairly. Council Members Holm and Brown absent.

The City Secretary stated that completed the speakers and they were ready to move to the Consent Agenda. Council Members Holm and Brown absent.

### **CONSENT AGENDA NUMBERS 2 through 40**

#### **MISCELLANEOUS - NUMBERS 2 through 7**

5. RECOMMENDATION from Acting Director Human Resources to exercise one-year renewal options for contracts with **SELECT CARE OF TEXAS (TEXANPLUS), TEXAS HEALTHSPRING** and **AETNA LIFE INSURANCE COMPANY** for Medicare Advantage Health Benefit Plans – was presented, moved by Council Member Khan, seconded by Council Member Lovell. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. MOTION 2008-0846 ADOPTED.
6. RECOMMENDATION for approval of City of Houston Legislative Principles for the 81st Session of the Texas Legislature– was presented, moved by Council Member Khan, seconded by Council Member Lovell. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. MOTION 2008-0847 ADOPTED.

#### **ACCEPT WORK - NUMBERS 8 and 8A**

8. ORDINANCE appropriating \$15,174.31 out of Water & Sewer System Consolidated Construction Fund as an additional appropriation for Construction of Melrose Park Lift Station, WBS R-000267-00C1-4, under Construction Contract with **PELTIER BROTHERS CONSTRUCTION, LTD.** (approved by Ordinance No. 05-0321) - **DISTRICT B – JOHNSON** – was presented All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. ORDINANCE 2008-993 ADOPTED.
- 8a. RECOMMENDATION from Director Department of Public Works & Engineering for approval of Change Order No. 1 in the amount of \$54,245.31, final contract amount of \$832,152.31 and acceptance of work on contract with **PELTIER BROTHERS CONSTRUCTION, LTD.**, for Melrose Park Lift Station Project, WBS R-000267-00C1-4 - 6.49% over the original contract amount **DISTRICT B – JOHNSON** – was presented, moved by Council Member Khan, seconded by Council Member Lovell. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. MOTION 2008-0848 ADOPTED.

#### **PURCHASING AND TABULATION OF BIDS - NUMBERS 10 through 15**

10. **AMERICAN BANK NOTE COMPANY** for Security Bank Note Vital Paper for Health & Human Services Department - \$255,954.00 - General Fund – was presented, moved by Council Member Khan, seconded by Council Member Lovell. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. MOTION 2008-0849 ADOPTED.
12. **GREEN EQUIPMENT COMPANY** for QuikView® Cameras (Pole Mounted) through the Interlocal Agreement for Cooperative Purchasing with Houston-Galveston Area Council for the Department of Public Works & Engineering - \$84,849.60 - Stormwater Fund – was presented, moved by Council Member Khan, seconded by Council Member Lovell. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. MOTION 2008-0850 ADOPTED.
13. **AMEND MOTION #2006-249, 3/29/06, TO INCREASE** spending authority from \$594,063.10 to \$742,579.11, for Auto Chrysler Group OEM Parts and Repair for Various Departments, awarded to **HOUSTON MAC HAIK DODGE CHRYSLER JEEP, LTD.** - General and Fleet Management Funds – was presented, moved by Council Member Khan, seconded by Council Member Lovell. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. MOTION 2008-0851 ADOPTED.
14. **W. W. GRAINGER, INC** for Maintenance, Repair and Operating Supplies from the State of Texas Building and Procurement Commission's Contract for Various Departments - \$4,110,505.36 General, Enterprise and Other Funds – was presented, moved by Council Member Khan, seconded by Council Member Lovell. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. MOTION 2008-0852 ADOPTED.
15. **COLONIAL HARDWARE** - \$291,448.63 and **HOUSTON INDUSTRIAL TOOLS** - \$156,815.37 for Tools, Hand, Electric and Pneumatic for Various Departments - General and Enterprise Funds – was presented, moved by Council Member Khan, seconded by Council Member Lovell. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. MOTION 2008-0853 ADOPTED.

**ORDINANCES** - NUMBERS 16 through 40

18. ORDINANCE establishing the east and west sides of the 300 block of Archer Street within the City of Houston as a special building line requirement area pursuant to Chapter 42 of the Code of Ordinances, Houston, Texas - **DISTRICT H – GARCIA** – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-994 ADOPTED.
19. ORDINANCE establishing the east and west sides of the 300 block of Archer Street within the City of Houston as a special minimum lot size requirement area pursuant to Chapter 42 of the Code of Ordinances, Houston, Texas - **DISTRICT H – GARCIA** – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-995 ADOPTED.
20. ORDINANCE establishing the north side of the 1200 block of West Drew Street within the City of Houston as a special building line requirement area pursuant to Chapter 42 of the

Code of Ordinances, Houston, Texas - **DISTRICT D - ADAMS** – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-996 ADOPTED.

21. ORDINANCE establishing the north side of the 1200 block of West Drew Street within the City of Houston as a special minimum lot size requirement area pursuant to Chapter 42 of the Code of Ordinances, Houston, Texas - **DISTRICT D - ADAMS** – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-997 ADOPTED.
23. ORDINANCE appropriating \$2,119,507.80 out of Tax Increment Funds for Reinvestment Zone Number One, City of Houston, Texas (Lamar Terrace Zone), Reinvestment Zone Number Two, City of Houston, Texas (Midtown Zone), Reinvestment Zone Number Three, City of Houston, Texas (Market Square Zone), Reinvestment Zone Number Four, City of Houston, Texas (Village Enclaves Zone), Reinvestment Zone Number Five, City of Houston, Texas (Memorial Heights Zone), Reinvestment Zone Number Seven, City of Houston, Texas (Old Spanish Trail/Almeda Corridors Zone), Reinvestment Zone Number Eight, City of Houston, Texas (Gulfgate Zone), Reinvestment Zone Number Nine, City of Houston, Texas (South Post Oak Zone), Reinvestment Zone Number Ten, City of Houston, Texas (Lake Houston Zone), Reinvestment Zone Number Eleven, City of Houston, Texas (Greater Greenspoint Zone), Reinvestment Zone Number Twelve, City of Houston, Texas (City Park Zone), Reinvestment Zone Number Thirteen, City of Houston, Texas (Old Sixth Ward Zone), Reinvestment Zone Number Fourteen, City of Houston, Texas (Fourth Ward Zone), Reinvestment Zone Number Fifteen, City of Houston, Texas (East Downtown Zone), Reinvestment Zone Number Sixteen, City of Houston, Texas (Uptown Zone), Reinvestment Zone Number Seventeen, City of Houston, Texas (Memorial City Zone), Reinvestment Zone Number Eighteen, City of Houston, Texas (Fifth Ward Zone), Reinvestment Zone Number Nineteen, City of Houston, Texas (Upper Kirby Zone), Reinvestment Zone Number Twenty, City of Houston, Texas (Southwest Houston Zone), Reinvestment Zone Number Twenty-One, City of Houston, Texas (Hardy Place), and Reinvestment Zone Number Twenty-Two, City of Houston Texas (Leland Woods) for Administrative Expenses, payment of Project Costs, payment to Houston Independent School District, payments to certain redevelopment authorities as provided herein – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-998 ADOPTED.
24. ORDINANCE approving and authorizing Interlocal Agreement among the City of Houston, Texas, **REINVESTMENT ZONE NUMBER TWO, CITY OF HOUSTON, TEXAS (MIDTOWN ZONE)**, the **MIDTOWN REDEVELOPMENT AUTHORITY**, and the **HOUSTON COMMUNITY COLLEGE SYSTEM** for the Participation of the Houston Community College System in Reinvestment Zone Number Two, City of Houston, Texas - **DISTRICTS D - ADAMS and I – RODRIGUEZ** – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-999 ADOPTED.
25. ORDINANCE awarding contract between the City of Houston and **JOHNSON AND JOHNSON ATTORNEYS AT LAW** to represent the City of Houston before the 81st Session of the Texas Legislature and State Agencies; providing a maximum contract amount - 2 Years - \$735,000.00 General Fund – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business.

Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-1000 ADOPTED.

26. ORDINANCE approving and authorizing acceptance of contract between the City of Houston and the **HOUSTON-GALVESTON AREA COUNCIL (HGAC)** and acceptance of grant funds for the Solid Waste Implementation Grant to enhance Neighborhood Recycling Drop-Offs and Recycling Centers - \$449,599.00 – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-1001 ADOPTED.
27. ORDINANCE amending Ordinance Number 2007-1260 to increase the maximum contract amount for contract between the City and the **METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS**, for Transit Fare Media for City Employees - \$70,000.00 - General, Enterprise and Other Funds – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-1002 ADOPTED.
28. ORDINANCE approving and authorizing contract between the City and the **METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY, TEXAS**, for Purchase of Employee Transit Fare Media; providing a maximum contract amount - \$990,000.00 - General, Enterprise and Other Funds – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-1003 ADOPTED.
29. ORDINANCE appropriating \$187,000.00 out of Public Health Consolidated Construction Fund as an additional appropriation for Energy Management and Maintenance Services Contract between the City of Houston and **JOHNSON CONTROLS, INC** (approved by Ordinance No. 2008-122); amending Ordinance No. 2008-122 to increase the maximum contract amount for the aforementioned contract; approving and authorizing first amendment to the aforementioned contract; providing funding for contingencies relating to construction of facilities financed by the Public Health Consolidated Construction Fund – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-1004 ADOPTED.
30. ORDINANCE awarding contract to **ASHBROOK SIMON-HARTLEY OPERATIONS, LP** for Belt Filter Press Assembly Services for Public Works & Engineering Department; providing a maximum contract amount - 3 years with two one-year options - \$1,470,526.58 - Enterprise Fund – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-1005 ADOPTED.
31. ORDINANCE approving License Agreement between the City of Houston, Texas and **ROBERT LEE BURNS**, as licensee, for use of 61.1918 acres of land out of the G. P. Burnett Survey, A-1382, Houston, Harris County (adjacent to the City's Southeast Sewage Treatment Plant) **DISTRICT E – SULLIVAN** – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-1006 ADOPTED.

33. ORDINANCE appropriating \$7,040,000.00 out of Drainage Improvements Commercial Paper Series F Fund as an additional appropriation for Professional Engineering Services Contract between the City of Houston and **TCB, INC** for Services associated with the Storm Water Management Program (SWMP) (approved by Ordinance No. 03-1195), providing funding for contingencies relating to construction of facilities financed by the Drainage Improvements Commercial Paper Series F Fund – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-1007 ADOPTED.
34. ORDINANCE appropriating \$4,095,058.24 out of Metro Project Commercial Paper Series E Fund, \$2,612,423.67 from the Water & Sewer System Consolidated Construction Fund; and \$238,408.57 from Water & Sewer Contributed Capital Fund awarding contract to **SER CONSTRUCTION PARTNERS, LTD.** for Monroe Road Paving from Fuqua to Beltway 8, WBS N-000711-0001-4 (“The Project”); setting a deadline for the bidder’s execution of the contract and delivery of all bonds, insurance, and other required contract documents to the City; holding the bidder in default if it fails to meet the deadlines; providing funding for engineering, testing, project management, construction management; declaring the City’s intent to reimburse all or part of the funds appropriated with proceeds of joint participation contracts with City of Pearland and MUD 382 (“The Joint Participation Contracts”) - **DISTRICT E – SULLIVAN** - had been pulled from the Agenda by the Administration, and was not considered. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding.
35. ORDINANCE appropriating \$4,657,300.00 out of Street & Bridge Consolidated Construction Fund and \$1,560,000.00 out of Parks Consolidated Construction Fund, awarding contract to **TEXAS STERLING CONSTRUCTION, CO.** for Realignment of North MacGregor from MacGregor Drive to Almeda, WBS N-000799-0001-4 and WBS F-000508-0002-4; setting a deadline for the bidder’s execution of the contract and delivery of all bonds, insurance, and other required contract documents to the City; holding the bidder in default if it fails to meet the deadlines; providing funding for engineering testing, construction management and contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund and Parks Consolidated Construction Fund - **DISTRICT D – ADAMS** – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-1008 ADOPTED.
36. ORDINANCE appropriating \$594,000.00 out of Drainage Improvement Commercial Paper Series F Fund; awarding contract to **TRIPLE B SERVICES, L.L.P.** for Roseneath Drive Storm Sewer Replacement, WBS M-000126-0059-4; setting a deadline for the bidder’s execution of the contract and delivery of all bonds, insurance, and other required contract documents to the City; holding the bidder in default if it fails to meet the deadlines providing funding for engineering testing, project management and contingencies relating to construction of facilities financed by the Drainage Improvement Commercial Paper Series F Fund - **DISTRICT D – ADAMS** – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-1009 ADOPTED.
37. ORDINANCE appropriating \$2,035,940.00 out of Water & Sewer System Consolidated Construction Fund, awarding contract to **ACM CONTRACTORS, INC** for Water Line Replacement in Ellena Gardens-South Section Area, WBS S-000035-00N1-4; setting a

deadline for the bidder's execution of the contract and delivery of all bonds, insurance, and other required contract documents to the City; holding the bidder in default if it fails to meet the deadlines; providing funding for engineering, testing, project management, construction management, and contingencies relating to construction of facilities financed by the Water & Sewer System Consolidated Construction Fund - **DISTRICT H – GARCIA** – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-1010 ADOPTED.

38. ORDINANCE granting to **J BAR CONTRACTOR'S SERVICES, A Texas Sole Proprietorship**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions **FIRST READING** – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-1011 PASSED FIRST READING IN FULL.
39. ORDINANCE granting to **TAP ENVIRONMENTAL, INC, A Texas Corporation**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions - **FIRST READING** – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-1012 PASSED FIRST READING IN FULL.
40. ORDINANCE No. 2008-984, passed first reading November 5, 2008  
ORDINANCE granting to **LONGHORN BAG, LLC, A Texas Limited Liability Corporation**, the right, privilege and franchise to collect, haul and transport solid waste and industrial waste from commercial properties located within the City of Houston, Texas, pursuant to Chapter 39, Code of Ordinances, Houston, Texas; providing for related terms and conditions - **SECOND READING** – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Holm and Brown absent. Vice Mayor Pro Tem Lovell presiding. ORDINANCE 2008-984 PASSED SECOND READING IN FULL.

**MATTERS REMOVED FROM THE CONSENT AGENDA WERE CONSIDERED AS FOLLOWS:**

**MISCELLANEOUS**

7. RECOMMENDATION from Director Department of Public Works & Engineering for payment of invoice from **TEXAS COMMISSION ON ENVIRONMENTAL QUALITY (TCEQ) ANNUAL CONSOLIDATED WATER QUALITY (CWQ)** fee for FY09 - \$1,175,230.20 - Enterprise Fund – was presented, moved by Council Member Khan, seconded by Council Member Sullivan.

Council Member Khan stated that the TCEQ was charging the city' \$1.175,230.20 and that was for their expenses in inspecting wastewater treatment facilities and enforcement, but his question was what had the TCEQ done lately, they continued to give road block after road block in efforts to clean the air and they never helped in writing bills and he could not see how they represented the people of Texas when it seemed they were working against them and he had a

strong objection in paying even though they had no choice; and to show his frustrations he would be tagging the item; and would like to hear the Mayor's comment on the TCEQ. Council Members Holm and Brown absent.

Mayor White stated that on the wastewater permit he would say there were many outstanding career professionals at the TCEQ and under state law there was a matter pending there and would be another matter pending involving the water system; that Council Member Green and Clutterbuck and Jones may be interested in the fact that the issue they set on the rate hearing, the statute said the Commission could not consider any evidence on the rate hearing that was not presented to the City so if they followed the statute and the statute also said the TCEQ should give great deference to views of the government so he would say he was very optimistic that the TCEQ would obey the law as written and the statute gave no flexibility and if they did not... and similarly they requested a public hearing on a permit they had no intention of putting any business out of business, it was a great business which did a lot of good and their products served a great need, it was Lyondell and they said they were committed to environmental stewardship and responsibility; that they were giving the benefit of the doubt; and Council Member Khan stated that the Mayor was too optimistic. Council Members Holm and Brown absent.

#### **PROPERTY - NUMBER 9**

9. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Christy B. Smidt of Kerry R. Gilbert & Associates, Inc., on behalf of EBH Development Group, for abandonment and sale of Briarway Court from Briar Hollow Lane to its terminus and a 10-foot-wide prescriptive storm sewer easement, all located within the Ivy Oaks Subdivision plat out of the William White Survey, A-836, Parcels SY9-010A and SY9-010B - **DISTRICT G – HOLM** – was presented, moved by Council Member Lovell, seconded by Council Member Khan.

Council Member Sullivan stated that he met with Council Member Holm earlier and explained a concern he had and he was supportive of the item, but due to a technical question he would be tagging the item. Council Members Holm and Brown absent.

#### **PURCHASING AND TABULATION OF BIDS**

11. ORDINANCE appropriating \$146,492.00 out of Water & Sewer System Consolidated Construction Fund for Emergency Repair of a 24" Water Force Main at 1024 W. Bay Area Blvd. and I-45 for the Public Works & Engineering Department – was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. ORDINANCE 2008-1013 ADOPTED.
- 11a. **REYTEC CONSTRUCTION RESOURCES, INC** for Emergency Repair of a 24" Water Main for the Department of Public Works & Engineering - \$146,492.00 - Enterprise Fund - was presented, moved by Council Member Lovell, seconded by Council Member Khan. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. MOTION 2008-0854 ADOPTED.

#### **ORDINANCES**

17. ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of a surface pipeline easement and a subsurface pipeline

easement (Parcels SY7-033A and SY7-033B), vacating and abandoning said easements to Monument Pipeline, L.P. ("Monument"), and granting four temporary workspace easements (Parcels SY7-033C through SY7-033F) in consideration of Monument's payment to the City of \$21,003.00; further, finding and determining that public convenience and necessity no longer require the continued use of a subsurface pipeline easement (Parcel SY7-034A); vacating and abandoning said easement to CenterPoint Energy Resources Corp. d/b/a CenterPoint Energy Texas Gas Operations ("CenterPoint") and granting two temporary workspace easements (Parcels SY7-034B and SY7-034C) in consideration of CenterPoint's payment to the City of \$5,423.00, all parcels located within the H.T.& B.R.R. Co. Survey, Section 5, A-469, Houston, Harris County, Texas - **DISTRICT E - SULLIVAN** - was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm, Noriega and Brown absent. ORDINANCE 2008-1014 ADOPTED.

22. ORDINANCE amending City of Houston Ordinance No. 2008-385, passed on April 30, 2008 which approved and authorized the submission of the 2008 Consolidated Action Plan ("Plan") and various Federal Grant Applications, by making a substantial amendment to the plan to add a new grant application for the Neighborhood Stabilization Program in the amount of \$13,542,193.00 and to accept the aforementioned grant funds, if awarded - **DISTRICTS A - LAWRENCE; B - JOHNSON; D - ADAMS; E - SULLIVAN; H - GARCIA and I - RODRIGUEZ** - was presented; and was tagged by Council Members Lovell, Adams and Khan. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm, Noriega and Brown absent.
  
32. ORDINANCE appropriating \$399,877.50 out of Reimbursement of Equipment/Projects Fund to be reimbursed from the Woodlands Regional Participation Fund and approving and authorizing Professional Landscape Architectural Services Task Order Contract between the City of Houston and **SWA GROUP, INC** for the Lake Houston Park for the Parks & Recreation Department, WBS F-000695-0002-3; providing a maximum contract amount; providing funding for the Civic Art Program and contingencies relating to design services financed by the Reimbursement of Equipment/Projects Fund - was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. ORDINANCE 2008-1015 ADOPTED.

Council Member Sullivan stated that he wanted to be on record supporting this, it was an exciting project involving all regional partners and he complimented all involved. Mayor White stated that this was very important and he would ask him to keep his eye on it. Council Members Holm and Brown absent.

**MATTERS HELD** - NUMBERS 41 through 44

41. RECOMMENDATION from Director Department of Public Works & Engineering for approval of final contract amount of \$1,630,596.85 and acceptance of work on contract with **METRO CITY CONSTRUCTION, L.P.**, for Sewer Line Relocation and Replacement, WBS R-000266-00U2-4 (WW4898) - 3.11% under the original contract amount - **DISTRICTS B - JOHNSON; H - GARCIA and I - RODRIGUEZ - (This was Item 9 on Agenda of November 5, 2008, TAGGED BY COUNCIL MEMBER GARCIA)** - was presented, moved by Council Member Lovell, seconded by Council Member Khan. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. MOTION 2008-0855 ADOPTED.
  
42. RECOMMENDATION from Director Department of Public Works & Engineering for

approval of final contract amount of \$1,527,866.50 and acceptance of work on contract with **METRO CITY CONSTRUCTION, L.P.**, for Waterline Relocation and Replacement, WBS S-000035-00V2-4 (WW10863) - 1.05% under the original contract amount - **DISTRICTS H - GARCIA and I - RODRIGUEZ – (This was Item 10 on Agenda of November 5, 2008 TAGGED, BY COUNCIL MEMBER GARCIA)** – was presented, moved by Council Member Khan, seconded by Council Member Lovell. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. MOTION 2008-0856 ADOPTED.

43. RECOMMENDATION from Purchasing Agent award to **UR INTERNATIONAL, INC** for Radio Frequency Identification System for the Houston Department of Health & Human Services \$250,800.00 - General and Health Special Revenue Funds – **(This was Item 14 on Agenda of November 5, 2008, TAGGED BY COUNCIL MEMBER NORIEGA)** - was presented, moved by Council Member Khan, seconded by Council Member Lovell. Council Member Noriega voting no. Balance voting aye. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. MOTION 2008-0857 ADOPTED.
44. ORDINANCE appropriating \$1,349,251.13 out of Parks Consolidated Construction Fund and \$387,000.00 out of Parks Special Fund and approving and authorizing first amendment to Professional Landscape Architectural Task Order Contract between the City of Houston and **CLARK CONDON ASSOCIATES, INC** (Approved by Ordinance No. 08-0455) for the Parks and Recreation Department, WBS F-00504B-0002-3; providing funding for the Civic Art Program and contingencies relating to construction of facilities financed by the Parks Consolidated Construction Fund – **(This was Item 31 on Agenda of November 5, 2008, TAGGED BY COUNCIL MEMBERS ADAMS and RODRIGUEZ)** - was presented. All voting aye. Nays none. Council Members Lawrence, Johnson and Garcia out of the city on city business. Council Members Holm and Brown absent. ORDINANCE 2008-1016 ADOPTED.

#### **MATTERS TO BE PRESENTED BY COUNCIL MEMBERS**

Council Member Lovell stated that she wanted to wish Council Member Lawrence a happy birthday today. Council Members Adams, Holm and Brown absent.

Council Member Lovell stated that this week all were heartbroken after losing their baby elephant, Mac, at the Houston Zoo; that he was two years old and she wanted to extend from all to those at the zoo; that Asian Elephants could carry the Herpes virus all the way to 11 years old and apparently it could strike quickly and most of the time fatal; that his body had gone to Texas A & M and samples would be taken and possibly find a cure; that she understood the female elephant, Shantee, was pregnant again and all would watch and again celebrate when the new calf was born; that she understood a memorial was being planned for Mac this Saturday at 10:00 a.m. and the website would have details; that she felt that would be perfect; that this week she learned more about elephants and they actually mourned the loss of a calf. Council Members Adams, Holm and Jones absent.

Council Member Lovell stated that there would be a Teen Film Festival and teens were invited to submit their films, entries began November 1, 2008, and the deadline was February 21, 2009, and more information was at 832-393-1521 or go to the Library website; and she congratulated Dr. Lawson for reaching out to the teen population; that there was not a lot for them to do and she was glad they reached out to them. Council Members Adams, Khan, Holm, Rodriguez and Jones absent.

Council Member Brown stated that yesterday they celebrated a wonderful Veterans Day, the ceremony at City Hall and the parade were well attended and wonderful to remember their contributions in keeping us a free society. Council Members Adams, Khan, Holm, Rodriguez and Jones absent.

Council Member Brown stated that he applauded the Mayor's efforts in dealing with substandard apartments in Houston and his appointment of Mr. Doug Anders to put together an inspection team and bring negligent owners and operators to the table was something that would improve the quality of life in Houston. Council Members Adams, Khan, Holm, Rodriguez and Jones absent.

Council Member Brown stated that today they had a program in schools to try and get dropouts to come back. Council Members Adams, Khan, Holm, Rodriguez and Jones absent.

Council Member Brown stated that today he went to a horrible, rundown, crime ridden complex, one of the worst he had seen in a long time, it was the Palomino Apartments, part was actually burned down and some abandoned and they had a tour from residents who had a long list of grievances against the landlord and examples of even security guard or police brutality, it was a litany of problems, they even had raw sewage; that there were many projects needing dealt with but he would get the exact address and hopefully they would look into this. Council Members Adams, Khan, Holm, Rodriguez and Jones absent.

Council Member Brown stated that along those lines if they could do GIS mapping of all apartment houses built before 1973, before the Code was changed, he thought it would help, those were the ones that in all likelihood had dangerous aluminum wiring and subject to fires and he thought Planning could put it together rather quickly. Council Members Adams, Sullivan, Khan, Holm, Rodriguez, Lovell and Jones absent.

Council Member Brown stated that he was approached by building contractors who wanted to go green and they said the way the city trash pick up worked it discouraged recycling of larger building materials and that they could work with the city to take their large quantities of excess building materials and recycle them rather than taking them to a landfill and he saw that as another piece of low hanging fruit and he hoped they could help them with a solid waste program. Council Members Adams, Sullivan, Khan, Holm, Rodriguez, Lovell and Jones absent.

Council Member Brown stated that he was inspired by a quote from a single mom related to the recent election; she said her 16 year old son saw hope; that they lived in an underserved neighborhood and many saw no hope, it was day in and day out, but now many were excited and he was excited they now had hope and he was excited as democrats, republicans and all came together. Council Members Adams, Khan, Holm, Rodriguez and Jones absent.

Council Member Clutterbuck stated that she wanted to add thanks for the beautiful events put together to honor the city's veterans; that it was a moving tribute and it was her pleasure to be a part of it. Council Members Adams, Khan, Holm, Rodriguez and Jones absent.

Council Member Clutterbuck stated that she wanted to also thank the Houston Intown Chamber of Commerce and the Office of Special Events for assistance in putting on the Red, Wine and Blue Festival over the past Saturday, it was a huge success with close to 500 people in attendance; that it was a wonderful time and she noticed communities trying to start these type of festivals up and would urge the Office of Special Events work with the Health Department when there was consumption of food, perhaps the inspections could be done before the event started rather than shutting down an event for a health inspection. Council Members Adams, Khan, Holm, Rodriguez and Jones absent.

Upon questions by Mayor White, Council Member Clutterbuck stated that yes, a Health Inspector appeared during the event and several booths were shut down temporarily; and Mayor White stated to Mr. Douglas he would like it pursued, it seemed to him the right procedure would involve notice from someone in Health and this went back to the discussion with the citizen on a water bill; that to some extent it needed to be a matter of the Health Department making sure what was done was done in a timely fashion so long as it gave appropriate notice; that it was a legitimate issue, there should be inspection of food, but because they had the power to do something did not mean it should be done in a manner authorized, but one which used commonsense; and maybe they could use this as an example and find out what happened. Council Members Adams, Khan, Holm, Rodriguez and Jones absent.

Council Member Clutterbuck stated that she wanted to thank all vendors and everyone involved, it was a wonderful event and all proceeds went to benefit the City of Houston's Veterans Affairs Department. Council Members Adams, Khan, Holm, Rodriguez and Jones absent.

Council Member Noriega stated that she wanted to commend the Houston Fire Department and Center Point Energy for partnering together for the Get Alarm Houston Program, with donations from Center Point the Houston Fire Department and Center Point volunteers installed free smoke detectors in the southeast part of Houston Saturday and she wanted to remind all citizens to change batteries in their fire detectors and if they did not have one or have batteries in it they needed to and if they needed a free detector or help with it they could contact any Houston Fire Station or call the Houston Fire Department Public Affairs Office at 713-495-7900. Council Members Adams, Khan, Holm, Rodriguez and Jones absent.

Council Member Sullivan stated that the San Jacinto was flooding, getting ready to flood, and flood warnings were in effect now; that Mayor White was aware of it and was monitoring it and his office was monitoring it and he was told HPD, HFD and Public Works were all on alert and his office if called would take as much care of it as they could and he would be spending more time there watching. Mayor White, Council Members Adams, Khan, Holm, Rodriguez, Noriega and Jones absent. Vice Mayor Pro Tem Lovell presiding.

Council Member Sullivan stated that he met with HPD Captain Pando, the interim captain at the Clear Lake Police Substation and he welcomed him and told him they would support him in his efforts in Clear Lake. Mayor White, Council Members Adams, Khan, Holm, Rodriguez, Noriega and Jones absent. Vice Mayor Pro Tem Lovell presiding.

Council Member Sullivan stated that he attended a meeting at the Bay Area Houston Economic Partnership where FEMA administrator David Paulison heard from citizens of neighboring cities and municipalities. Mayor White, Council Members Adams, Khan, Holm, Rodriguez and Jones absent. Vice Mayor Pro Tem Lovell presiding.

Council Member Sullivan stated that he had a commemorative pin from the Johnson Space Center for Council Members, it was celebrating their 50th anniversary and they should wear it to show support for NASA. Mayor White, Council Members Adams, Khan, Holm, Rodriguez and Jones absent. Vice Mayor Pro Tem Lovell presiding.

Council Member Sullivan stated that he attended a Houston Police Department Promotion Ceremony and Award Ceremony last Wednesday where a number of officers and units were recognized for their service, performance and accomplishments and it was a pleasure and honor for him to be on stage and watch this and he looked forward to more. Mayor White, Council Members Adams, Khan, Holm, Rodriguez and Jones absent. Vice Mayor Pro Tem Lovell presiding.

Council Member Sullivan stated that Monday a post office at Intercontinental Airport was renamed the Texas Military Veterans Post Office and the legislation was filed by Congressman Ted Poe and he wanted to publically thank him for carrying the legislation on behalf of the community and for recognizing those veterans so well. Mayor White, Council Members Adams, Khan, Holm, Rodriguez and Jones absent. Vice Mayor Pro Tem Lovell presiding.

Council Member Sullivan stated that lastly he had a Public Works Issue , he would save for next week. Mayor White, Council Members Adams, Khan, Holm, Rodriguez and Jones absent. Vice Mayor Pro Tem Lovell presiding.

Council Member Sullivan stated that last night he presented an honorary Citizen Certificate Proclamation to the Ambassador of Sweden and the Ambassador asked that he thank Mayor White for recognizing him and that he was proud to accept it. Mayor White, Council Members Adams, Khan, Holm, Rodriguez and Jones absent. Vice Mayor Pro Tem Lovell presiding.

Council Member Sullivan stated that he also went to Mansfield, Texas, this week to present a Proclamation to their Police Department recognizing their efforts in assisting the Houston Police Department post Ike and was proud to present it and he was able to meet and visit with the Mayor, City Council and City Manager and the interim police chief and every officer who had come to Houston was there with their families, it was nice and he was able to thank each one and they were proud their efforts were recognized. Mayor White, Council Members Adams, Khan, Holm, Rodriguez and Jones absent. Vice Mayor Pro Tem Lovell presiding.

There being no further business before Council, the City Council adjourned at 2:11 p.m. Council Members Lawrence, Johnson and Garcia out of the city on city business. Mayor White, Council Members Adams, Khan, Holm, Rodriguez and Jones absent. Vice Mayor Pro Tem Lovell presiding.

DETAILED INFORMATION ON FILE IN THE OFFICE OF THE CITY SECRETARY.

/S/Anna Russell

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Anna Russell, City Secretary