

AGENDA - COUNCIL MEETING - TUESDAY - DECEMBER 6, 2005 - 1:30 P. M.
COUNCIL CHAMBER - SECOND FLOOR - CITY HALL
901 BAGBY - HOUSTON, TEXAS
with notes of action taken

MOTIONS 2005-1161 to 2005-1190
ORDINANCES – 2005-1319 to 2005-1347
RESOLUTION - None

2005-1160-1

PRAYER AND PLEDGE OF ALLEGIANCE - Council Member Berry

1:30 P. M. - ROLL CALL

ADOPT MINUTES OF PREVIOUS MEETING

2:00 P. M. - PUBLIC SPEAKERS - Pursuant to City Council Rule 8, City Council will hear from members of the public; the names and subject matters of persons who had requested to speak at the time of posting of this Agenda are attached; the names and subject matters of persons who subsequently request to speak may be obtained in the City Secretary's Office

Motions 2005-1161 to 2005-1163 – Procedural motions

5:00 P. M. - RECESS

RECONVENE

WEDNESDAY - DECEMBER 7, 2005 - 9:00 A. M.

DESCRIPTIONS OR CAPTIONS OF AGENDA ITEMS WILL BE READ BY THE
CITY SECRETARY PRIOR TO COMMENCEMENT

MAYOR'S REPORT

CONSENT AGENDA NUMBERS 1 through 47

MISCELLANEOUS - NUMBERS 1 through 7

1. Motion 2005-1179

REQUEST from Mayor for confirmation of the appointment or reappointment of the following to the **HOUSTON MEDIA SOURCE BOARD OF DIRECTORS**, for a term to expire December 31, 2007:

Position Two - **MS. JUNE DEADRICK**, appointment
Position Four - **MS. FRANCI NEELY CRANE**, reappointment
Position Six - **MR. BINH Q. NGUYEN**, reappointment
Position Eight - **MS. ANNETTE GONZALES TAYLOR**, appointment
Position Ten - **DR. CHRISTOPHER I. ATANG**, appointment
Position Twelve - **DR. HERBERT KARPICKE**, appointment
Position Fourteen - **MR. SAEED B. GADDI**, appointment

MISCELLANEOUS - continued

2. Pulled-Not Considered

REQUEST from Mayor for confirmation of the appointment of **MS. GLORIA BELMARES RANGEL**, to Position Five of **HOUSTON MEDIA SOURCE BOARD OF DIRECTORS**, for an unexpired term ending December 31, 2006

3. Motion 2005-1164

REQUEST from Mayor for confirmation of the appointment of **MR. DAVID SAM, (North Harris Montgomery Community College District Representative)** to Position 8 of the **GREATER GREENSPPOINT REDEVELOPMENT AUTHORITY BOARD OF DIRECTORS**, for a term to expire August 31, 2007

4. Motion 2005-1165

REQUEST from Mayor for confirmation of the appointment of **MR. CARLOS GARCIA, II, (Harris County Representative)** to Position Six of the **GULFGATE REDEVELOPMENT AUTHORITY BOARD OF DIRECTORS**, for a term to expire December 9, 2006

5. Motion 2005-1166

REQUEST from Mayor for confirmation of the appointment of **MR. FELIX CISNEROS**, to Position Seven of the **BOARD OF DIRECTORS of REINVESTMENT ZONE NUMBER FOURTEEN, CITY OF HOUSTON, TEXAS, also known as FOURTH WARD**, for a term to expire June 8, 2006

6. Motion 2005-1167

RECOMMENDATION from Chief of Police for approval of Law Enforcement Agreements between **HARRIS COUNTY** and fifty-five (55) different Civic Organizations for law enforcement services of Constable Precincts 1, 4, 5, 7 as well as the Sheriff of Harris County

7. Motion 2005-1168

RECOMMENDATION from Director Department of Public Works & Engineering to approve refunds for Water & Sewer Accounts for Chelsea Court I and III, 13101 Briar Forest Drive \$25,650.00 - Enterprise Water & Sewer Fund

DAMAGES - NUMBER 8

8. Motion 2005-1169

RECOMMENDATION from City Attorney for settlement of lawsuit styled **DAVID VOLLMER v. City of Houston**; in the 410th Judicial District Court of Montgomery County, Texas; Cause No. 04-04-1754-CV - \$85,000.00 - Property and Casualty Fund

ACCEPT WORK - NUMBER 9

9. Motion 2005-1170

RECOMMENDATION from Director of Building Services Department for approval of final contract amount of \$880,817.31 and acceptance of work on contract with **COMEX CORPORATION** for Mancuso Branch Library Renovation, GFS E-0059-01-3 - 04.98% over the original contract amount - **DISTRICT I - ALVARADO**

PROPERTY - NUMBERS 10 and 11

10. Motion 2005-1171

RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Belinda King of TKE, Inc, on behalf of StudioSpace, LLC (Michael Prentice, general partner), for encroachment agreement for a ±4.7-foot building encroachment into Dowling Street, located at 3111 Dowling Street, adjacent to Lot 11, Block A, Mary A. Dumbles Subdivision, J. S. Holman Survey, South Side Buffalo Bayou, Parcel ENY6-002 - **DISTRICT I - ALVARADO**

11. Motion 2005-1172

RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Michael Ray, for abandonment and sale of a 9-foot-wide portion of a 38-foot-wide alley, located at 833A West 17th Street, adjacent to Lot 28, Block 125, Houston Heights Addition, Parcel SY6-028 - **STAFF APPRAISERS DISTRICT H - GARCIA**

PURCHASING AND TABULATION OF BIDS - NUMBERS 12 through 17

12. Ordinance 2005-1319

ORDINANCE appropriating \$157,362.45 out of General Improvement Consolidated Construction Fund for Generator Installation at 8000 N. Stadium Dr. for the Building Services Department, CIP D-0119

a. Motion 2005-1173

C. F. MCDONALD ELECTRIC, INC for Generator Installation at 8000 N. Stadium Dr. for Building Services Department - \$149,869.00 and contingencies for a total amount not to exceed \$157,362.45

13. Motion 2005-1174

TEXAS ENGINEERING EXTENSION SERVICE (TEEX)-URBAN SEARCH AND RESCUE DIVISION for Specialized Training Services for the Fire Department's Technical Rescue Team (TRT) - \$29,500.00 - Grant Fund

14. Motion 2005-1175

HEWLETT-PACKARD for Maintenance and Support Agreement for Hewlett Packard Hardware and Software through the City's Master Agreement with Texas Department of Information Resources (DIR) for Texas CISV Master Catalog Purchases under Chapter 2157 of the Government Code for the Houston Emergency Center - \$321,891.48 - 911 Emergency Network Fund

15. Motion 2005-1176

AMEND MOTION #2002-0184, 2/13/02, TO EXTEND expiration date from February 13, 2006 to February 12, 2007, for Remote Activated School Flasher System Contract for Department of Public Works & Engineering, awarded to **CONSOLIDATED TRAFFIC CONTROLS, INC**

16. Motion 2005-1177

SUPPLY LINE USA (Bid No. 4) for Janitorial Supplies for Various Departments - \$170,409.63 minus a commission fee (the lesser of 2% or \$20,000.00 maximum) for Internet-based reverse auction services for a net award not to exceed \$167,001.44 - General and Enterprise Funds

17. Motion 2005-1178

SUN COAST RESOURCES, INC (Bid No. 2) for Automotive Anti-Freeze for Various Departments - \$69,790.00 minus a commission fee (the lesser of 2% or \$20,000.00 maximum) for Internet-based reverse auction services for a net award not to exceed \$68,394.20 - General Fund

ORDINANCES - NUMBERS 18 through 47

18. Ordinance 2005-1338

ORDINANCE amending Exhibit "A" of City of Houston Ordinance No. 90-1292 (as amended by City of Houston Ordinance No. 2004-1149) to amend the Master Pay Structure by increasing the pay grade maximums by seven percent (7%) and by deleting four (4) job classifications that are no longer used; substituting the amended exhibits as part of the current master classification listing; providing for severability

19. Ordinance 2005-1320

ORDINANCE finding and determining that public convenience and necessity no longer require the continued use of a portion of Clearwood Drive right of way containing 0.2124 acre (9,252 square feet of land), more or less, being out of Lots 8, 9, and 14, Block D. Hales Addition, E. Pelligrini Survey, Harris County, Texas vacating and abandoning said tract of land to Sam Ly and Karen Ly, the abutting owners, in consideration of owners' dedication of a utility easement containing 493 square feet of land, more or less, and payment of \$24,760.00 and other consideration to the City - **DISTRICT I - ALVARADO**

20. Ordinance 2005-1321

ORDINANCE consenting to the addition of 27.849 acres of land to **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 157**, for inclusion in its district

21. Ordinance 2005-1322

ORDINANCE consenting to the addition of 11.9842 acres of land to **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 165**, for inclusion in its district

22. Ordinance 2005-1323

ORDINANCE consenting to the creation of **HARRIS COUNTY MUNICIPAL UTILITY DISTRICT NO. 454**

23. Ordinance 2005-1324

ORDINANCE consenting to the addition of 29.958 acres of land to **HARRIS COUNTY WATER CONTROL & IMPROVEMENT DISTRICT NO. 155**, for inclusion in its district

24. Ordinance 2005-1325

E consenting to the addition of 34.98 acres of land to **MEADOWHILL REGIONAL MUNICIPAL UTILITY DISTRICT**, for inclusion in its district

25. Ordinance 2005-1326

ORDINANCE consenting to the creation of **MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 96**

26. Ordinance 2005-1339

ORDINANCE relating to the rescheduling or postponement of certain City Council meetings

27. Council Member Sekula-Gibbs tagged

ORDINANCE approving and authorizing first amendment to Lease Development and Grant Agreement for the Hobby Center for the Performing Arts between the City and the **HOUSTON MUSIC HALL FOUNDATION**

28. Ordinance 2005-1327

ORDINANCE approving and authorizing two (2) year Lease Agreement between **BRANCE-KRACHY COMPANY, INCORPORATED, A TEXAS CORPORATION**, as landlord, and the City of Houston, Texas, as tenant, for 1,681 square feet of space located at 4401 Navigation, Houston, Harris County, Texas, at a monthly rental of \$225.00 for use as a Houston Police Department Store Front - **DISTRICT H - GARCIA**

ORDINANCES - continued

29. Not Received-Not Considered

ORDINANCE approving and authorizing first amendment to an Electric Supply Agreement between the City of Houston and **TEXAS GENERAL LAND OFFICE** (approved by Ordinance No. 04-0273); providing a maximum contract amount

30. Ordinance 2005-1340

ORDINANCE approving and authorizing Luggage Carts and Lockers Concession Agreement between the City of Houston and **SMARTE CARTE, INC** at George Bush Intercontinental Airport/Houston and William P. Hobby Airport; providing a maximum contract amount
DISTRICTS B - GALLOWAY and I - ALVARADO

31. Ordinance 2005-1341

ORDINANCE approving and authorizing Concession Agreement between the City of Houston and **SMARTE CARTE, INC / RETURN KEY JOINT VENTURE** for Confiscated Item Return Services Concession at George Bush Intercontinental Airport/Houston and William P. Hobby Airport Revenue - **DISTRICTS B - GALLOWAY and I - ALVARADO**

32. Ordinance 2005-1342

ORDINANCE approving and authorizing Massage Chairs Concession Agreement between the City of Houston and **FIRST CLASS SEATS AIRPORT SERVICES, L.L.C.** at George Bush Intercontinental Airport/Houston and William P. Hobby Airport - Revenue - **DISTRICTS B - GALLOWAY and I - ALVARADO**

33. Ordinance 2005-1343

ORDINANCE approving and authorizing Interlocal Agreement between the City of Houston and **HARRIS COUNTY** for Parking and Ground Transportation Clearinghouse Services for the Houston Airport System - **DISTRICTS B - GALLOWAY and I - ALVARADO**

34. Council Member Wiseman tagged

ORDINANCE approving and authorizing Interlocal Agreement between the City of Houston and **HARRIS COUNTY, TEXAS**, to continue to allow the Houston Airport System to access the SmartZone Regional Radio System - \$1,500,000.00 - Enterprise Fund - **DISTRICTS B - GALLOWAY; E - WISEMAN and I - ALVARADO**

35. Council Member Ellis tagged

ORDINANCE approving and authorizing Agreement for Professional Services by and between the City of Houston, Texas and the **GREATER HOUSTON PARTNERSHIP** - 8 Months \$493,333.33 - Enterprise Fund

36. Ordinance 2005-1344

ORDINANCE approving and authorizing Crisis Intervention Training Program Expansion Grant Agreement between the City of Houston and the **HOGG FOUNDATION** for Mental Health; authorizing the Chief of Police Department, or any Assistant Chief, to accept such grant funds and to act as the City's representative in all matters pertaining to the program

37. Council Members Quan, Green, Garcia and Khan tagged

ORDINANCE appropriating \$678,108.00 out of Airport System Consolidated 2004 AMT Construction Fund, \$57,220,529.00 out of the Airport System Consolidated 2004 AMT Construction Fund, and \$799,322.00 out of Airports Improvement Fund and approving and authorizing Amendment No. 1 to construction manager at Risk Contract 57306 by and between the City of Houston and **CLARK CONSTRUCTION GROUP-TEXAS, LP** for Phase I construction of the Terminal and Central Concourse Expansion at William P. Hobby Airport, CIP A-0131, A-0141 and A-0422, Project 417F; providing funding for engineering testing services, and for contingencies and the Civic Art Program relating to construction of facilities financed by such funds - **DISTRICT I - ALVARADO**

ORDINANCES - continued

38. Ordinance 2005-1328

ORDINANCE appropriating \$160,428.00 out of Water & Sewer System Consolidated Construction Fund and appropriating \$225,000.00 out of the TIRZ Affordable Housing Uptown Fund approving and authorizing Developer Participation Contract between the City of Houston and **ELLA PARK, LTD** for the Construction of Water, Sanitary Sewer and Storm Sewer Lines to serve the Ella Park Subdivision, CIP S-0800-H8-03 and R-0800-H8-03 - **DISTRICT B - GALLOWAY**

39. Ordinance 2005-1329

ORDINANCE appropriating \$25,000.00 out of Water & Sewer System Consolidated Construction Fund and approving and authorizing Developer Participation contract between the City of Houston and **SILVESTRI HOMES OF TEXAS, INC** for Construction of Sanitary Sewer Lines to serve the Development on Stanford Street, CIP R-0802-34-3 - **DISTRICT D - EDWARDS**

40. Ordinance 2005-1330

ORDINANCE approving and authorizing Professional Services Contract between the City of Houston and **TERRACON CONSULTANTS, INC** for Environmental Services in support of the City of Houston's Brownfields Programs - \$113,133.00 - Grant Fund

41. Ordinance 2005-1331

ORDINANCE appropriating \$260,000.00 out of Water & Sewer System Consolidated Construction Fund and \$240,000.00 out of Tax Increment Reinvestment Zone Affordable Housing Uptown Fund, Series 2004D and approving and authorizing Developer Participation Contract between the City of Houston and **TEXAS ACORN HOUSING CORPORATION** for Construction of Water, Sanitary Sewer and Storm Sewer Lines for the Mesa Tidwell Subdivision, CIP S-0800-H7-03 & R-0800-H7-03 - **DISTRICT B - GALLOWAY**

42. Ordinance 2005-1332

ORDINANCE appropriating \$300,000.00 out of Street and Bridge Consolidated Construction Fund and \$298,848.00 out of the Water and Sewer System Consolidated Construction Fund and approving and authorizing approving and authorizing contract between the City of Houston and **ATSER, LP** for Software Technical Support and Programming Services; providing a maximum contract amount

43. Ordinance 2005-1333

ORDINANCE appropriating \$105,523.00 out of Water & Sewer System Consolidated Construction Fund and approving and authorizing second amendment to Professional Engineering Services Contract between the City of Houston and **BOVAY ENGINEERS, INC** (approved by Ordinance No. 01-0880, Contract No. 53174) for the Repair/Replacement of Five Wastewater Facilities, GFS R-0268-37-2 - **DISTRICTS A - LAWRENCE; C - GOLDBERG; H - GARCIA and I - ALVARADO**

44. Ordinance 2005-1334

ORDINANCE appropriating \$2,715,400.00 out of Water & Sewer System Consolidated Construction Fund, awarding contract to **D. L. ELLIOTT ENTERPRISE, INC** for Water Line Replacement in the Truxillo Area, GFS S-0035-D5-3 (WA10796); 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 Water & Sewer System Consolidated Construction Fund - **DISTRICT D - EDWARDS**

ORDINANCES - continued

45. Ordinance 2005-1335

ORDINANCE appropriating \$1,251,000.00 out of Water & Sewer System Consolidated Construction Fund No. 755, awarding contract to **N. G. PAINTING, L.P.** for Rehabilitation of Water Storage Tanks at District 218 and Heights, GFS S-0600-B2-3 (WA10814-02); 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 Water & Sewer System Consolidated Construction Fund No. 755 - **DISTRICTS G - HOLM and H - GARCIA**

Motion 2005-1180 – Suspend rules to consider Items 46, 52 and 52a out of order

46. Ordinance 2005-1337

ORDINANCE appropriating \$6,275,679.00 out of Series E Commercial Paper Metro Fund, \$277,322.00 out of Water & Sewer System Consolidated Construction Fund, awarding contract to **TEXAS STERLING CONSTRUCTION, L.P.** for Lyons Avenue Reconstruction from Zindler Street to Port Street, GFS N-0719-02-3, S-0500-33-3 and R-0500-33-3 (SB9040); 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 Series E Commercial Paper Metro Fund; and the Water & Sewer System Consolidated Construction Fund - **DISTRICT H - GARCIA**

47. Ordinance 2005-1336

ORDINANCE appropriating \$6,100,000.00 out of Street & Bridge Consolidated Construction Fund to Reimburse the General Fund for the Rehabilitation of Concrete Pavements, GFS N-0655-03-3 and N-0845-01-3; providing funding for contingencies relating to construction of facilities financed by the Street & Bridge Consolidated Construction Fund

END OF CONSENT AGENDA

CONSIDERATION OF MATTERS REMOVED FROM THE CONSENT AGENDA

MATTERS HELD - NUMBERS 48 through 54

48. Motion 2005-1183 – Adopt

RECOMMENDATION from Director Building Services Department for approval of final contract amount of \$983,503.36 and acceptance of work on contract with **PARALLAX BUILDERS, INC** (Contract 55773) for Alief Park, GFS F-504B-08-3 - 20.68% over the original contract amount **DISTRICT F - KHAN - TAGGED BY COUNCIL MEMBER KHAN**
This was Item 3 on Agenda of November 30, 2005

49. Motion 2005-1184 – Adopt

RECOMMENDATION from Finance & Administration Department to **AMEND MOTION #2002-1414, 12/11/02, TO EXTEND** expiration date from December 11, 2005 to December 10, 2007, and **TO INCREASE** spending authority, awarded to **DXI INDUSTRIES** by \$2,108,660.00 to \$2,635,825.00 and **ALTIVIA CORPORATION** by \$1,742,311.39 to \$2,177,889.24 for Chemical, Liquid Chlorine Contract for Department of Public Works & Engineering - Enterprise Fund **TAGGED BY COUNCIL MEMBER KHAN**
This was Item 9 on Agenda of November 30, 2005

MATTERS HELD – continued

50. Ordinance 2005-1345

ORDINANCE approving and authorizing amendment to Professional Environmental Consulting Services Contract between the City and **QUANTUM ENVIRONMENTAL CONSULTANTS, INC** for Professional Environmental Consulting Services for Various Issues Encountered on City property or in the City right-of-way, GFS R-0019-07-2

TAGGED BY COUNCIL MEMBER GREEN

This was Item 22 on Agenda of November 30, 2005

51. Motion 2005-1185 – Postpone one (1) week

ORDINANCE approving and authorizing Project Management Services Agreement between the City of Houston and **HOWELL MIMS ASSOCIATES, L.L.C.**; providing a maximum contract amount - 1 year - \$100,000.00 - Building Inspection and CDBG Funds

TAGGED BY COUNCIL MEMBER QUAN

This was Item 23 on Agenda of November 30, 2005

Motion 2005-1182 – Postpone Items 52 and 52a to 10:55 am

52. Motion 2005-1186 – Adopt

WRITTEN by Council Member Berry to amend Item 52A below as follows:

“In Section 1, which amends Article V of Chapter 36 of the Code of Ordinances, Houston, Texas, by:

1. Deleting the definition of *qualified minor* in Sec. 36-71.
2. Amending Sec. 36-72 to:
 - A. Revise Item (8) to read: “For any person to employ, suffer or permit a minor to solicit funds.”
 - B. Delete Item (9) and renumber Item (10) as Item (9).
 - C. Revise the renumbered Item (9) to read: “For any person to use or expose any animal or person to hazardous conditions to solicit funds.”
3. Amending Sec. 36-73 to:
 - A. Add a new Item (2) to read: “Stating that the solicitor represents an organization when such statement is false.”
 - B. Renumber the remaining items as appropriate.
4. Amending Sec. 36-74 to:
 - A. Amend Items (4) and (5) to read, respectively, as follows:
 - “(4) Does not enter the roadway to solicit or retrieve funds.
 - (5) Does not obstruct traffic or create a hazard to traffic or any other person.”
 - B. Delete Item (6)
5. Amending Sec. 3
...this Ordinance shall take effect at 12:01 am on the 90th day next following date of its passage and approval by the Mayor.

TAGGED BY COUNCIL MEMBERS BERRY and SEKULA-GIBBS

Motion 2005-1187 – Motion by Council Member Berry to amend Item 52a as follows:

“I move to amend Item 52a by amending Section 36-74(a) by adding the following sentence:

“It shall be unlawful for a minor to stand in a roadway for any purpose, including solicitation of funds, except as permitted by the traffic laws of the State.” – **ADOPTED**

MATTERS HELD – continued

Motion 2005-1188 – Written motion by Council Member Lawrence to amend Item 52a as follows:

“In Section 1, which amends Article V of Chapter 36 of the Code of Ordinances, Houston, Texas, by:

1. Amending Sec. 36-74 by:
 - A. Amending the definition of the term median to read as follows:

“*Median* means a dividing area, whether landscaped or paved, maintained for the purpose of separating or directing vehicular traffic.”
 - B. Adding, in the appropriate alphabetical order, the following definition:

“*Street* has the meaning ascribed in section 45-2 of this Code.”
2. Amending Items (1) and (2) of Sec. 36-72 to read as follows:
 - “(1) For any person, directly or through an agent or employee, to solicit funds unless such person has first obtained a certificate of registration from the director, as hereinafter provided.
 - (2) For any individual, as the agent or employee of another, to solicit funds unless his principal or employer has received a certificate of registration a hereinafter provided.”
3. Amending Sec. 36-74 as follows:
 - A. Amend Item (3) of Subsection (b) to read as follows:

“(3) Solicits funds only while located on a shoulder, improved shoulder, curb or sidewalk adjacent to the roadway, excluding any median;”
 - B. Amend Subsection (c) to read as follows:

“(c) **First aid requirement.** It shall be unlawful for a person to solicit funds pursuant to a class A certificate where more than four individuals are also soliciting funds simultaneously at the same location unless a person certified by the American Heart Association or American Red Cross in cardiopulmonary resuscitation and first aid is present at the location.”
4. Amending Subsection (c) of Sec. 36-76 to read as follows:

“(c) **Class A certificate; use of city employee or agent, additional requirements.** If the proposed solicitation is to include the use of any employee or agent of the city as provided in section 36-75 of this Code, the applicant shall also provide, in a form acceptable to the city attorney, proof of a current policy of commercial general liability insurance providing coverage against claims against the applicant and the city in the amount of at least \$1,000,000 for any damages that may arise from the solicitation.”
5. Amending Subsection (b) of Sec. 36-78 to read as follows:

“(b) **Class B.** Within ten working days of the receipt of a class B registration statement, the director shall either issue a certificate of registration, as provided in section 36-79, or notify the person registering that the registration statement does not comply with the requirements of section 36-76, and specifically point out what information or explanation has not been furnished that is required before a certificate of registration can be issued.” - **ADOPTED**

a. Ordinance 2005-1346 – Adopt as amended

ORDINANCE AMENDING ARTICLE V OF CHAPTER 36 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, relating to Solicitation of Funds for Charitable purposes

POSTPONED BY MOTION #2005-1154, 11/30/05

This was Item 32 on Agenda of November 30, 2005

MATTERS HELD – continued

53. Consent to substitute motion by Council Member Goldberg for Item 53

WRITTEN by Council Member Wiseman to amend Item 53A below as follows:

“45-235. Permit application generally; issuance, etc.

(g) the number of parade permits that may be issued shall be subject to the following limitations:

(1) only one permit shall be issued for a parade to be conducted in the downtown area on the same day;

~~(2) Only two permits may be issued for parades to be conducted on the same calendar day in the city limits; and~~

~~(3) Permits may not be issued for conflicting times. For purposes of this provisions, parades are considered to be conflicting if their starting times are less than four hours apart.~~

TAGGED BY COUNCIL MEMBER WISEMAN

Motion 2005-1189 – Council Members Khan and Alvarado moved to amend Section 2(B)(4) to add the words “and time” after same calendar day. – CARRIED

Motion 2005-1190 – Motion Council Member Goldberg to amend Item 53a as follows:

In Section 2, which amends Division 1 of Article IX of Chapter 45 of the Code of Ordinances, Houston, Texas, by:

1. Amending Subsections (d), (e) and (f) of Sec. 45-232 to read as follows:

"(d) Traffic control services along a parade route, including the hiring and payment of personnel to deploy traffic control devices and to direct and control traffic, will be provided as follows:

(1) By the city at no cost to the holder of a permit for a non-commercial parade, up to a maximum of 25 street intersections.

(2) For a commercial parade, at the discretion of the director, either:

a. By the city at no cost to the permit holder for the first 15 street intersections;

or

b. Entirely by the permit holder.

(3) The holder of a commercial parade permit shall reimburse the city for traffic control services performed in excess of the limit set forth in subitem a of item (2) of this subsection at a fee of \$1,000 per street intersection.

(e) In no event shall the city provide traffic control services for more than two parades on the same calendar day.

(f) Traffic control or direction along a parade route shall be performed only by law enforcement officers certified under the laws of this State. The use of non-city personnel to deploy traffic control devices or perform traffic control or direction shall be subject to the approval of the director."

2. Amending Subsection (b) of Sec. 45-234 to:

A. Amend Item (1) to read as follows:

"(1) The route may not exceed one and one-half miles in length and may not include more than fourteen intersections, whichever is less; provided, however, that a parade held on a Saturday between the hours of 8:00 p.m. and 11:00 p.m. or on a Sunday between the hours of 1:00 p.m. and 11:00 p.m. may be greater than one and one-half miles or include more than 14 intersections."

B. Redesignate Item (4) as Item (5) and add a new Item (4) that reads as follows:

"(4) If more than one parade is to be held on the same calendar day, the parade routes and staging and disbanding areas of each parade may not be within 5 miles of one another."

3. Amending Item (2) of Subsection (g) of Sec. 45-235 to read as follows:

"(2) Only four permits may be issued for parades to be conducted on the same calendar day in the city limits; and"

4. Amending Sec. 45-236 to:

A. Amend Item (12) to read as follows:

MATTERS HELD – continued

Motion 2005-1190 - continued

- "(12) A declaration that the individual conducting a parade prefers to either:
- a. Provide all necessary traffic control services with non-city personnel; or
 - b. Reimburse the city for the provision of traffic control services as provided in section 45-232 of this Code.

Such declaration by the parade organizer shall be final."

5. Amending Sec. 45-245 to read as follows:

"Sec. 45-245. Staging and disbanding areas; other uses of public streets and sidewalks.

Consistent with traffic mobility and access considerations, the director, or his designee, in consultation with the chief of police, or his designee, may allow public streets to be used by parade permit holders as staging and disbanding areas for parades. The use of public streets and sidewalks for purposes other than staging or disbanding are subject to the regulations set forth in section 40-27 and sections 40-361 through 40-378 of this Code. The closure of freeway ramps associated with a parade requires the submission to the director of a signed and sealed traffic control plan and proof of compliance with all insurance requirements at least 90 days prior to the scheduled parade date." -

ADOPTED

a. Ordinance 2005-1347 – Adopt as amended

ORDINANCE AMENDING ARTICLE IX OF CHAPTER 45 OF THE CODE OF ORDINANCES, HOUSTON, TEXAS, relating to Parades

TAGGED BY COUNCIL MEMBER ELLIS

This was Item 37 on Agenda of November 30, 2005

Motion 2005-1181 – Suspend rules to consider Item 54 out of order

Motion by Council Member Lawrence to amend Item 54 as follows:

"I move to amend the contract which is referenced in Section 1 by amending the last sentence of Paragraph II(B)(7) of Exhibit G to read as follows:

Subject to the review procedures set forth in Paragraph II(c), programs containing any Adult, Sexually Explicit, or Indecent material will play only between 12:01 a.m. and 5:59 a.m. Monday through Friday and between 1:01 a.m. and 5:59 a.m. on Saturday and Sunday and shall contain appropriate viewer advisories or warnings." – **Council Member Wiseman tagged**

Motion by Council Member Goldberg to amend Item 54 as follows:

1. Amend Exhibits on page 3 as follows:
 - A. MediaSource Rules and Procedures**
 - B. Equal Employment Opportunity**
 - C. MWBE Subcontract Terms**
 - D. Drug Policy Compliance Agreement**
 - E. Certifications of No Safety Impact Positions****Drug Policy Compliance Declaration**

HMS Programming Contract

2. Amend the definition of "Adult Programming" on page 6 to read as follows:

"Adult Programming" means language or material that includes Indecent, Sexually Explicit, and/or Profane Material or material that depicts graphic and persistent violence.

MATTERS HELD – continued

Item 54 - continued

3. Amend the definition of “Indecent” on page 7 to read as follows:
“Indecent” means material, which includes a description or depiction of sexual or excretory activities or organs in a manner patently offensive as judged in context by contemporary community standards.
4. Amend III. B. Reports (1) Rules, regulations and policies. by deleting the word Director in the last sentence of III. B. (l) so it read as follows:
“Contractor shall not change the Rules and Procedures attached as Exhibit “A” without the consent of City Council.
5. Amend III. F. Insurance, (1) Risks and Limits of Liability. on page 15 to read as follows:

(1) Risks and Limits of Liability. Contractor shall maintain the following coverages and limits of liability:

<u>(Coverage)</u>	<u>(Limit of Liability)</u>
Workers' Compensation	Statutory for Workers' Compensation
Employer's Liability	Bodily Injury by accident \$500,000 (each accident) Bodily Injury by Disease \$500,000 (policy limit) Bodily Injury by Disease \$500,000 (each employee)
Commercial General Liability \$2,000,000 aggregate for other than Including Broad Form Coverage	Products and Completed Operations;
Combined Single Limit for Bodily Injury and Property Damage,	\$1,000,000 Each Occurrence;
Personal Injury Protection, Combined Limits of	\$1,000,000 Each Occurrence
Products and Completed Operations	\$2,000,000 aggregate
Umbrella Liability Policy	\$2,000,000 Each Occurrence \$2,000,000 aggregate, Excess Underlying Coverage
Automobile Liability Insurance (for vehicles Contractor uses in performing under this Agreement, including Employer's Non-Owned and Hired Auto Coverage)	\$1,000,000 combined single limit Each Accident

Media Professional Liability Coverage

Defense costs are excluded from the face amount of the policy.
Aggregate Limits are per 12-month policy period unless otherwise indicated.

6. a. Amend Exhibit “A” by moving Exhibit “A” to the end of Exhibit “G” as an addendum.
b. Amend Agreement by changing references to Exhibit “G” to Exhibit “A”.

MATTERS HELD – continued

Item 54 - continued

7. Amending Exhibit "G" by renaming it Exhibit "A" and making the following changes:
 - a. Attaching the Houston MediaSource cover sheet and Preamble to the beginning of the Rules and Procedures;
 - b. Add the following sentence to II. B. 7. as follows: "HMS may choose to make these time slots more restrictive."
8. a. Amend Exhibit "H" by renaming it Exhibit "G", **HMS PROGRAMMING CONTRACT**, and amending Exhibit "G" to read as follows:

Exhibit "H"

HMS PROGRAMMING CONTRACT

PLEASE FILL IN ALL BLANKS AND ANSWER ALL QUESTIONS.

Producer Name: _____ **Producer ID:** _____

Organization sponsor (if applicable) _____

Address _____

Evening Phone: _____ **Daytime Phone:** _____ **Program Providers(s)** _____

Who owns the tape? _____

Talent releases obtained, if needed? Yes No **Copyright release(s) obtained if needed? Yes No**

Project #: _____ **Project Name:** _____

Start Time (HH:MM:SS:FF) _____ **Code** _____

EndTime (HH:MM:SS:FF) _____ **Code** _____ **Length (HH:MM:SS):** _____

Title of Show: _____

Episode Information: _____

Was this a Class Assignment? Yes No **If "Yes" which class and instructor?** _____

Is this program taped/produced locally (Houston)? Yes No

MATTERS HELD – continued

Item 54 - continued

If yes, which facility? HMS TBH Houston Art Institute
Other _____

Cablecast Date: _____ Time: _____
(MM/DD/YY) (am/pm)

For Taped Programs:

Was this tape mailed to you from outside Houston? Yes No
Is this your first access program? Yes No
Has this program played before? Yes No
If yes, when did the program last air?
(MM/DD/YY) _____

Does HMS have your permission to keep & use tape for promotional purposes? (initial)
HMS archives? (initial) _____

PROGRAM TYPE (Circle one)		PROGRAM FORMAT (Circle one)	
1. Art: Other	16. News/Public	A. Ceremony/Sermon	K. Variety
2. Art: Visual	Affairs-Local/State	B. Debate	L. Video-Montage
3. Art: Performance	17. News/Public	C. Event	M. Experimental
4. Art: Dance	Affairs-Ntl/Intntl	D. Foreign Language	N. Graphics-Gen.
5. Art: Poetry	18. Foreign/Internati	E. Game Show	Video-Imagery
6. Art: Video Art	onal Interest	F. Educational/Child	O. PSA General
7. TV: Drama	19. Political	ren	P. PSA Event
8. TV: Comedy	Candidate/Ballot	G. Documentary	Q. PSA
9. TV:	Issue	H. Lecture	Educational
Action/Adventure	20. Government-	I. Stand-Up/Soapbox	R. Promo for Show
10. TV: Horror	Assembly/Function	J. Talk/Interview	S. Channel ID
11. Folk/Tradition	21. Social		T. Live Show
12. Hobby	Service/Issue		U. Live+Call-In
13. Music:	22. Minority Issues		V. Other-No
Performance/Event	23. Public Health		Category
14. Music: Other-	24. Educational-		
Montage/Doc/Exp	Instruction or ITV		
15. Other	25. Exercise		
Entertainment	26. Health-Personal		
	27. Alternative-New		
	Age		
	28. Religion		
	29. Sports		
	30. Other-		
	Experimental No		
	Cat		

For Live Studio Programs:

1. Have you <u>confirmed</u> your cablecast date with programming?	Yes	No
2. Have you <u>confirmed</u> your crew?	Yes	No
3. Have you <u>confirmed</u> all needed equipment?	Yes	No

MATTERS HELD – continued

Item 54 - continued

If you answered **NO** to any item, please indicate when you plan to confirm these requirements
FAILURE TO COMPLETE THE ABOVE COULD DELAY PROCESSING OF YOUR APPLICATION

******* READ BACK PAGE AND SIGN IT*******

HMS PROGRAMMING CONTRACT

Please fill in all blanks and answer all questions as completely as possible on both sides of this contract.

You must check yes or no in response to these statements.

My program contains Adult material	YES	NO
My program contains Sexually Explicit material.	YES	NO
My program contains Indecent material.	YES	NO

WARRANTY AGREEMENT:

I am familiar with the definitions of the above terms that are contained in the Contract between the City of Houston and Houston MediaSource and have used those definitions in making the representations and warranties above. In addition to the above representations and warranties, I warrant and represent to Houston MediaSource (HMS) that the above program submitted by me contains none of the following:

1. Any material which is in violation of Subchapter B: Obscenity, of Chapter 43 of the Texas Penal Code.
2. Any material contrary to local, state, or federal laws.
3. Any material that is libelous, slanderous, in defamation of character, or an unlawful invasion of privacy.
4. Any advertising or material that promotes any commercial product or service.
5. Any solicitation or appeal for funds.
6. Any unlawful use of copyrighted material.
7. Any material, which has a reasonable probability of inciting an immediate danger or damage to property, inciting an injury to person(s), or creating a public nuisance.

I am aware that Section 639 of the FCC Policy Act of 1984 provides that: **“Whoever transmits over any cable system any matter which is obscene or otherwise unprotected by the Constitution of the United States shall be fined not more than \$10,000 or imprisoned not more than 2 years or both.”** I agree to be bound by all of the terms of the HMS Rules and Procedures. I further represent and warrant that, within the past year, I have completed HMS-sponsored training which included training on cablecasters’ legal obligations concerning obscene, adult, sexually explicit, and indecent programming material. I agree that HMS may cablecast viewer advisories or warnings alerting the viewers to adult, sexually explicit, or indecent programming material. I agree that a violation of this Programming Contract, including a violation of any warranty or representation, excuses HMS from performing any of its obligations under this Programming Contract. I agree that any suspension imposed for violation of this Programming Contract is effective immediately. **I AGREE, FURTHER, TO THE EXTENT ALLOWED BY LAW, TO INDEMNIFY AND SAVE HARMLESS HMS, THE CITY OF HOUSTON, HOUSTON’S FRANCHISED CABLE COMPANIES, AND ANY OF THEIR EMPLOYEES, OFFICERS, BOARD OF DIRECTORS, STOCKHOLDERS, ETC., FROM ANY**

MATTERS HELD – continued

Item 54 - continued

AND ALL CLAIMS, DEMANDS, DAMAGES OR OTHER LIABILITIES WHICH MAY BE MADE AGAINST OR ARISE OUT OF THE CABLECAST OF THE PROGRAM SUBMITTED BY ME WHETHER OR NOT THE PROGRAM HAS BEEN REVIEWED BY HMS PRIOR TO CABLECAST. Each and all of these warranties, representations, and agreements are made by me in order that this program be cablecast free of charge on Houston's Public Access Channels, and I understand that HMS has relied on these warranties, representations, and agreements.

INSTRUCTIONS FOR PROGRAM SUBMISSION:

1. Program **MUST** be accompanied by a signed Programming Contract and should be delivered to the Programming Department Office at least 10 days prior to the cablecast date, unless special arrangements are made with Programming Department staff.
2. Program must meet or exceed technical requirements and be properly labeled.
3. Final decisions regarding specific cablecast times are made by HMS programming staff, as per Rules and Procedures for Use of the Houston MediaSource.
4. Program may be retrieved by producer one week following its last cablecast.
5. In the event that HMS receives a complaint indicating that the Programming Contract has been violated, producer agrees to postpone playback until HMS can verify Programming Contract compliance.

Please fill out a **Promotion Form** if you want HMS to promote your show. (Forms are available on the Client Service desk.)

All of the information provided in this form is true and accurate.

Signature _____ Date _____

- b. Changes all references in Agreement to Exhibit "H" to read Exhibit "G". – Council Member Alvarado tagged

54. Council Member Goldberg tagged

ORDINANCE approving and authorizing Contract for Programming Services between the City of Houston and **HOUSTON MEDIASOURCE** for Public Access Channel

TAGGED BY COUNCIL MEMBERS LAWRENCE, SEKULA-GIBBS and WISEMAN

This was Item 14 on Agenda of November 30, 2005

MATTERS TO BE PRESENTED BY COUNCIL MEMBERS - Council Member Edwards first

ALL ORDINANCES ARE TO BE CONSIDERED ON AN EMERGENCY BASIS AND TO BE PASSED ON ONE READING UNLESS OTHERWISE NOTED, ARTICLE VII, SECTION 7, CITY CHARTER

NOTE - WHENEVER ANY AGENDA ITEM, WHETHER OR NOT ON THE CONSENT AGENDA, IS NOT READY FOR COUNCIL ACTION AT THE TIME IT IS REACHED ON THE AGENDA, THAT ITEM SHALL BE PLACED AT THE END OF THE AGENDA FOR ACTION BY COUNCIL WHEN ALL OTHER AGENDA ITEMS HAVE BEEN CONSIDERED

AGENDA - DECEMBER 7, 2005 - PAGE 17

CITY COUNCIL RESERVES THE RIGHT TO TAKE UP AGENDA ITEMS OUT OF THE ORDER IN WHICH THEY ARE POSTED IN THIS AGENDA. ALSO, AN ITEM THAT HAS BEEN TAGGED UNDER CITY COUNCIL RULE 4 (HOUSTON CITY CODE §2-2) OR DELAYED TO ANOTHER DAY MAY BE NEVERTHELESS CONSIDERED LATER AT THE SAME CITY COUNCIL MEETING

12/6/2005 – Council Member Galloway absent on City business

12/7/2005 – All Present