

City Council Chamber, City Hall, Monday, February 12, 2007

A Special Meeting of the Houston City Council was held at 3:00 p.m. Monday, February 12, 2007, with Mayor Bill White presiding and with Council Members Toni Lawrence, Jarvis Johnson, Anne Clutterbuck, , Addie Wiseman, M. J. Khan, P. E., Adrian Garcia, Carol Alvarado, Peter Brown, Sue Lovell and Ronald C. Green; Mr. Anthony Hall, Chief Administrative Officer, Mayor's Office; Mr. Arturo Michel, City Attorney; Ms. Elena Marks, Mr. Steven Williams, Ms. Marty Stein, Agenda Director and Ms. Marta Crinejo, Assistant Agenda Director, present. Council Members Ada Edwards and Pam Holm out of the city on city business. Council Member Michael Berry absent.

Note: Council Member At-Large Position 3 vacant.

At 3:11 p.m. Mayor White called the meeting to order. Council Members Garcia, Brown and Green absent.

Mayor White stated that today they would convene as a community in one of many sessions where citizens were talking about how they protect the quality of their air and make sure that they establish community standards and norms that were predictable that they could use to maintain their air quality, that it would not be the last hearing such as this, either in this administration or the life of the community, but it was yet another milestone in their efforts to talk about in a public forum some issues that many citizens had talked about in their civic clubs and doctor's offices in their public health sessions from time to time, that there would be several experts and people on topic experts who appear on various aspects of what they were going to be discussing as well as the public speakers and one or two people from the administration who wanted to speak on the legal and regulatory issues, so there would be plenty of time for people to speak and time for the public who had signed up or expressed their interest to address them today, that they had a number of public speakers who had signed up for the proposed hearing, that they would have three different issues on which they were going to be receiving some information, they were all related, that he would highlight the three different issues on which people would be receiving information, one issue that they would consider after the experts give their brief presentation, by Director Steven Williams, should be a fairly straight forward non controversial issue, they were just making sure that there was a registry of some of the sources of air toxics and that there be some financially self sufficient way to register those sources of topics, that he thought it would be the first thing the Council would act on as a Council, that the second thing that they would hear references to which they would describe in more detail at the Mayor's Report and in even greater detail in hearings following that was what they would call the Benzene Reduction Plan, which was a regional plan to try to reduce the concentrations and excess of accepted public health standards of one of the air toxics which was identified by the Mayor's Task Force from Baylor, M.D. Anderson, Texas Children's, UT Health Sciences, UT Galveston and Rice as something they ought to be concerned about, they were going to discuss that in more length in the Mayor's Report, that the third topic would be the potential modernization of the nuisance law in order that the City could have known standards by which to use it's current enforcement proceedings under civil law to reduce the amount of air toxics and to provide a means of citing somebody who was a contributor to air toxics in excess of those levels that would impair public health, that on that particular issue and on the benzene plan they were involved in making a great city greater, of taking the city that now had somewhat over 2 million people to a city that was on the road to having double or triple that within some number of years or generations, they were not going to rush and do something until they had a good opportunity for a lot of people to comment because for any of it to be successful they needed to make sure that the laws and rules were understood and represent the best sense of the community and not just within the city limits, but their air quality was affected by many sources outside the City so the cooperation and collaboration of other jurisdictions was important, that would take time and they would take the time in order to make sure they built

consensus on this in this body and community, that it was not going to be something that they postpone again to another generation of Houstonians or to when there was a completely new set of people were around the table because the issue was difficult and controversial, so they did want to have some plan to reduce the most toxic of chemicals in which the City of Houston had some role and their elected representatives had some role, so he thought they would first, after the hearing, deal with the registration plan, that people would hear about the Benzene Plan so they would get a context of how they might try to enforce and he did not know whether it was a matter of weeks or some months but it was not going to be a matter of years before they considered what they do and whether or not they wanted to modernize the nuisance statutes to have more formal clear criteria concerning what people could put in the air. Council Member Garcia absent.

Ms. Marks stated that they would first hear from Doctor Stephen Linder, from the University of Texas School of Public Health, he was the lead investigator on the Mayor's Task Force on Health Effects of Air Pollution, which produced a report last summer and he was going to give some of the highlights of that report. Council Member Garcia absent.

Dr. Linder stated that the Mayor's task force was a fourteen month study involving eight academic scientists and reviewed color slides titled Definite Risk; Effects and Sources, Pollutant in Definite Risk Category in Harris County, 1999, Pollutants in East Houston Census Tracts, Carcinogens with Point Sources Definite Risk Category, Carcinogens with Point Sources Probable Risk Category, Carcinogens with Point Sources Possible Risk Category a copy of which is on file in the City Secretary's office for review. Council Member Garcia

Mayor White thanked Dr. Linder for his presentation and stated that obviously the reason he commissioned it and used a lot of people and was largely privately funded was that they focused most of their enforcement priorities on the highest risk and that was one of the issues that he thought they would have a discussion about at the Council table of whether they should focus enforcement priorities on those risks if they put together various statutes. Council Member Garcia absent.

Ms. Marks stated that the next speaker was Dr. Mathew Fraser from Rice University, that he was the lead author in another study that came out late in 2006 and was funded by the Houston Endowment. Council Member Garcia absent.

Dr. Fraser stated that he was an Associate Professor of Civil and Environmental Engineering at Rice University, that he would like to describe the work they did with funding from the Houston Endowment, that in their study they specifically excluded other interest groups including industry and regulatory agencies and other community and advocacy groups because they wanted it to be an academic investigation looking at the impact of air toxics, that specifically they were motivated by the fact that Houston did have a higher concentration of air toxics than in many other cities because of the concentration both of industrial sources but also the large number of on road mobile sources which also contributed to air toxics, so in their study they specifically set out to address three issues, first they wanted to compile and evaluate the available toxicology and risk assessment data for four pollutants which were identified as a definite risk by the Mayor's task force on air pollution, those included benzene, butadiene, diesel particulate matter and formaldehyde, that for three of these compounds the overriding health concern was carcinogenicity and they evaluated the carcinogenic risk data and came up with ambient concentrations associated with various risk levels which was shown in the first table of their study, that the one point he wanted to make about the risk levels was that they were primarily based on toxicology from occupational exposure studies, which were primarily done with adult healthy male workers in various industries, that the point tied into the second component of their study, the second component of their study had to do with the investigation

and documentation of the disparities of impact from exposures to air toxics and for this they were most interested in data and studies which focused on how some members of their society, who were often in the lower socio economic position were both exposed to higher air toxics levels and also less able to cope the impacts of the exposure, either because they had less access to health care or for other mitigating factors, that third they set out to investigate how the State of Texas and other states and other international countries regulated air toxics and which approaches were most effective in reducing the concentrations of these compounds in their community, they looked at twelve different states, Australia, Japan, the European community and Canada for approaches to regulate air toxics, that based on all that information they made recommendations, in their study they recommended the adoption of enforceable air quality standards for air toxics to supplement the current use of emission standards, they thought long and hard about what level the air standards should be set at, the first argument was that they should be set at an excess cancer risk of 1 in 100,000 cases because that level was in line with the current ESL program in the State of Texas and would result in standards that were reasonably attainable with directed level of emission control, that on the other hand the health information was so strong and combined with the disparity of impact that they documented for their study and for the health policy aspect the only option for them was to recommend what they called the deminimus risk level and that was a risk level so low it was considered virtually safe and for the project team they were in agreement that deminimus risk level would be an excess cancer risk of one in a million, however when they looked at the proposed levels the ambient concentration associated with a one in a million level were very low and would be very difficult to reach these levels, in the end they recommended a two tiered system, the two tiers had a first and most important step in getting the current air toxic hot spots down to a risk level associated with 1 in 100,000 risk of excess cancer, that at the same time the ultimate goal of any air toxics risk program should be reaching deminimus risk and he thought there was wide spread agreement that a level of one in one million, a risk that was so low it was considered virtually safe, that again he would state that it would be very difficult to reach these lower concentrations but wanted to stress one more reason for targeting one and one million and that was that there were currently some levels that reach 1 in 100,000 risk level for air toxics and they did not want the air concentrations in those levels increasing up to that level they wanted to have a second level of more stringent regulations at one in a million to keep air toxic concentrations on a downward trend. Council Members Garcia and Green absent.

Mayor White stated that he wanted to thank Dr. Fraser for his careful work in appearing before them and for his explanation.

Ms. Marks stated that the next speaker was Dr. Johnathan Ward from UTMB and was a toxicologist and was going to address the actual impacts on physiology of some of the air toxics.

Dr. Ward stated that cancer was a major health concern related to many of the toxic exposures that they had been talking discussing for the Houston area, that eight of the twelve chemicals that were identified as definite risks by the Mayor's task force were listed as carcinogens, that two of those were of greatest concern because of their local concentrations, benzene and 1,3-Butadiene, both chemicals had been measured at levels that were predicted and risk assessments conducted by the U.S. EPA and the California EPA to be hazardous, in addition both were listed as carcinogens by the U.S. National Toxicology Program and were listed as either known or probable carcinogens by a variety of other programs involving expert panels and their judgments, both chemicals were associated with increased frequencies of leukemia in workers who were exposed to them over long periods of time, that cancer as a disease developed over multiple steps over a long period of time, cells that ultimately become malignant experience genetic changes called mutations in genes that control their growth behavior and other characteristics, in addition physiological changes occur that often disrupt the normal control of cell growth promoting cell division when it would not normally occur in the

body, as these abnormal cells divide they pass the altered traits on to their progeny so that eventually a large number of the abnormal cells exist forming a tumor, that tumors typically originate from a single cell, which grows into a very large population of cells ultimately, that both benzene and butadiene cause damage to DNA leading to mutations which were important steps in the carcinogenesis process, they cause mutations in different ways, in both cases it was the metabolites formed from the chemicals in the body that did the damage, not butadiene or benzene themselves, as a result of the metabolism a consequence was that individuals could differ in the susceptibility to the diseases caused by these chemicals depending on their genetic makeup and other factors, that while the exact steps leading from chemical exposure to cancer were not know it was clear that metabolites caused the kind of damage that lead to gene mutation and disorganized growth, that benzene metabolites interfered with the normal replication of DNA leading to breaks and rearrangements in the chromosomes that contained the DNA, that chromosome damage was seen in white blood cells of workers who were exposed to benzene and also in the animals that were exposed to benzene in the laboratory, specifically chromosome changes that were seen in leukemia cells had actually been seen in the normal blood cells of workers who were exposed to benzene so that it was a precursor to disease, that butadiene metabolites bind to DNA and interfere with DNA replication in ways that lead to changes in the information code in the DNA, increased frequencies of mutations had been measured in white blood cells from exposed workers in some studies, the same mutations had been induced in mice exposed to low levels of butadiene, thus both of these chemicals that were seen in cancer cells and had the potential to cause cancer in people who were chronically exposed to them at low levels over long periods of time, that there were two issues about chemical carcinogens in general and benzene and butadiene in particular, that was because these effects were driven by damage to DNA and the accumulation of heritable genetic changes, these effects were essentially irreversible so that an exposure today would produce some tiny incremental effect which would stay with that person for the rest of their life and those effects gradually build up, so it was an irreversible cumulative effect of long periods of low exposure, the other factor was that they now knew that individuals differed based on their genetic makeup particularly with regard to their ability to form or destroy the metabolites or their ability to react to the damage that was produced in ways that affected their susceptibility ultimately so that not all individuals were equally sensitive to these chemicals and one of the things that they had to consider was the most susceptible individuals in the population who may be exposed to these chemicals.

Mayor White asked Dr. Ward that when he said most susceptible, and Dr. Fraser had talked about the occupational studies being healthy adults, was it just genetic susceptibility or was there something that in the aging process that allowed them to say something demographically about that population that was most susceptible, and Dr. Ward stated that it was not extremely worked out in detail but in general when it came to environmental susceptibility to toxic agents the two most susceptible populations were typically young children and elderly adults and the third population were people with preexisting diseases that make them less able to manage the toxic effects of exposure, factors such as diet may play a role in sensitivity, the lack of adequate vitamins of certain kinds, the lack of certain amino acids may impair their ability to detoxify these chemicals.

Mayor White stated that he wanted to thank Dr. Ward for being present.

Ms. Marks stated that what they just heard as testimony from three witnesses who very quickly gave them a little snapshot of some studies that had been conducted over the last year or two, they had full presentations on both of these in other forums and they really did not do justice to them today, that she wanted them to hear a snapshot of them today so that they could get a feeling for the backdrop against which they had tried to take action in the area of air toxics, confronted with all of the data, and there was a lot more than what they presented today, they

started talking about what they could do from a City's perspective to get a control on the air toxics which were acknowledged to be much higher for certain categories than they ought to be and they looked at two complimentary approaches, one of them was by looking through the City ordinances and seeing how they might be able to approach the problem through the ordinances and that was what they were going to spend most of today talking about, and the other thing they looked at was how they could work with the companies who were the largest emitters of these air toxics and come up with a plan for them to voluntarily reduce their toxics, that on Wednesday morning, during the Mayor's Report, they would hear a full presentation of the Benzene Reduction Plan that they had developed over the last several months and which had been circulated fairly widely among industry and other government agencies, that their strategy was how could they improve the air quality in the region by reducing benzene over a reasonable period of time and they decided to focus on the industrial sources because they were the single largest individual sources of benzene in the area and they focused on benzene because of the reports that they heard today put benzene way up at the top of the list, it was very highly prevalent in their community and also in a way was a proxy for other air toxics because a lot of the controls that they would put in place to mitigate benzene emissions also would mitigate the emissions of other air toxics, so the mechanism that they came up with was to put together a plan and to seek the cooperation of everybody, other governmental entities, other organizations who were interested in health and environment and those who were not and work together with the largest emitters to reduce their benzene emissions, that ultimately if they were successful what they would end up with was an agreement with the various sources that did the following, first they would agree to emissions reductions, specific reductions over a five year time period, it would also require a commitment to capital and operational changes over the course of the five year period, a demonstration of annual progress toward the ultimate goal would be required, they would want to see the reductions they were making to be verified to external monitoring and they would want there to be consequences so that the facilities that did not meet their goals in an unreasonable manner would be held accountable for that, that they would hear on Wednesday the full detail of the plan and how it was designed and what some of the components were and how they intended to work with the industrial sources to make it so that it was a realistic plan and a win win for everyone.

Mayor White stated that the five criteria was the framework that they used with Texas Petro Chemicals, who under new management had made dramatic reductions in the butadiene 1-3, it was produced by that firm, that he would invite them to look with care at the principles that were embodied here and he did not have specific numbers, that they were open to suggestions and ideas but they were saying that not to have it was not going to produce bringing the levels of benzene down within the community so they were going to have to have something where people participate in.

Ms. Marks stated that they would talk about the registration and then move into the Nuisance Ordinance and the City Attorney could give them an overview of the ordinance.

Mr. Steven Williams, Health Department, stated that he would give an overview of the registration ordinance, basically there were three changes within the Registration Ordinance, they were looking at the registration of all sources and wanted to update the fee structure and adopt State rules locally, that their Bureau of Air Quality Control provided monitoring, inspection, investigation and enforcement activities of sources of air pollution in the City, air activities parallel the activities of water quality, consumer health and their Occupational Health Bureaus within the Health Department's Division of Environmental Health Services, these were charged in all bureaus to support the work of the health inspectors; the registration of all sources, the proposed revision of the Registration Ordinance results in an expansion of facilities that would be required to pay a registration fee to include all sources of air pollutions within the City, previously smaller sources paid fees while larger emitters were exempt from the ordinance, their

proposal requires all sources to pay fees to offset costs of enforcement, both Dallas and San Antonio access registration fees for all sources; the updating of fees, the fee structure was being updated in the ordinance, they had been systematically updating fees throughout their department, fees in the Air Quality Bureau had not been increased since 2002, fees were being increased by approximately 20%, smaller sources fees would increase from \$70 per year to \$100 per year, previously exempted larger sources which generated the most work for their Air Quality Bureau would go from zero dollars per year to a maximum of \$3,000 per year; lastly the amendment incorporated certain State regulations into the City codes so the violation of State law constituted a violation of City ordinance, this change would allow the Air Quality Bureau staff to issue citations to violators which would be resolved in the Municipal Court System, it was consistent with how other environmental citations that were issued by the Health Department inspectors were handled, that Council approval would continue to be required to file lawsuits like those proposed against Valero and Texas Petro Chemicals.

Council Member Lawrence stated that she wanted to go back to Dr. Linder's PowerPoint presentation, that she noticed that on one of the maps it said 1999 and asked if they had anything that was today as opposed to 8 years ago, and Ms. Marks stated that they had more current data, that they had some data from 2004 also and the reason they used those was that they were trying to use data that was already certified and out there and the subject of a lot of other studies, it was not that they used outdated data, and Mayor White asked if they had more current data and Ms. Marks stated not from that same source.

Dr. Linder stated that the National Scale Air Toxics Assessment that EPA completed was based on 1999 data and that study came out in February of 2006, they were in the process now of working with 2002 to generate another model with sets of concentrations, that the nice thing about that data set was that it took advantage of data on weather in addition to exposure patterns, so it gave them a much more accurate measure of concentrations at the census track level, they did not get that with monitoring data, they were not quite sure of the exposures when they move away from the monitors, their model allows them to correct for that and actually pinpoint concentrations at the census track level, they were hoping to have a model based on 2002 data by December 2007 and when they do they will update the results, and Council Member Lawrence stated that she wanted to get some maps to show what Houston looked like today so they could say what was going on in the districts, but what she had been given was 8 years ago maps, and Dr. Linder stated that at the census track level what Council Member Lawrence was saying was true and their ability to generalize at the level of census tracks based on a complex model that had been sanctioned by EPA was limited in that respect, that there were other models that people had generated, other concentration data, but EPA was sanctioning only the results from that particular model at this point and time.

Council Member Clutterbuck asked if the Texas Air Control Board still maintain a standard exemption list, because it looked like the current ordinance that they were seeking to correct tracked the standard exemption list maintained by the Texas Air Control Board and since the proposed ordinance removed a lot of those exemptions she was wondering if the Texas Air Control Board maintained an exemption list.

Ms. Wolfson or Wilson stated that the Texas Air Control Board was merged with the Texas Commission on Environmental Quality, they had changed a lot of their exemption list, the exemption list was from 1989 and it actually was a list of the facilities that they were getting fees from so that was just a list of examples that they were getting of small facilities that they were getting fees from so that deletion was just a deletion of examples and at the current time they had changed that standard exemption into something called permit by rules, it was a little bit different approach, and Council Member Clutterbuck stated that her question would then be if

the TCEQ maintain an exempted list or a list of businesses that were permitted by rules and if so if they could see a copy of that, and Mayor White stated that they would do that.

Mr. Arturo Michel, City Attorney, stated that the Nuisance Ordinance amendment was to Chapter 10, which many of the provisions were enforced by Neighborhood Protection, they had a lot of clarity and precision in what they tell people was a violation of the law, this was an attempt to do the same in air quality matters, rather than take the language that was there now that was talking about gases and emissions that harmed health what they were doing was imposing specific requirements by reference to the Federal Clean Air Act to identify not only what were the pollutants but at which levels that would cause an additional cancer in one in a million, that they thought that with level precision people should be on notice of what was prohibited by law and then the enforcement process should be simpler and cleaner.

Upon questions by Council Members, Ms. Marks stated that there was data that differentiated the sources of the various air toxics and cigarettes were in a different category for the most part, most of the air toxics, in particular benzene, which was the subject of their plan, came primarily from mobile sources, cars, trucks and vehicles that used gasoline and primarily from the industrial sources, that in order to hold anyone accountable under this ordinance they would have to prove that their own emissions, whoever they were and whatever the source of their emissions were, contributed to this level of air pollution; that the standard was set for individual pollutants, some states that had air toxics regulatory frameworks looked at it on a cumulative impact basis but this one did not; that they did take a joint effort at Lyondell Citgo earlier in the year and had a substantial presence, City and County officials, out there together, that they actually startled the line but Arturo Blanco, Bureau of Air Quality, worked very closely with the County and with Galveston County, on a day in and day out basis because they were all out there doing similar inspections and investigations and responding to citizen complaints, that they had been doing a lot of work and despite the hype about tension between the City and TCEQ they worked very closely, particularly with Rebecca Rants, who was the local representative here on a lot of problems and it was often below the radar screen, that she had done some incredible work on some of the marine issues and also helped them with some particulate matter issues, that they were right, it had to be collaborative they could not do it themselves, the Benzene Plan they had shared with the State and County and the federal officials and it was their hope that they all rally around it together and say that everybody had a part to play and it was going to take them all. Council Member Wiseman absent.

After further discussion by Council Members, Mayor White stated that they were trying to go after the biggest emitters at the place of highest concentration, that did not mean that they were picking on a particular firm, but to do cost effective they had to get the most bang for the buck in the enforcement dollars and that was how they were going to do so as a result of that the number one thing that they could do as a community, as a state, to bring down all of these and ozone and particulates would be to have the standards adopted by other big states to increase gasoline mileage and therefore decrease the combustion of motor fuel, that one change would make an enormous amount of difference in a mobile contribution. Council Member Wiseman absent.

After further discussion, Council Member Clutterbuck stated that she was concerned that the ordinance may be so vague and non specific as to render it difficult to enforce and she had a number of questions that she would like to list, that in the Nuisance Ordinance specifically there were very few changes to be made but it said in such amounts and in such concentrations that may cause or contribute to or were likely to become injurious to the health such that over time the risk of cancer may be increased by one in a million, were they going to define what "over time" meant, was that in a year, 20 years or 70 years, that it cited sensitive persons and she was wondering if they needed to define what a sensitive person was and or define what

preview studies were, that was also concerned about the enforcement of it, will these levels be measured, the levels of benzene and butadiene in particular, that she was helpful to have the handout from Rice University that indicated what the parts per billion for each of these chemicals were to cause a one in a hundred thousand or one in a million increase risk of cancer, were those parts per billion defined in the Clean Air Act and was that what they were therefore incorporating, that she thought that was the level of specificity that she was sure the industry that was going to be subject to the ordinance and all of them who were breathing the air would like to see, should they define what the parts per billion for benzene and butadiene 1-3 were that they were going to be measuring, and would they be measured at the smoke stack level or at the perimeter level, how would they enforce the Nuisance Ordinance against individual companies with some level of specificity, and how would a company know when it was subject to receiving a citation, and ultimately would companies be subject to those fines if they did not reach what was previously describe as deminimus levels, and would the Nuisance Ordinance be delayed until they had a chance to review the Mayor's Benzene Plan. Council Member Wiseman absent.

Mayor White stated that he thought some of the issues about defined terms were excellent issues, that they may want to start at one in a hundred thousand for a couple of the items and then move to a higher standard, but they did not want to do it in a way where people bust through the one in a million and they had sharp increases right up to the limit, that he thought it posed some challenges on drafting and he thought they needed some time before they came back and took a look at the Nuisance Ordinance so they get it right, that it was not going to be a matter of years, it was going to take longer than probably a week or two to get that questioned addressed, that he thought people needed to view it in the context of the Benzene Reduction Plan and that may take some time. Council Members Wiseman and Garcia absent.

At 4:18 p.m. Mayor White requested the City Secretary to call the list of speakers. Council Members Wiseman and Garcia absent.

Council Member Alvarado moved to suspend the rules to hear Mr. Doug Foshee out of order, seconded by Council Member Khan. All voting aye. Nays none. Council Members Edwards and Holm out of the city on city business. Council Member Berry absent. MOTION 2007-0137 ADOPTED.

Mr. Doug Foshee, 3743 Ingold, Houston, Texas 77005 (713-420-2400) appeared and stated that he was President and CEO of El Paso Corporation and also the Chair of the Greater Houston Partnership's Environment Advisory Committee, that he thanked them for inviting him today to express the Greater Houston Partnership's support for efforts to address the critical clean air issues facing their region, that for many years Houston's fortunes had been tied closely to energy, today they were the leading domestic and international center for virtually every segment of the energy industry, that in total more than 3,600 energy related establishment were located within the Houston region and over 50% of the region's GEP was generated directly or indirectly from the energy industry, by virtue of their close ties to the energy sector however they share challenges that the entire industry faces not the least of which was how do they balance energy and economic needs with sound environmental policy, that Texas was the world's seventh largest emitter of greenhouse gases just behind the UK and the Houston Galveston area produces more than any other region in the State, contributing factors included their high concentration of industrial enterprises as had been illuminated today, especially those related to the oil and gas and petro chemical industries and also their ever expanding population of active drivers and their growing power needs, that great progress had been made in the last 15 years in cleaning up Houston's air with industry having invested close to \$5 billion to achieve significant reductions in many areas, in particular nitrogen oxides, involatile organic compounds, the primary precursor to ozone, but they all recognized there was more to be done, that air

pollution affected quality of life, in addition to its adverse impact on the health of their citizens it may ultimately take an economic toll by serving as a deterrent to would be visitors or companies considering relocation to Houston, that environmental regulation which fails to weigh all interest however had an equal potential to undermine their economy and their quality of life, the challenge for all of them was to achieve balance based on sound scientific and economic criteria, the partnership supported the City of Houston's efforts towards clean air and approved quality of life for their region's citizens, at the same time they supported balancing the interest of the employer's in the region, that partnership encourages additional deliberation of the Neighborhood Nuisances and Air Pollution Ordinances involving all stakeholders to insure an outcome which improves their region's air quality and maintains economic growth for the region, the ordinances were simply to complex and to important to all involved and deserved a thoughtful and complete analysis so that decision makers had the ability to make reasoned decisions balancing the needs of all stakeholders, the partnership stands ready to convene leadership from the City, business community and other interested parties to assist in the analysis and review of any action prior to it being considered. Council Members Wiseman and Garcia absent.

Mayor White stated that he wanted to thank Mr. Foshee for his offer to convene the leadership group and asked if what kind of timetable they ought to be looking at, and Mr. Foshee stated that he would expect that everybody who had a stake in the game was going to be very interested in convening at the earliest possible time, he would not imagine more than a few weeks, and Mayor White stated that he wanted them to help him change the culture of decision making on environmental matters, which he was very familiar with and which had a long history, that if somebody had concerns he invited them to come up to public microphones and forums that the entire public was available to, that he knew it would not occur on this issue and Mr. Foshee came up and stated his concerns publicly and that was what he liked about his approach to these things, that there were some people who may be sitting in the audience who had views where their strategy was going to be to try to have a meeting with so and so and they did not want to be in front of a microphone where they could be asked questions or let citizens know what they were saying, they would rather feed it in measured tones to regulators or to elected officials and he thought it was an issue of such seriousness that if there was something that was important for him to consider or the people of this body to consider it needed to be done in a public meeting, set in a public session so that everybody knew who was saying what to whom, and he really appreciated Mr. Foshee's offer to put together the leadership stakeholder's group on that because the public did not sense that it was part of negotiations that had occurred often in Austin or in Houston, and Mr. Foshee stated that he concurred with everything that Mayor White had stated in fact the Environment Advisory Committee of the Greater Houston Partnership had made spots available, he believed for the first time, to Ms. Marks and Mr. Peppy so they had tried to conduct as open a forum as they could and they had tied to include not just the point source emitters as members of the Environment Advisory Committee but every stakeholder in the business community and there were many so they would make every effort to do that. Council Member Wiseman absent.

Upon questions by Council Members, Mr. Foshee stated that he was not aware if the partnership had done any sort of study to see how many businesses had not come to Houston, did not move here because of the air quality, nor did he think that every company that did not come to Houston would tell them the full truth but he thought the business community of Houston recognizes that there was an impact because of the poor air quality which was the reason they were working hard not only on this issue but frankly the one that had as much near term economic impact and that was the fact that they were a non attainment area for the Federal Clean Air Act and the 8 Hour Standard, and Council Member Lovell asked if part of their working group, which he had been kind enough to offer, if that could somehow be there where they could see what they were missing out on because of the quality of the air, and Mr. Foshee

stated that they would make every attempt to do that but was not sure they would be able to do that with any specificity although anecdotal evidence would suggest that a certain manufacturing facility just west of here that was fairly large run by a large auto manufacturer did not come to Council and that was at least part of their reason. Council Member Wiseman absent.

Council Member Alvarado stated that she would suggest that any delays were made in good effort and not to try to derail something, but to use that time for substantive conversation on how they resolve and how they come to consensus, she did not think anybody wanted to drive business out of their City, that was not what it was about and that was what people liked to use to divide, that they could be pro business and pro environment at the same time. Council Member Wiseman absent.

Council Member Brown asked how were they going to meet the Federal Clean Air 2009 – 2010 deadlines and avoid federal sanctions, and how was the benzene, butadiene progress going to help them meet those standards because there were a lot of other emissions that came into play. Council Members Wiseman and Lovell absent.

Mr. Forshee stated that the answer to Council Member Brown's second question as was eluted to earlier was that these things did not happen in isolation so what they would find was that an improvement in nitrogen oxides or an improvement in volatile organic compounds or an improvement in HR Vox had an agential impact on all the other pollutants, as it regarded their compliance with the Federal Clean Air Act their State implantation plan had to do with the 8 hour ozone standard, so 1-3 butadiene and benzene and particulate matter and those issues were largely outside of the focus of the SIP as filed and the practical reality was that this region could not meet the 8 hour standard by 2010 attainment which meant 2009 implementation and many stakeholders were working to address that issue and more importantly how quickly could they beat the 8 hour standard for ozone. Council Members Wiseman and Lovell absent.

Mayor White asked Ms. Marks if they had filed comments today, the ones endorsed by him and Judge Ekels, and Ms. Marks stated that they did, the City and County jointly filed comments today in a petition requesting that the TCEQ republish the SIP petition, and Mayor White asked that she get that to Council Member Brown or disseminate it to Council Members and he really appreciated the long hard work that Mr. Foshee did so they could come up with a regional position to move them forward on that issue. Council Members Wiseman and Lovell absent.

Council Member Green moved to suspend the rules to hear Mr. Carroll G. Robinson out of order, seconded by Council Member Alvarado. All voting aye. Nays none. Council Members Edwards and Holm out of the city on city business. Council Member Berry absent. Council Member Wiseman absent. MOTION 2007-0138 ADOPTED.

Mr. Carroll G. Robinson, 2808 Wheeler, Houston, Texas 77004 (713-522-9745) appeared and stated that he wanted to answer Council Member Brown's question, they could comply with the SIP and still poison them by releasing toxins into the air, that he was present today in his capacity as Chairman Elect of the Houston Citizen Chamber of Commerce, that he wanted to be present to let them know that there were business leaders in the community who supported Mayor White's efforts to clean up the air, to protect their families and to continue recognizing that public health and safety was the number one priority, that they shared with the City Council by email a copy of a resolution that was adopted last Wednesday evening, that he was not a scientist and did not even one to pretend that he was one, that he was a father and had a son who had asthma so he understood it in a personal nature, that he had owned a business and worked in the public, private and the non profit sector so he had been fortunate enough to have

held a leadership position in those areas where he had access to the technical experts on clean air issues, that for all he had learned he knew that toxic air pollution was a threat to the public health and safety and was also an environmental justice, that he wanted to make an observation, that question about current data, the reality was that all scientific studies essentially ran on lag data and if they really wanted the most current data they had a decision to make, either Council by itself or in partnership with the County or in partnership with the State or private industry could put up the money and put a monitor in every neighborhood and multiple monitors in every census tract in their City, if they were not willing to do that in terms of private industry then they could not argue that they did not have sufficient data to make the kind of decisions that needed to be made and that old data was invalid when it was the data that was being used not only by the City but also by the County, State and Federal government and the federal entities to make sure they came into compliance with the Federal Clean Air Standard, there was no either or choice involved in cleaning up the City's air, it was not clean air or jobs, they could have a clean environment and safe and well paying jobs in Houston, anyone who says they had to pick one over the other was offering the City a false choice and making a false distinction, that he believed and supported discussion and deliberation but they should not be used as delaying tactics to derail and destroy proposals put forward by the administration, consensus was a good thing but it had never meant 100% agreement, to clean up their City's air they could not do just what was easy, sometimes they had to do what was hard, they all liked unanimous decisions but sometimes leadership meant making the tough decisions that would make some people upset and disappointed with them around the Council table, this time he hoped that it would not be the people who were disappointed. Council Members Wiseman, Lovell and Berry absent.

Mayor White stated that coming from the Chamber it meant an awful lot and thanked them for taking it up expeditiously and knew that it was not an easy thing to do to get that kind of focus. Council Member Wiseman and Berry absent.

Council Member Alvarado stated that she was glad Mr. Robinson was present because it was not just an East End issue, it was the whole City and region, so it was not just those who represented one part of town, it was all of their problem, they were all a partner in this and she thanked him for taking the lead within his Chamber and coming before the City Council. Council Members Wiseman and Berry absent.

Ms. Eva Talbot, 4318 Briar bend, Houston, Texas 77035 (713-572-2727) appeared and stated that she had lived in Houston for 30 years, that she loved Houston and wanted what was best for their City, that one of the things that was best for their City was clean air and it was a must for Houston and Houstonians, they had world renowned Medical Center, two medical schools and two universities in their City and if they wanted to keep their place in the world they must embrace fully the Mayor's plan for clean air, it was imperative that they act now not just for themselves but for their children and grandchildren. Council Members Wiseman and Berry absent.

Council Member Alvarado moved to suspend the rules to hear Father Kevin Collins and Ms. Margarita Villarreal at the top of the three minute speaker's list, seconded by Council Member Khan. All voting aye. Nays none. Council Members Edwards and Holm out of the city on city business. Council Member Berry absent. MOTION 2007-0139 ADOPTED.

Ms. Rebeca Rentz, 5425 Polk Ave., Houston, Texas 77023 (713-767-3687) appeared and stated that she represented the Texas Commission On Environmental Quality and would like to thank them for holding the hearing and giving them the opportunity to speak on the proposed ordinances, that air quality was an issue that was important to all Houston and Harris County area residents, that based on the TCEQ's review of the Texas Clean Air Act, specifically the

Health and Safety Code, Chapter 382, Section 113, it appeared that the proposed Nuisance and Registration Ordinances would be contrary to State law if it made unlawful and otherwise authorized act under Chapter 382, The Texas Clean Air Act, it was just a brief statement in light of the public opportunity that they had provided to discuss the proposed ordinances, but they would be glad to answer any additional questions and look forward to careful consideration on these ordinances as well as other air quality issues. Council Members Wiseman and Berry absent.

Mayor White asked if the State of Texas had any law or rule prohibiting a company from contributing to excessive ambient concentrations of toxic chemicals in one place, and Ms. Rentz stated that they had specific permits that applied to specific facilities and then the TCEQ looks and utilizes effect screening levels which looked at the ambient air quality at specific monitors and that triggered enforcement actions, investigations, etc., and they looked at, as they were mentioning, the several monitors in East Harris County and across Harris County to initiate those many investigation activities, and Mayor White asked if someone who violated their permit level, if they were within their permit level, but their permitted amount when combined with others resulted in excessive ambient concentrations, do they take action against somebody and if so if she could name one case, and Ms. Rentz stated that the answer to Mayor White's question was yes, they looked at those ambient air monitors and when they saw levels elevated above the guidelines utilized by TCE Q they do take action in an area and looked at all sources so for example over the course of the past year in 2006 they utilized what they called the Gas Find IR Camera, they were all familiar with it, it was a camera that saw pollution that they could not typically see with the naked eye, and in that effort they had implemented permitted reductions with several facilities in the key area of concerns that would reduce 7,000 tons per year of VOCs, that included benzene, they were following up the effort with specific and ongoing investigations in these areas utilizing monitors that reflected an hour by hour average in some of these areas and utilizing the information, wind direction, etc., to look at potential sources, that as they knew and as everyone on the City Council had discussed, it was not just one potential sources, often there were several sources that they had to look at, the barges, stationary sources, automobiles and they had to focus on all of those to determine if there was a facility that they regulated which was either exceeding it's permitted levels or those permitted levels should be reduced in order to lower the overall ambient concentrations, and Mayor White asked if Ms. Rentz could supply for them, so they could review, the cases in which the TCEQ had taken some legal action against someone who had contributed to excessive ambient concentrations where they were within their permitted level by the TCEQ, he would appreciate taking a look at what those legal actions were, that he took it that she was saying that there were going to be numerous such actions that she could point to, and Ms. Rentz stated that there were several actions, some which exceeded the permitted level and some which did not exceed the permitted levels in these certain areas, and again she was referring to the Gas Fined IR Camera and those subsequent investigations, there were also several pending investigations which obviously she would not be able to provide that information for the Council at this time, and Mayor White stated that because the track record of somebody in doing what he was saying and the legal authorities that they appoint to that gave them the power to enforce was something that would be important to them in making these decisions and the candor and straight forwardness of people concerning the bigger of the enforcement. Council Members Wiseman and Berry absent.

Upon questions by Council Members, Ms. Rentz stated that as they knew they took numerous actions within the City of Houston for both air, water and waste and would be glad to provide what information she could on that, that there were civil as well as criminal penalties and actions that could be taken by the State, that she was not familiar if they had taken any criminal action against polluters in the Houston area, that those were carried out not by anyone

in the region, there were special investigators as well as a special legal department in Austin that handled that. Council Members Wiseman and Berry absent.

Mayor White stated that one thing they were focusing on between now and the time they took it up and he was glad to know that the TCEQ had the full legal authority to decrease people's permitted amounts of benzene, so that the ambient air standard could be complied with because now he understood how they were going to be able, if the TCEQ cooperated and would do it, reduce over time the permitted amounts to where they achieve the health standards and the Benzene Reduction Plan and they would not have to worry about adding enforcement staff and he was so pleased that they would have and use the enforcement tool and asked if they were going to reduce people's permitted amounts of benzene until they got down to an acceptable health level, and Ms. Rentz stated that one thing she was saying was that TCEQ did enforce when there was an obvious increase or excess of benzene emissions over permitted levels, if it was below permitted levels then what TCEQ had done and believed what the City was looking at doing through it's Benzene Reduction Plan, was work in cooperation with the facility that it was below the permitted levels to further reduce those levels, so it was really a combination of approaches from both enforcement as well as cooperation and it was often evident when they looked at the monitor and showed a concern and demonstrated a concern and once that concern was demonstrated then there were several avenues which they could take in order to further reduce those benzene levels and the State of Texas and TCEQ was taking several actions in those areas, both enforcement as well as cooperative with industry in areas where they had a concern, and Mayor White stated that in the case of the butadiene 1-3 hearing that they had in the Council Chamber that there was some evidence from others, including TCEQ, that if TCEQ had permitted an amount, and he knew there was permitting criteria for these two chemicals, was based on the point source standard as opposed to what the ambient effect was, that the TCEQ if it could not and did not have the legal power to then compel somebody to reduce it below an amount that it had previously permitted and the fact that they had that power he found it gave them a tool to deal with and that way they could deal with firms on a level playing field in an open public forum where everybody knew what the rules were and Ms. Rentz stated that again as far as the TCEQ and what they did she thought they had all seen these processes in place, sometimes it was an enforcement action that was necessary and sometimes as in the case of TPC it was a cooperative agreement that reduces those levels, sometimes reduces permitting levels, even though there was not a specific enforcement action taken to reduce those permitted levels, and Mayor White stated that they could order a reduction in the permitted levels of benzene emissions for the stationary sources over a period of time, they reduce these by a blank amount of a period of 5 or 10 year, they could do that, they had legal authority to do that, and Ms. Rentz stated that again there were some instances where there were excess of permitted emissions or when a permit came up for review where that opportunity allowed them to specifically reduce permitted levels at that time of benzene there were other instances where they saw monitored levels of concern and they could go to companies in the area and work with them in a cooperative manner to further reduce those benzene levels and that had been done and was continuing to be done within Harris County, that they could count on TCEQ to further investigate elevated sources, that TCEQ was willing to work with any entity, with industry, with any governmental entity who wanted to work to reduce benzene levels, they were doing that now and were focused on specific areas where they were initiating investigation and enforcement actions as necessary to reduce the benzene levels and these levels had declined and were continuing declined, that she was an attorney. Council Members Wiseman and Berry absent.

Mayor White stated that he thought the plan as they had seen and circulated, if there was something they could do to have a predictable and reliable enforcement regime for those who cooperate and for those who do not he would appreciate it and Ms. Rentz stated that she would be glad to work with them. Council Members Wiseman, Green and Berry absent.

Father Kevin Collins, 7250 Harrisburg, Houston, Texas 77011 (713-921-1261) appeared and stated that he was the pastor of Immaculate Conception Church on Harrisburg Boulevard in the East End in the Magnolia Park area, that they were right next door to the Manchester area, that he saw their area on the map, that he had only been there three and a half years and hopefully had not had time to absorb all of those toxins that the people around him had been absorbing, that he was very disturbed by seeing the map and the different levels of toxins in their area, that he was also on the Executive Committee of TMO, which was their community organizing area that had over 30 churches and synagogues and organizations in town and part of their mission was to help families and also this had not been an issue that they had looked into it may become one now that they had seen some of the data because all of their focus was in helping families, especially poor families who did not have someone to speak for them, that they had not examined the issue at any length so he could not speak for the group in that area, that he could speak for himself as a pastor over there in Magnolia Park, they just finished a mission in their church in which they conducted visits of many of their parishioners, they visited over 500 homes in that area and as the different missionary's came back one of the things that astonished them was how much sickness there was in the homes of the people who lived in their area, that he had a meeting one night with an extended family, the grandfather, daughter and children were there and the grandfather of that family who had lived there all of his life had Cancer, two of his daughters had Cancer and it was anecdotal evidence but was sure it represented, and the people from the Health Department could probably verify, that it was a plague that was going on in their community and it was not a plague that was automatic, it was being caused by the polluters in their area and living so close to areas of pollution, so as a pastor it concerned him, as a moral issue it concerned him that they as moral people were called to care for their brothers and sisters and were also called to care for creation, when the Bible said they were given the earth to subdue it did not mean to destroy, that they had been given the earth to act as children of GOD, to take care of and the way the Bible tells them that GOD acts was always to make creation better, the whole creation story was a story of making something good out of the terror that existed there that was described by the words of creation, that GOD saw how terrible things were and over and over GOD worked to make things good so that is what he would ask them to do. Council Members Johnson, Wiseman, Green and Berry absent.

Mayor White thanked Father Collins for being present and speaking up for his community. Council Members Johnson, Wiseman, Green and Berry absent.

Ms. Margarita Villarreal, 7618 Avenue K, Houston, Texas 77011 (713-921-1261) appeared and stated that she had been living in Magnolia Park all of her life and like Father Kevin stated there was a lot of illness, a lot of Cancer, that she lived in a small block that had eleven homes and 14 people had Cancer in that block, that at another block there were some more people coming down with Cancer and that was just too much, and they could smell the air all the time, the days they did not smell it they knew something was missing, they were just used to it, and she thought they ought to do better for their neighborhood. Council Members Johnson, Wiseman, Khan, Green and Berry absent. (NO QUORUM PRESENT)

Council Member Alvarado stated that Ms. Villarreal spoke from the heart, that she agreed with everything she said, growing up in the Manchester Magnolia area it just became a way of life, they almost became immune to the order, they thought it was normal until people would come to their neighborhood and say it smelled like boiled eggs or something rotten and they would say they did not smell anything because they were used to it, the other issue about people, their neighbors, their families and friends getting Cancer that also became the norm, they would hear about so and so down the street that worked back then at Staford Chemical who died shortly after retirement, in the last five years she had two people who grew up on the

same block that she did, two women, that developed breast Cancer and others out in the Denver Harbor area and it was just sad for her to say it was just the norm, they just sort of accepted it, that they did care, the Council and the Mayor, that was why they were having this dialog, as she had said before nobody had the guts to take on these issues, that they all knew growing up and living there, they knew there were dangers but it was not until this administration had initiated some of the things they were doing that the issue came to life. Council Members Johnson, Wiseman, Green and Berry absent. (NO QUORUM PRESENT)

Mr. Stephen Linder, 1200 Hermann Pressler, Houston, Texas 77030 (713-500-9494) appeared at the beginning of the hearing presentation. Council Members Johnson, Wiseman, Khan and Green absent. (No Quorum Present)

Ms. Sabrina Strawn, 3100 Richmond, No. 309, Houston, Texas 77098 (713-222-2295) had reserved time to speak but was not present when her name was called. Council Members Johnson, Wiseman, Khan and Green absent. (No Quorum Present)

Ms. Carol Caul, 685 N. Post Oak Lane, Houston, Texas 77024 (713-682-2500) had reserved time to speak but was not present when her name was called. Council Members Johnson, Wiseman, Khan and Green absent. (No Quorum Present)

Ms. Diane Lipton, 550 Gulfgate Center, Houston, Texas 77087 (713-926-3305) appeared and stated that she had the pleasure of serving as the President of the Houston East End Chamber of Commerce for the past seven years, that she was present on behalf of their Board of Directors to state the business communities opposition to both ordinances only until a thorough analysis of the risk to the community and impact on business could be completed, that they did not believe that the ordinances had appropriate input for the potentially impacted parties and they felt they should not be adopted until they were fully understood, that sitting in the Council Chamber listening to people was very sad to hear all of the challenges in their community and the people who were sick, that she grew up in Lake Charles, Louisiana and her dad worked at the plants all of life and she knew what they were talking about the smell and she really had not noticed it in the area but she was not saying it was not there, it had not been an impact to her although she was there every day but she did think as part of the chamber they had many industries and many of them were members of their chamber and she had found them to be very willing to work with them and together when they give them that opportunity so all she would like to suggest was that their chamber would be happy to participate on a task force comprised of a broad section of the community so they could purview together and give industry and the neighbors the opportunity to work together, she understood they did not have a lot of time, she understood that people were sick and that they really needed to do it now, but she had not been aware that they had time for industry and neighbors to get together and really work on it so they could better the air quality at their community, all of them wanted better air quality, all of them that lived and worked there, they were there a whole lot so it affected all of them and they all wanted to work together and she could assure them that their industries would work with them once given that opportunity. Council Members Johnson, Wiseman and Green absent

Mayor White stated that he heard what she said about getting stakeholder involvement, he was all for that, he thought it was very serious and complex, he was not saying it was simple, but if people had specific ideas of what they could do in order to get a plan in place that had rules he would really very much appreciate it, that they would appreciate her telling them what she wanted to do over the next period of weeks, and Ms. Lipton stated that she would get together with their industries, she had confidence that they could work together to get the air cleaner and also to in a manner that could keep their businesses productive and in a stable economy. Council Members Johnson, Wiseman and Green absent.

Upon questions by Council Members, Ms. Lipton stated that she could not answer why they were at this point right now, she had not been actively involved in the process up until this point, that possibly their chamber should have been involved in it more but she did not realize, that she learned a lot today and thought their business owners had been working diligently to try to do something about it, that she knew a couple of their business owners had been making improvements but she could not tell them the level of those improvements and if they were coming down to the levels that they wanted them to or not because she did not have those facts right now, what she could tell them was that she knew they were willing to work with them and that they could work together to make it happen, that they did not want to do it by just imposing it on businesses and running their businesses off either, that there was an economic sound stable way they could do it and still save their families and what she was sharing was that she believed it and believed their members believed it and she would like to be participative in that effort, that all she could tell them was that their chamber had moved on a lot of different issues, typically they moved very fast once they knew they had to do something and hopefully they had seen them be proactive in a lot of different areas and she would like to be given that opportunity for them to be able to work it together, that she did not know how to tell them right now, she would say if they could come back in three weeks and give them some sort of idea of what they may be able to offer she would be glad to do that, that the businesses in their chamber do not feel that they have actively been involved in the process, maybe that was their choice, that was what she was hearing, but now she would be hopeful that they would be actively involved in the process, that if they would give her time to go back to them and express what she had heard today. Council Members Johnson, Wiseman, Alvarado and Green absent.

Mayor White stated that given how ambitious it was and he could appreciate Ms. Lipton talk about a number of weeks and knew that there would be some who would be disappointed if they took about six weeks or something to get it back on the agenda but if he was going to take a cut based on what he had heard and some of the comments for them to take a look at the butadiene plan and what Mr. Foshee said, but people should not have their comments in at the very end, and if they were really affective they better show up at a public hearing where he could have their scientists and engineers there so the public could hear this discussion just like everybody else. Council Members Johnson, Wiseman, Alvarado and Green absent. (NO QUORUM PRESENT)

Mr. Tom McKittrick, 1111 Guinea, Houston, Texas 77055 (713-465-4827) appeared and stated that he was an architect and native Houstonian and also a member of the Board of Directors of Mothers for Clean Air and was present as a grandfather, there was no organization called Grandfathers for Clean Air, that his grandsons were only 3 and 5 years of age so he was present to speak on their behalf, they each had respiratory problems and it really hurts to see Max, his 5 year old grandson, having to use an asthma inhaler and they lived miles away from the Ship Channel industries, the fact that he also had asthma did not concern him nearly as much as his concern for children who must breathe air polluted with toxins and carcinogens until 2018, according to the TCEQ, that he attended the TCEQ hearing at which no commissioners were present, he wanted to look them in the eye and tell them what he thought about that extension of time until they had some control over air quality, that was why he also supported Mayor White's initiative to amend the City's Nuisance Ordinance to help protect local residents health, if they could clean up their air through local action they might be able to attract more business, he heard that Toyota chose to build it's truck factory in San Antonio rather than Houston because of their poor air quality, please place the welfare of all of their children above that of the polluters. Council Members Johnson, Wiseman and Green absent.

Mr. Brandt Mannchen, 5431 Carew, Houston, Texas 77096 (713-664-5962) appeared and stated that he was present representing the Houston Sierra Club and they would like to make

some comments about the changes to the two proposed ordinances, they supported changing the air pollution ordinances and wanted to make them the best they could so they could withstand any legal challenges if there were any, that concerning Section 10-451 and Section 21-164, there were actually two definitions of nuisance that would be adopted and their concern was were they going to use both definitions and if so they needed to clarify when they were going to use those definitions of nuisances so they would like that clarified, that second, under Section 10-451 they supported the language that made it a nuisance if the risk of Cancer was increased by one case in a million, also under Section 10-451 they supported the removal of the language that was in the first version that talked about previewed studies because it was undefined, in Section 10-451 they recommended that the phrase chronic disease and sensitive persons be changed to chronic disease and persons so that that applicability of the phrase to the general public was broader, that Section 21-161, they had read the City of Dallas Air Pollution Ordinance and looked at their definition for facilities and looked at the City of Houston's definition for facilities, they were similar, the City of Dallas did charge fees for those who had TCEQ permits, inspection fees and emission fees, therefore they thought it was appropriate that the City may also charge such fees, that Section 21-164, they supported adding the TCEQs Air Pollution Rules as City of Houston Air Pollution Rules, they thought it would give them more flexibility for enforcement, that in Section 21-166, there was a sentence that had been left out and they thought it was important to put back in, "The Director shall promulgate procedures for the computation of contaminate discharges and fees under this category", that they thought it was important because it would require the BAQC to set up a scientifically defensible computation and calculation method, that they appreciate the opportunity to comment. Council Members Johnson, Wiseman and Green absent.

Mayor White stated that he wanted to thank Mr. Mannchen for how specific that was and those were the kind of comments that would be very helpful to them and they would dully consider that. Council Members Johnson, Wiseman and Green absent.

Mr. Russell Lehrman, 2901 Rusk St., Houston, Texas 77003 (713-222-2295) appeared and stated that he was a lifelong citizen of Houston and wanted to say that to the citizens of Houston Mayor White was their Rocky Balboa, they looked for him to put out the pollution, and he wanted to thank Council Member Alvarado for inviting him to the hearing, and wanted to thank Council Member Lawrence for her support, he wanted to point out and answer a question that she had earlier, they had very recent data on the pollution in Houston, it was put out by Arturo Blanco the head of their Air Quality Control Bureau, that it was dated December 4, and it was a 44 page report that talked about the pollution in and around the Oak Farms Dairy, a member of the East End Chamber of Commerce that was represented at Council earlier, that in part closing and selling the streets around Oak Farms Dairy invited more pollution to Houston's eastside, it turned them into more parking lots where they had trucks parked emitting diesel emissions, that he had a house located 50 feet from their lot and yesterday a most recent count was 22 trucks that were running with diesel engines and he thought that was to many and he thought they were not doing enough to stop them, the City of Houston Air Quality Control chief notified Oak Farms Dairy on December 5 of air pollution violations at that plant, also on December 4 when the report came out, if they had the report or got it from the Health Department, on page 4 it said there was an increased Cancer inhalation risk at Oak Farms Dairy, also he had heard some of the experts speak and they were talking about if one worked at a plant and how it might affect them, he would tell them that they did not have people working at the plant they had people who were retired such as some of his neighbors who would speak to them today and they had been breathing it like they did in Council Member Alvarado home and they had been breathing it 24 hours a day so he thought their risk might be increased by three times and he thought they needed to do something and they did, they issued citations to Oak Farms Dairy and those citations were supposed to be paid but instead Oak Farms Dairy was negotiating with the City, negotiating on their pollution, they were supposed to be in court

on February 7, that had been extended and he did not understand why it had been extended, why could Oak Farms not pay fines like they pay if they run a stop sign, he thought it was very urgent and important that people ask these questions because more closed streets, and they had closed several, meant more pollution for them and it meant more sickness, one of his neighbors that was on the Third Ward Committee passed away recently. Council Members Johnson, Wiseman and Green absent.

Council Member Lawrence asked if Mr. Lehrman was working or just living close to the Oak Farms facility off of Silver, and Mr. Lehrman stated both, that his business was located at 2901 Rusk Street and he worked there and he also went to rental property that he had fifty feet away in a house, that his tenants had vacated and he would not rent until he knew those people were safe, it was just a big problem, he was losing income and he had a business just like Oak Farms, he was the little guy getting squashed, and Council Member Lawrence stated that she met with Oak Farms on Friday at their plant and talked with them quite extensively about meeting with the neighborhood and coming up with a plan and she thought that Mr. Lehrman was going to see them doing that, that they wanted to get into the gated community and see what was going on there and she thought that was one demand that they might want, a monitoring as far as the wall they had built, and Mr. Lherman stated that they had asked for one, they had not put a test wall there, they said they had, and Council Member Lawrence stated that they had a new manager that just came in from out of State and she thought they were going to see some changes. Council Members Johnson, Wiseman, Alvarado and Green absent.

Ms. Jane Laping, 4971 Dumfries, Houston, Texas 77096 (no phone) appeared and stated that she was the Executive Director of Mothers for Clean Air and she would be speaking on behalf of GHASP, the Galveston Houston Association for Smog Prevention, that as they had heard today Houston's air pollution was not just about ozone any more, a more serious threat had been looming for quite some time and recent reports and research had brought it into the limelight, the presence of toxic substances in Houston's air poses an even greater risk to their health and the health of their children than ozone, air toxics were so named because research had been conducted indicating that they were toxic or poisonous to human health at certain concentrations, however controlling releases of toxic air pollution was made difficult because there were no federal standards like there were for ground level ozone in particulate matter, the reason was not because air toxics were not important but because there were so many of them therefore some States were developing regulations for a number of air toxics but in Texas there were no standards, just guidelines, of all places that needed standards for air toxics Houston should top the list, emissions of benzene, butadiene and formaldehyde up to 65 times higher in Houston than other major cities such as Los Angeles, Chicago and Saint Louis, health based concentrations limits for air toxics were based on the risk of getting Cancer, the EPA recommended reducing Cancer risks to less than one person getting Cancer from a particular air toxic out of every one million persons, raising the risk, allowing more emissions of air toxics meant more people would get Cancer, personally she knew too many people with Cancer who had suffered through the torment of chemotherapy, that a recent epidemiological study from the University of Texas indicated that there was an association with certain childhood Leukemia and living within two miles of the Houston Ship Channel, also in the study higher 1-3 butadiene levels were associated with all Leukemia in children, although it was just a preliminary study there were hundreds of others throughout the Nation and world indicating health effects at levels lower than they experience in Houston, that they did not have to believe the reports about the health impacts of air toxics on their community but think about the impacts that these reports had on Houston's reputation, they already know of businesses and families who had not moved to Houston because of their reputation for dirty air, if the State and the EPA were not willing to be bold enough to clean up Houston's air then the City needed to take action to protect public health and the economic vitality of their City, fortunately they now had a Mayor who was willing to stick out his neck for the health and well being of their residents and she applauded him for

that and she applauded the Council for supporting him, that he was also sticking his neck out for the health and well being of their businesses, without clean air they could not expect to compete for new businesses and to attract the best and brightest employees. Council Members Johnson, Wiseman and Green absent.

Upon questions by Council Members, Ms. Laping stated that the State, the Texas Commission on Environmental Quality, were required to prepare for them a plan that would clean up the air and the latest deadline was 2007, this year, however they were now telling us that since they had a new standard they were not going to have clean air by 2010, which was the new deadline, they may not even have clean air by 2018, so those were the delays they were facing from the State and that was why she thought it was so important that the City take the issue on because they knew they could not rely on the State to clean up the air in Houston, that she thought they only needed to look at the history to see where the problem was, with the history like the TCEQ had how could they trust them or put any faith in what they say until they see the action. Council Members Johnson, Wiseman and Green absent.

Ms. Marcie Anderson, 3306 Pease, Houston, Texas 77003 (713-227-0397) appeared and stated that she was present today to continue her efforts to bring to their attention the problems of air pollution, noise pollution and the overall negative effects of her health that she had faced on a daily basis in her home that were a direct result of living next to Oak Farms Dairy on the near eastside of town, that over the years they had expanded their operation to include a large tract of property directly across from her house and generally bounded by the streets, Valesco, Leeland and Roberts, that her home was on the corner of Pease and Roberts and she could honestly say that since Oak Farms had used these property by heavy vehicle use air pollution, noise pollution and ground vibration, that she could feel indoors, and personal stress had been a daily part of her life, the stress on her came from not knowing how safe she was in her own home due to the problems caused by Oak Farms, all of this occurred inside her house, the one place that they all should feel is a safe place they can be, there was a constant flow of diesel cabs and trucks in and out of their parking lot, from the early morning and which went on throughout the day, they were the source of the air pollution that had left detectable diesel residue both inside and outside her home, that noise pollution from these vehicles also included the constant drone from the refrigeration units on the trucks that usually run throughout the night, that she had approached management at Oak Farms about these issues and she had attempted to get them to come up and to put in place some remedies that would restrict all of these pollutions that affected her neighborhood, that Oak Farm had shown through their lack of action that they were not concerned about the health and safety or well being of the residents who lived around their plants, the sad fact was that many of the residents that lived around the plant were likely some of the same people who buy their products, that was why she was here before the City Council, it would be good to know that she could count on Mayor White, their District Representative Council Member Alvarado along with the full Council to take whatever action necessary through local, State and National laws and ordinances to compel Oak Farms to significantly restrict and reduce all of the pollution she had mentioned earlier, with their influence she was confident that Oak Farms would see the advantage of changing policies and actions and dealing with the pollution they generate, in doing so they would then occupy the neighborhood with others as a good neighbor. Council Members Johnson, Wiseman and Green absent.

Council Member Alvarado moved to suspend the rules to hear Mr. Jim Blackburn out of order after the next speaker, seconded by Council Member Khan. All voting aye. Nays none. Council Members Edwards and Holm out of the city on city business. Council Member Berry absent. Council Members Wiseman and Green absent. MOTION 2007-0140 ADOPTED.

Ms. Lesly Van Dame, 2902 Briarhurst, No. 1004, Houston, Texas 7757 (713-490-2258) appeared and stated that she had lived in Houston for 16 years, the City had a lot going for it but her biggest frustration was knowing how unhealthy it was to live in Houston and how willing citizens and some of their leaders were to roll over and let local business dump on them, one thing that really struck her was when an alumna from the college she attended in Minnesota came to Houston on a temporary teaching assignment and remarked that at her school 90% of the kids had Asthma and they thought it was normal and it went with what everyone else had said, it was shameful, that Mayor White's plan was an opportunity to stand up for their health, as they had seen over the years the polluters were not going to do anything if the City did not, why should they, they had successfully kept them cowering in the corner with their tails between their legs for decades, they needed to make it painful for businesses not to comply with reasonable standards and by that she meant that it cost more to pollute than not to pollute, and although they certainly did not owe it she would support the City lending support to developing, making true efforts to improve, and in the process of finding better technology to decrease pollution businesses just might find that they save money in the long run, that it was all together fitting that they have the meeting today, as demonstration that government of the people, by the people and for the people had not yet perished from the earth. Council Members Wiseman, Brown and Green absent.

Mr. Jim Blackburn, 4709 Austin, Houston, Texas 77004 (713-524-1012) appeared and stated that from a legal standpoint he was a Professor of Environmental Law at Rice in the Environmental Engineering Department and practiced Environmental Law, that he had no doubt that what they were proposing to do was absolutely legal, the ability to regulate nuisances was one of the authorities that had been given specifically to cities, there was also authority to specifically regulate specific air pollution aspects so they had authority both under the Local Government Code and the Texas Health and Safety Code to do it, he did not think there was any question that there was legal authority, that he thought that the important issue that they were wrestling with was what to do and how to do it and he thought it was worthy of a lot of thought and consideration, something that he thought was real important to note was the experts that they heard at an earlier time, it was unprecedented in Houston that they would have as much sort of studies that they had to work with as they did right now, for as much as they had in Houston they had relatively few studies and some of those studies were relatively new in coming, he was involved with the Sonoma Study that the City did in the late 1990s but they had recently both with the Mayor's study and with the study coming out of Rice the first really authoritative information on air toxics than they ever had, and he thought the thing to keep in mind was the concept or relative risk, first of all he thought it was important to be as precise as they could be within reason in the ordinance in terms of how they intended to go about it, he thought the idea of focusing on hot spots was the single best idea that he had heard in a long time, the idea that they could delineate, and he did not think there was any question that they had the data to identify areas where the risk would be greater than 1 in a 100,000, upwards as high as perhaps 1 in 10,000 or even higher in certain areas right now, that 1 in a million was a nice goal to head for but focus on the areas that had the biggest problems because there were some areas on this town that had problems that no one should live within and they exist and could be addressed, these hot spots could be identified and he thought the concept, and he had not heard enough said about sort of the approach, where there was sort of almost a carrot and stick approach, identify hot spots, identify the sources that were contributing those hot spots, get the data together and talk to the sources, try to work through with the sources, much like what they were trying to do with the benzene approach, how to get these sources reduced, but they needed to have the stick, there needed to be something more than just talk, they had talk in this town for as long as he had been practicing Environmental Law, which was a real long time, and it was time to do something and he encouraged them and supported them. Council Members Wiseman and Green absent.

Upon questions by Council Members, Mr. Blackburn stated that Ms. Rentz was probably referring to Section 382-113 of the Texas Health and Safety Code that basically said that if the TCEQ had passed a rule or regulation that the City could not pass an ordinance that was in direct conflict with that, and he thought in this situation that simply was not the case, that TCEQ had not passed binding regulations on air toxics, he had been in hearing after hearing where effect screening levels, which was what the State used, ESLs, were put forward and frankly testimony came in frequently about the ESLs being violated and that did not stop a permit from being issued, so while on paper TCEQ had some guidelines they were absolutely, frankly, worthless as far as protecting public health, they needed something to protect public health and he did not think the field was preempted in any form, shape or fashion and he thought it was an area where the City right now had an open field to legislate in, that it was his interpretation that they would not be in conflict, he thought that the real question was that it specifically said in the statute, conflict with a rule or an order, those were the specific words, there was no binding rule on air toxics like what they were seeking to regulate; that he had mixed feelings because they were always learning more information about the levels, that he read very closely and watched the development of the Rice study and trying to get that information about what was a 1 in 100,000 risk and what was a 1 in one million risk, and he was involved in study five or six years earlier where frankly they knew much more today about many of these pollutants than they did at that time and they would know more in the future, so he thought the real trick was to write an ordinance that was specific enough to advice people as to what they were going to be required to do and now those determinations were made with tying their hands so they could not make changes as they learned more in the future, but he would support defining 1 in 100,000 risk, 1 in a million risk, for at least a few pollutants and starting with those to begin with, that there was an ozone formation on the TCEQ website and he could give Council Member Lawrence the specific web address, he would get back with her later. Council Members Wiseman and Green absent.

Ms. Andrea Denise Brown, 3305 Pease, Houston, Texas 77003 (713-236-8605) appeared and stated that she resided across from the Oak Farms parking area, she had two sons with Asthma and a breathing problem that constantly caused them to be ill, she had to take Tyrone and Jerome to the doctor on a regular basis because when her sons go outside they inhale the pollution from the trucks, that she also had to purchase a breathing machine for Tyrone and Jerome to breathe better, the pollution from the trucks at Oak Farms Dairy had really affected her sons, the trucks keep up noise from constantly running 24 hours day and night, the smog, the pollution and the dust was a menace to their neighborhood, Oak Farms should be considerate of everyone in their neighborhood, so to please take her letter into consideration. Mayor White and Council Members Wiseman and Green absent. Mayor Pro Tem Alvarado presiding.

Council Member Brown moved to suspend the rules to hear Mr. Jim Marston and Mr. Jim Fenoglio out of order, seconded by Council Member Khan. All voting aye. Nays none. Council Members Edwards and Holm out of the city on city business. Council Member Berry absent. Mayor White, Council Members Wiseman and Green absent. MOTION 2007-0141 ADOPTED. Mayor Pro Tem Alvarado presiding.

Mr. Jim Marston, 44 East Ave, Austin, Texas (512-289-5293) appeared and stated that he was the Regional Director of Environmental Defense and National Environmental Group, they had two offices in Texas including one in Austin, they had 3,000 members in Harris County, that he wanted to thank Mayor White for making this initiative, it was really necessary because frankly the TCEQ had failed the people of Houston, that he would give them one reason, there was a study that came out on Saturday, the Environmental Integrity Project, that showed that refineries in California put out one half as much pollution as the refineries in Texas, and why was that, were they different companies, no, were they home town companies in California and

were taking care of their local communities, no, frankly most of these companies were either headquartered in Houston, either international or national headquarters, that the one reason why the refineries were a lot cleaner in California was because the regulators did not let the regulated community push them around, that people had said that it may be too costly to clean up, but the \$5 billion that had been spent in Houston on clean air by industry was not a small amount, but if he did the math right \$5 billion was 12 days of profit of one company headquartered in Houston, that did not seem like very much money to him when they put it in context, that the California refineries had shown them that they could clean up the air, it was technologically possible and they could make a profit there, why could they not have those kind of refineries here, and finally, folks have said that it was illegal for them to act, but he would tell them that if these folks were so certain that the City's actions were illegal they would be quite, they would let the City pass the ordinance and run to the courthouse and get an injunction, if they were so certain that what the City was doing was illegal these companies would not be in Austin, Texas right now lobbying to get new laws to prohibit the City to do what they ought to be doing, that he would close with a quote from Oliver Wendell Holmes, one of the greatest Supreme Court justices of all time, "it is a fair and reasonable on the part of a sovereign that the air over it's territory should not be pollution to a great scale", that what they were doing was fair and reasonable. Mayor White and Council Members Wiseman and Green absent. Mayor Pro Tem Alvarado presiding.

Upon questions by Council Members, Mr. Marston stated that sure there were costs to comply with health and safety rules for all of them but this was a good time to ask the refineries to come forward and invest some money, they were making profits that were unheard of and they could reasonably afford that, that yes the Chamber could come up with a plan if there was will on that part, but that had not been there to date, that a possible suggestion was to give them a few weeks to come up with a hard plan and if it was a good plan then they would listen to it, if they did not make that hard deadline then they were out of luck, that frankly it was not the first time it had come up, they should have acted at the very least shortly after the Houston Chronicle five part series, they were on notice and were fighting in the Texas Legislature to do something about it, that he was not sympathetic to the Chamber saying they did not have enough time or did not have a chance to get involved, they were on notice and rather than being part of the solution they had been part of the problem, that the many studies that he had seen, basically once a company got an individual permit that tended to be the end of the discussion, they could not make them do more, they had already passed the permit and was all they had to do and if they were meeting that permit limitation, regardless of the effect on public health, they were not going to go back and make them do anything else, now there may have been a few examples where they had done otherwise because the companies had cooperated but that was the exception that proved the rule. Council Members Wiseman, Alvarado and Green absent.

Mr. Jim Fenoglio, 2200 W. Loop South, No. 600, Houston, Texas 77027 (713-993-1340) appeared and stated that he was a local businessman who was in the business of attracting capital to the City for financing commercial real estate, he spent all day on the phone pitching the virtues of the City and it pained him that they had such a literal black cloud hanging over them, that he was activated to become an environmental supporter on the ball fields of Houston about 10 years ago as he saw a fellow classmate of his daughter's collapse on a seemingly beautiful warm spring day, little did he or anyone else know that it was a red ozone alert day, nobody cared, nobody even noticed and kids were out there gasping, the young lady was carried off on a stretcher and in an ambulance and was sent to Texas Children's, she recovered but it caused him to realize that their prosperity had a price and the clean air issue was an economic issue, it was the 21st Century and clean air equaled economic development, that he got a call yesterday from a friend of his in Dallas, a very conservative businessman who said they needed his help, they were fighting TXU and the dirty coal plants they wanted to build, they did not want to be another Houston, that was what their good friends in Dallas thought of

Houston, so economics did have a decision, Toyota did take Houston off of the list for a reason, their non attainment on air quality, what would others around the world think of Houston, what would Mercer Human Resource Consulting Group, that was a division of Marshall McLennan, who did a survey of the 350 cities that corporations considered for relocation around the Country, that first was Zurich, not surprisingly last was Bagdad, that Houston ranked dead last as far as U.S. cities went, people knew about Houston and make economic decisions based upon what went on with their air, their health could not be overstated, the people that air pollution hit the most, as had been said earlier, were the children and the old folks, they did not have lobbyists, they did not work the corridors here or in Austin or Washington, they only had one group they could turn to and that was the City Council, they were stewards of their health and stewards of what went on in the City, that Einstein said, "insanity is repeating everything over and expecting changes", let's not continue the insanity. Council Members Wiseman, Garcia and Green absent.

Council Member Brown asked Mr. Fenoglio if he knew what the major cause of admissions to Texas Children's Hospital, it was acute Asthma, and they had known that for 15 years and asked if he had a feeling that the Council, as was implied by the Houston Chronicle editorial, was waffling on this issue, that he did not think that there was anybody sitting at the Council table that was waffling on the issue, and Mr. Fenoglio stated that he did not think they were waffling, they were doing what they should do and urged them to move with all haste, every day they delay was somebody else in Texas Children's Hospital. Council Members Wiseman, Garcia and Green absent.

Mayor White asked Mr. Fenoglio when did the ozone incident occur and Mr. Fenoglio stated 10 years ago, and Mayor White stated that thank goodness today there was less ozone than there was today and 20 years ago, and it was not because people volunteered to cut it, it was because there were some rules and laws and those laws were enforced and responsible companies comply with the law, that he was proud to say that in Houston, Texas they did not have the amount of ozone that they had 20 years ago, that it was dramatically down and it was a result of law and he did not think that law was anti business, and Mr. Fenoglio stated that he agreed with Mayor White 100%, they were not talking about responsible companies, they were talking about the polluters that willfully violated the rules, TCEQ levied 14% of the possible fines that they could have levied on 26 separate incidents in the City of Houston, if they were so inclined to think they had an 86% chance of getting by with something than the odds were pretty good they would and they might take an action that they would not do otherwise, so they needed their help. Council Members Wiseman, Garcia and Green absent.

Ms. Debbie Allen, Post Office Box 24322, Houston, Texas 77229 (713-298-9833) appeared and stated that she wanted to thank Mayor White for all that he had done for the Pleasantville Community, the Pleasantville Environmental Coalition was in full support of what they were trying to do with the ordinances regarding the environmental issues in the City and they would like to respectfully request that they be a part of the process or task force or whatever the Mayor and the Council create so that they could address these issues, that their committee created the Pleasantville Environmental Monthly Newsletter that she wanted to share with the Mayor that they submitted throughout the City and to their Council Member, that it was a known fact that the air monitors failed the Pleasantville Community in 1995 during the fire that burned for 7 days that the Fire Department could not put out and she had a news article that stated that the fire was so intense that the fire officials had to call a Code Red and order all of their firemen not only to get out of the building that was burning but to leave the vicinity immediately, at no time was there a warning or an order issued to the residents to evacuate the community, the Pleasantville Community known by the City of Houston as the Shoebox was landlocked by not one, two, three but nine different chemical producing, distribution and storage companies in their area on the north, east, south and west sides, they were having three to four

deaths per month as documented in their community newsletter, that she did not know if it was contributed to what was happening in the air, but the facts were that they were dying off at a rapid rate in the Pleasantville Community, the air monitor located at the Clinton Drive site 403, the North Wayside site failed to notify the Pleasantville Community that there was danger when the warehouse was burning, that she submitted a request on February 7, 2007 to Mr. Stephen Williams of the City of Houston Bureau of Air Quality Department to request monitors be placed in the Pleasantville Community, possibly at their schools, to better monitor the air quality in Pleasantville because where the monitor was located on Clinton Drive the air was blowing away from the monitor, where the monitor was located on Wayside the air was blowing away from the monitor, they would like to know if there could be a community assessment study done in the Pleasantville Community, the adverse affects of inhaling the smorgasbord of chemicals that they were having to breathe in Pleasantville, they had companies that were producing roofing tile, they had breweries, the Port, the Southwest Galvanizing Plant, they had different companies storing plastic, storing and producing chemicals and distributing them throughout the United States, that it was her belief that District B had more Superfund sites than any other community in the City of Houston and would look forward to working with the Mayor on whatever efforts they could to work with the Manchester area as well as the Pleasantville area. Mayor White stated that they were going to look very carefully at that. Council Members Wiseman, Garcia and Green absent.

Council Member Johnson stated that from his office standpoint they would try to work in collaboration with Ms. Allen, that he had a question regarding the Nuisance Ordinance, he knew that it was an ordinance that was dealing with clean air and as Debbi had just pointed out there were a lot of plants that were there that were not dealing with the ground situation, that there were a lot of companies that had hazardous materials that were seeping into the ground and they had no way of insuring that they remediate that when they leave, that once that company burned in Pleasantville it burned, the company left, they were now stuck with Superfund sites and MDI sites all across his district that they had no policy in place to insure that they remediate it if they decide to leave, that he thought it would certainly be very well if they added it to this particular policy that said if the companies were going to leave the area they must leave it in better condition than when they got it, because they had neighborhoods like his where they had acres upon acres of contiguous land that were undevelopable and then they had neighborhoods that were certainly impacted such as the Pleasantville area, so he knew it was not germane to the ordinance and knew they were not talking about ground but he thought right now as they talked about this now with the air quality that they were breathing right now he thought they certainly needed to talk about the future in looking at what their land would look like in the end. Council Members Wiseman, Garcia and Green absent.

Ms. Evelyn Chorush, 2821 Saint, Houston, Texas 77027 (713-993-0570) appeared and stated that she had lived in Houston for almost 37 years and this was one of the first times that she had felt hopeful that maybe Houston would move in the right direction in terms of having clean air and water, that she wanted to let them know that she voted for City Council Members based primarily on their environmental record and their commitment to the environment and she hoped that there was the support of every Council Member, that she hoped every Council Member would support the Mayor on it because it was a very important issue, if they went to www.scorecard.org and plugged in their zip code they could see the millions of pounds of the butadiene and benzene that were just pouring into their air and corporations say that there was a cost and it was expensive but the truth of the matter was that corporations had gotten a free ride while the public and environment had borne their external cost of doing business because they had used the air and water as a corporate toilet and it was really theft, on the other hand she would say to the extent that these corporations and the City Council could coordinate at the federal level and so on in trying to coordinate the control of emissions of these particular toxics with other things that they were concerned about there was no reason to not have that economy

of scale, that she did not believe that voluntary works because good guys get punished. Council Members Wiseman, Garcia and Green absent.

Mr. Don Empfield, 8811 Strang Rd., LaPorte, Texas 77571 (281-930-2013) appeared and stated that he was the General Manager of Sunoco Chemicals, Houston Operations, and was also Chairman of the East Harris County Manufacturing Association, ECMA, that he did represent the 120 ECMA members along the Houston Ship Channel and their facilities employed more than 30,000 employees, most of whom called East Harris County their home, ECMA was a strong advocate of clean air, the quality of air in Houston today compared favorably with federal standards and State guidelines in other U.S. cities, they understood that clean air was an important issue and he assured them that ECMA was committed to reducing the environmental impact of all of their facilities, that ECMA supported legislation that had been thoroughly discussed and considerate of all stakeholders and based on sound science, they do not believe that the proposed Nuisance Ordinance was science based nor did they believe that they would ultimately result in improvements in the regional air quality, as the Manager of the Sunoco site in Bayport and La Porte his top priority was to maintain safe, secure and environmentally responsible facilities both for his employees and the community, that his colleagues at the other ECMA member facilities shared the commitment and were being good neighbors in every respect, the ordinance issue was a complex issue and required balancing of economic viability and public health concerns, rather than debate it today ECMA welcomed the opportunity to engage with diverse stake holders such as the City of Houston, Harris County, State regulators, Ship Channel communities, medical professionals and others to work towards a win win outcome through information sharing and discussion. Council Members Wiseman, Garcia and Green absent.

Upon questions by Council Members, Mr. Empfield stated that as to the scientifically based level of benzene concentration in the air, they had talented resources in the organization that studied the information and looked at the data and it was complicated, it was hard to draw a lot of conclusions without looking at it to make sure that they understood it, that earlier today they heard a presentation that they were still trying to digest data that was brought to them in 1999, that he would like to provide those resources to them so that they could sit down together as a joint group and go through and answer the question of what was acceptable, that he thought it was important that if they had that vested interest that they could put good science to it and come up with something that they believed would accomplish what they wanted and what he thought industry wanted as well, that he knew they could come up with a win win scenario and thought what it required was an effort to just sit down and work together and he was offering that today; that his plant at Sunoco did not release benzene or butadiene, that in their organization they had members who did make those products, and Council Member Clutterbuck asked if they could provide them with the parts per billion that they released and Mr. Empfield stated if he could get the information they needed in a request so that he could go back to that member company and ask for that information he would more than glad to take that back to them and get that answer for them. Council Members Wiseman, Garcia and Green absent.

Mr. Tom Whitworth, 1408 Michigan, Houston, Texas 77006 (713-254-8046) appeared and stated that he had lived in Houston since 1970, coming from Corpus Christi so he had a little ship channel refinery action there and had certainly been downwind from a few things in Houston, that he and his wife, in the last two years, had each experienced Cancer and did not know that it was attributable to benzene or butadiene or anything else but it did focus their attention, that he encouraged the Council and the Mayor and applauded their efforts to address the issues of the toxic pollutants in the Houston air because if they did not do it who was going to, that it was apparent to him and he spoke not as a politician or one concerned with the diplomatic affects of his words but he did learn in law school that the corporate duty was owed to the shareholder, it was not owed to the citizens of the City, so coming out in the light of day

and addressing the issues in a precise manner was not what he had observed of corporate citizenship over the years, that he was not blasting all corporations, he did not think they were evil people but he did know that their motivation was profit, their motivation and duty was to their shareholders, that the Council's duty was to the people of the City of Houston and it was those reasons that he says to the industries that were belching forth the pollutants was to come forward in the light of day, come forward and talk about it in the open, the light of day was the best forum for the discussion of these kinds of things, but what he had heard in his lifetime had been that it was trash science, they needed to study it more, they needed task groups, they would never find a corporate entity elbowing their way forward to say they wanted to do this and it was going to cost them on their profit line, it just did not happen, it was not the nature of the beast, they were the people who must make it to expensive for them to take those sorts of positions, that it was in the scheme of things that they were handed those tasks, the hour was drawing late, that he was 60 years old, he and his wife had no children but about 25 nieces and nephews and he came from a family of 10 children, the future was out there in the young folks and it was getting late and there were very many carcinogens in their air and in their waters and they needed to take action and he thanked them if they would. Council Members Wiseman, Khan, Garcia and Green absent. (NO QUORUM PRESENT)

Mr. Preston Moore, One Riverway, Houston, Texas 77056 (713-952-2727) had reserved time to speak, but was not present when his name was called. Council Members Johnson, Wiseman, Khan, Garcia and Green absent. (NO QUORUM PRESENT)

Ms. Lucy Randel, 5319 Rutherglen, Houston, Texas 77096 (713-283-6351) appeared and stated that she was a resident of District C and was the Research Director for a group called Industry Professionals for Clean Air, that she wanted to commend the City of Houston for taking a firm stand on enforcement of local air pollution regulations, the State agency, TCEQ, as they had heard many times today, currently did not have the financial resources nor the support from their leadership to aggressively enforce air quality regulations, she had met with many of the individual people in the agency and they as individuals were doing their best to pursue what they could but they were not getting the support from the top and were not getting the financial backing to hire the number of people that they needed to adequately do their job, they in the City of Houston had the largest concentration of industry and were most affected when individual businesses did not abide by their permits, since the State was unable to adequately enforce all of it's regulations the City must make an even greater effort to protect it's own citizens, that further an undue burden was placed on companies that were good corporate citizens and cooperate with environmental and nuisance laws to the best of their ability when other businesses were not held accountable for violations, that she firmly supported the addition of a specific provision to define as a nuisance toxic chemicals which posed a Cancer risk of greater than one in a million, some may consider it unnecessary since anything that affected public health could currently be considered a nuisance, however the effects from toxic pollutants could either be short term or long term, short term effect included those experienced on high ozone days, such as acute respiratory affects, which they had heard about the admissions to the children's hospital from such affects, as well as acute affects from industrial accidents where large quantities of a specific chemical such as hydrogen sulfate were released, that long term affects such as increased rates of Cancer were associated with increased risks over the population and could not typically be pinpointed to one individual who could file a lawsuit and prove causation, however the additional health risks to the entire population was not acceptable, she urged the City Council to support the amendments. Council Members Johnson, Wiseman, Garcia and Green absent. (NO QUORUM PRESENT)

Upon questions by Mayor White, Ms. Randel stated that her group was called Industry Professionals for Clean Air and they were a non profit organization where people had industry experience, that her personal background was as a chemical engineer and she worked for

several years for a consulting company where she worked to help industry comply with State and Federal regulations, refining petrochemical primarily. Council Members Johnson, Wiseman, Garcia and Green absent. (NO QUORUM PRESENT)

Mr. Lee L. (would not give last name), 7419 Brownfield, Houston, Texas 77020 (713-724-3250) had reserved time to speak, but was not present when his name was called. Council Members Johnson, Wiseman, Garcia and Green absent. (NO QUORUM PRESENT)

Mr. T. J. McFall, 8409 Coolidge, Houston, Texas 77012 (832-643-9447) appeared and stated that he recently purchased a home about a block away from Milby High School and for him it was a big deal, that his hopes were to possibly have a family there or possibly if his business was successful to give the home to his parents, that right now with the air conditions he did not think that any one of those was possible, for him to bring children into an environment where they were possibly 150% more likely to develop Leukemia or his elderly parents to move there and potentially get sick from that, so for him definitely it was a nuisance, that his line of work was as a personal trainer and he really hoped that he could develop a community outreach to help children find something productive to do in the area to develop skills that they could use later in life, but he could not feel justified to attract kids closer to the plants where they could potentially be harming themselves, that he supported it and felt it was common sense and thought that the board pretty much agreed, that could it be isolated or attributed to a particular company, which he knew the science was there and had seen the research and thought the City Council had all the same copies that he did, the only disagreement he would have was that it said that the City would be able to fine the companies between \$500 to \$2,000 a day and he was not sure if that was really going to be a good deterrent to put a cap on the amount that they could fine the companies if they were able to save more than \$2,000 potentially they still stood to profit, that he hoped there would be some language change that any savings or any potential profit they could achieve through processes which potentially kill people that those profits would be seized and then a fine on top of that so it would not be profitable, that he looked forward to seeing it move forward and if Houston was able to do it then other cities would look to Houston as a benchmark and start improving on it, and hopefully nationwide so people could not just move to another city and do the same thing over again. Mayor White and Council Members Johnson, Wiseman, Garcia and Green absent. (NO QUORUM PRESENT)

Ms. Laura Blackburn, 3346 Beechpoint, Kingwood, Texas 77345 (281-360-4734) had reserved time to speak but was not present when her name was called. Mayor White and Council Members Johnson, Wiseman, Garcia and Green absent. (NO QUORUM PRESENT) Mayor Pro Tem Alvarado presiding.

Mr. Juan Parras, 4622 Rush, Houston, Texas 77023 (713-514-0178) appeared and stated that he was present to talk about the Tax Increment Reinvestment Zone No. 6, that they were generally done to create new development in an area and the tax reinvestment zone, there was no development in there, that zone was primarily created to build the Cesar Chavez High School, when that zone was created Exxon Mobil, Texas Petrochemical and Goodyear Tire and Rubber tax base was \$395 million, that meant they had to collect more taxes than \$395 million for that school to pay off itself, that right now those industries were paying \$126 million in taxes, they had never put any money into the infrastructure to where the school was being paid for, that his concern was that it started out initially because to begin with he did not believe in the school site, it was a school that was going to have about 3,000 high school kids and was a quarter of a mile from all the petro chemical industries, they were breathing day in and day out all of the toxic pollution, that had been his concern for getting involved with the environmental issues in the area but the other reason was like most people had stated, they had a serious air pollution problem in Houston, he came from West Texas where he could see the stars in the evening and at night, it was rare that he saw the stars in Houston and it was not because they

did not have the luxury of living in a nice area that could be clean but to simply put it they had too much air pollution that they could not even see the stars and the only time they got to see the stars was when it rained, so again he was very concerned about not only the fact that they had a tax increment reinvestment zone that was now only existing on paper because it never generated money but the other thing it brought him to the issue that there were children that were going to elementary schools in the designated areas that were called hot spots, they needed to start really thinking about the children in that area, what was the school district doing to work with the City to implement good City ordinances and environmental laws to protect all of those kids in the area, and of course the community, that he hoped they would seriously look at Tax Increment Reinvestment Zone No. 6. Mayor White and Council Members Johnson, Wiseman, Garcia and Green absent. (NO QUORUM PRESENT) Mayor Pro Tem Alvarado presiding.

Ms. Mary Jane Reyes, 1710 Fourtade, Houston, Texas 77023 (713-924-1611) had reserved time to speak, but was not present when her name was called. Mayor White and Council Members Johnson, Wiseman, Garcia and Green absent. (NO QUORUM PRESENT) Mayor Pro Tem Alvarado presiding.

Ms. Terri Thomas, 6 Raines Way, Houston, Texas 77007 (713-861-1408) appeared and stated that she was a Board Member of Mothers For Clean Air, that she was present to say that she fully supported the Mayor and their efforts to amend the Nuisance Ordinance and she wanted to thank them for their efforts, that the reason she supported it was that she understood that the City had entered into agreements with certain industries to reduce their air toxics and last month she went to one of the very informative air exchange meetings that was hosted monthly for Mothers For Clean Air and Gas, the TCEQ was nice enough to have a representative there presenting the results of their monthly monitoring of butadiene and they showed where there was a decrease from a couple of years ago but there was one month where the butadiene literally went off of the charts and they thought it came from a company that was cleaning their tanks, that company was Texas Petrochemical and it was her understanding that it was one of the companies that was in agreement with the City and yet TCEQ was working with them and hopefully in cleaning their tanks they would not have a release that went off of the charts, that she was not a scientist either but it did not take much to realize that a company that had been in existence since 1947 should know how to clean a tank properly without releasing butadiene that went off of the chart and since they could not it seemed to her that they needed more than a discussion with them on how to clean their tanks, that they needed the stick that Mayor White was talking about and maybe then they just might learn how to not release carcinogenic materials that went off of the chart, that she hoped they would amend the ordinance and put enough teeth in it to make it affective. Mayor White and Council Members Johnson, Wiseman, Garcia and Green absent. (NO QUORUM PRESENT) Mayor Pro Tem Alvarado presiding.

Upon questions by Council Member Clutterbuck, Ms. Marks stated that she shared their frustration, the agreement that they had with Texas Petrochemicals was for them to implement changes so that by 2008 their butadiene emission levels on an annualized basis would be substantially lower than they were and the reason that it was posted to 2008 was that it took a substantial capital investment, that the incident that Ms. Thomas was talking about a little earlier this year was way beyond anything in their contract, it busted their permit limits and it was very frustrating to all of them because as she pointed out the trend that they had been achieving in downward butadiene was totally blown in a day or two and there was always a lot of talk about accidents and that these things happen, but when these things happen it changes the chemistry and profile of the emissions and ambient air standards in their community for a year, it essentially meant that they leveled out in 2006 and that was why they were seeking action and what that company did after they posted it on the agenda the fact that they were seeking

Council authority they went to the State and say they signed an agreement for a \$30,000 penalty and had come back to the City and said there was nothing left to talk about, there was a lot left to talk about and they hoped City Council would give them the authority to continue that conversation. Mayor White and Council Members Wiseman, Garcia and Green absent. (NO QUORUM PRESENT) Mayor Pro Tem Alvarado presiding.

There being no further business before Council, the City Council adjourned at 6:30 p.m. Mayor White and Council Members Wiseman, Garcia and Green absent. (NO QUORUM PRESENT) Mayor Pro Tem Alvarado presiding.

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

MINUTES READ AND APPROVED

/S/Anna Russell

Anna Russell, City Secretary