

City Council Chamber, City Hall, Tuesday, October 30, 2012

A Regular Meeting of the Houston City Council was held at 1:30 p.m. Tuesday, October 30, 2012, Mayor Annise Parker presiding and with Council Members Helena Brown, Jerry Davis, Ellen R. Cohen, Wanda Adams, Mike Sullivan, Al Hoang, Oliver Pennington, Edward Gonzalez, James G. Rodriguez, Mike Laster, Larry V. Green, Stephen C. Costello, Andrew C. Burks, Jr., Melissa Noriega, C. O. "Brad" Bradford and Jack Christie, D. C.; Mr. Harlan Heilman, Division Chief, Claims & Subrogation Division; Ms. Marta Crinejo, Agenda Director present.

At 1:44 p.m. Mayor Parker stated that they would now begin presentations and called on Council Member Gonzalez who invited those present for his presentation to the podium and he stated that Jetco Delivery was a business in District H established in 1976 with one truck and now had over 150 trucks; that they were committed to safety and responsibility and recently were recognized as grand champion in the Texas Motor Transportation Association's 2012 Fleet Safety Contest from over 30,000 motor carriers in Texas; and Mayor Parker congratulated them on the growth of their business and safety record; and presented Mr. Fielkow a Proclamation proclaiming today as "Jetco Delivery Day" in Houston, Texas. Council Members Davis, Sullivan, Rodriguez, Green and Burks absent. Vice Mayor Pro Tem Bradford presiding.

Mr. Fielkow introduced those with him and stated that winning the grand champion award meant a lot; that delivering on time was important, but number one was being sure everyone was safe and to operate the most environmental friendly fleet; and thanked all for the recognition. Council Members Davis, Sullivan, Rodriguez, Green and Burks absent. Vice Mayor Pro Tem Bradford presiding.

Vice Mayor Pro Tem Bradford and Council Member Pennington thanked and commended Mr. Fielkow and his company for their work and congratulated them on their award. Council Members Davis, Sullivan, Rodriguez, Green and Burks absent. Vice Mayor Pro Tem Bradford presiding.

Council Member Noriega invited those present with her presentation to the podium and stated that the Pink Door was a nonprofit organization founded in memory of Gale Ann Cole after her untimely death due to cancer in 2005; that Cortney was her daughter and founder; that their mission was to help women cancer survivors begin a new life after cancer; that today they were commending Pink Door for changing the lives of women; and Mayor Parker presented a Proclamation to Ms. Cole and proclaimed today as "Pink Door Day" in Houston, Texas. Council Members Davis, Sullivan, Rodriguez and Burks absent. Vice Mayor Pro Tem Bradford presiding.

Ms. Cole stated that their organization was 100% volunteer and it was exciting to do what they did; and thanked all for the recognition; and introduced Ms. Therese Flaherty who stated that she was honored to be named survivor honoree for this year's Pink Door Gala and thanked Ms. Cole and all who helped so many women. Council Members Davis, Sullivan, Rodriguez and Burks absent. Mayor Pro Tem Gonzalez presiding.

Mayor Pro Tem Gonzalez and Council Member Adams thanked all for their work and commended and congratulated them; and upon questions, Ms. Cole stated that for information you could go to [pinkdoornonprofit.org](http://pinkdoornonprofit.org). Council Members Cohen, Sullivan and Burks absent. Mayor Pro Tem Gonzalez presiding.

Council Member Adams invited those present with her presentation to the podium and stated that today they were acknowledging the advocates who went into the community to educate about the awareness of persons with disabilities, increasing community awareness of

issues impacting those with disabilities and removing social barriers and providing a voice for them; and recognized Ms. Thelma Scott as community activist of the year; and Ms. Scott thanked God, her husband and all her team. Council Member Adams stated that Ms. Lynn Cleveland was being recognized as community advocate of the year; and Ms. Cleveland thanked the Office of the Mayor on Disabilities and commissioners for their outstanding work and the Mayor and Council for their funding and all their support. Council Member Adams stated that Mr. Joseph Hernandez was being recognized as community youth advocate of the year; and Mr. Hernandez thanked his family, school and Ms. Beth for allowing and helping him to be who he was. Council Member Adams for her final awarded stated that Ms. Anthony "Tony" Kussof was receiving an award on behalf of her husband who was no longer with us and recognized him as community advocate of the year; and Ms. Kussof stated that she accepted the award on her husband's behalf; that she knew he would be very honored to receive it; and thanked all for his recognition. Council Members Davis and Burks absent. Mayor Pro Tem Gonzalez presiding.

At 2:20 p.m. Mayor Parker called on Council Member Bradford who invited Dr. James Furr president of the Houston Graduate School of Theology to the podium to lead all in the invocation and Council Member Bradford led all in the pledge. Council Members Davis and Adams absent.

At 2:23 p.m. the City Secretary called the roll. All present.

Council Members Gonzalez and Pennington moved that the minutes of the preceding meeting be adopted. All voting aye. Nays none. MOTION ADOPTED.

At 2:07 p.m. the City Secretary began calling the public speakers.

Mr. William Beal, 4718 Boicewood, Houston, Texas 77016 (no phone) had reserved time to speak but was not present when his name was called.

Council Member Burks on a point of personal privilege stated that because the doors were open there was too much noise during the invocation and he would appreciate they all be closed; and Mayor Parker stated that they made all efforts to keep the noise down and any speaker could wait until they thought it ready.

Mr. Jeffrey Hillard, 3030 Holly Hall, Houston, Texas 77054 (713-371-8445) had reserved time to speak but was not present when his name was called.

Mr. Roger Randall, 103 Page Lane, Huffman, Texas 77336 (832-435-6253) appeared, presented information and stated that he was with Texas Adaptive Aquatic, a 23 year nonprofit organization for disabled children, adults and wounded soldiers; that he volunteered for the Trash Bash on Lake Houston and was involved in the community; that the drought in 2011 exposed more trash than anyone could believe in Lake Houston and he organized a cleanup party and requested city support but got nothing; that they did get targeted by the Public Works Department, they had been trying to purchase a small piece of property next to their facility; that he was told to leave the gates up by Legal because someone had driven off the road previously and drowned as the city did not have barricades, but now 10 years later the city wants the gates at the end of the road to be taken down, they had been there over 30 years; that they could not find the abutting property owner to come on board; and continued expressing his concerns until his time expired. Mayor Parker, Council Members Adams, Hoang and Bradford absent. Mayor Pro Tem Gonzalez presiding.

Council Member Sullivan stated that he was aware of the situation; that much of the work by council went on out of sight; that he met last year with the Mayor, Congressman Ted Poe and

State Representative Dan Huberty, they did request assistance and funding but resources were not there to help clean the lake; that he met with Tracy Wingate about two years ago on the gates but Public Works did not have money to put gates at the ends of all roads and keep inventory; that the Council Office had done what they could to help the lake; and Mr. Randall stated that Council Member Sullivan was the one who started all this and he would like him to leave them alone. Mayor Parker, Council Members Adams, Hoang and Bradford absent. Mayor Pro Tem Gonzalez presiding.

Mayor Pro Tem Gonzalez stated that the Council Member had been trying to get answers and Mr. Gary Norman with Public Works was present and could speak with him at this time; and thanked him for bringing it to Council's attention and they would see what could be done. Mayor Parker, Council Members Adams, Hoang, Bradford and Christie absent. Mayor Pro Tem Gonzalez presiding.

Mr. Gregory Montelaro, 1499 N. Post Oak #19, Houston, Texas 77055 (713-496-2277) had reserved time to speak but was not present when his name was called. Mayor Parker, Council Members Hoang, Bradford and Christie absent. Mayor Pro Tem Gonzalez presiding.

Mr. Steven Williams, no address (no phone) had reserved time to speak but was not present when his name was called. Mayor Parker, Council Members Sullivan, Hoang, Bradford and Christie absent. Mayor Pro Tem Gonzalez presiding.

Ms. Maria Espinoza, 12227 Gladewick Drive, Houston, Texas 77077 (281-236-7580) appeared and stated that she was present to invite all to an initiative called the "Stolen Life Quilt" honoring and remembering those killed by illegal aliens to be held on Sunday, November 4, 2012, it was a visual memorial drawing attention to the families still suffering and giving them a voice; and urged all attend. Council Members Sullivan, Hoang, Green, Bradford and Christie absent.

President Joseph Charles, P. O. Box 524373, Houston, Texas 77052-4373 (713-928-2800) had reserved time to speak but was not present when his name was called. Council Members Sullivan, Hoang, Green, Bradford and Christie absent.

Ms. Bridget Alexander McDaniel, P. O. Box 53993, Houston, Texas 77052 (713-987-3854) appeared and stated that Metro was still not allowing her to continue her education; and continued expressing her personal opinions until her time expired. Council Members Sullivan, Hoang, Green, Bradford and Christie absent.

Ms. Lois Myers, 9701 Westview, Houston, Texas 77055 (713-775-2443) appeared and stated that she was present to urge that the current TIRZ 17 budget not be passed as none of the projects were approved by the county and the whole region stood at risk for flooding in a 20 minute rain water came to the doorsteps; that it did not happen previously and the TIRZ had the money to fix it and should be required to do so. Council Members Sullivan, Hoang, Green, Bradford and Christie absent.

President Joseph Charles, P. O. Box 524373, Houston, Texas 77052-4373 (713-928-2800) appeared and stated that he was the U. S. President; and continued expressing his personal opinions until his time expired. Council Members Sullivan, Hoang, Green and Bradford absent.

At 2:38 p. m. Mayor Parker stated that City Council was recessed until 9:00 a.m., Wednesday, October 31, 2012. Council Members Sullivan, Hoang, Green and Bradford absent.

The Houston City Council reconvened at 9:00 a.m., Wednesday, October 31, 2012, with Mayor Annise D. Parker presiding and Council Members Helena Brown, Jerry Davis,

Ellen R. Cohen, Wanda Adams, Mike Sullivan, Al Hoang, Oliver Pennington, Edward Gonzalez, James G. Rodriguez, Mike Laster, Larry V. Green, Stephen C. Costello, Andrew C. Burks, Jr., Melissa Noriega, C. O. "Brad" Bradford and Jack Christie, D.C.; Mr. David Feldman, City Attorney; Ms. Marta Crinejo, Agenda Director, and Ms. Stella Ortega, Agenda Office, present.

At 8:28 a.m. the City Secretary read the descriptions or captions of items on the Agenda.

At 9:06 a.m. Mayor Parker called the meeting to order and stated that this was the Monthly Operations and Finance Report, but prior to that they had a public hearing scheduled. Council Members Davis, Adams, Hoang, Rodriguez, Noriega and Bradford absent.

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

1. **PUBLIC HEARING** relating to the termination of the Cable Television Franchise granted to **TVMAX Houston, L.P.** by City of Houston, Texas Ordinance No. 2005-582, as amended by Ordinance No. 2010-559 - was called. Council Members Davis, Adams, Hoang, Rodriguez, Noriega and Bradford absent.

The City Secretary stated that there were two speakers who had reserved time to appear at the hearing. Council Members Davis, Adams, Hoang, Rodriguez, Noriega and Bradford absent.

Mayor Parker recognized Mr. David Feldman, City Attorney, to lay out the public hearing. Council Members Davis, Adams, Hoang, Rodriguez, Noriega and Bradford absent.

Mr. Feldman stated that this hearing was being conducted pursuant to a Franchise Agreement between the City of Houston and a company known as TVMAX Houston, LP, that was originally issued in 2005, that there were predecessor companies and interests that had a franchise prior to that time, however this related to the termination of the franchise issued in 2005 based on nonpayment of Franchise Fees, that the due notice of the hearing was provided to the company, as required under the Franchise Agreement, specifically 45 days notice, that they had a number of exhibits in front of them which detailed the City's case in seeking the termination of the franchise for nonpayment of fees, that this was obviously a cable television franchise; that after his remarks he believed that two lawyers for the company had signed up to speak and would have the opportunity to present to Council as well; that Council will also have the opportunity to ask questions and he may offer some rebuttal to what they present as well

Mr. Feldman reviewed the exhibits distributed to the City Council, Exhibit 1, a report to City Council recommending termination from the Director of ARA, Alfred Moran, that this was furnished to Council in August 2012; Exhibit 2, an Installment Agreement that was entered into between the City and the Company in 2010, for \$664,683.75 in past due Franchise Fees and PEG Fees (Public Education and Governmental Fee), that the agreement represented an acknowledgement of the company that they owed that amount of money in that point and time; Exhibit 3, a spreadsheet that they put together to demonstrate how they came up with the total of \$778,974.91 in past due and delinquent Franchise Fees and PEG Fees; Exhibit 4, the last amended petition that the City filed in a lawsuit that had been pending since May 2012 against the company, seeking to recover on the past due Franchise Fees and a detailed history of the notices sent to the company, with respect to their default and failure to cure; and Exhibit 5, an audit report that was conducted for the period of 2002 through 2007, the relevance of the audit was that there was an issue with respect to whether or not TVMAX paid Franchise Fees on Internet Service provided to its customers in addition to Cable Television Service, a copy of which are on file in the City Secretary's office for review.

Mr. Feldman further stated that prior to 2005 and for the period of 2002 to 2005, they did

apparently, according to the audit report, pay such fees, in other words Franchise Fees on Internet Service, that the City did not require them to do that but based on their own filings the percentage was applied to the gross revenue that they reported, which apparently included the Internet Service, although it did not have to, that in 2005, also, the U.S. Supreme Court issued a decision declaring it's interpretation of the FCC Act that Franchise Fees could not be charged on Internet Service, that what the Audit Report also showed importantly was that after 2005 no Franchise Fees were paid on Internet Service by TVMAX, that this really was only relevant in the following context, that despite the fact that there was numerous correspondence with the company over a period of at least 5 months, notice of default, other letters, the report from Mr. Moran, the notice that the franchise would be recommended for termination, it was not until this past Thursday, literally, October 25, 2012 he believed, that for the first time they heard back from the company on their indebtedness, that was despite the notice, the lawsuit, etc., that the lawsuit was filed in May 2012, and for the first time the company contended that in fact it was the City that owed them money instead of the other way around because they believed they had been paying Franchise Fees on internet service for many years, that this was belied by the facts, law and their own conduct, that firstly any such payment made prior to 2005, and incidentally the fees that would be paid on Internet Service would be minimal compared to the fees paid on actual Cable TV Franchise because of the amounts charged, that any such fee paid prior to 2005 could not be recoverable because of the voluntary payment rule that they recognized in Texas, and that was if a fee was later found to be invalid any fee so paid prior to it being declared invalid, if paid voluntary, any recovery was waived; that secondly there was the Audit Report, which demonstrated that after 2005, after the Supreme Court decision, no such Franchise Fees were paid on any Internet Service, it was not reported in the company's gross revenue and no fees were therefore charged; that they also had the installment agreement that the current owner came forward to the City and sought, on it's own accord, in 2010, thereby admitting that they owed the money to the City that set forth in the agreement, that he recognized that there had been various changes in ownership of the company over the years, so it may be that the current owners did not have all of the records, but they believed that the company's very late attempt to upset the apple cart, so to speak, or raise an issue relative to whether or not the City might owe them money, was a Red Herring, they believed that the evidence clearly showed that they were indebted to the City in the amount of at least \$778,000, half been indebted to the City for some period of time and pursuant to the Franchise Agreement it was appropriate in all things for the franchise to be terminated at this time, and following the hearing they were asking the Council, in it's next agenda item, to vote to terminate this company's franchise.

Mayor Parker stated that if there were any questions directed to the City Attorney she would entertain them now, but they did have two speakers who she believed were lawyers for TVMAX who wished to speak.

Council Member Adams asked if out of the money that was owed would they recover the money, and Mr. Feldman stated that they hoped they would recover the money, they had a lawsuit pending to recover the money, that the \$809,000, the reason that it was different from the \$778,000, which he stated, was that the \$809,000 included an amount for attorney's fees, that they were entitled to recover based on the need to file a suit to collect a debt, but they had every intention to follow through with the lawsuit, in fact they had a motion for summary judgment pending right now and if they obtained a judgment, as they fully expected they would, they would seek to execute based on that judgment.

Mayor Parker stated that she was glad that Council Member Adams asked that question, that to be clear there was a lawsuit to recover monies owed, this was to cancel a franchise agreement going forward so that they would no longer be able to do business in Houston.

Upon further questions and discussion by Council Members Burks and Bradford,

Mr. Feldman stated that a change in ownership alone would not be sufficient to change the City's position with respect to the status of the franchise, the termination of the franchise or the issue for a new franchise, which the City obviously would not do in the face of termination, that if a new company were to emerge and the new company was really a facade for the same ownership or the principle owners, obviously they would treat it accordingly and treat it as being one and the same and thusly deny a franchise, and if the franchise was sought from the State, which was possible, they could get a franchise from the State as well as from the local entity, although the franchise fees still went to the local entity, they would take a similar position before the State and fight the issuance of any such franchise, if it included the same principle ownership. Council Members Cohen and Adams absent.

Mayor Parker stated that seeing no further inquiry they would move to the public speakers. Council Members Cohen and Adams absent.

Mr. Steve Williard, 1920 N. Memorial Way, Houston, Texas 77007, (713-529-6300) appeared and stated that he had two exhibits to pass out, that he thought a couple of things were important for the City Council to understand, number one, that as the City Attorney had suggested there was a pending lawsuit to which TVMAX had denied the allegations that it owed the \$800,000, that as he hoped the City Council could appreciate there was a tribunal, rules of evidence, it was in a District Court in Harris County, and he would encourage the City to allow that to take its course before rushing to judgment and making a decision here, that as he was sure everyone could appreciate it took a long time to develop a lawsuit, to analyze the facts and the positions of the different parties and three minutes was not near enough time to present a case, number two, they did have other witnesses that resided in Pennsylvania, that Pennsylvania was affected by the storm and were unable to be present; that TVMAX vehemently denied the allegations that it owed \$800,000, it had presented evidence to the City and if the Council were to read the Franchise Agreement that the City granted it clearly spelled out that there would be a tax on Internet Services, the Federal Government had preempted that, the United States Supreme Court had confirmed that no municipality had the right to tax Internet Services, this was a decision back in 2005 and despite the Franchise Agreement between the City and TVMAX it did in fact tax Internet Services, that it was TVMAX's position that it had been paying tax on the Internet Services in contravention of the Federal Law, both the FCC and the United States Supreme Court, that they had presented Exhibit D, which was a recap of the fees paid, fees assessed and what they thought were the credits that TVMAX was entitled to due to the taxation of the Internet Services and at the bottom of page 1 of Exhibit B they would see a credit of \$122,000, that was the position that TVMAX had set forth to the City Attorney's office in Exhibit A, that was sent October 25, 2012, where they tried to engage the City Attorney's office to postpone the hearing to give them all time to look at the accounting data and try to come to an agreement as to what was owed, that clearly their position was that they did not owe \$800,000 or they would pay it, they were asking for an opportunity to let a tribunal decide what was owed, give them some reasonable time to pay it and they would be back in compliance, that as one Council Member suggested if they terminated the agreement today they would terminate the ability of this company to ever hope to repay this, that as he understood he was allowed to ask for a continuance of this hearing, that was what the City Attorney said, and he would like to make an oral motion to continue the hearing until they had an opportunity to get a definitive answer as to what was owed. Council Members Cohen and Adams absent.

Mayor Parker stated that motion may be appropriate in court, but in Council Chamber it had to come from one of the Council Members. Council Members Cohen, Adams and Rodriguez absent.

Mr. Feldman stated that he had never suggested that there would be an agreement as to a continuance of the hearing, he did advise Council that Mr. Willard could ask for more than 3 minutes, and Mayor Parker stated that Council also had the ability to delay consideration of the

ordinance. Council Members Cohen, Adams and Rodriguez absent.

Upon questions and discussion by Council Members, Council Member Pennington stated that they wanted to give their franchisees fair treatment, and thought that if Mr. Willard felt that they did not owe the money to the City then they could put the money into the Registry of the Court, the City would be made secure and Mr. Willard could have his hearing on the matter, that he thought that was the way he thought it should be resolved.

Mr. Willard stated that what he would ask, because of the concerns of another free ride for 60 days, that they put the money into the Registry of the Court that was due during that 60 day period, that to ask them to put \$800,000 into the Registry of the Court, he could tell them that would not happen, it would bankrupt the company, that they did not believe the money was owed and did not have \$800,000 to pay, but what he did think would be fair was if they would be given a 60 day reprieve to get the numbers or let the court system work though, to have them put money into the court for that 60 day period that was due, seemed very fair to him, that he thought it would be about \$150,000 a quarter, so if they looked on page 10 of Exhibit B, the franchise fee that was owed for the first quarter of 2012 was \$90,000, so in a 60 day period they would be looking at \$60,009, or \$30,000 per month basically. Council Members Sullivan and Burks absent.

After further discussion by Council Members, Mayor Parker stated that they would release Mr. Willard to the next speaker. Council Members Sullivan, Rodriguez, Green and Burks absent.

Mr. Carl Kandutsch, 3625 Kite Landing Ln., Plano, Texas 75074 (207-659-6247) appeared and stated that he was a lawyer in Plano, Texas and his specialty was cable television and tele communications and came from a background of working within the FCC for a number of years in the late 1990's, that regarding the suggestion that there was an admission by the company, he thought, was a little unfair as a characterization, that he would say that his area of law was actually quite specialized and most lay people, and in fact the majority of lawyers, could not give them a very clear understanding of what the legal concept of cable service meant, that cable service was relevant because it was revenue from cable service that was used as the basis for calculating a Franchise Fee, that he would assume that the promissory note was signed based on the assumption that gross revenue, which was defined in the Franchise Agreement, included "Internet Services" and it was only last week that he was first asked by the company for his opinion on whether or not gross revenue could include Internet Services and his reaction, over the telephone, was absolutely not, no question about it and if they gave him five hours this afternoon he would produce a memorandum and give them the relative legal precedent to show that why that was the case, that he did not think it was fair to characterize the promissory note as an admission of liability and then somebody just basically changing their mind and deciding to ignore obligations under that note, that he thought the change was when they decided to actually consult somebody with some expertise in the matter and get an answer to resolve the doubt, that he also understood that they were informed yesterday, that they intended to have Mr. Eric Melsor, CFO for TVMAX, to be present as a witness for cross examination and provide testimony, that it was their understanding on the amount, the offset or amounts owed for fees assessed on internet revenues came from Mr. Melsor and it was unfortunate that they learned yesterday that there were no flights, it was impossible for him because of Hurricane Sandy to actually appear at the hearing, and they were not able to adequately provide evidence for their claim with regard to monies owed and offsets without his testimony, that their information came from Mr. Melsor. Council Members Cohen, Sullivan, Rodriguez and Burks absent.

After discussion by Council Members, Council Member Bradford moved to close the public hearing, seconded by Council Member Gonzalez. All voting aye. Nays none. Council Members Davis, Adams and Sullivan absent. MOTION 2012-0762 ADOPTED.

- 1a. ORDINANCE terminating the cable television franchise granted to **TVMAX HOUSTON, L.P.** by City of Houston, Texas Ordinance No. 2005-582, as amended by Ordinance No. 2010-559 0 – was presented. Council Members Davis, Adams and Sullivan absent.

Council Member Costello stated that in light of the conversations that they just had over the last two hours he would like to make a motion that they have a one week delay and refer the item to the City Attorney's office for negotiations, that as a businessman he signed contracts all the time, that maybe the mistake that this particular entity made was that they did not have proper Counsel at the time they signed the agreement, so he would expect that Council would come back with some type of recommendation in terms of hopefully some escrow amount, whether it would be acceptable his own position was that he would want them to be in full honor of the agreement they signed, but he was willing to accept something that came before them next week, seconded by Council Member Bradford.

Council Member Bradford asked his colleague for clarification of what his specific motion was.

Council Member Costello stated that his specific motion was a one week delay to allow Counsel to negotiate with the business owner on an acceptable way of allowing this process to proceed on to our acceptance, and to include some payment with the Registry of the Court in good faith. and Mayor Parker stated Counsel meaning the City Attorney

A vote was called on the motion to postpone Item No. 1a for one week. Council Member Gonzalez voting no, balance voting aye. Council Member Sullivan absent. MOTION 2012-0763 ADOPTED.

At 10:58 a.m. Mayor Parker stated that they would move to the Monthly Operations and Finance Report and recognized Mr. Ronald Green, City Controller, and Mr. Kelly Dowe, Director, Finance Department.

**REPORT FROM CITY CONTROLLER AND THE CITY ADMINISTRATION REGARDING THE CURRENT FINANCIAL STATUS OF THE CITY** including but not limited to, a revenue, expenditure and encumbrance report for the General Fund, all special revenue funds and all enterprise funds, and a report on the status of bond funds and a Quarterly Investment Report by the City Controller – was presented.

Mr. Green and Mr. Dowe reviewed the Monthly Operations and Finance Report, and Mr. Green reviewed the Quarterly Investment Report and the SWAP Report, a copy of which are on file in the City Secretary's office for review.

Upon questions by Council Members, Mr. Dowe stated that the Health Care Benefits Fund loss of \$17.5 million was actually the administrations projection, that there were two issues, one was budget versus actual, yes it was higher Health Benefits Cost than they had budgeted, and secondly, there was the issue of savings and those were based on projections on what HR and their consultant believed Health Benefits would cost in FY2013 had they not gone to a new contract, that he believed those numbers were still significantly below the FY2012 numbers and still significantly below what the consultants in HR believed they would have had in FY2012 had they not taken a different action, that this was the first year in a self insured model, they had an independent third party come in with actuaries that helped them set that budget number, but they also bought stop loss insurance because in their first year, they were advised, they could always have hiccups, it was best to have a floor by which the insurance company would pay them should claims significantly exceed what they predicted, that for FY2013 right now they were not seeing a decrease in claims from the FY2012 level so if this continued they could still

be over budget, although the trend was no where near as high as it was in FY2012, that they were waiting for a little bit more information in order to make a more accurate projection but it did not look like it was going to be as much as last year, that the Director of Human Resources had put out a memo and they were reviewing it actually right now and were working on it together and once the Council had more information it would be up to them to decide, and Mayor Parker stated that she believed this was presented to Council in July, and Mr. Dowe stated yes, they started predicting the losses, of course as they knew it took them two months to clear out the past fiscal year, but in July they realized that the May and June claims had come in significantly higher than anticipated, so yes they started projecting in July, that August fully recognized the losses and here they were in the September MOFAR; that he suggested in order to prevent the loss he thought they had two things coming to the Council, number one, as he mentioned there would be a memo coming forward outlining the issues, and number two, the Chair of Budget and Fiscal Affairs and the Vice-Chair had formed a subcommittee to look at the issues and see what they could do in order to get the Health Benefit cost down going forward.

After further questions and discussion by Council Members, Mayor Parker stated that the \$25 assessment fee went into the Health Benefits Fund, and Mr. Dowe stated that it was used for wellness activities, that they could provide that, that the issue of privacy was very important, that she did not know whose cholesterol was high or not, that nobody in the City knew, that Mr. Reid did not, that information was with CIGNA and the doctors, that HIPPA requirements prohibited them from knowing that, that they were not even allowed to know which employees took their health assessments and which ones did not, that they did not know on an employee by employee basis. Council Members Davis and Sullivan absent.

After further discussion by Council Members, Council Member Costello moved to accept the Monthly Operations and Finance Report, the Quarterly Investment Report and the SWAP Report (Note: the SWAP is not required under Rules), seconded by Council Member Gonzalez. All voting aye. Nays none. Council Members Davis and Sullivan absent. MOTION 2012-0764

## **MAYOR'S REPORT**

### **CONSENT AGENDA NUMBERS 2 through 22**

#### **MISCELLANEOUS** - NUMBER 2

2. REQUEST from Mayor for confirmation of the appointment of **GILDA RAMIREZ**, to Position Four to the **BOARD OF DIRECTORS OF TAX INCREMENT REINVESTMENT ZONE NUMBER TWENTY-THREE (also known as the HARRISBURG ZONE)** and to serve as Chair, for an unexpired term ending December 31, 2013 - was presented, moved by Council Member Gonzalez, seconded by Council Member Adams. All voting aye. Nays none. Council Members Davis and Sullivan absent. MOTION 2012-0765 ADOPTED.

#### **PROPERTY** - NUMBER 4

4. RECOMMENDATION from Director Department of Public Works Engineering, reviewed and approved by the Joint Referral Committee, on request from Tracy Youngblood, Brown & Gay Engineers, Inc., on behalf of M&S Restaurants #1, Ltd., (Bob Borochoff, Chief Operating Officer) for abandonment and sale of three 6-foot-wide utility easements within Lots 1 through 5 and Lots 28 through 32, in exchange for the conveyance to the City of a 10-foot-wide access easement, all located within the Renesu-Court Addition, out of the Obedience Smith Survey, A-696, Parcels SY13-015A, SY13-015B, SY13-015C and AY13-073 - **DISTRICT C - COHEN** – was presented, moved by Council Member Gonzalez,

seconded by Council Member Adams. All voting aye. Nays none. Council Member Sullivan absent. MOTION 2012-0766 ADOPTED.

**RESOLUTIONS AND ORDINANCES** - NUMBER 15

15. ORDINANCE appropriating \$275,000.00 out of Airports Improvement Fund and approving and authorizing contract between the City of Houston and **PORTER HEDGES LLP** for Professional Legal Services for the Houston Airport System – was presented. All voting aye. Nays none. Council Member Sullivan absent. ORDINANCE 2012-0925 ADOPTED.

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

**ACCEPT WORK**

3. RECOMMENDATION from Director General Services Department for approval of final contract amount of \$115,557.00 and acceptance of work on contract with **INLAND ENVIRONMENTS, LTD.**, for Asbestos Abatement and Demolition at 3301, 3303 and 3305 Lyons Avenue - Deluxe Theater Buildings - 7.27% over the original contract amount and under the 10% contingency **DISTRICT B - DAVIS** – was presented, moved by Council Member Gonzalez, seconded by Council Member Adams. All voting aye. Nays none. Council Member Sullivan absent. MOTION 2012-0767 ADOPTED.

**RESOLUTIONS AND ORDINANCES**

5. RESOLUTION declaring Directors of Houston Recovery Center LGC to be “covered persons” within the meaning of Chapter 2, Article X, of the Code of Ordinances, City of Houston, Texas; containing findings and other provisions relating to the foregoing subject; containing a savings clause – was presented. Council Member Sullivan absent.

Council Member Adams asked Mr. Feldman relative to Item No. 5, the LGC, were all of the LGCs covered and the reason why this was being brought forward was because they omitted this one, but all of the LGCs they had passed to this day were covered, and Mr. Feldman stated that it was simply because the language was omitted from the Certificate of Formation. Council Member Sullivan absent.

A vote was called on Item No. 5. All voting aye. Nays none. Council Member Sullivan absent. RESOLUTION 2012-0032 ADOPTED.

6. ORDINANCE amending Exhibit “A” of City of Houston Ordinance No. 2012-578 by deleting one (1) Senior Captain Position; substituting the amended exhibit as part of the current Fire Department Classified Personnel Ordinance – was presented. All voting aye. Nays none. Council Member Sullivan absent. ORDINANCE 2012-0926 ADOPTED.
7. ORDINANCE authorizing the Director of the Mayor’s Office of Public Safety and Homeland Security to execute an agreement between the City of Houston and the **UNITED STATES DEPARTMENT OF HOMELAND SECURITY** accepting a 2012 Port Security Grant in accordance with the FY2012 Port Security Grant Program Investment Justification; declaring the City’s eligibility for such grant; authorizing the Director to execute any subsequent documents necessary to secure the City’s allocations throughout the life of this grant program - **DISTRICTS E - SULLIVAN AND I - RODRIGUEZ** – was presented. Council Member Brown voting no, balance voting aye. Council Member Sullivan absent. ORDINANCE 2012-0927 ADOPTED.

8. ORDINANCE authorizing the Director of the Mayor's Office of Public Safety and Homeland Security to execute two Subrecipient Grant Agreements with the Texas Department of Public Safety ("DPS") accepting FY2012 Homeland Security Grant Funding from the Urban Area Security Initiative ("UASI") Grant Program and the UASI Law Enforcement Terrorism Prevention Activities ("LETPA") Program; declaring the City's eligibility for such grants; authorizing the Director to execute all modifications to the agreements and to execute any subsequent documents necessary to secure the City's allocations throughout the life of these grant awards – was presented. Council Member Brown voting no, balance voting aye. Council Member Sullivan absent. ORDINANCE 2012-0928 ADOPTED.
9. ORDINANCE appropriating \$9,604,327.00 out of Tax Increment Funds for Reinvestment Zone Number One, City of Houston, Texas (Lamar Terrace Zone), Reinvestment Zone Number Two, City of Houston, Texas (Midtown Zone), Reinvestment Zone Number Three, City of Houston, Texas (Main Street/Market Square Zone), Reinvestment Zone Number Four, City of Houston, Texas (Village Enclaves Zone), Reinvestment Zone Number Five, City of Houston, Texas (Memorial Heights Zone), Reinvestment Zone Number Seven, City of Houston, Texas (Old Spanish Trail/Alameda Corridors Zone), Reinvestment Zone Number Eight, City of Houston, Texas (Gulfgate Zone), Reinvestment Zone Number Nine, City of Houston, Texas (South Post Oak Zone), Reinvestment Zone Number Twelve, City of Houston, Texas (City Park Zone), and Reinvestment Number Thirteen, City of Houston, Texas (Old Sixth Ward Zone) for affordable housing, payments to Houston Independent School District, and payments to certain Redevelopment Authorities as provided herein – was presented. All voting aye. Nays none. Council Member Sullivan absent. ORDINANCE 2012-0929 ADOPTED.
10. ORDINANCE appropriating and transferring \$400,000.00 out of Contractor's Responsibility Fund into the Health Special Revenue Fund for the provision of services under the **CARE HOUSTON PROGRAM** for the Houston Department of Health and Human Services – was presented. Council Member Sullivan absent.

After discussion by Council Members Adams and Gonzalez a vote was called on Item No. 10. Council Member Brown voting no, balance voting aye. Council Member Sullivan absent. ORDINANCE 2012-0930 ADOPTED.

11. ORDINANCE approving and authorizing contract between the City and the **HOUSTON FOOD BANK** to increase public awareness of Benefits Programs to eligible Supplemental Nutrition Assistance Program Participants; providing a maximum contract amount - \$159,684.96 - General Fund - was presented.

Upon questions and discussion by Council Members, Mayor Parker stated that they dropped grant dollars into the General Fund all of the time when they were disbursing them, that Enterprise Funds and Special Revenue Funds were kept segregated and then when it was appropriate to disburse those funds they were moved as appropriate, that this happened to be a very unique fund, it was reimbursement for Katrina for expenses that they had and were reimbursed, that once they were assured that there was no further action on Katrina they could be merged into the General Fund, but the expectation was that they should keep it segregated, but this seemed an appropriate use of those funds. Council Member Sullivan absent.

Council Member Rodriguez moved to suspend the rules to remain in session beyond the scheduled noon recess, seconded by Council Member Bradford. All voting aye. Nays none. Council Member Sullivan absent. MOTION 2012-0768 ADOPTED.

After further discussion by Council Members, Council Member Laster moved to call the question relating to Item No. 11, seconded by Council Member Gonzalez. Council Member

Brown voting no, balance voting aye. Council Member Sullivan absent. MOTION 2012-0769 ADOPTED.

A vote was called on Item No. 11. Council Members Brown and Pennington voting no, balance voting aye. Council Member Sullivan absent. ORDINANCE 2011-0931 ADOPTED.

12. ORDINANCE approving and authorizing contract between the City of Houston and **COALITION FOR THE HOMELESS OF HOUSTON/HARRIS COUNTY**, providing up to \$167,562.00 in Emergency Solutions Grant Funds for the operation and maintenance of the Homeless Management Information System - was presented. Council Member Brown voting no, balance voting aye. Council Member Sullivan absent. ORDINANCE 2011-0932 ADOPTED.

13. ORDINANCE approving and authorizing contract between the City of Houston and **COALITION FOR THE HOMELESS OF HOUSTON/HARRIS COUNTY**, providing up to \$133,415.00 in Community Development Block Grant Funds for planning to support systematic solutions to the problems of homelessness – was presented. Council Members Sullivan and Christie absent.

Council Member Adams stated that she wanted to highlight Item Numbers 12 and 13, that they were on Item No. 13 right now and this particular item was approving and authorizing a contract between the Coalition for the Homeless of Houston Harris County, that she wanted to thank the Coalition for the Homeless and the Housing and Community Development Department and the Mayor for her initiative to rid the blight and decrease homelessness in the City of Houston, that she would ask her colleagues to support the item, that it was an item that was brought before the Housing and Community Development Committee. Council Members Sullivan and Christie absent.

Mayor Parker stated that Item Numbers 12, 13 and 14 all had to deal with the homeless and attacking the problem of homelessness in Houston. Council Members Sullivan and Christie absent.

A vote was called on Item No. 13. Council Member Brown voting no, balance voting aye. Council Members Sullivan, Noriega and Christie absent. ORDINANCE 2011-0933 ADOPTED.

14. ORDINANCE approving and authorizing contract between the City of Houston and **MEMORIAL ASSISTANCE MINISTRIES, INC**, and providing \$50,000.00 in Housing Trust Funds, for the provision of homeless prevention assistance in connection with the Texas Homeless Housing and Services Program – was presented. Council Member Brown voting no, balance voting aye. Council Members Sullivan, Noriega and Christie absent. ORDINANCE 2011-0934 ADOPTED.

16. ORDINANCE appropriating \$220,000.00 out of Airports Improvement Fund and approving and authorizing contract between the City of Houston and **WALTER P. MOORE** for Professional Consulting Services for the Houston Airport System – was presented. All voting aye. Nays none. Council Members Sullivan, Noriega and Christie absent. ORDINANCE 2011-0935 ADOPTED.

Council Member Rodriguez stated that he wanted a little bit more information about what exactly happened with Project 648, and Mayor Parker stated that she would ask Director Diaz to follow up with him, and perhaps Mr. Feldman. Council Members Sullivan, Noriega and Christie absent.

17. ORDINANCE amending Ordinance No. 2011-0043 to increase the maximum contract amount for contract between the City of Houston and **CROWN PACIFIC, INC (Formerly Crown Relocations)** for Moving and Storage of Household Goods for the Housing and Community Development Department; approving and authorizing first amendment to the contract \$200,000.00 - CDBG Fund - was presented, and tagged by Council Members Adams and Burks. Council Members Sullivan, Noriega and Christie absent.
18. ORDINANCE approving and authorizing first amendment to an agreement between the City of Houston and the **DRESSER, INC** for Blower Replacement Parts and Repair Services for the Department of Public Works & Engineering (Ordinance 2007-1212) – was presented. Council Members Sullivan, Noriega and Christie absent.

Council Members Davis stated that Item No. 18 was regarding a contract between Public Works and Dresser, that initially they had a 7% MWBE participation goal, the contractor was currently achieving .17%, the contract started in 2007 and would expire in 2012, five years from the original date, that he would tag Item No. 18, that he had spoken with Mayor Parker yesterday and she said she would go back and get more information on this and try to figure it out, and Council Member Hoang stated that he also would tag Item No. 18. Council Members Sullivan, Noriega and Christie absent.

19. ORDINANCE appropriating \$262,612.00 out of Public Library Consolidated Construction Fund as an additional appropriation for the Construction Management At Risk Contract between the City of Houston and **BALFOUR BEATTY CONSTRUCTION, LLC fka SPAWMAXWELL COMPANY, L.P.** (Approved by Ordinance No. 2007-1471) for Electrical Switchgear in the Julia Ideson Building **DISTRICT I - RODRIGUEZ** – was presented. Council Members Sullivan, Noriega and Christie absent.

After discussion by Council Member Green a vote was called on Item no. 19. All voting aye. Nays none. Council Members Sullivan, Noriega and Christie absent. ORDINANCE 2012-0936 ADOPTED.

20. ORDINANCE appropriating \$419,164.00 out of Parks Consolidated Construction Fund; awarding construction contract to **CARRERA CONSTRUCTION, INC** for Dow Park Basketball Court and Pavilion Restorations at various locations; setting a deadline for the bidder's execution of the contract and delivery of all bonds, insurance and other required contract documents to the City; holding the bidder in default if it fails to meet the deadlines; providing funding for engineering and testing services, construction management, and contingencies relating to construction of facilities financed by the Parks Consolidated Construction Fund - **DISTRICTS D - ADAMS; H - GONZALEZ; I - RODRIGUEZ and K - GREEN** - was presented, and tagged by Council Member Brown. Council Members Sullivan, Noriega and Christie absent.
21. ORDINANCE appropriating \$152,510.00 out of Parks Consolidated Construction Fund and \$134,310.00 out of Parks and Recreation Dedication Fund; awarding construction contract to **JERDON ENTERPRISE, L.P.** for Glenbrook Park, Phase II and Schwartz Park; setting a deadline for the proposer's execution of the contract and delivery of all bonds, insurance and other required contract documents to the City; holding the proposer in default if it fails to meet the deadlines; providing funding for engineering testing services, construction management, Civic Art Program and contingencies relating to construction of facilities financed by the Parks Consolidated Construction Fund, the Parks and Recreation Dedication Fund, and Federal Government-Grants Fund - \$881,020.00 - Grant Fund - **DISTRICTS A - BROWN and I - RODRIGUEZ** – was presented. Council Members Sullivan, Noriega and Christie absent.

Council Member Brown stated that often they saw park projects of this magnitude, a half a million park constructions throughout the City, and certainly District A getting their share with Schwartz Park was appreciated by the district, that to honor that and at the same time respectfully delivering to the constituents of District A consistent approach to government and their funding and priorities as a City, she would step out and abstain from the vote on Item No. 21. Council Members Sullivan, Noriega and Christie absent.

A vote was called on Item No. 21. All voting aye. Nays none. Council Members Brown, Sullivan, Noriega and Christie absent. ORDINANCE 2012-0937 ADOPTED.

22. ORDINANCE appropriating \$202,200.00 out of Metro Projects Construction DDSRF as an additional appropriation to Professional Engineering Services Contract between the City of Houston and **SES HORIZON CONSULTING ENGINEERS, INC** for Bringham Pedestrian Bridge over Union Pacific Railroad (Approved by Ordinance No. 2012-0613); providing funding for CIP Salary Recovery relating to construction of facilities financed by the Metro Projects Construction DDSRF - **DISTRICT B – DAVIS** - was presented. All voting aye. Nays none. Council Members Sullivan, Noriega and Christie absent. ORDINANCE 2012-0938 ADOPTED.

**MATTERS HELD** - NUMBERS 23 through 26

23. RECOMMENDATION from Director Department of Public Works & Engineering, reviewed and approved by the Joint Referral Committee, on request from Brian Nawara, Texas Engineering and Mapping, on behalf of Alliance Enclave Reflections Limited Partnership (Alliance Enclave Reflections GP, Inc [Steven Ivankovich, President], General Partner), for abandonment and sale of a 10-foot-wide water line easement and a 10-foot-wide by 35-foot-wide water main (flushing valve) easement, located within the Enclave at Reflections Apartments Addition, Section One, out of the Joel Wheaton Survey, A-80, Parcels SY13-017A and SY13-017B - **DISTRICT G - PENNINGTON – (This was Item 3 on Agenda of October 24, 2012, TAGGED BY COUNCIL MEMBER PENNINGTON)** – was presented, moved by Council Member Gonzalez, seconded by Council Member Costello. All voting aye. Nays none. Council Members Sullivan, Noriega and Christie absent. MOTION 2012-770 ADOPTED.
24. MOTION by Council Member Gonzalez/Seconded by Council Member Costello to adopt recommendation to **AMEND MOTION 2007-259, 3/7/07, as previously amended, TO INCREASE** spending authority from \$27,563,500.00 to \$38,588,900.00 for Chemicals, Inorganic Metal Salt Coagulants (Aluminum Sulfates and Aluminum Chlorohydrate) for the Department of Public Works & Engineering, awarded to **ALTIVIA CORPORATION** - \$11,025,400.00 - Enterprise Fund – **(This as Item 5 on Agenda of October 24, 2012, TAGGED BY COUNCIL MEMBER GREEN)** – was presented. All voting aye. Nays none. Council Members Sullivan, Noriega and Christie absent. MOTION 2012-771 ADOPTED.
25. ORDINANCE appropriating \$10,000,000.00 out of Airports Improvement Fund as an additional appropriation for contract between the City of Houston and **HOUSTON AIRPORTS PROGRAM MANAGEMENT TEAM** approved by Ordinance No. 2011-783 for Professional Program Management Consulting Services for the Houston Airport System (Project No. 697) - **DISTRICTS B - DAVIS; E - SULLIVAN and I - RODRIGUEZ – (This was Item 12 on Agenda of October 24, 2012, TAGGED BY COUNCIL MEMBER SULLIVAN)** - was presented. All voting aye. Nays none. Council Members Sullivan, Noriega and Christie absent. ORDINANCE 2012-0939 ADOPTED.
26. ORDINANCE appropriating \$246,100.00 out of Street & Traffic Control and Storm Drainage DDSRF as an additional appropriation to Professional Engineering Services

Contract between the City of Houston and **TRW ENGINEERS, INC dba TSC ENGINEERING** for Braesmont Dr. Area Drainage and Paving Improvements (Approved by Ordinance No. 2011-0506); providing funding for CIP Salary Recovery relating to construction of facilities financed by the Street & Traffic Control and Storm Drainage DDSRF - **DISTRICT C – COHEN – (This was Item 16 on Agenda of October 24, 2012, TAGGED BY COUNCIL MEMBER GREEN)** - was presented. Council Members Sullivan, Noriega and Christie absent.

After discussion by Council Members, Council Member Green moved to postpone Item No. 26 for two weeks, seconded by Council Member Davis. Council Members Sullivan, Noriega and Christie absent.

A vote was called on the motion to postpone Item No. 26. for two weeks. All voting aye. Nays none. Council Members Sullivan, Noriega and Christie absent. MOTION 2012-0772 ADOPTED.

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

Council Member Adams stated that she had five delegates this week from Shandong and wanted to thank them for their time in the City, and announced events that she had attended during the week or would attend in the following week; that she wanted to remind everyone that early voting was still going on and would end on Friday and she would encourage everybody to cast their vote; that her prayers went out to the people in New York and New Jersey as they dealt with Hurricane Sandy and the healing process and clearing of the debris. Council Members Brown, Sullivan, Pennington, Laster, Green, Burks, Noriega and Christie absent.

Council Member Hoang stated that he wanted to join Council Member Adams to thank the Shandong Province delegation to the City of Houston, that he also had five delegates in his office and wanted to thank Mathew Shaler, who had done a wonderful job in coordinating this event; that he wanted to congratulate the HTV crew who recently brought home three awards, the Texas Association of Telecommunications Officers and Advisors recently honored their very own HTV, Houston Government Access TV Channel with three awards at their 2012 Conference, the awards recognized the excellence in broadcast, cable, multi media and electronic programming produced by local government agencies in Texas and HTV won three of them; that he wanted to recognize the services of the Public Works Department Utility Maintenance branch for a job well done, that yesterday their office received a call that a major water main break on Bissonnett had left at least two large apartment complexes and several businesses without water, the utility maintenance crews got out there quickly and restored water to all affected properties within just a few hours, that they often go unrecognized but now they all knew what they did and they were vitally important to the City, that he wanted to thank the directors and workers who were out there repairing the break and restoring the water for their residents. Mayor Parker and Council Members Brown, Sullivan, Pennington, Laster, Burks, Noriega and Christie absent. Mayor Pro Tem Gonzalez presiding.

Council Member Green announced events that he had attended during the week or would attend in the following week; that the Solid Waste Department had rerouted the heavy trash schedule for junk and tree waste effective November 1, 2012. Council Members Brown, Sullivan, Hoang, Pennington, Rodriguez, Laster, Burks, Noriega and Christie absent. NO QUORUM PRESENT

Council Member Davis stated that he wanted to thank the Council for a few months ago voting to allow the Leland TIRZ to have money to pay off a few things and they found home builders for the redevelopment of Leland, and they started putting homes in Leland Woods, off of the corner of Homestead and Little York, that this project started with Council Member

Johnson, as he reminded them this weekend in the paper; and announced events that he had attended during the week or would attend in the following week;. Council Members Brown, Sullivan, Hoang, Pennington, Rodriguez, Laster, Burks, Noriega and Christie absent. NO QUORUM PRESENT

Council Member Cohen announced events that she had attended during the week or would attend in the following week;; that she wanted to wish all a Happy Halloween, Dia De Los Muertos, All Saints Day and Election Day. Council Members Brown, Sullivan, Hoang, Pennington, Rodriguez, Laster, Burks, Noriega and Christie absent. NO QUORUM PRESENT

Council Member Bradford stated that he had not heard a response from Public Works or TXDOT concerning the Yale Street Bridge issue, that the question still remained, what work had been done, if any, by Public Works to kind of shore up the bridge and was the bridge still not safe for certain pickup trucks, SUVs and Sport Utility vehicles, that was an issue, that he had gone to that location on a few occasions and conducted site visits, that he had talked to police officers working out there and observed what they did, the officers were in fact there, but his observation lead him to clearly see that the officer was only stopping vehicles that were commercial vehicles, because there was a prohibition by sign that commercial vehicles could not go across the bridge, that the officers were not stopping pickup trucks or SUVs at all, but more importantly than that was when the officer did engage one vehicle and make it stop from going across the bridge despite what the signage indicated and pull the vehicle to the side and engage in a discussion about license, insurance, etc., other vehicles were going across the bridge, one officer simply could not do it, that this past Friday, October 26, 2012, about 9:30 a.m., three school buses, fully loaded with children, were observed crossing the Yale Street Bridge, some citizens video tapped that so they really needed to take action, in his view, to make sure that the bridge was safe and that the bridge had been shored up and to understand that one officer could only do so much in the pretty heavy traffic location, that one of the school buses fully loaded with children got into a backed up traffic situation and the bus was standing on the bridge waiting for the traffic to move forward, that he thought they needed to do more than what they had done to take action to insure that the bridge was in fact safe for citizens, whether they were driving a pickup truck, an SUV, that particularly pickup trucks with tool boxes on the back, fuel trucks on them or SUVs, that with video tape of three school buses, fully loaded with children, going across the bridge, he thought, should put them on clear notice that something needed to be done about the Yale Street Bridge that would make it safe for the community. Council Members Brown, Sullivan, Hoang, Pennington, Rodriguez, Laster, Burks, Noriega and Christie absent. NO QUORUM PRESENT

Council Member Gonzalez stated that he to would appreciate, once Council Member Bradford received a response, to find out what they were doing on the Yale Street Bridge; and announced events that he had attended during the week or would attend in the following week; that early voting would continue through Friday and he would encourage all Houstonians to make their voices heard at the polls; that he knew that Hurricane Sandy was referenced earlier and he wanted to send his thoughts and prayers to the entire northeast area that had been impacted through the loss of lives and property, that they here in the Gulf Coast area knew very well how these tragedies impacted communities; that he wanted to thank the Council, because earlier they supported and approved, with one no vote, the Houston Urban Area Security Initiative, grants that protected their community, that the Department of Homeland Security had considered their area as a high threat urban area in the nation because of their critical infrastructure and these funds help not only for terrorist attacks, but also to prepare, protect against, respond and recover from a catastrophic incident; that he wanted to give a Happy Birthday wish to Mercedes Sanchez of his office. Council Members Brown, Sullivan, Hoang, Pennington, Rodriguez, Laster, Burks, Noriega and Christie absent. NO QUORUM PRESENT

Council Member Adams stated that she wanted to thank Katy Tipton of the Department of

Neighborhoods; that she wanted to thank Mayor Parker for presenting them an award at the Mayor's Proud Partners Luncheon, the Repride Sunnyside Award and the Veterans Home Repair Award; that even though October 31 concluded the awareness month for Breast Cancer they wanted to continue to encourage all to continue to do their monthly exams, annual clinical physician exams and to be aware and make sure they went through the preventive stage of not catching disease; they had a Breast Cancer Awareness Walk this past Saturday with the Sisters Network reaching out to those in the 77051 zip code and it was surprising and alarming to know that many women they came into contact with had not had a mammogram or physical exam for detection of Breast Cancer, that awareness should be 365 days of the year; that she wanted to thank Ms. Katy Tipton, the HPT DRT Team and Mayor Parker for yesterday to be able to talk to people about dangerous building removal, that there would be some initiatives coming forward that Director Tipton was getting ready to initiate; that she wanted to thank Mayor Parker for coming to the Super Neighborhood No. 68 meeting and all departments who came out to educate the community. Council Members Brown, Sullivan, Hoang, Pennington, Rodriguez, Laster, Burks, Noriega and Christie absent. NO QUORUM PRESENT

Council Member Green stated that he wanted to make sure everyone understood that the Solid Waste Department had rerouted it's heavy trash schedule for junk and tree waste effective November 1, 2012; that he wanted to address a public safety issue, on South Main Street, Corridor U.S. 90 a lighting issue, from Highway 610 to Beltway 8, the roadway was extremely dark, when U.S. 90 was constructed many years ago TXDOT agreed to install the foundations and conduit and the City of Houston agreed to install the wiring and poles and to maintain the lighting when the project was designed, that TXDOT constructed the portions agreed to but the completion of the project did not happen, the City did not construct their portion and as a result the lights were not completed, that in the past year the TXDOT Program did a call to allow some middle proposed lighting along the corridor and according to TXDOT current City of Houston Public Works staff had agreed to maintain the lights if TXDOT secured the funding for the poles and the wiring, that TXDOT was successful in securing this construction funding, that in addition two weeks ago HPD sent a news release out relative to the lack of street lights along the South Main Corridor where an incident occurred along South Main, near Hiram Clarke, that according to the HPD news release a man was killed along the roadside because the motorist did not see him until they were on top of the person, that unfortunately there were incidents like these where they had to bring light to the reasoning why they wanted to install those street lights along the corridor, that he was asking for the Mayor's help and assistance to work with Public Works and try to get this expedited; that he wanted to thank the Office of Business Opportunity putting out their Utilization Report, the Business Enterprise Awards Report, that he would ask that Mayor Parker assist him while they work with all directors and really move forward on their MWBE goals, that the report delineates department by department, usage of MWBEs and he thought it was a great tool for the City of Houston to use. Council Members Brown, Davis, Sullivan, Hoang, Pennington, Rodriguez, Laster, Burks, Noriega and Christie absent. NO QUORUM PRESENT

There being no further business before Council, the City Council adjourned at 12:57 p.m. Council Members Brown, Sullivan, Hoang, Pennington, Rodriguez, Laster, Burks, Noriega and Christie absent. NO QUORUM PRESENT

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

MINUTES READ AND APPROVED

/S/Anna Russell

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Anna Russell, City Secretary