

**STATE OF TEXAS
COUNTY OF BEXAR
CITY OF SAN ANTONIO**

REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF SAN ANTONIO, HELD IN THE COUNCIL CHAMBERS, MUNICIPAL PLAZA BUILDING, THURSDAY, NOVEMBER 4, 2004

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The City Council convened in an informal "B" Session at 10:00 A.M., Municipal Plaza Building "B" Room, to consider the following items(s):

Staff briefing on River Barges Concession Request for Proposals Recommendation. [Presented by Malcolm Matthews, Director, Parks and Recreation; Christopher J. Brady, Assistant City Manager]

Staff briefing on the Enterprise Resource Management Project. [Presented by Troy Elliott, Project Manager, ERM; J. Rolando Bono, Interim City Manager.

The Council members present were: Flores, Segovia, Perez, Radle, Barrera, Castro, Hall, Schubert, Haass, Garza. ABSENT: Williams.

The City Council recessed its "B" Session at 11:23 A.M. and convened into Executive Session to for the purpose of:

Deliberate the duties, appointment, and employment of the City Manager, pursuant to Texas Government Code Section 551.074 (personnel matters), and discuss related legal issues, pursuant to Texas Government Code Section 551.071 (consultation with attorney).

Discuss negotiations with Landry's Restaurant's, Inc. for the proposed lease of the Tower of the Americas, pursuant to Texas Government Code Section 551.072 (deliberation regarding real property) and related legal issues, pursuant to Texas Government Code Section 551.071 (consultation with attorney).

The City Council adjourned the Executive Session at 12:26 P.M. and reconvened in "B" Session, at which time Mayor Garza stated that City Council had been briefed on the above-styled matters and had given staff direction, but had taken no official action.

The "B" Session adjourned at 12:29 P.M.

The regular meeting was called to order at 1:00 P.M. by the Presiding Officer, Mayor Ed Garza, with the following members present: Flores, Segovia, Perez, Radle, Barrera, Castro, Hall, Schubert, Haass, Garza. ABSENT: Williams.

Invocation by Father Armando Trujillo, District 4, St. Leonard's Catholic Church.

Pledge of Allegiance to the flag of the United States.

CEREMONIAL ITEMS

Mayor Garza presented the following proclamations:

World Town Planning Day
National Diabetes Awareness Month
Marine Corps Week

The minutes of the City Council Meeting of September 9, September 16, and September 23, 2004; and Special City Council Meeting of August 31, and September 10, 2004, were approved as presented.

INDIVIDUAL ITEMS FOR CONSIDERATION

The City Clerk read the following ordinance:

AN ORDINANCE 99938

AUTHORIZING THE ISSUANCE OF CITY OF SAN ANTONIO, TEXAS ELECTRIC AND GAS SYSTEMS JUNIOR LIEN REVENUE BONDS, SERIES 2004 IN THE AGGREGATE AMOUNT OF \$160,000,000.00; PROVIDING FOR THE PAYMENT OF THE PRINCIPAL OF AND INTEREST ON THE BONDS, TOGETHER WITH CERTAIN CURRENTLY OUTSTANDING OBLIGATIONS, BY A JUNIOR LIEN ON AND PLEDGE OF THE NET REVENUES OF THE CITY'S ELECTRIC AND GAS SYSTEMS; PROVIDING THE TERMS AND CONDITIONS OF SUCH BONDS AND RESOLVING OTHER MATTERS INCIDENT AND RELATING TO THE ISSUANCE, PAYMENT, SECURITY, SALE, AND DELIVERY OF SUCH BONDS, INCLUDING THE APPROVAL AND DISTRIBUTION OF AN OFFICIAL STATEMENT PERTAINING THERETO; AUTHORIZING THE EXECUTION OF A PAYING AGENT/REGISTRAR AGREEMENT, REMARKETING AGREEMENT, PURCHASING CONTRACT, AND STANDBY BOND PURCHASE AGREEMENT; COMPLYING WITH THE REQUIREMENTS OF THE DEPOSITORY TRUST

COMPANY; DELEGATING THE AUTHORITY TO CERTAIN MEMBERS OF THE CITY PUBLIC SERVICE BOARD STAFF TO EXECUTE CERTAIN DOCUMENTS RELATING TO THE SALE OF THE BONDS; ENACTING OTHER PROVISIONS INCIDENT AND RELATED TO THE SUBJECT AND PURPOSE OF THIS ORDINANCE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE UPON PASSAGE BY EIGHT VOTES.

Councilmember Perez made a motion to approve the proposed Ordinance. Councilmember Hall seconded the motion.

Mr. Ben Gorzell briefly spoke to the proposed ordinance, and introduced Mr. Richard E. Williamson, Senior Vice President, Financial Services from City Public Service (CPS) who narrated a slide presentation on the Texas Electric and Gas Systems Junior Lien Revenue Bonds (a copy which is on file with the Office of the City Clerk).

Mr. Williamson outlined the proposed transaction, purpose of the bond issue, highlighting on the variable rate of interest, maturity rate, reasons for the variable rate debt, and the lesser interest to be paid by CPS. He further outlined the debt structure, the variable rate team, the process for the request for proposals, the proposed ordinance which would authorize the issuance of the revenue bonds and the timeline for the bond closing.

After consideration, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: **AYES:** Flores, Segovia, Perez, Radle, Barrera, Hall, Schubert, Haass, Garza. **NAYS:** None. **ABSENT:** Williams, Castro.

CONSENT AGENDA – CITIZENS' COMMENTS

Items 11 and 26 were addressed individually from the consent agenda. Councilmember Perez made a motion to approve the remaining Items 9 through 30C. Councilmember Segovia seconded the motion.

The following citizen(s) appeared to speak:

Mr. Jack Finger, P.O. Box 12048, spoke to Item 2 (Ceremonials), and Item 25(Title X Family Planning Program 2004/2005)

After consideration, the motion, carrying with it the passage of the Ordinances, prevailed by the following vote: **AYES:** Segovia, Perez, Radle, Barrera, Castro, Hall, Schubert, Haass, Garza. **NAYS:** None. **ABSENT:** Flores, Williams.

AN ORDINANCE 99939

AN ORDINANCE ACCEPTING THE LOW RESPONSIVE BIDS SUBMITTED BY W.S. DARLEY & CO., ITEMS 2-6, AND FERRARA FIRE APPARATUS, INC., ITEM 1, TO PROVIDE THE CITY OF SAN ANTONIO FIRE DEPARTMENT WITH FIRE HOSE FOR A TOTAL COST OF \$51,668.29.

AN ORDINANCE 99940

AN ORDINANCE ACCEPTING THE LOW RESPONSIVE BID SUBMITTED BY AIR CLEANING TECHNOLOGIES, INC. TO PROVIDE THE CITY OF SAN ANTONIO AVIATION DEPARTMENT WITH A VEHICLE EXHAUST REMOVAL SYSTEM FOR THE AIRPORT FIRE STATION, APPROPRIATING \$79,462.00 FOR CONSTRUCTION AND \$7,946.00 FOR CONSTRUCTION CONTINGENCY EXPENSES FROM THE AIRPORT SYSTEM IMPROVEMENTS AND CONTINGENCY FUND FOR A TOTAL COST OF \$87,408.00; APPROPRIATING FUNDS AND ESTABLISHING A BUDGET.

AN ORDINANCE 99941

AN ORDINANCE ACCEPTING THE BIDS OF VARIOUS COMPANIES TO PROVIDE THE CITY OF SAN ANTONIO WITH VARIOUS TYPES OF COMMODITIES AND SERVICES ON AN ANNUAL CONTRACT BASIS FOR FISCAL YEAR 2004-2005 FOR AN ESTIMATED COMBINED ANNUAL COST OF \$816,163.00 TO INCLUDE CONTRACTS FOR: GASOLINE & DIESEL REFUELING EQUIPMENT PARTS AND SERVICE; TIRE RETREADING & REPAIR SERVICE; INDUSTRIAL FIREFIGHTING FLASHLIGHTS AND BATTERIES; DISPOSABLE BATTERIES; PRINTER SUPPORT SERVICES; BOOK LEASING SYSTEM; AND LATEX GLOVES.

AN ORDINANCE 99942

AN ORDINANCE SELECTING SW TEXAS ENVIRONMENTAL CONTRACTORS, INC. AND JGG INTEGRATED CONSTRUCTION, LLC (SBE/MBE) TO PROVIDE STANDBY LEAD HAZARD CONTROL WORK IN CONNECTION WITH VARIOUS NEIGHBORHOOD ACTION DEPARTMENT HOUSING PROGRAMS FOR AN AMOUNT NOT TO EXCEED \$500,000.00 FOR EACH CONTRACT, FOR A TOTAL AMOUNT OF \$1,000,000.00 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT LEAD GRANT FUNDS; AUTHORIZING THE NEGOTIATION AND EXECUTION

OF THE ENVIRONMENTAL SERVICE CONTRACTS; APPROPRIATING FUNDS;
AND PROVIDING FOR PAYMENT.

AN ORDINANCE 99943

AN ORDINANCE APPROVING FIELD ALTERATION NO. 8 AND AUTHORIZING
PAYMENT IN THE AMOUNT OF \$55,000.00 TO R.L. JONES, L.P., IN
CONNECTION WITH THE W.W. WHITE - RIGSBY TO LORD PROJECT,
LOCATED IN COUNCIL DISTRICT 2; REVISING THE PROJECT BUDGET;
APPROPRIATING FUNDS; AND PROVIDING FOR PAYMENT.

AN ORDINANCE 99944

AN ORDINANCE APPROVING FIELD ALTERATION NO. 1 IN THE NET
DECREASED AMOUNT OF \$30,189.20 TO THE CONTRACT WITH K.L. & J.
LIMITED PARTNERSHIP IN CONNECTION WITH THE ARROYO VISTA
SUBDIVISION COMMUNITY DEVELOPMENT BLOCK GRANT PROJECT,
LOCATED IN COUNCIL DISTRICT 6; AND REVISING THE PROJECT BUDGET.

AN ORDINANCE 99945

AN ORDINANCE SELECTING ALDERSON & ASSOCIATES, INC. (SBE) TO
PROVIDE ENGINEERING SERVICES IN CONNECTION WITH THE FRANK
GARRETT CENTER HEATING, VENTILATION AND AIR CONDITIONING
UPGRADE COMMUNITY DEVELOPMENT BLOCK PROJECT, LOCATED IN
COUNCIL DISTRICT 1; AUTHORIZING THE NEGOTIATION AND EXECUTION
OF A PROFESSIONAL SERVICES CONTRACT IN AN AMOUNT NOT TO
EXCEED \$12,000.00; AUTHORIZING \$2,200.00 FOR MISCELLANEOUS
CONTINGENCY EXPENSES; AUTHORIZING AN ADDITIONAL \$800.00 FOR
ADVERTISING EXPENSES, FOR A TOTAL AMOUNT OF \$15,000.00; REVISING
THE PROJECT BUDGET; APPROPRIATING FUNDS; AND PROVIDING FOR
PAYMENT.

AN ORDINANCE 99946

AN ORDINANCE AUTHORIZING THE PURCHASE OF A 6.816 ACRE TRACT
LOCATED AT THE SOUTHWEST CORNER OF HAUSMAN ROAD AND WOLLER
ROAD IN COUNCIL DISTRICT 8 FROM MARY LORRAINE VAN DE WALLE FOR
THE AMOUNT OF \$593,802.00; AUTHORIZING \$11,923.00 FOR LAND
ACQUISITION EXPENSES, FOR A TOTAL AMOUNT OF \$605,725.00 FROM 2003-

2007 PARK BOND FUNDS; APPROPRIATING FUNDS; AND PROVIDING FOR PAYMENT.

AN ORDINANCE 99947

AN ORDINANCE APPROVING THE FEE SIMPLE PURCHASE OF EIGHTEEN (18) PROPERTIES ALONG THE LEON AND SALADO CREEKS FOR A TOTAL AMOUNT OF \$69,750.00 FROM THE PARKS DEVELOPMENT AND EXPANSION VENUE PROJECT (PROPOSITION 3) SALES TAX FUNDS; AUTHORIZING \$5,040.00 FOR DUE DILIGENCE FEES, FOR A TOTAL AMOUNT OF \$74,790.00; APPROPRIATING FUNDS; AND PROVIDING FOR PAYMENT.

AN ORDINANCE 99948

AN ORDINANCE DECLARING THE CULEBRA DRAINAGE #58FF PHASES 1 & 2 COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROJECT TO BE A PUBLIC PROJECT; DECLARING A PUBLIC NECESSITY FOR THE ACQUISITION OF THE FEE SIMPLE TITLE AND/OR EASEMENT INTEREST TO CERTAIN PRIVATELY OWNED REAL PROPERTY, BY NEGOTIATIONS AND/OR CONDEMNATION, IF NECESSARY, FOR PUBLIC IMPROVEMENTS FOR USE AS PART OF THE PROJECT; TO WIT, ALL OR PORTIONS OF THE PROPERTIES BEING DESCRIBED AS: (1) BEING 0.0251 ACRES (1,091 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT B-2, NEW CITY BLOCK 11493; (2) BEING 3.1857 ACRES (138,768 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT C, NEW CITY BLOCK 11493; (3) BEING 5.8327 ACRES (254,071 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT D, NEW CITY BLOCK 11493; (4) BEING 4.0812 ACRES (177,778 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT F, NEW CITY BLOCK 11493; (5) BEING 4.6564 ACRES (202,832 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT G, NEW CITY BLOCK 11493; (6) BEING 2.9753 ACRES (129,604 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT H, NEW CITY BLOCK 11493; AND (7) BEING 3.3833 ACRES (147,378 SQUARE FEET) OF LAND, AND BEING OUT OF THE REMAINING PORTION OF LOT K, NEW CITY BLOCK 11493; ALL SITUATED IN THE CITY OF SAN ANTONIO, BEXAR COUNTY, TEXAS; FOR A PUBLIC PURPOSE AS PART OF THIS PROJECT; ESTABLISHING JUST COMPENSATION FOR THE PROPERTY; APPROPRIATING COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUNDS IN THE AMOUNT OF \$259,750.00 FOR THE PROPERTY AND FOR THE PROJECT INCLUDING MISCELLANEOUS EXPENSES ASSOCIATED WITH THE PROJECT SUCH AS APPRAISALS AND ATTORNEY'S

FEES; AUTHORIZING CITY STAFF AND/OR ITS DESIGNATED REPRESENTATIVES TO NEGOTIATE WITH AND TO ACQUIRE THE PROPERTY FROM THE OWNERS ON THE APPROVED TERMS; AND AUTHORIZING THE CITY ATTORNEY AND/OR DESIGNATED SPECIAL COUNSEL TO FILE EMINENT DOMAIN PROCEEDINGS, IF NECESSARY.

AN ORDINANCE 99949

AN ORDINANCE RATIFYING THE EXECUTION OF A SHORT-TERM LEASE AGREEMENT WITH THE RAUL JIMENEZ THANKSGIVING DINNER FUND INC., A NON-PROFIT ORGANIZATION, FOR A PERIOD COMMENCING NOVEMBER 1, 2004 AND ENDING NOVEMBER 30, 2004, FOR THE USE OF VACANT RETAIL SPACE AND TWELVE PARKING SPACES AT THE HEMISFAIR PARKING GARAGE FOR A ONE-TIME RENTAL FEE OF \$5.00.

AN ORDINANCE 99950

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF CERTIFIED LOCAL GOVERNMENT PROGRAM FUNDS IN THE AMOUNT OF \$4,600.00 FROM THE NATIONAL PARK SERVICE HISTORIC PRESERVATION FUND THROUGH THE TEXAS HISTORICAL COMMISSION FOR THE PURPOSE OF REDESIGNING AND IMPROVING THE PLANNING DEPARTMENT'S WEBSITE REGARDING THE CITY'S HISTORIC RESOURCES; AUTHORIZING A \$3,067.00 MATCH FROM THE CITY'S FINCK PRESERVATION FUND; PROVIDING FOR PAYMENT; AND APPROPRIATING FUNDS.

AN ORDINANCE 99951

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF GRANT FUNDS IN THE AMOUNT OF \$400,000.00 FROM THE U.S. DEPARTMENT OF HOMELAND SECURITY TO BE USED TO CONTINUE PLAN DEVELOPMENT, TRAINING, AND PURCHASE OF EQUIPMENT AND PHARMACEUTICALS FOR THE METROPOLITAN MEDICAL RESPONSE SYSTEM, A SYSTEM ESTABLISHED TO BE A PRIMARY RESOURCE WEAPONS OF MASS DESTRUCTION INCIDENTS; ADOPTING A PROGRAM BUDGET; AND APPROPRIATING FUNDS.

AN ORDINANCE 99952

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF \$2,001,304.00 FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES ("TDSHS") TO

RENEW SUPPORT FOR THE BIOTERRORISM PREPAREDNESS PROGRAM OF THE SAN ANTONIO METROPOLITAN HEALTH DISTRICT ("SAMHD") FOR THE PERIOD SEPTEMBER 1, 2004 THROUGH AUGUST 31, 2005; AUTHORIZING THE EXECUTION OF A CONTRACT CHANGE WITH TDSHS; ADOPTING THE PROGRAM BUDGET; APPROVING THE PERSONNEL COMPLEMENT; APPROVING THE TRANSFER OF FUNDS; AND AUTHORIZING PAYMENT FOR CONTRACTUAL SERVICES.

AN ORDINANCE 99953

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF A GRANT AWARD IN THE AMOUNT OF \$31,670.00 FROM THE HOGG FOUNDATION FOR MENTAL HEALTH TO RENEW THE PERINATAL DEPRESSION PROJECT OF THE SAN ANTONIO METROPOLITAN HEALTH DISTRICT FOR THE PERIOD SEPTEMBER 1, 2004 THROUGH AUGUST 31, 2005; APPROVING THE CARRY-OVER OF PROJECT FUNDS OF APPROXIMATELY \$2,665.00; ESTABLISHING A FUND; ADOPTING THE PROJECT BUDGET; AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH OUR LADY OF THE LAKE UNIVERSITY IN AN AMOUNT NOT TO EXCEED \$28,500.00 IN CONNECTION WITH SAID PROJECT; AND AUTHORIZING PAYMENTS FOR CONTRACTUAL SERVICES.

AN ORDINANCE 99954

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF \$50,000.00 FROM THE TEXAS DEPARTMENT OF STATE HEALTH SERVICES ("TDSHS") TO FUND THE TITLE X FAMILY PLANNING PROGRAM 2004/2005 OF THE SAN ANTONIO METROPOLITAN HEALTH DISTRICT FOR THE PERIOD SEPTEMBER 1, 2004 THROUGH AUGUST 31, 2005; AUTHORIZING THE EXECUTION OF A CONTRACT CHANGE WITH TDSHS; ADOPTING THE PROGRAM BUDGET; APPROVING THE PERSONNEL COMPLEMENT; AND AUTHORIZING PAYMENTS FOR CONTRACTUAL SERVICES.

AN ORDINANCE 9995

AN ORDINANCE APPROVING THE PARADE PERMIT AND AUTHORIZING THE TEMPORARY CLOSURE OF PORTIONS OF CERTAIN STREETS NEAR THE ALAMODOME IN CONNECTION WITH THE SAN ANTONIO MARATHON 5K MAYOR'S FITNESS CHALLENGE AND WALK SPONSORED BY THE SAN ANTONIO MARATHON COMMITTEE TO BE HELD ON SUNDAY, NOVEMBER 7, 2004 FROM 6:00 A.M. UNTIL 1:00 P.M.

AN ORDINANCE 99956

AN ORDINANCE APPROVING THE PARADE PERMIT AND AUTHORIZING THE TEMPORARY CLOSURE OF PORTIONS OF CERTAIN STREETS NEAR UTSA IN CONNECTION WITH THE UTSA TRIATHLON SPONSORED BY ROGER SOLER SPORTS TO BE HELD ON SUNDAY, NOVEMBER 14, 2004 FROM 7:00 A.M. UNTIL 10:00 A.M.

AN ORDINANCE 99957

AN ORDINANCE AUTHORIZING THE TEMPORARY STREET CLOSURE OF EAST HOUSTON BETWEEN NORTH ALAMO AND AVENUE E IN CONNECTION WITH THE 16TH ANNUAL CHRISTMAS ALONG THE CORRIDOR PONY EXPRESS COURIER SWEARING-IN CEREMONY SPONSORED BY THE ALAMO AREA COUNCIL OF GOVERNMENTS TO BE HELD ON SATURDAY, NOVEMBER 20, 2004 FROM 8:30 A.M. UNTIL 12:00 P.M.

AN ORDINANCE 99958

AN ORDINANCE APPOINTING FRANK A. DUNN (DISTRICT 2) AS A DIRECTOR/TRUSTEE TO THE SOUTH TEXAS BUSINESS FUND FOR A TERM OF OFFICE TO EXPIRE ON MAY 9, 2007.

AN ORDINANCE 99959

AN ORDINANCE REAPPOINTING JOHN B. CAVAZOS (MAYOR) TO THE CITY COMMISSION ON VETERANS' AFFAIRS FOR A TERM OF OFFICE TO EXPIRE ON JUNE 11, 2006.

AN ORDINANCE 99960

AN ORDINANCE APPOINTING EMILIO SILVAS (DISTRICT 5) TO THE ETHICS REVIEW BOARD FOR A TERM OF OFFICE TO EXPIRE ON FEBRUARY 21, 2006.

CONSENT AGENDA ITEMS CONSIDERED INDIVIDUALLY

The City Clerk read the following ordinance:

AN ORDINANCE 99961

AN ORDINANCE ACCEPTING THE LOW RESPONSIVE BID SUBMITTED BY DATALINK CORPORATION TO PROVIDE THE CITY OF SAN ANTONIO INFORMATION TECHNOLOGY SERVICES DEPARTMENT WITH A HITACHI DISK ARRAY SYSTEM FOR A TOTAL COST OF \$76,136.00.

Councilmember Hall made a motion to approve the proposed Ordinance. Councilmember Haass seconded the motion.

After consideration, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: **AYES:** Flores, Segovia, Perez, Radle, Barrera, Castro, Hall, Schubert, Haass, Garza. **NAYS:** None. **ABSENT:** Williams.

The City Clerk read the following ordinance:

AN ORDINANCE 99962

AN ORDINANCE AUTHORIZING THE NEGOTIATION AND EXECUTION OF AN INTERLOCAL GOVERNMENT AGREEMENT WITH BEXAR COUNTY PROVIDING FOR \$25,000.00 IN COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS FOR THE RENOVATION OF THE SOUTH SAN CIVIC CENTER, OWNED AND MAINTAINED BY BEXAR COUNTY, LOCATED AT 503 LOVETT IN COUNCIL DISTRICT 4; APPROPRIATING FUNDS; AND PROVIDING FOR PAYMENT.

2:00 P.M. PUBLIC HEARING AND ORDINANCE

Mayor Garza declared the public hearing to be open.

There were no citizens signed to speak.

Mayor Garza declared the public hearing to be closed.

The City Clerk read the following ordinance:

AN ORDINANCE 99963

AUTHORIZING THE REPROGRAMMING OF FY 2002 HOUSING OPPORTUNITIES FOR PERSONS WITH AIDS ("HOPWA") GRANT FUNDS IN THE AMOUNT OF \$100,000.00 AVAILABLE FROM BLACK EFFORT AGAINST

THE THREAT OF AIDS ("BEAT-AIDS") AND AUTHORIZING THE APPROPRIATION AND ALLOCATION OF SAID FUNDS TO SAN ANTONIO AIDS FOUNDATION ("SAAF") TO PROVIDE TENANT BASED RENTAL ASSISTANCE TO INDIVIDUALS WHO HAVE HIV/AIDS AND THEIR FAMILY MEMBERS; AUTHORIZING THE REPROGRAMMING OF FY 2004 HOPWA GRANT FUNDS IN THE AMOUNT OF \$100,000.00 AVAILABLE FROM SAAF AND AUTHORIZING THE APPROPRIATION AND ALLOCATION OF SAID FUNDS TO BEAT-AIDS TO RENOVATE A FACILITY FOR LONG TERM HOUSING FOR SINGLE WOMEN AND WOMEN WITH CHILDREN INFECTED OR AFFECTED BY HIV/AIDS; AUTHORIZING THE CLOSE-OUT AND THE CANCELLATION OF THE AFFECTED PROJECTS AND PROJECT BUDGETS; AUTHORIZING THE EXECUTION AND SUBMISSION OF CONTRACTS AND OTHER DOCUMENTS AS NECESSARY IN CONNECTION THEREWITH; AND PROVIDING FOR PAYMENT.

Mr. Dennis Campa, Director of Community Initiatives, narrated a slide presentation on the HOPWA Reprogramming of grant funds, a copy of which is on file with the Office of the City Clerk. He outlined background information on the HOPWA entitlement which has been in the community since 1994, allocation of funds approved in June, 2004, and the proposed reversing of awards in order to allocate funds to BEAT-AIDS that would expire in 2007. He spoke to the accountability from San Antonio AIDS Foundation (SAAF) and BEAT-AIDS.

Councilmember Perez made a motion to approve the proposed Ordinance. Councilmember Hall seconded the motion.

After consideration, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: **AYES:** Flores, Segovia, Perez, Radle, Barrera, Castro, Hall, Haass, Garza. **NAYS:** None. **ABSENT:** Williams, Schubert.

(Mayor Garza was obliged to leave the meeting at 2:10 P.M. Mayor Pro-Tem Flores presided.)

INDIVIDUAL ITEMS

The City Clerk read the following ordinance:

AN ORDINANCE 99964

AN ORDINANCE APPOINTING TEN (10) NEW MEMBERS AND REAPPOINTING SEVEN MEMBERS TO THE DOWNTOWN ADVISORY BOARD FOR TERMS OF OFFICE TO EXPIRE ON DECEMBER 31, 2005 AND DECEMBER 31, 2006.

<u>NAME</u>	<u>DOWNTOWN AFFILIATION</u>	<u>TYPE OF APPOINTMENT</u>	<u>TERM EXPIRATION</u>
Central Sector			
Mr. Paul Carter	Business owner and resident	Reappointment	December 2005
Mr. Tom DeBrooke	Organizational Representative and resident	Reappointment	December 2005
Ms. Della Guidry	Business owner	Reappointment	December 2005
Ms. Cathy Meyer	Resident	Appointment	December 2005
Ms. Joan Korte	Organizational Representative and resident	Reappointment	December 2006
North Sector			
Mr. Brian King	Resident	Appointment	December 2005
Mr. Glenn Huddleston	Organizational Representative	Reappointment	December 2006
Ms. Anna Shaw	Organizational Representative	Appointment	December 2006
South Sector			
Mr. William Montez	Business Owner	Appointment	December 2005
Ms. Deborah Field	Business owner and resident	Appointment	December 2006
Mr. Stephen Yndo	Business owner and resident	Reappointment	December 2006
East Sector			
Mr. Mahendra Patel	Business Owner	Appointment	December 2005
Ms. Terri Toennies	Organizational representative	Appointment	December 2005
Mr. Joe Linson	Organizational representative	Appointment	December 2006
West Sector			
Mr. Julius Gribou	Organizational representative	Appointment	December 2005
Mr. Robert Martindale	Organizational representative	Appointment	December 2006
Mr. George Mery	Organizational representative	Reappointment	December 2006

Councilmember Hall made a motion to approve the proposed Ordinance. Councilmember Segovia seconded the motion.

Ms. Dianne Quaqlia, Economic Development Department, spoke to the proposed appointments. She presented background information on the Downtown Advisory Board, its creation, purpose of the board, composition of the board, noting the various sectors of the downtown area to be represented. She further spoke to the application process, nomination process, and final recommendation of members.

The following citizen(s) appeared to speak on the above noted item:

Mr. Jack M. Finger, P.O. Box 12048

After consideration, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: **AYES:** Flores, Segovia, Perez, Radle, Barrera, Castro, Hall, Schubert, Haass. **NAYS:** None. **ABSENT:** Williams, Garza.

The City Clerk read the following ordinance:

AN ORDINANCE 99965

AN ORDINANCE AUTHORIZING AN AMENDMENT TO THE PROFESSIONAL SERVICES AGREEMENT WITH FACILITY PROGRAMMING, LTD., D/B/A FACILITY PROGRAMMING AND CONSULTING (SBE) IN THE AMOUNT OF \$1,163,000.00 AND AUTHORIZING \$116,300.00 FOR CONTINGENCY EXPENSES, FOR A TOTAL AMOUNT OF \$1,279,300.00 IN CONNECTION WITH THE EMERGENCY OPERATIONS CENTER PROJECT, AN AUTHORIZED 2003-2007 GENERAL OBLIGATION PUBLIC HEALTH AND SAFETY IMPROVEMENT BOND FUNDED PROJECT LOCATED AT BROOKS CITY BASE IN COUNCIL DISTRICT 3, AND PROVIDING SERVICE TO BEXAR COUNTY; APPROPRIATING FUNDS; AND PROVIDING FOR PAYMENT.

Councilmember Perez made a motion to approve the proposed Ordinance. Councilmember Segovia seconded the motion.

Mr. Doug Yerkes, City Engineer, narrated a slide presentation on Phase B, of the Emergency Operations Center, a copy of which is on file with the Office of the City Clerk. He presented background information on the proposed agreement, stakeholders involved, highlighting on the facility, funding, Phase A services completed, and area views. He further delineated Phase B initial services of the project which included the basic, ancillary and specialized services, fiscal impact and timeline of the various phases of the project.

After consideration, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: **AYES:** Flores, Segovia, Perez, Radle, Barrera, Castro, Hall, Haass. **NAYS:** None. **ABSENT:** Williams Schubert, Garza.

The City Clerk read the following ordinance:

AN ORDINANCE 99966

AN ORDINANCE APPROVING THE CITY OF SAN ANTONIO'S STATE INITIATIVES PROGRAM FOR THE 79TH LEGISLATIVE SESSION, WHICH CONVENES ON JANUARY 11, 2005.

Councilmember Barrera made a motion to approve the proposed Ordinance. Councilmember Haass seconded the motion.

Mr. Ray Baray, Intergovernmental Relations Manager, presented the State Initiatives Program for the 79th Legislative Session which will convene on January 11, 2005, a copy of which is on file with the Office of the City Clerk. He outlined background information

on the bills expected to be filed of which 1,700 will be City related. He highlighted on the process utilized in soliciting state initiative proposals from the various stakeholders, and delineated each of the proposed initiatives and endorsements.

After consideration, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: **AYES:** Flores, Segovia, Perez, Radle, Barrera, Castro, Hall, Schubert, Haass. **NAYS:** None. **ABSENT:** Williams, Garza.

3:00 P.M. PUBLIC HEARING AND ZONING CASE

ZONING CASE NUMBER Z2004119: The request of Brown, P. C., Applicant, for Newton Bulverde Road, Ltd., Owner(s), for a change in zoning from “R-6” ERZD Residential Single Family Edwards Recharge Zone District to “MF-25” ERZD Multi-Family Edwards Recharge Zone District on 27.90 acres, “O-1” ERZD Office Edwards Recharge Zone District on 4.25 acres, “C-2” ERZD Commercial Edwards Recharge Zone District on 2.40 acres and PUD “R-5” ERZD Planned Unit Development Residential Single Family Edwards Recharge Zone District on 18.15 acres all out of NCB 34955, 18221 Bulverde Road. Staff’s recommendation was for approval. Zoning Commission has recommended approval. (Council District 10)

Mr. John Jacks, Senior Planner, Development Services Department, explained the proposed rezoning case.

The following citizen(s) appeared to speak on the above noted item:

Ms. Christel Villarreal, 162 Harcourt
Ms. Sher Gonzalez y Menchaca, 538 Senisa
Mr. Richard Alles, 233 Meadowbrook
Mr. Jack M. Finger, P.O. Box 12048
Mr. David Klar, Sierra Club
Mr. Ken Brown
Mr. Gene Dawson

(Mayor Garza returned to the meeting at 3:50 P.M. and presided.)

Councilmember Haass made a motion to approve the proposed Ordinance. Councilmember Hall seconded the motion.

After consideration, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: **AYES:** Williams, Segovia, Perez, Barrera, Hall, Schubert, Haass, Garza. **NAYS:** Flores, Radle, Castro. **ABSENT:** None.

AN ORDINANCE 99967

AMENDING CHAPTER 35 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION OF AND REZONING CERTAIN PROPERTY DESCRIBED HEREIN AS 52.7 ACRES OUT OF NCB 34955 FROM "R-6" ERZD RESIDENTIAL SINGLE FAMILY EDWARDS RECHARGE ZONE DISTRICT TO "MF-25" ERZD MULTI-FAMILY EDWARDS RECHARGE ZONE DISTRICT ON 27.90 ACRES, "O-1" ERZD OFFICE EDWARDS RECHARGE ZONE DISTRICT ON 4.25 ACRES, "C-2" ERZD COMMERCIAL EDWARDS RECHARGE ZONE DISTRICT ON 2.40 ACRES AND PUD "R-5" ERZD PLANNED UNIT DEVELOPMENT RESIDENTIAL SINGLE FAMILY EDWARDS RECHARGE ZONE DISTRICT ON 18.15 ACRES ALL OUT OF NCB 34955.

INDIVIDUAL ITEMS CONTINUED

The City Clerk read the following ordinance:

AN ORDINANCE 99968

AN ORDINANCE AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE AN AMENDMENT TO THE HENRY B. GONZALEZ FOOD AND BEVERAGE SERVICE AGREEMENT WITH RK GROUP JOINT VENTURE TO INCORPORATE A NEW COMMISSION STRUCTURE TO BE EFFECTIVE NOVEMBER 4, 2004; AUTHORIZING THE INTERIM CITY MANAGER TO EXERCISE THE FIVE-YEAR OPTION TERM, IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF THE HENRY B. GONZALEZ FOOD AND BEVERAGE SERVICE AGREEMENT BY EXECUTING AN AMENDED AND RESTATED HENRY B. GONZALEZ CONVENTION CENTER FOOD AND BEVERAGE SERVICE AND CONCESSION SERVICES AGREEMENT WITH THE RK GROUP, L.L.C. (SUCCESSOR IN INTEREST TO THE RK GROUP JOINT VENTURE), FOR A TERM OF FIVE (5) YEARS COMMENCING FEBRUARY 1, 2005 AND TERMINATING JANUARY 31, 2010

Councilmember Segovia made a motion to approve the proposed Ordinance. Councilmember Hall seconded the motion.

Mr. Michael Sawaya, Director of Convention Facilities, narrated a slide presentation on the Food and Beverage Services agreement at the Henry B. Gonzalez Convention Center, a copy of which is on file with the Office of the City Clerk. He spoke to the impact of the

convention and tourism industry in the City which represents the second largest industry in San Antonio. He outlined background information and history of the five service agreements, the City audit completed in June, 2004, the current commission rates, gross sales and commissions for catering from 1997-2004; concessions from 2000-2004 at the Convention Center; and concessions for 2000-2004 at the Auditorium. He further addressed the concessions and novelties services at the Convention Center, concessions at the Municipal Auditorium, and the remaining separate agreements at the Auditorium. He spoke to the review conducted by the Bigelow Companies, Inc., the consultant recommendations and terms, and the negotiated terms between the City of San Antonio and the RK Group.

The following citizens appeared to speak in support of the proposed contract:

Mr. Milton Guess, Tourism Council
Ms. Rosemary Kowalski, 1220 E. Commerce
Mr. Nick Garza, 1715 Trinity
Mr. Richard Ojeda, 1515 Rogers Ave.
Mr. John Lopez, Allstar
Mr. Joe Linson, Chelsea's Sandwiches
Ms. Diane Cortez, 3915 San Pedro
Mr. Johnny Hernandez, True Flavors Catering
Mr. Greg Kowalski, 1220 E. Commerce

After consideration, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: **AYES:** Flores, Segovia, Perez, Radle, Barrera, Hall, Schubert, Haass. **NAYS:** Castro, Garza. **ABSENT:** Williams.

The City Clerk read the following ordinance:

AN ORDINANCE 99969

AUTHORIZING THE EXECUTION OF AN AMENDMENT OF THE CAPITAL IMPROVEMENTS FUNDING CONTRACT FOR CONSTRUCTION-RELATED EXPENSES FOR THE DECO DISTRICT AND THE MASTER LEASE AND MANAGEMENT AGREEMENT BETWEEN THE CITY OF SAN ANTONIO AND THE JEFFERSON WOODLAWN LAKE COMMUNITY DEVELOPMENT CORPORATION FOR ACTIVITIES RELATED TO THE DEVELOPMENT OF THE TRAVIS BUILDING AND STREETScape ENHANCEMENTS FOR FREDERICKSBURG ROAD; AUTHORIZING ADDITIONAL FUNDING IN AN AMOUNT NOT TO EXCEED \$757,854.00 FROM 2003 GENERAL OBLIGATION FUNDING FOR STREETS, SIDEWALKS, LANDSCAPING, SIGNAGE AND LIGHTING IMPROVEMENTS FROM QUENTIN TO KINGS HIGHWAY AND

DEMOLITION, DESIGN, AND CONSTRUCTION FOR THE REQUIRED PARKING LOT AT THE TRAVIS BUILDING; RATIFYING THE EXECUTION OF THE TEXAS DEPARTMENT OF TRANSPORTATION AGREEMENT BETWEEN THE STATE OF TEXAS AND THE CITY OF SAN ANTONIO FOR THE CONSTRUCTION OF IMPROVEMENTS WITHIN THE RIGHT OF WAY ALONG FREDERICKSBURG ROAD; REVISING THE PROJECT BUDGET; APPROPRIATING FUNDS; AND PROVIDING FOR PAYMENT.

Councilmember Segovia made a motion to approve the proposed Ordinance. Councilmember Hall seconded the motion.

Mr. David Garza, Director of Neighborhood Action Department, made a presentation on the Deco District – Fredericksburg Road Streetscape and Travis Building Improvements Projects, a copy of which is on file with the Office of the City Clerk. He outlined background information and history on the Neighborhood Commercial Revitalization Project designated in 1999, policy analysis with respect to the funding agreement, and fiscal impact of the proposed amendment to the funding agreement.

The following citizens appeared to speak on the above noted item:

Ms. Mariana Donnelley, Jefferson Woodlawn Lake CDC

Ms. Charlotte Kahl, 2103 W. Mistletoe

After consideration, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: **AYES:** Flores, Segovia, Radle, Barrera, Castro, Hall, Schubert, Garza. **NAYS:** None. **ABSENT:** Williams, Perez, Haass.

(Mayor Garza was obliged to leave the meeting at 6:10 P.M. Mayor Pro-Tem Flores presided.)

CITIZENS TO BE HEARD

Mr. Faris Hodge, 140 Dora, expressed concerns on various community issues.

Mr. Abram Emerson, 1344 N. Onslow, spoke in regards to the Dr. Frank Bryant Health Center.

Mr. Nazarite Ruben Flores Perez, 627 Hearne, addressed item 6

Ms. Julie Iris Oldham, 4523 Allegheny, spoke to various needs of the community.

INDIVIDUAL ITEM(S) CONTINUED

Item 37 is a proposed Resolution deciding an appeal by Habib H. Erkan, Jr., P.C., on behalf of Mission Del Lago, of the Planning Commission's decision to deny the applicant's claim for recognition of rights to develop 812 acres located east of Mitchell

Lake, west of U.S. Highway 281 and surrounding the Mission del Lago Municipal golf course (known as Mission del Lago) under Chapter 245 of the Texas Local Government Code.

Councilmember Segovia made a motion to continue the proposed Ordinance for two weeks. Councilmember Schubert seconded the motion.

After consideration, the motion to continue the proposed Ordinance prevailed by the following vote: **AYES:** Flores, Segovia, Radle, Barrera, Hall, Schubert. **NAYS:** None. **ABSENT:** Williams, Perez, Castro, Haass, Garza.

Item 37 was continued for two weeks.

EXECUTIVE SESSION

The City Council recessed its regular session at 6:32 P.M. in order to convene in Executive Session for the purpose of:

Discuss legal issues related to the removal of a member of the Municipal Civil Service Commission pursuant to Section 70, Paragraph 1 of the City Charter, pursuant to Texas Government Code Section 551.071 (consultation with attorney).

Discuss legal issues relating to the appeal by Executive Signs, in regard to the Director of Development Service's decision to not approve an on-premise sign permit application dated June 8, 2004 for the property located at 875 East Ashby Place, and the related litigation of *Borden Park, L.P., d/b/a Star Storage-Downtown, San Antonio vs. City of San Antonio*, Cause No. 2003-CI-09049, 45th Judicial District, Bexar County, Texas, pursuant to Texas Government Code Section 551.071 (consultation with attorney).

The City Council adjourned the Executive Session at 7:10 P.M. and reconvened in regular session, at which time Mayor Garza stated that City Council had been briefed on the above-styled matters and had given staff direction, but had taken no official action.

5:30 P.M. PUBLIC HEARING AND ORDINANCE

Mayor Pro-Tem Flores: The time is now 7:10 PM. City Council met in executive session and was briefed on the posted items. The council gave direction, but took no formal action in executive session. Okay, we'll move into our public hearing, 5:30 public hearing. We've staff presentation.

Mayor Pro Tem Flores declared the public hearing to be open.

Ms. Martha Sepeda: These two items are related and they're for the Removal for Cause of Municipal Civil Service Commissioners David Soto and Henrietta LaGrange. The Charter requires that a member or alternate member of the Commission may be removed by Council only for cause and after being given a written statement of the charges against him and a public hearing thereon if he requests. Today's meeting involves a public hearing. This is a brief history of events leading to the removal proceeding.

The Council heard concerns about the Municipal Civil Service Commission hearings from staff, from aides. The Commissioners were given more training by staff, and an in-house lawyer was assigned to assist them, a separate advisor was actually assigned (an outside lawyer). The Council informed the Commissioners of its continued concerns in writing and also in informal meetings. Several of you have actually met with some of the Commissioners. The City Council asked the Commissioners to resign. Council then asked the Commissioners to discuss performance in Executive Session. Mr. Soto and Ms. LaGrange declined, and then retained a lawyer. The Council then passed a resolution for each of them, calling for the removal and provided charges to the Commissioners in writing. Commissioners asked for a public hearing through their lawyer and asked for all the documents and tapes related to each of the incidents that were in the removal resolution. The Commissioners then asked for more time, and a hearing was set for today.

Over the last several months the Council has expressed concerns openly in meetings, as well as privately to some of the Commissioners about the failure to perform basic functions of the Commission. To hear employee appeals and make recommendations—that's the basic duty. The quasi-judicial group, from some of the information that you have received; there were witnesses who weren't being heard. Some of the Commissioners, or two of the Commissioners, were directing witnesses; they were also removing witnesses from some of the proceedings and hearings. The Council was concerned about the lack of judicious impartial contemplation of the facts, no deliberation, disregarding evidence, and disregarding policies and procedures. You have expressed this openly and have told them several times as well as privately.

The cause for removal for Mr. David Soto was identified in a resolution calling for his removal, and as also expressed in today's ordinance. The failure to discharge official duties, they have been delineated here as; failure to report findings and recommendations in writing to the City Manager, dismissing cases without hearing evidence, repeatedly failing to provide neutral orderly setting for employees to present their appeal, failing to provide an impartial and unbiased forum by disregarding evidence, interfering and directing testimony of witnesses, disregarding staff recommendations and policy, refusing to return government records, the files, they wouldn't return them.

For Ms. LaGrange the charges are very similar, except for the first one with Mr. Soto. Failure to discharge her official duties include; dismissing cases without hearing evidence, repeatedly failing to provide neutral orderly setting for employees to present their appeal, failing to provide an impartial and unbiased forum by disregarding evidence, interfering and directing testimony of witnesses, disregarding staff recommendations and policy, again refusing to return government records.

Each of you collectively and individually, have heard some of these instances. The Council provided, at the end, the previous resolution calling for their removal, provided them a list of actual incidents. Their lawyer has asked for the files, as well as proof of all these instances. We provided audio tapes and documents for these instances. They've had ample time to review them. And so today is basically a public hearing they asked for, it is required by the Charter for us to provide it for them. It's not a trial. It is an opportunity for the Commissioners to respond to the charges which were provided to them in writing, and an opportunity for the public to speak as well. So if members of the public are signed up, they are also allowed to speak. The Council will then make finding of the cause to remove the Commissioners after the hearing and vote on the ordinances, there are two separate ordinances, one for each of you. If the Council adopts the ordinance today to remove the Commissioners, they are removed immediately, and new members may be appointed on November 18, 2004. If you fail to adopt the ordinances to remove, the Commissioners continue to serve throughout their term.

Mayor Pro Tem Flores: Thank you for your presentation. At this time we're going to have some folks, some citizens signed-up to be heard for public discussion. First citizen signed is Faris Hodge Jr.

Mr. Faris Hodge Jr.: Ok, the people in radio land, TV land, and Internet land. I want to give this to the City Clerk to pass out. And while I'm thinking about it, since Mr. Schubert is a lawyer, and Mr. Hall is a lawyer, I don't think you should participate in this either. Because you are under the state law, I guess licensed and stuff like that. And several other Councilmen here, they're part of, I forget what you call it, but I don't think they should participate. I had asked the Mayor not to participate or end this a few minutes ago. There is two law suits that's pending, one lawsuit is similar to the policemen's, 200 plus policemen that are suing the City. Another lawsuit, is about 8 or 9 Blacks that is suing the City because they was not, they said they were not treated fairly with promotions and different things like this. Now the next thing is about this civil lawsuit. This Civil Service Commission we're having. I'm going to ask you to delay, or end this ordinance today, or have 2 more public hearings, and the hearings should be held around 5:30 in the evening. I have a problem with the way the City treat their employees. Whether their in the Union or non-Union. There was a problem years ago when I worked at JC Penney's, with the way they promote people. I am asking the City to have a diversity class. This class would start from the Mayor, the City Council, the Acting City Manager, the City Attorney's Office, all the way down to the person that is picking up

trash. Because you have a serious problem with the way you treat your City employees. I have been coming over here for about 12 years, and people have been complaining about the way they get promoted, or don't get promoted. You have 2 or 3 people doing the same type of job, and if you don't have that diversity class for all city employees, I'm going to go to the EEO, they have a place on Fredericksburg Road, and I'll have the Federal people come down here and force ya'll to have that diversity class. You do have it for the Police department and the Fire department. The Mayor just recently integrated his staff. Most of you sitting here don't have any Blacks on your staff, and I think you need to integrate your staff, starting with Roger Flores, Chip Haass, Schubert. Hall, I don't know if you integrated your staff or not, if you didn't, you need to do it. Mr. Barrera, Mr. Ron, Richard, Perez, Ms. Patti Radle. You need to integrate your staff; ya'll need to have Blacks on your staff. Now one more thing, then I'm going to sit down. I had told the Mayor and staff that they need to integrate, and this lady said to me that we are not just going to start hiring Blacks because you say so. Whoever you hire, they have to be qualified. So have 2 more public hearings, and when you have them, I want every body to vote but the Mayor.

Mayor Pro-Tem Flores: Thank you Mr. Hodge. Antoinetta Serna.

Antoinetta Serna: I apologize, I don't have any pictures. Good evening. Mayor Pro Tem, members of City Council, my name is Antoinetta Serna, Co-director of SEIU Local 1967. Today the City Council seems poised to remove two Commissioners serving on the Municipal Civil Service Commission. We do not believe that this is the action necessary to address the serious concerns. We have witnessed in our experience with this Commission. I would like to remind you of what some of these concerns are. Rules are not applied equitably among management and employees. For instance, the seven day rule which is a notice rule for witnesses. In many cases we are not informed of management's witnesses. We adhere to the rule, and advise of our witnesses, which gives management an advantage to prepare their case. Management contends that they are not required to adhere to this rule. We disagree, as the rule does not express application of the rule to employees only. Then there is the 72 hour rule that has been violated on occasion. City Management in some cases has not notified Human Resources of employee suspension, demotions, and terminations within 72 hours of occurrence as required by the rule on notification. Then we have seen the violation of the City Charter, particular Article 6, paragraph 3. In a recent case a recommendation was made at management's request to conduct a hearing without a quorum of the Commissioners, a quorum is 2 Commissioners. There was 1 Commissioner that went ahead and ran the hearing and the Chairman ruled in managements favor, and the employee was denied a due process hearing, which resulted in the employee's termination. Then there was a violation of the Municipal Civil Service rule 17, which states the City Manager should make the final decision in Municipal Civil Service cases. Currently, Assistant City Managers have been performing these duties. We say either follow the rule, or modify the rule, but we shouldn't be violating the rule. Alternate Commissioner are used without

following the guidelines, and qualifications at the request of management. For example, Commissioners are allowed to preside without fulfilling the requirement to attend at least 2 hearings. In the past, the City Manager continued to overturn recommendations of the Commissioners. This ultimately makes the process meaningless. Considering the cost, investment in the process, the City and all involved is actually mishandling taxpayers' money. If we don't collectively do our best to fix the process that's what happens.

Now let's consider how much time and staff it takes to prepare for each case with the City Attorney's Office. How much does it cost to remove supervisors and employees from their work to attend a hearing? What is the average cost to pay the Commissioners? How much do we invest in the resource provided to the Commission? All this takes money. While we'd like to know exactly how much that would be, we've asked and so far have been given partial information on how much the City paid outside counsel to handle and settle some of these matters. The internal cost to the City Attorney's Office are still pending, we have not received that information. Now let's remember many of these cases are a direct result of employees believing the Municipal Civil Service system is broken. So they go ahead and seek outside counsel for relief in the courts. Now we've made some recommendations in the past, but we want to make them again.

We believe very strongly the first we should revise written rules and procedures, such as rules of evidence and witnesses. We keep hearing the rules of evidence do not apply in this process, but surely you agree that we should have some sort of guideline when it comes to evidence. We believe guidelines regarding evidence are essential for both sides. We could base them on common best practices available. We also believe instead of recommendations, we should let Commissioners make final rulings that are binding on all parties. That is not uncommon considering the Police and Firefighters Commission do it as per Texas Code 143. If the current process is continued the minimum timeline of 1 to 2 weeks should be implemented to assure a prompt response from the City Manager. You have heard from us how long some of these cases take. Employees should not have to wait months after a recommendation has been made. They should be rewarded back pay also when the cases are ruled in their favor. And just longer term reform are suggestions we have that a tri-party system should be considered from 1 Commissioner as picked by management, another is picked by labor, and then a third Commissioner can be picked by a consensus of votes of the group. It essentially operates as an arbitration panel. I've even heard Councilwoman Radle say that perhaps that should even be expanded to maybe 5 members. We also believe that all members should participate in a joint training in an effort to better understand the procedures. I know there's been some training, but there needs to be additional training, more consistent. And also independent attorneys to be assigned to the Commission, and they should not be under the direction of the City Attorney's Office or any other entity but an independent attorney. Progressive discipline procedures should be applied uniformly in order to follow a WE mediation program. This would provide clarity on what is expected from employees. Currently progressive discipline is not applied in all departments, thus making it difficult for the

Commission to follow a guideline. And most importantly we propose that the Commission must be independent, with their own staff, with their own resources, in order to rely on themselves and not be unduly influenced by any party whatsoever. Now in closing, what we would like to suggest, is that a committee of labor, of management, and the current Commissioners to be created to look at the best Municipal Civil Service practices throughout the country. We should recognize that there is a problem with the Municipal Civil Service Commission and we need to work together to try and come up with a solution for that. And we believe that with this committee we can begin to address that and make that first real step for reform of the Municipal Civil Service Commission. Thank you.

Mayor Pro-Tem Flores: Thank you Ms. Serna. Nazarite Ruben Flores Perez.

Mr. Nazarite Ruben Flores Perez: Good afternoon, my name is Nazarite Ruben Flores Perez, as most of you know; I'm following the law of loving kindness, the law of heaven, and the law of land of liberty laws. Now I have stated before, to me things were working alright to a degree. Because the so-called Civil Commissioners, I faced them one time, because I was falsely accused of being outside and being inside speaking with a working uniform, since I worked for the City of San Antonio. Now I had a tape with me on the Civil Commission that was before the ones that are being suspended. I had it with me, and all they had to do is slide it in the TV and play the tape. It was all very simple, in fact, I came out in the newspaper, and they didn't want to look at the newspaper. For once, I thought they had the proper Commissioners. Now the witness that was against me was Michael Quinn. Now, that fellow of course, I'm against him. He ended being promoted over there at the Brooks Air Force Base (the City got some section there). He went ahead and took over that area; you know they went through the process of elimination through the buddy, buddy system. Now concerning the due process procedure that was used by the City, it is something that concerns me. Now we have lawyers here as you know, members of the Council. The Board of Texas is kind of hard in that they do have to follow a process, and the process has got to be seen legal. The evidence that you all got, I don't know where you got it from. I haven't seen any hard evidence up till now. I know that ethics do cover here. In other words, you can get into big trouble. Once again, the rules of procedure are very important. And of course, you took an oath, one more time, I did mention that 3 weeks ago. And you too are obligated to go according to due process, it's in the law. You know when things are taken illegally. I'm saying to get you to change to a degree. Why get in trouble, why get a black eye. Thank you.

Mayor Pro-Tem Flores: Thank you Mr. Perez. Jaime Martinez.

Mr. Martinez: I'm representing my organization, the Labor Council for Latin American Advancement AFL-CIO, president of the state of Texas. In my 38 years involved with labor, I understand the collective bargaining process, labor employee/management rights.

Mayor Pro-Tem Flores: Mr. Martinez, I don't mean to interrupt, just very quickly though. The other members of your party that are also signed to speak, in so, as a group...

Mr. Martinez: It's a different organization.

Mayor Pro-Tem Flores: Right, but as a group you can't be separate. If you're up here, if you're together as a group, the entire, then everybody has to be up here.

Mr. Martinez: It's o.k. Fine, that's ok.

Mayor Pro-Tem Flores: Thank you very much. Thank you, Mr. Martinez.

Mr. Martinez: I've been involved in labor for 38 years. In dealing with employees that are about to be terminated in committees in labor and management, there is a system that's known throughout the United States as due process system. And also, the process that is involved on just cause. It's a standard that is used for discipline when management must meet to an employee, management must have just cause whenever an employee is going to be disciplined. Without just cause, discipline is inappropriate. Some of the things that we in labor in dealing with these procedures, decisions made through the years, arbitrators have arrived at a set of seven commonly addressed tests to determine if management has just cause for discipline. I understand that the civil service commission, those were employees, those were citizens that were appointed to be part of a committee to address the issues of disciplinary action, or issues that are involved within the City and the commission that they have to come to determinations. I believe that you need to address the issues and start setting up some committees with labor, the City, and some of these civil service commissioners, so that when management decides to take disciplinary action against an employee, their action must meet this task requirement. If they fail one or more of this task requirement, it's ineffective and they lack just cause. Was there an investigation, did management look into it adequately before disciplining the employee? Was it fair? Did they find evidence of guilty? Was the discipline reasonable? Was the employee aware of the rule, or order? How has the discipline been applied to other employees? Did the punishment fit the crime? This is an important test because in ruling on fairness or discipline, arbitrators do not concern themselves with only the question of employees guilty or innocence. They also examine the severity of the punishment, and judge it, as it be appropriate. Analyzing this is very important. The nature of the offense, how serious is it? Was discipline progressive? This is very important because once you have a common pattern, was there a verbal confrontation, was there written documents, written in the employee's warning record? Then you have a progressive disciplinary action where the employee fails to follow the rules. Was the discipline applied promptly? Was the discipline uniformly applied? You cannot have one department applying a set of rules one way and the other department another way. What is the history of the type of

offense? An employee that is disciplined and comes to you and says it was undeserved, what process should it use? Do they have proper representation? Do you have qualified people in your department in the City to take the employees step-by-step? And I believe that once you set this set of rules, there are certain rules that also in law, like the winegartener rights, turned Supreme Court that employees have to have proper representation and that the discipline should be fair and honest? According to like the Miranda act. I believe as we deal with the situation, you cannot just do away with the commission and feel that that's going to be taken care of? It's a long process of education, and you need some type of representation between labor, management, and the City, and people that understand this process in order for you to have due process for any employee here in the City.

Mayor Pro Tem Flores: Thank you Mr. Martinez. Mr. Nick Pena.

Mr. Pena: Councilman Flores, members of the City Council, Mr. City Manager, how are you, Rolando? Today, Councilmen, I just want to ask you how many minutes do we have as an organization, because we're here representing an organization.

Mayor Pro Tem Flores: This has come up several times today. An organization, officially for the record, is three people.

Mr. Pena: Three people?

Mayor Pro Tem Flores: Three people. So, you are -- but the, but the secondary action is within that group, that group is presented with nine minutes, or is allowed nine minutes as a group. That means within that group, all the members have nine minutes to speak. If there's nine spokesmen that want to speak one minute each, that's fine. Or if there's three that want to speak three minute each, that's fine. The problem is that if you are individually signed up, then that time cannot be added afterwards. You can't take nine minutes with one group and then sign up again and you get three minutes with another group and then sign up again. It's one, one time allotment per person. So at this point, if Angie, you want to speak, then together you get three minutes. What I would do is, Mr. Pena, I would continue, or I would speak for three minutes yourself, and Angie I would come after him and speak another three minutes. Right? Yeah.

Mr. Pena: He wants me to hold --

Mayor Pro Tem Flores: Actually, you're not an official group.

Mr. Pena: We are.

Mayor Pro Tem Flores: Together --

Mr. Pena: I can't stay here?

Mayor Pro Tem Flores: You can. And she's going to get three minutes after you because she's individually signed up. You don't get nine minutes is what we're saying.

Mr. Pena: I'm the new wizard and she's my fairy god mother. See! She takes care of me against all evil.

Mayor Pro Tem Flores: Mr. Pena, your time is now up. Just kidding. We're going to start from right now.

Mr. Pena: I wanted to bring the issue, since I'm a member of the Civil Service Commission. I have witnessed firsthand the work of this individual that you're about to say, to penalize for their hard work on behalf of the employee. The reason I say this is because when I came on board, there was a board, a commission that was a rubber stamp for management. We broke up that board. It was terrible, Mr. Schubert. Terrible! I'm telling you as a person -- and I'm a businessman. I have employees. And I see them. And when management comes with their attorneys, with human resources, and presents them a case against an employee that only has a, a union representative, sometimes he has so many cases he's not prepared to truly represent him. So the commission members are there to help out as much as they can to see where the truth is, the truth of the facts. So this, too, commissioners, let me tell you, you have punished, or you're about to punish one of the most honorable men and women that served this community. They are not throw-away employees, like they say. They are fair people. They are fair, councilmen, very fair. And I hope that you give them the benefit of the doubt, that you do consider their statements, which they're about to present to you today. And if you do, you have done a service to this community as a Council. If you're going to have a commission where you take positions as employees, and you punish them, there will be no commissioners -- good commissioners there. I'm not going to be as an alternate, as I am, be there, serve the community and the employee, you're going to come back and punish me. That is not good for this community, and I know that Rolando Bono, when he gets a case that is favorable to the employee, he will not override it. It ultimately comes to the City Manager. We have a lot of confidence in the work, because he worked for the City for many, many years, but the thing is that most of the time, it doesn't get to him. It's killed at the commission level, or at the staff level, so you need to have somebody there that does represent the interest of the employees, Councilman. Thank you very much.

Mayor Pro Tem Flores: Thank you. Miss Garcia, three minutes now. Thank you very much.

Ms. Garcia: My name is Angelita Garcia for those that don't know me in the audience. And I bid you good evening. Congratulations Mr. Bono, again, well deserved. May god keep you here for a long time. I also want to speak on this issue. I was a union

representative for 25 years, and a City employee. I think it's very unfair what you're doing. Sometimes when there's an employee, I have been to several, several hearings. And sometimes there's a gray area. And sometimes that gray area should go toward the employees. It's not favors. It's just justice. I don't think any employee would come here to appeal if he thought he was wrong. He wants for those commissioners to hear his side of the story. If there's an alternative for laws, certainly we can have alternatives for policies and procedures. When you commit a crime, you don't immediately prove guilty. You have to go to a court. And that court will decide whether you're guilty, or the jury will decide whether you're guilty or not. And that judge will sentence you. And a lot of times, it's not the max. A lot of times it's not the minimum. It's what he thinks deserves the punishment. I think you're doing an injustice to these commissioners. They have proven that they are fair. They have proven that they have listened to the facts. They have proven to you, you saw a tape that was taken illegally under, under -- what do you call it? You just went there. Executive Committee, Executive Session. So you just went there. Were you allowed to be taped? That's against the law, isn't it? So what is good for you is going to be good for them too. You must look at this very carefully. Because I guarantee you they're not going to stop here. I just want you to think about it and have a fair decision, the employees deserve that. Thank you.

Mayor Pro Tem Flores: Thank you, Ms Garcia. Ms. Julie Iris Oldham. She had to go home? All right. Mr. Alvin Robertson.

Mr. J. Rolando Bono: Mayor, they had signed up earlier on the wrong sheet. I just wanted them to come state their case. They had -- doesn't pertain to this one, but if you'd allow them to speak right now, that would be fine.

Mayor Pro Tem Flores: Certainly.

* Mr. Robertson presented Council a contract dispute on the remaining balance for Bellinger Square. Councilmembers Segovia, Hall, and Interim City Manager J. Rolando Bono spoke on the issue. Mayor Pro Tem Flores recommended that staff come back with a presentation at a later date and resumed the public hearing.

Mayor Pro Tem Flores: However we decide to get this issue brought before this council, that's what will take place. And I can guarantee you that all the members of the present Council, will of their own accord, will decide whether or not for themselves if they want to hear the issue. That's what we're looking forward to. [applause] back to this particular issue for the public hearing, we've got -- Julie is gone. Alvin. We've gone through the -- we've gone through the citizens to be heard. What I'd like to do now at this time is to ask the two individuals to give a presentation -- or not a presentation. If they have any, any comments they'd like to make to this Council, or if they would like to answer any questions. I know that we have three Council folks signed up to speak. I don't know if they'll have questions for you. I'd like to offer the individuals at this time an opportunity

to speak. Again, this is not a trial. If you have a lawyer that would like to say something, fine, but again, the individuals, we'd like to give an opportunity for them to speak.

Ms. Barbara Woodward: Good evening, Mayor Pro Tem and City Council members. I'm Barbara Woodward, an attorney in San Antonio, Texas; I'm here to represent Commissioner David Soto and Commissioner Henrietta La Grange. As a preliminary matter I would request that the commissioner that had access to the closed meeting portion of any executive meetings recuse themselves from hearing this matter. As there are potential, civil, criminal, allegations involved with that, and I do believe the councilmember who had access to executive commission meetings should recuse themselves from this hearing.

Mayor Pro Tem Flores: Are those all your comments?

Ms. Barbara Woodward: Excuse me?

Mayor Pro Tem Flores: Are those all your comments? You have three minutes.

Ms. Barbara Woodward: I have another comment regarding Council Members Chip Haass and Carroll Schubert, that they recuse themselves from the hearing as they made the opinion abundantly clear as through the media as prejudging both the commissioners. Chip haass went to the newspaper. I believe Carroll Schubert gave an extended radio interview, making their position clear through the media prior to any fair hearing for my clients, the two commissioners is not fair. And I do not believe this is an ethical way for someone to act when they know that they're going to be hearing a matter. As they're sitting and hearing of a matter, I do not think they should make their opinions known before this fair hearing is to take place. It's a pre-judgment issue.

Mayor Pro Tem Flores: Okay. You've got a minute, 30 seconds.

Ms. Woodward: The basic complaint by the City of San Antonio is that the commissioners compromised the operation of the Civil Service Commission. The only compromise has been accomplished by the City Attorney's Office, City Manager's Office, and those City Council persons who chose to go to the media for their own personaltotally disregarding the fairness of the commission or entitled to at a hearing. Some City Council members such as Councilmember Schubert chose to go on the radio, to prejudge these commissioners. This is not fair to the process or the representation at the civil service commission or to the represent -- or to the reputation of the City Council to have people going that way. The city has the right to go through an appeal process, district court to obtain an opinion as whether the commissioners ruled contrary to the law or against the weight of the evidence. Why has the City or the City Attorney's office not done this? Because like Councilmember Schubert, they would rather go through the political route and jeopardize a fair hearing by prejudging a case they're going to decide with the media.

Why doesn't a Councilmember member say to the city attorney office get an opinion from a Bexar County District Court? Because they're wrong and a district court would say so. It's very important that any one employee -- [bell ring]

Mayor Pro Tem Flores: That's all the time.

>> [speaker not heard]

Mayor Pro Tem Flores: Well, actually --

>> [speaker not heard]

Mayor Pro Tem Flores: Here is the situation. I'm sorry, your name, ma'am?

Ms. Woodard: I'm Barbara Woodward; I believe both of my clients are entitled to a full, fair hearing.

Mayor Pro Tem Flores: I was going to say that, but Ms. Woodard. Since you did not sign up on the list --

Ms. Woodward: I was told I did not need to.

Mayor Pro Tem Flores: Okay. Since you did not sign up on the list, there's the -- the Councilmember's retain the option or we can call on individual members. And I was calling on Mr. Soto or Ms. La Grange for their comments. So, again, if you're speaking on their behalf, that's fine. The official time period to comment for folks that are signed up is three minutes. For Mr. Soto and Ms. La Grange, because this is involving them personally, I personally am inclined to allow them as much time as they want to comment. But since that's them, and you are an attorney for them, again, I think this Council since it's -- we're not in court here. I'm not a judge. None of us are judges. Whether or not the recusals and different things about, you know, individual clients and such, this is a board that's going to make a decision about termination or a removal, actually, from a, an appointed committee. Under our Charter for a municipal government, this is the process that we utilize. I imagine it's fairly similar to a court process, but it's not. You know, there is a microphone and a speaking situation. And there's a person up here, kind of like a judge, but we're not. We're elected officials. And so we retain the right to abide by the Charter, and the Charter says that we can call on individuals if we want. If they're not on this paper, we can call them too. So, I'd like to personally call on the two individuals to have them give some comments and answer any questions.

Ms. Woodward: My objections, again, are that they are entitled to a public hearing. There's no restriction on who can present that public hearing.

Mayor Pro Tem Flores: I understand that completely.

Councilmember Hall: I'm open to giving her another three minutes for the other side.

Ms. Woodward: If I may be permitted to continue, I do believe any restrictions on their ability to present their case or to present later things for an appeal, such as failure to recuse people who had an obvious prejudgment of the case, or obvious involvement in legal activities adjacent to the case, that that is an important matter to be brought up, that those people should recuse themselves.

Mayor Pro Tem Flores: I understand completely. And I have to beg --

Ms. Woodward: Regardless, the hearing...

Mayor Pro Tem Flores: I have to beg your indulgence in the legalese. There are some lawyers up here who probably understand what you're talking about. I, for one, though, like things spoken very simply and plain. So if you could, I'd like to understand exactly what it is that you'd like to communicate other than that Councilman Haass and Councilman Schubert recuse themselves. Is there any other general comment you'd like to make? Again we're in dialogue now, the clock is off. We're still talking.

Ms. Woodard: Yes.

Mayor Pro Tem Flores: So -- again, if there's something you'd like to communicate outside of that.

Ms. Woodard: Yes. I would like to address that it's important for any employee that appears in front of anybody as a City of San Antonio to feel that they get a full and fair hearing, that they are not caught off for any reason, any political reason, any dispute between a commissioner and a City Attorney, that whatever they're entitled to that they get that, prevent disgruntled employees, it prevents further complaint, it prevents lawsuit. If they think they can vent and get their side heard, they're happy. I said the way these civil service commissioners have been cut off and overruled does not allow an employee feel that he has had his day in court, which is in this case, a day in commissioner's court.

Mayor Pro Tem Flores: You mean City Council. Are we --?

Ms. Woodard: When they appear, when an employee appears in front of the commissioner's court.

Mayor Pro Tem Flores: Those commissioners.

Ms. Woodard: You would have the two commissioner court people say the law requires that the City file certain documents within 72 hours. And two of the cases that are being presented to you is reason to terminate them, say that they didn't follow that.

Mayor Pro Tem Flores: Okay.

Ms. Woodward: But they kind of say it backwards. They say they didn't allow the City to introduce any witnesses. No. They did it on the technicality, which they're entitled to do that the City failed to follow procedural requirements. They did not have it timely filed. And that was approved before these two ever became commissioners. There was a ruling by another set of commissioners, a unanimous ruling that the 72-hour rule has to be applied. They weren't pulling this out of thin air. They thought they had a legitimate legal reason to take that position. If the City Attorney disagreed with it, their option is to go to City Manager, and the City Manager says well, we can go ahead and agree it with and appeal it to district court Bexar county for a legal opinion as to whether the 72-hour rule is set out in the statute is valid, or our opinion that it shouldn't be held valid is valid. They had that option. The two people who on the civil service commission do not have that option. What they have the option to do is read the law, think of what it says, look at a prior commission that upheld it and say we're going to follow that law also. It's not a matter of cutting off citizens from coming and testifying. It's a matter of the City did not follow the necessary procedures to proceed with their case. One or the other cases that were brought against commissioners in their alleged complaints against them was that they did not allow substantial evidence, an overwhelming case. They ruled against the City Attorney on it. Well, the City Attorney presented a witness who testified for hours. When it came time for the attorney for City employee to have his turn to cross examine the witness, the witness says I don't have time. I have to be somewhere else. I'm not available for cross examination. Well, I think anybody who's not even an attorney understands that any individual on any type of case has the right to cross examine his accusers. It's sort of a fundamental right you have. You can't just say no, you can't have it because you're a City employee. And all due process, fair hearings. They all implicate the right; City can't just call in a bunch of witnesses and say they don't have time to stay and get cross examined by your attorney, and then say we have enough evidence, because our witnesses testified. And that's what they did to the commissioners. And there's no question in that the commissioners ruled appropriately in telling the city you did not allow cross examination of your star witness by opposing counsel. You have denied them a right to a full and fair hearing, so they should dismiss the case. Even though the case is dismissed, the City Manager swings around and says we're going to reinstate it. So your claim as the City Council that they're interfering with the operation of the Municipal Civil Services commission is erroneous. What interferes with it is the harm done to City employees who understand that hey, I thought I had the right to question and talk to people who are accusing me of things. I thought I could bring in witnesses. He thinks he got an unfair shake. Determination, 15 days, 30, days all of a sudden he gets a notice that the City Manager is not important enough to even look at and has decided you're not

important enough to the City. You're a peon employee, take it or leave it, star for 30 days. Whatever, it's nothing to us. But you have deprived a basic constitutional right, maybe a loyal employee who has never been suspended before. The problem the commissioners had with some of the cases was that if they wanted to reduce a termination to a two-month suspension, they were treated like criminals. There was no consideration given of an employee ten or fifteen-year good history with the City. There's no consideration given he hadn't been disciplined before. Automatic 15 days, 30 days determination. And whenever they argued that the City has a policy to follow the progressive, they said you need to resign. You're favoring the employee. No, we're favoring traditional labor law, that people -- you know, that people get counseled, warned, reprimanded, one day, five day, ten days, unless it's a serious offense. That's in the eye of a beholder. If you as a judge think it's not a serious offense, you give them three years. If you think the guy is on the road doing it again, he goes in for life. That's a discretionary thing. If the City thinks the commissioners abused discretion by giving them five days, they have a right to go to district court and say they abused their discretion. Just because the commissioners happen to be more human, relative to the employers than the prior commissioners did, give them more consideration as far as progressive discipline, as far as giving them their rights to a full and fair hearing, as far as not succumbing to the rudeness and overbearingness of the City Attorney saying you can't do it any other way, that's the way it's all been done. And then them saying this doesn't pass the smell test. These City employees, commissioners suffered -- have been given packets of documents this high with documents you can't even read. We're told they don't have good copiers. You're determining a person's livelihood with what the civil service commissioners do, whether they're terminated or not. If one says whether or not it's a scrap piece of metal they were picking up or not, you can take your camera in a brass field and look sideways, that's about what that picture looked like, a bunch of things like this. You could not pick out anything. It was dark and overtaken. When the commissioners complain about the quality of the evidence that's brought before them, too bad, so sad. That's what we have. When they ask, you know, can we give you clearer things, too bad, so sad. If they say you brought us a witness not qualified to testify, they say well, we brought you a witness and his evidence is good enough. If there's a very humiliating attitude toward the two plain people by the City Attorney's Office that they're just stupid and don't know what they're talking about. The things they're talking about have basic labor law origins, the progressive discipline. One of the commissioners has asked a supervisor do you know what "progressive discipline" means? No. How are you going to get progressive discipline which any City employee is entitled to, if the people who are supposed to implement it don't have cause or reason to even know what it means? That's because they say don't worry, whatever you do it will be upheld by the civil service commission and upheld by the City Manager. Rubber stamp. They had an incident involving a man who had used a civil city vehicle to do work, but he testified I had the keys to the building, I had keys to the vehicle, and my supervisor told me I could do it. He winds up being fired. The commissioners come in and say well, was there any progressive discipline? Did he ask keys? Where did he get them? They gave him to them. Then they terminate him. And then the City Manager puts

them back on the termination. Well, I represented an individual who was a City employee, who went and had a tow truck by permission of his supervisor. Picked something up, came loose and went across the expressway, caused an accident. And they give him one day. So you have to have not only progressive disciplinary action, you have to have consistent disciplinary action. But whenever the commissioners try to implement standard labor procedures, they were told you don't know what you're talking about. And the help they got was minimal. There was a City Attorney at one point who said oh, is it you again? You know, just try to read it. You can understand it. And having sat with him in my office for two hours, they were very understanding and caught on things real fast. And for a commissioner to say to an administrator or supervisor, do you know what progressive discipline is? Shows he has a certain responsibility toward his duties as a commissioner.

On John Nieto, the basis they were giving, there was no warning that he'd ever been disciplined, they believed his testimony that the supervisor was unfairly disciplining him and singling him out for treatment and they thought the City case was poorly presented in law. They didn't qualify their witnesses, the expertise. One expert they had coming from Austin can verify the documents. Mr. Nieto, the employee who is supposed to verify the safety of the equipment was told doesn't keep proper records. If you find something that's wrong, go to your supervisor and tell him verbally. The reason for that, they had a multi-million dollar leukemia case involving the death of a small child pending on appeal against the City of San Antonio. They didn't want the stuff documented. There was another girl out there with leukemia, same thing. You find something bad. We don't want it documented. He knew all what they were doing. And he said that they were documents that were attributed to his name without his initials. And the commissioners felt based upon his testimony, which they found credible that the City was trying to tamper with records to protect the City against lawsuit damages, that the City was trying to get the employees involved in illegal fraudulent activity to avoid lawsuits and it appeared that some of the documents filed for lawsuit were fraudulent, were forged. He offered documents and pictures that had no verification, or the source, or where they were from or what it showed. The employee acted in a professional manner. He had not gotten in fights with the supervisors. He suggested intelligent means of transferring and setting up and reporting things. He -- this employee had not refused to do anything other than not report illegal activities.

There was a Patricia Crawford that was one of the ones named against her. Someone allegedly smelled marijuana in the hallway where she was standing, so they booked her. And they took the property all around her. They did a drug test on her. And she had no alcohol, marijuana, anything in her system. The stub came back negative. And the commissioner said that there was no proof, you know, that she had been smoking marijuana in the hallway. The actual thing showed cigarette smoke. And she was terminated for that, never charged with any criminal offense. And she presented no evidence that she was connected with this smell, or anything else. It was a continuing

thing, either they rubber stamp or agree with what the district attorney says, or the district attorney says we've got overwhelming evidence. I've been in court and got myself kicked out a lot of times when I thought I had overwhelming evidence. My ability then was go to court and appeal. The City has the same rights to appeal here. They can go and appeal and say each of these City commissioners abuse their discretion because the weight was overwhelming. They can go to the City and say this guy is crazy, shouldn't be on the panel. They had legitimate arguments, Ms. La Grange, the first time they came on, one claim has to do with her. She was entitled with three meetings of training, she walked in there and they say oh, you're going to hear a case. It didn't pass the smell test with her. The preparation and training of the commissioners has been like nothing because who care what it is they have to say anyway, because they're going to do what the City Attorney says. And then later what the City Manager has to say. I think the harm to the city in operating in this fashion is you're depriving the City employee to any right with a full hearing and their opportunity to voice their malcontent. What happens there, it's one of my specialties, you get disgruntled employee who could have been taken care by a hand shake and we appreciate the job you've done so far, and instead of the 30-day suspension, we're going to give you the first five day suspension ever and we hope you never see you again. What happens is we get the termination for political reasons? Whatever reasons, but they do not, it does not operate in a labor law situation. It operates in a political situation.

Mayor Pro Tem Flores: I think maybe one of the issues here with some of my colleagues is -- and I don't know if the folks whose files you have there have consented or agreed to using their names in public records, but this is a meeting of public record, which means you have essentially offered up information about their public or their personal lives into something of a public record. I know it was incumbent upon you as the attorney or the person representing the individuals involved in this particular hearing, but in terms of what you would offer up as information, you know, the names of those individuals, whether or not you might have spoken with them and asked them for their permission to use their names in a public forum, or in a setting of public record, I think maybe -- I don't know if that's a consideration -- you might have their permission --

Ms. Woodward: The City Attorney's Office sent me a letter and these are the forms and documents released to me under the public information act.

Mayor Pro Tem Flores: But releasable to you, I don't know if -- Andy, you can help me out here? I don't know if this is appropriate.

Mr. Andrew Martin: The documents that she requested under the public information act were provided to her. That is information that is public.

Mayor Pro Tem Flores: It's public information. Okay.

Mr. Andrew Martin: I think the names of the individuals are okay. I believe that we redacted any confidential information such as social security numbers or home addresses or things such as that.

Mayor Pro Tem Flores: Okay, you can continue.

Ms. Woodward: In conclusion, I think the commissioners' main purpose has been to help the city employees, not to harm the city and not to bully the employees as the City Attorney's office is doing. I would hate to run a business with thousands of employees. I would probably go running out the door with my hair straight up screaming. However, you are in that situation. And I think a full, fair hearing where people think that they are getting to express what happened to them, be it right, be it wrong, is the best interest of the City Council. Not to have City Attorney always saying you can't do this, you can't do that, don't do this, don't do that. I mean maybe you would have to wind up expanding your civil service commission, having more people come in there as people on it, because it's ugly. It's very ugly. Their comments have been based on the well-being of the employees, and based on the different treatment given to the employees. Why one guy is terminated on one and a different day on another. Same situation, accident was caused, vehicle was used, and permission may or may not have been granted. One day is termination. These are good guys. Even a dog gets a first fight. But I think these two commissioners, as much as a regular person over there, or -- unimpressed by their unprofessional and lack of training. I think they were overly impressed by their rudeness. This is the way things are going to be done. You can't do anything else. A lot of things they were telling them to do were in violation of the law. This taking of the files, that was corrected as soon as anyone ever said to them, you can't take the files. Where was the training in the first place that said you can take the files? No serious consideration has been given to any of these employees, you've been an employee here for 25 years, and you're gone. That's their life. Or give them a 30-day suspension; it could be your life or your car. If you've had ten years on your record, maybe you get a warning, but I don't think you should destroy somebody's life on a fluke.

Mayor Pro Tem Flores: Right.

Ms. Woodard: That's what the files look like. And one of them looks criminal.

Mayor Pro Tem Flores: I imagine if you chose to represent some of those individuals on that file, this would probably be appropriate, but as you are representing the two individuals that are commissioners, you know, the issues of the other employees is probably separate from what we're trying to deal with here today.

Ms. Woodward: Not to the extent where you have one employee getting fired and another getting a one-day suspension. And the City saying oh, they didn't uphold our suspension of this guy.

Mayor Pro Tem Flores: Again –

Ms. Woodward: The San Antonio Police Department has it all computerized now, with the suspension number, code, things like that to keep a standard basis so that one officer doesn't get 20 days, and another one gets five days. Define codes and make it fair and even. Your basic problem is that you don't even look at the history of the employee, that these are decent people. They have jobs. And maybe they made one mistake. Maybe they got set up by supervisor that didn't like them, whatever. But they're not even given a chance to explain.

Mayor Pro Tem Flores: Right. Again, the issues of the individual employee, as it pertains to this particular commission is probably a separate issue from what we're having to deal with here tonight in the removal of folks from a commission. There will be opinions and perspectives about proper removal, or proper discipline in terms of some of our city employees.

Ms. Woodward: Not opinion. They're mandated by the Charter.

Mayor Pro Tem Flores: Possibly a mandate. Whether or not the opinion I spoke of is whether or not we are following the mandate or not. And so, if there are -- again, in your opinion -- different things we need to address, it's again a separate issue from the one that we need to take up tonight in terms of the removal of these individual commissioners.

Ms. Woodward: So your removal tonight is saying they're not doing their job. They're going over and above their job. That's protecting the City and employees of the City.

Mayor Pro Tem Flores: And we haven't gotten to that point yet. We're still -- you're still discussing representation matters and the issues of other City employees that don't really pertain to the issue at hand tonight. I imagine all of those employees feel the same or different about their own particular situations than you have spoken of tonight. But again, we need to try to focus on what we're going to do here tonight. And again, allowing these individuals that we speak of, Ms. La Grange and Mr. Soto, again that public hearing is what we're trying to do here tonight. We'd like to hear from them tonight.

Ms. Woodward: I think both the two individuals, their main goal is to provide a full fair hearing.

Mayor Pro Tem Flores: Are those all the comments that you'd like to make here tonight?

Ms. Woodward: I'd like to stay up here with him.

Mayor Pro Tem Flores: Mr. David Soto.

Mr. David Soto: Mayor Pro Tem, Council people, I'm David Soto. I was appointed to the commission back in '9 -- what was it? 2003. My term expires or runs through June of '05. And I have been asked by the City for my resignation. According to you, what you spoke of just now, the cases that are being held against me for failure to do my job correctly, you don't want to talk about them. You're not allowing -- you're disassociating why my charges, why I'm here with my discipline. Now, what Mr. Schubert and Mr. -- Mr. Haass did a minute ago in a refusal to recuse themselves, I did the same thing, and next time I was escorted out by the police officers at the request of the attorney, who directed Mr. Casas to remove me because I refused to recuse myself. I sent the City Manager and Council people a letter in a report stating about the incident. Nothing was ever done. Nobody ever contacted me about what's going on over there. And yet you have here charges we're not behaving. We're not doing the right thing. I have refused to roll over and play it, turn a blind eye to improper evidence, incorrect signatures, falsify documents, pictures that are presented as a black blob that they expect us to decipher and identify the people. At one point I asked Ms. Quinn from the municipal police department if she could identify who was in the picture, and she couldn't. That was one of the pieces of evidence that they presented to the commission. So, my reliance on my decisions comes directly from the City Charter and from the civil service commission rule, rule book.

Now as Ms. La Grange -- Ms. Woodward mentioned a few minutes ago, she was appointed, but she was never qualified. And that's one of the Charter provisions that has to be met in order to be qualified to sit on the commission. She was never qualified with the three hearings. The 72-hour rule specifically states that if any suspension the civil service commission needs to know about that action. I'll call it to the attention of the City Attorneys in one particular case, and we upheld that decision, but soon after that, the attorneys got wind of it, and they changed it to where that time, 72 hours they were applying it to a ten-day waiting period for the work to appeal this case to the commission. They applied also the 72-hour rule to the ten-day waiting period. Now, these cases that have come before the commission, the City Attorney is not happy with the decision. And I don't see anybody here that's my accuser, so I don't know who's accusing me of what. If you could present to me or identify the particular accuser that's gotten us all into all this trouble, I have a right to face that accuser. Mr. Ysidro Cardenas, Mr. Matthews, and Mr. Casas obtained improper videotape. He needs -- according to the Open Meeting Act; he needs a court order in order to get material that is including in the executive session time. Ms. Sharon De La Garza in the newspaper states -- I'll read this. Director of City Human Resources Department asked staffers to prepare the compilation tape, but she didn't know whether he then delivered copies to the Council. Now, I understand that Council people have seen it. Mr. Ramon Pena testified in the open hearing on the commission that he had seen it. We've gotten work that the union people have seen it. Nothing was done about that. So you knew the tape containing the executive session material was illegal. It wasn't stopped at that point. It continued. It got out of hand. And now it's going to the Texas Rangers. Incidents that didn't sit well with the Attorney's Office, Ms. Leslie

Kassahn said when we first started she'd be there during the hearing time. She was never there. She left and we would call her in for a ruling on a different item that came up. She would come in with an attitude and she was angry and upset that we had to pull her in to question on certain items on commission on the rule book. And that's the -- I believe that she was appointed, or she was assigned to us to be there full-time. She wasn't. She was never there full-time, so where you have to hire Mr. Frank Garza, that also, I believe, wrote a report, but he's not here for cross examine. Mr. Casas is not here for cross examine. Ms. Fink is not here for cross examine. Leslie is not here and Mr. Ysidro Cardenas is not here. How do we defend ourselves when we don't know what they told you behind closed doors? I'm here to tell you that I've done the best I can, the best I know how to -- I don't interpret the law. I go by the letter of the law, the letter of ruling. If it says 72 hours, 72 hours. It doesn't mean three days. If there's an exception to invoking the rule, it doesn't give an exception. Okay? It doesn't say with the exception of the city director or personnel management. There's no exception to that particular item. And we didn't allow the exception. And we were wrong. We were berated, belittled, we were accused. Now, I think I've made my case. I don't want to -- I'm not resigning. The last time that you were here, that you had people qualifying for city manager. I was asked why did we refuse to come in and talk to you. We were here. We never refused to meet with you. But that's how it goes. You people say something and now we're at a hearing. So, I'll answer any questions that you may have. Thank you.

Mayor Pro Tem Flores: Ms. La Grange?

Ms. Henrietta La Grange: Good evening, Patty. Mr. Perez, Mr. Segovia, Mr. Flores, Mr. Haass, Mr. Schubert, Mr. Hall, Mr. Barrera. I'm here today; again, I will say I will not resign. I have violated no commission rules like Mr. Soto, who is my hero. Because I have learned a lot from him. I have followed the letter of the law. People change the laws. I have interpreted the law as it is, black and white. The rules that I had before me, I abide by them. Still abide by them. Never did I change a word or led anything -- let anything different interfere with my decisions. Other people did. And unbeknownst to me, I didn't know that the City did things by tradition instead of following the law, or the rules that were given to me. I was given some rules or bylaws to follow. I followed those rules exactly word-for-word, dot-for-dot, every "t" that was crossed. I was told the City did things by tradition. I don't do things by tradition. I follow the rules. And I have nothing to be ashamed of. I am proud of what I've done. I know that I have done well. I know I've served my God well. And Barbara, thank you. I know that some cases were mentioned. I know that -- I'm not going to mention names, but I know that one witness says that he was there because he was offered money to be there. Were you told that? No. You were not told that. There's a lot of things you weren't told. And I know that you have made your mind up, because I saw where everybody voted to dismiss me. That's okay. You can do whatever you want, but I know in my heart, I have done nothing wrong. And you're probably looking at snippets and pieces of information that was fed to you. And that's what you're basing your decisions. I know that other people have talked about me outside

of the commission, saying well, I don't like how Ms. La Grange has ruled. Did they have my permission to discuss me? Why don't they call me in their office and tell me, La Grange, you want to discuss things with you. I'm available. I can come any day. I picked up all my records, because I didn't want to let them mail them to me, because I wanted to make sure that I picked them up myself. I felt responsible for those pieces of paper. I studied them carefully. And yes, it's true. A lot of the paperwork, you couldn't even read. I tried to address the problems. It's what's wrong with your Xerox machine. Well the Xerox machine is ten years old. And also I addressed problems of the same case. I had three copies of the same paperwork. If that's not a waste of money, I don't know what it is. The rule says I can investigate. When I asked questions, I was never given any answers. Does anybody want to ask me questions, because I am not afraid here? I fear not. There's nothing I have done wrong. There will be wrong done against me, and that's what the employees have been facing for over 25 years, 30 years, 40 years. Unjust. Denial of due process. Anybody want to ask me any questions? I certainly would like to address them. Now. And like I said, I have done no wrong. I have followed the rules that were given to me. They're changed by department chairs. They don't -- the rule is not applied equally to everybody. You do need management training. You need these people to get management training. They do different -- some of them punish people with the rules of the policemen union, and then the City union. That's two laws that they're being punished. And then one department punishes them with a certain rule and then the other one changes the rules. And believe me; all the cases have the 72-hour violation. All of them. All of them. Who is going to tell you the truth? You're hearing the truth tonight. If you want to believe it. If you don't want to believe it, that's up to you all. I have nothing to hide. I have nothing to fear. But I'm glad I'm here. Like I said, you know, somebody is going to get smart out there. Somebody is going to sue you. Every employee, every case that I heard is 72-hour rule was violated. If I tried to address it, I can't address it. I'm just telling you. Listen, hear what I said. I can't lie to you. I'm one of those that if I lie, I know God will punish me. So I don't want him to punish me. But I'm telling you the truth. And if you want things done right, and changed, you can do it tonight. Thank you very much for the opportunity. Like I said, I'm here. If anybody wants to ask me any questions. And I'm very well -- aware of the violation of the Open Meeting Act. You need a court order in order to get it out. I know everything. It's sad that I'm approached out in the street and people say "I saw the video. What's wrong with you guys?" you know. If anybody wants to ask me any questions, I will be glad to answer them. But I say, you know, please have an open mind. Like I said, I followed the rules that were given to me. I didn't change the rules. Thank you.

Mayor Pro Tem Flores: Councilwoman Radle?

Councilwoman Radle: Yes. And this question I ask could be for staff too. I'm curious about the element of training. How much training did you receive before you --

Ms. La Grange: None. None.

Councilwoman Radle: I heard there was training on executive sessions, but that you weren't there.

Ms. La Grange: We had trainings, but when the City does things by tradition, that training goes out the door, out the window, because things change. They change the rules, so if you're saying I got training, I'm going to say I got training. But when the City changes the rules, and does things by tradition, then there is no training.

Councilwoman Radle: Okay. Well, I guess, formally, I'm trying to get to the heart of what did happen in regards to training. So I don't know if there's somebody from staff --

Ms. La Grange: I was supposed to observe three meetings. I didn't do that.

Councilwoman Radle: I see.

Ms. La Grange: There's a lot of things that I didn't do, because I wasn't told.

Councilwoman Radle: I see.

Ms. La Grange: And if I asked questions, nobody had the answer.

Councilwoman Radle: So you were never told to observe the three meetings before you began?

Ms. La Grange: They put me in the lion's den the first day I walked in there.

Councilwoman Radle: Okay. And there was no subsequent training after that?

Ms. La Grange: Like I said, if I got any training, things changed because the City does things by tradition, and rules change.

Councilwoman Radle: All right. Is there someone from staff that could tell me about what training may have been offered, whether there were things changed after that training or not? Martha? Because I'm just trying to get at the heart of what was offered to our commissioner.

Ms. Martha Sepeda: Councilwoman, trainings were given periodically and every few months for procedures on municipal civil service cases. And there was often training between transitions from former, to new commissioners. Trainings started September 3, 2003. Ms. La Grange was not yet on the commission. The next training was October 7, 2003, on the role of the commission, the rules and open meetings and ethics. The next was -- [inaudible] there was a leadership institute in which they follow certain decorum,

what it means to be on an advisory board or commission. Next training was March 16, 2004. I believe Ms. La Grange was at that time already on board. I don't know if she was at the training.

Councilwoman Radle: Soto and Ms. La Grange at the other two trainings you mentioned?

Ms. Martha Sepeda: Mr. Soto was at the previous one. Ms. La Grange didn't come on board until, I believe, early 2004. March 16, 2004, there was also the same kind of training, where the roll of the commission, procedures rules and directives, Open Meetings Act and ethics. These are lengthy training sessions. The next one was May 22, 2004. Miss La Grange attended this one. It was a Municipal Leadership Institute. It was followed by training on May 26.

Councilwoman Radle: What was covered at the one you just mentioned?

Ms. Martha Sepeda: Beg your pardon?

Councilwoman Radle: What was covered at in the one you mentioned?

Ms. Martha Sepeda: At the Municipal Leadership Institute?

Councilwoman Radle: Yes.

Ms. Martha Sepeda: I've never attended one, but it's the one new City advisory board members or commissioners attend. They're often given training about decorum, Open Meeting Act, ethics, how to conduct a meeting, and what needs to happen in an executive session. On May 26, 2004, that specific training for Municipal Civil Service Commission and that's when their new advisor, an outside lawyer, came in, was introduced and attended. They talked about the role of commission, how to process a case, what happens in HR a particular complete example of how does a case get to -- through human resources, through to the final hearing. City staff, staff lawyers, and the outside advisors provide information at every hearing, and they provide advice out of the times, including on the phone. It's true that it's not frequent, like every week, but since the commission meets sometimes twice a week, the training itself is taking place through the hearing, through the hearings themselves, when they stop and ask questions, and our staff attempts to answer them. Any other questions?

Councilwoman Radle: No, that was my main concern, my main worry, because I know at one point when we understood there was some struggle, I asked to make sure our commissioners got additional training.

Ms. Yolanda Byington: I would just like to expand on the Municipal Leadership Institute. We cover the code of ethics that is a session conducted by the City Attorney's Office as well as Robert's Rules of Order, and other responsibilities of board members.

Councilwoman Radle: And Ms. La Grange, did you attend that? Okay. All right, thank you.

Mr. David Soto: If I may say so, we never received formal training blocks. They would come in, with the slide projector and go down the paperwork that we were schooled in, in the ethics. And Open Meetings Act. We had some training in that. But we never touched labor law. We never touched on due process law. It was all -- the question that we would come up with, it would upset the attorney, especially Ms. Kassahn. Because she wasn't there. And I believe she should have been there the whole time we opened the hearing until we closed it. We had to call her on the phone, like you just said. And we had asked her to come in the hearing so she could respond to us directly, because some of the questions that came out, the City Attorney, Mr. Casas mostly was not willing to give, or he just didn't like it. He would ask me to recuse myself several times, because I questioned some of the evidence, some of the dates. We even had a staff from Human Resources that had a date of May 32nd. On the paperwork, they were supposed to discipline an employee. And I told the City Attorney how do you come in here and expect us to read the paperwork, when it's may 32nd? I know there's no such date. You expect me to swallow from the date you put on here, all the way through the end of the paperwork? If you don't bother to review and correct and amend the petition, or the suspension paperwork, we're not going to do it for you. It's not my job to correct and amend the paperwork they bring in. It's their lack of looking at the paperwork. They thought that we were going to -- okay, fine. You want to fire him, we'll fire him. No. We looked at the evidence, eschewed as it was. We looked at -- heard the testimony from the worker. 15, 18 years at work. 55, 56 years old. Trying to get fired or driving a truck he had permission from a supervisor to drive. Supervisor trying to go catch him. He bumped into him. There was never a police report made on that incident. And yet, they come to the commission and say we want this guy fired. For what? He had permission to use the truck. If you don't have permission, then give me the keys. They let him keep the keys. We overturned the termination. The assistant city manager has been signing off on the paperwork. And it doesn't call for assistant city manager. It calls for city manager to do it. The rules, the Charter says -- the City Manager shall be responsible provided and shall have the power and be required to remove all officers, may authorize ahead of a department to remove subordinates. He may -- we never -- I asked for paperwork. Does he have this in writing? Does she have it in writing that says you may now do that? We were never presented with that. Garza testified the previous city manager had made it official by providing a memo or paperwork of the subordinates to say you can sign off on this. This was never provided. This was the type of questions we asked. Are we doing the right thing here by having the Assistant City Manager sign off on this paperwork? We never got to see the Manager. That was one of my bones of contention. Training? No.

Not really. Not when they came and they presented their version of the training. This is how we do things. What about the 72-hour rule? No, Mr. Soto, that doesn't apply to that. I asked him on the suspension paper, what does the transaction date mean? Don't concern yourself with that. That's for the finance office. Okay. I asked Mr. Martin for an opinion on that. He didn't respond. He sends me paperwork that says that's not a correct reading on it. And that's not true? 72 hours means 72 hours from the time that a supervisor picks up paper and makes that paper a legal suspension, that 72 hour starts ticking right there. Transaction date. It's on there. But we got told it was for finance. How do you figure? And now we're sitting here, I'm standing here trying to defend myself against what? I don't know. I don't see my accusers here. All I see is Council people trying to get rid of this. Do what you're going to do. Vote your conscience. You may want to investigate a little bit further about the Open Meetings Act violation, about the tape that was presented to you illegally. Think about that. He's not here. He wasn't called on the carpet for violating that rule or that law. Nobody disciplined him. When I turned in the report, a police report, three police officers came in and said Mr. Soto, Mr. Cardenas wants you to leave the building. I said for what? They're going to charge you with criminal trespassing. I said I'm doing my job as a commissioner. He has no authority to throw me out. Yet, I didn't want to go against three police officers. I left the building under my own power. I was going to be arrested for criminal trespassing when I was doing my job. I'm looking at you. I'm directing my answers to you. But I want all I don't have you to understand where I'm coming from. I was given a job to do and I made a promise I was going to do it to the best of my ability. Now I'm here, answering questions about why did you terminate this hearing. The witness wasn't there. The complainant that said that guy is selling tickets came in and dirtied his name and he left. The lawyer made a motion for dismissal, because he wasn't there. We went in executive session. We agreed with the motion and granted that dismissal. It was overturned by City Council, by City Manager, or the Assistant. I think Mr. Brady was the one that did that. Now hit your head on the wall, because when you stop, the pain is going to stop. We're hitting our heads on the wall and pretty soon, we're going to stop and the pain is going to go away. Nobody has a remedy for it. They refuse to remedy the situation. Before it got to this. They should have been there a long time ago. When you got my police report, my complaint about Mr. Cardenas should have been done then. Should have been done when you saw the tape illegally. It should have been done then. No, we wait.

Councilwoman Radle: Thank you.

Mr. Soto: Thank you.

Ms. La Grange: I just want to leave you with one last thing. Not going to mention names, but there are employees that are in the department, get transferred to another department. They've been there like for four, five, seven six months. They have not been late. Supervisors, they're good employees. They're on time. They do all their task, and get,

what, because he was transferred from the other department. They're firing him, even though they have no jurisdiction. Where is the justice there? Thank you.

Mayor Pro Tem Flores: Any other comments, Councilwoman Radle?

Councilwoman Radle: I guess I just wanted to comment in general that in a position you have been, I think it's been in your heart to serve us. And Mr. Soto, I don't know -- I don't really know you at all, but I do know Ms. La Grange, and I know you're a person of great compassion, and I appreciate you sharing that in your service with the City. Thank you.

Mayor Pro Tem Flores: Okay, Councilman Hall?

Councilman Hall: Just a couple things, Mayor. No. 1, just to elaborate on a point you made earlier, we're not here to review the City process for dealing with employee issues and that whole process. Certainly, you made the point of looking at the process, but that's not what we're here to do today. Also, we're not here to look at individual cases of employees. That's not our jobs at this point in time. Our job today is to look at the issue of whether or not we believe that the actions of these two commissioners warrant removal. So that's where I'm going to focus my comments, and we've got to focus our decision. I've been one of the biggest advocates of our employees since I've been on Council. When I look at the commission, and what the commission is supposed to do, it's a tool to help the City Manager make up her mind. And I think the key to that is that we have a fair process, and that the system has integrity. When there is not a fair process, and when the system does not have integrity, it becomes unreliable, a waste of time, and the recommendation that come out of that might seem minimal -- and cannot be relied on. What I focus in on is making sure that we have a reliable process. I could care less what the vote of the commission is. I could care less if all of the decisions are for the City, or if all of the decisions are for the employee. All that matters to me is to make sure we have a fair process. I've heard you all today. I've reviewed all the information that you've been provided. I've also reviewed the support that the City has provided the commission and you all and I'll be supporting today's ordinance. Thank you very much.

Mayor Pro Tem Flores: Thank you. Councilman Haass?

Councilman Haass: Thank you, Mayor. I'd like to start by just letting Ms. La Grange and Mr. Soto know I do honestly respect your interest in serving. And whenever you set out to be a part of the commission, I know your goal was to serve the City of San Antonio, the public interest, and to do the best of your ability. And I appreciate anybody who is willing to make that sort of commitment, whether it be of time, or energy, or whatever means. Unfortunately, in this particular case, I do not believe that the system or the setup, or the mixture of individuals, however you want to look at it was productive. I had an opportunity on a number of occasions to either send staff or my own aides to meetings to listen in. I happen to see a video. I certainly had an opportunity to talk with

others about what was going on at meetings. And on a regular basis what kept coming back to me was that there was a sense of chaos almost in those meetings. And I don't know also if it's real easy to label or to decide who deserves the blame in that particular instance. The problem that occurs was the dynamic that existed on the commission was not allowing for an effective process. I think it's the Council's job at that point to seek a more efficient manner of conducting business, so that it can be of aid or assistance to the City Manager. And in an ideal world, I think the commissioners would have looked upon themselves, and agreed to resign, because that was the will of the Council and trying to create an effective process. Unfortunately, we're here now, we're in a situation where we're trying to remove these commissioners. And I, for one, can speak only on opportunities I had to witness what was going on. And I certainly feel that I saw an unprofessionalism that was unchallenged in my experiences sitting on the City Council. Obviously, I've mentioned on occasions that the meetings seem to be conducted in a chaotic form. There clearly was no real procedure, and people spoke out of turn. And certainly there wasn't much diplomacy or respect for other individual's thoughts. They tended to snap back and forth at each other. I could comment pretty fairly easily that it was dishonorable at best. I think that there are certain goals that the commission has as far as responding to in timely fashion paper trails, things like that. I'm of the understanding that we did not meet those criteria or the goals on that particular commission. I guess after reviewing all the evidence that goes with this, I do feel that I'm left still even after hearing the pleas of the commissioners and understanding where they're coming from, while there may be opportunities on other boards, and opportunities on boards I would love them to consider, they have the willingness that their heart is into doing the job, this particular time, at this particular set of events was not successful. And it's in the best interest of the City, and I believe in this Council to make a change. And I'm unwavering in that respect. Thank you, Mayor.

Mayor Pro Tem Flores: Thank you, Councilman Haass. Councilman Schubert?

Councilman Schubert: Thank you, mayor. Like Councilman Haass and Councilman Hall already stated, there have been a lot of things that have come forward and things we have heard about the commission. And things that staff members have witnessed. Tonight after hearing from the two commissioners, it has -- it reinforces my feeling that the council is doing the right thing by moving forward. What I heard both of you say here tonight was totally and completely your opinions about what you were supposed to be doing for the employee. I never heard you say anything about fairness in the process. And looking at these issues from the standpoint of what is the correct and fair thing to do. I've served on the -- I served on the Sheriff Civil Service Commission for a number of years. We had no training. The first day I had ever been to a meeting, I was on that commission. Perhaps I was fortunate that I had been a lawyer and had been in courtrooms before and understood that. But I was not chairperson of that commission. I understood clearly what I was supposed to be doing. I understand what I was to be doing. I was to listen to evidence on both sides and then rule based on the evidence that was presented. And that's exactly

what I did. What I heard from the two of you, and also from Nick, who spoke the same way, it's as if you believe you were supposed to be an advocate for one side. And by your own admission, an advocate for employees, and that's simply not the role of a Municipal Civil Service Commissioner. Your role is to be totally and completely neutral and unbiased and to make those decisions based upon the evidence which has been presented. And I think by your own admissions here tonight, it's clear that you don't view that role in that particular way. And obviously, I think you have not viewed it in that way in the hearings that have happened. And I'm not talking about all the other issues about unprofessionalism, things of that nature. So tonight, it clearly says to me that we're doing the right thing, by moving forward, because you have refused to understand the role that you play, in not only refused to understand it, but have continued to say that what you are doing is right and in your mind right means taking one side over the other on a consistent basis. So therefore I'm going to be upholding the Council's actions and moving forward.

Mayor Pro Tem Flores: Thank you, Councilman Schubert. Councilman Barrera?

Councilman Barrera: Thank you, Mayor. There's no question that we have a number of boards and commissions that we appoint the members. And they're all very important. And, of course, the civil service commission is one of the most important ones, because we're talking about our employees. Those people that do the job of the City, the things, the functions of the City that need to keep going. And so, we're talking about not only the employees, but also the function of the City and what happens. So this is an important role, very important role that you as commissioner play. And I know that you, you take this seriously. There was a reason why you were appointed. But when these concerns kept coming to us that would be brought to us, and after reviewing the materials, we have copies of those -- the incidents, a lot of incidents, a lot of reports about the actions as were brought to us. These concerns that were brought to us. And we're talking about having a group that is fair, that is able to look at both sides. And come up with a recommendation, a recommendation. Not an action, not a -- anything on one side or the other, but recommendation to the City Manager in terms of that appeal. So when these concerns kept coming to us, and after reviewing all that information, I will be supporting the request for dismissal of the two commissioners.

Mayor Pro Tem Flores: Thank you, Councilman. Councilman Perez?

Councilman Perez: Thank you, Mayor. I would like to concur with the words said by my colleagues; I don't want to belittle the point. I will say for my own part, I, too, reviewed the information staff presented. It's incumbent on us to move forward with the action at hand, remove the two individuals, and I will be voting in favor of that action. Thank you.

Mayor Pro Tem Flores: Thank you, Councilman. Councilman Segovia?

Councilman Segovia: Thank you, Mayor. Very quick. What I heard tonight was people talking about the legality of a tape, but nobody mentioned anything, was there, or was there not disrespect, unprofessionalism or chaos on the tape? My decision is not based on viewing the tape. I've never viewed the tape. But I did read several situations of the facts that were presented to us. And I did find unprofessionalism, disrespect, chaos, failure to look at all the evidence. And then what I hear tonight is that almost an excuse that there was no training. Well, somewhere along the line comes the responsibility. You take a position and there comes responsibility with it. It's like somebody saying nobody trained me how to be a parent. Well, being a parent, becoming a parent, there comes a responsibility with it. And I will definitely support my colleagues. Thank you.

Mayor Pro Tem Flores: Thank you, Councilman. Councilwoman Radle?

Councilwoman Radle: Thank you, Mayor. I know that this is not the topic for the night in regards to, you know, changes, perhaps, that need to be made in the commission, but I just wanted to express my support from taking a look at what needs to be done in regards to helping the commission to become more effective, or perhaps expanding membership, looking at this process. One thing that has come out of this, it's helped us to see a repeatedness, perhaps, of some of the issues. You mentioned the seven-day rule of management rule 72-hour rule, issues of receiving information, and I think some of the comments made here tonight by the commissioners again furthers points of areas where we can get better in helping this to be a strong voice to give direction to the City Manager. It's a difficult thing. I think just in looking at the overall picture and trying to figure out what will be good for the City to go on from here. I'm going to go ahead and support the resolution. I uphold the comment that was made earlier that these are good people who are willing to serve this. And I hope that you will consider serving perhaps on another board or commission. Thank you, again, for your service.

Mayor Pro Tem Flores: Thank you, Councilwoman. Well, my comments are very similar to the comments made by my colleagues. I personally know Mr. Soto and his family. And I know for a fact that Mr. Soto's a very honorable man. He conducts himself with honor. And I don't know Ms. La Grange as well, but I do know that with Mr. Soto being my appointment to this commission, I've taken a very close interest in what happens here with this particular situation. I will say that this is not a question of the honorable, -- or the honor of our members or their desire to do something for their community. I will tell you, however, though this is really a question of how efficient and adequate and how workable this particular commission is to provide a recommendation to our City Manager. Pro or against, as my councilman stipulated. It doesn't matter whether you go all the one way or all other way. Whether they're all pro-city or pro-employee, the fact of the matter is we need to maintain a relationship between the City Manager's Office and this commission, so that the recommendation of this commission can be utilized as a true resource to make a decision. If that is not occurring, then we have a dysfunctional relationship, we have a dysfunctional board. That word "dysfunctional" does not at all

have anything to do with, again, the desire and honor that the members, themselves, have conducted themselves with. But if they together as a group, as a body are dysfunctional. And if the board does not function in its mission to provide a recommendation to the City Manager, then by mandate from the citizens of San Antonio, we as a body have to be able to provide the process of making recommendations from commissions to our city manager, one that is event and one that is workable, and that works for the employees, which in turns work for our citizens. That's truly what we have today as the question before us. I believe as my colleagues do, this is the appropriate action to take. It is, I think, good to hear that there is consensus among this entire council in terms of the direction that we need to take. We do also with this action are asking for, and I believe I heard this from colleagues, Radle, Hall, that we need to find a way to mend some of the concerns that we had about the functionality of the board in terms of individual processes that, you know, for whatever reason hadn't happened in the past, whether or not we're allowing certain witnesses to move forward or what the relationship is between the attorney present and the attorney to the committee. Those types of things, you know, again, absolutely need to be, need to be remedied. And I think that as Councilwoman Radle stated that had we not gone into the situation as we are today, we wouldn't be discussing this whole thing. We wouldn't be discussing whether or not we need to add members to the commission, or whether or not we need to address the relationship that is between the members or between the manager's office and whether or not they can utilize that particular recommendation. So I'm also along with my colleagues going to be voting in favor of the resolution. And also look forward to being able to remedy some of the situations that have occurred in the past, and also with this particular commission and how its functionality affects the City employee and the citizens of San Antonio. So with that, I'll ask for a vote. I'm sorry. Let's see. No, that's not it. Where's my list?

Mayor Pro Tem Flores: Motion. There's a second. Any more discussion? Then I will ask everyone to vote.

Mayor Pro Tem Flores declared the public hearing to be closed.

The City Clerk read the following ordinance:

AN ORDINANCE 99970

AN ORDINANCE REMOVING FOR CAUSE HENRIETTA LA GRANGE AS A MEMBER OF THE MUNICIPAL CIVIL SERVICE COMMISSION.

Councilmember Perez made a motion to approve the proposed Ordinance. Councilmember Schubert seconded the motion.

After consideration, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: **AYES:** Flores, Segovia, Perez, Radle, Barrera, Hall, Schubert, Haass. **NAYS:** None. **ABSENT:** Williams, Castro, Garza.

The City Clerk read the following ordinance:

AN ORDINANCE 99971

AN ORDINANCE REMOVING FOR CAUSE DAVID SOTO AS A MEMBER OF THE MUNICIPAL CIVIL SERVICE COMMISSION.

Councilmember Perez made a motion to approve the proposed Ordinance. Councilmember Segovia seconded the motion.

After consideration, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: **AYES:** Flores, Segovia, Perez, Radle, Barrera, Hall, Schubert, Haass. **NAYS:** None. **ABSENT:** Williams, Castro, Garza.

INDIVIDUAL ITEMS CONTINUED

The City Clerk read the following ordinance:

AN ORDINANCE 99972

APPROVING THE FISCAL YEAR 2005 PROJECT WINTER ASSISTANCE RELIEF MOBILIZATION PLAN, WHICH IS PROJECTED TO PROVIDE UP TO \$300,000.00 IN UTILITY ASSISTANCE TO ELIGIBLE CITY PUBLIC SERVICE (CPS) RATEPAYERS DURING THE PERIOD OCTOBER 1, 2004 THROUGH SEPTEMBER 30, 2005; AUTHORIZING THE EXECUTION OF AN AGREEMENT BETWEEN THE CITY OF SAN ANTONIO AND CPS TO IMPLEMENT SAID PLAN; AND AUTHORIZING THE EXECUTION OF MEMORANDUMS OF AGREEMENT WITH VARIOUS AGENCIES TO ASSIST IN THE IMPLEMENTATION OF SAID PLAN.

Councilmember Perez made a motion to approve the proposed Ordinance. Councilmember Hall seconded the motion.

Mr. Dennis Campa, Director of Community Initiatives Department, made a presentation on the FY 2004-05 Project Winter Assistance Relief Mobilization (WARM) Plan, a copy of which is on file with the Office of the City Clerk. Mr. Campa outlined details of the program, the agreement with City Public Service (CPS) and the City where staff is

required to process all applications for assistance, determine eligibility and certify the assistance amount to CPS. He spoke to the benefits of the program and the fiscal impact.

After consideration, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: **AYES:** Flores, Segovia, Perez, Radle, Barrera, Hall, Schubert, Haass. **NAYS:** None. **ABSENT:** Williams, Castro, Garza.

The City Clerk read a resolution deciding the appeal of Shan and Bill Blanchard of the decision of the electrical examining and supervising board regarding section 10-93(3)(a) of the city code and the meaning of the term "installations" within the context of that section. Staff recommends upholding the decision of the electrical examining and supervising board.

Mr. Florencio Pena, Director of Development Services made a presentation on the appeal of Mr. and Mrs. Blanchard on the decision of the Electrical Examining and Supervising Board, a copy of which is on file with the Office of the City Clerk. He outlined details of the case, requirements of the Electrical Code, interpretation of the Code, and staff's recommendation of upholding the decision of the Electrical Examining and Supervising Board.

Councilmember Perez made a motion to uphold the decision of the Electrical Board. Councilmember Segovia seconded the motion.

After consideration, the motion to uphold the decision failed by the following vote: **AYES:** Flores, Segovia, Castro. **NAYS:** Barrera, Hall, Schubert. **ABSENT:** Williams, Radle, Castro, Haass, Garza.

Councilmember Hall made a motion to reconsider the appeal. Councilmember Schubert seconded the motion.

After consideration, the motion to reconsider the appeal failed by the following vote: **AYES:** Flores, Hall, Schubert. **NAYS:** Segovia, Perez, Barrera. **ABSENT:** Williams, Radle, Castro, Haass, Garza.

Resolution 2004-40-41 is void.

The City Clerk read the following resolution:

A RESOLUTION 2004-40-42

DECIDING THE APPEAL BY EXECUTIVE SIGNS OF THE DIRECTOR OF DEVELOPMENT SERVICE'S DECISION TO NOT APPROVE AN ON-PREMISE SIGN PERMIT APPLICATION DATED JUNE 8, 2004 FOR THE PROPERTY LOCATED AT 875 EAST ASHBY PLACE. STAFF RECOMMENDS DENIAL OF THE APPEAL.

Mr. Florencio Pena, Director of Development Services, made a presentation on the sign appeal of Executive Signs, a copy of which is on file with the Office of the City Clerk. Mr. Pena outlined background information on the case and the subject property involved, and the appeal request to the Zoning Board of Adjustment. He added that the Zoning Board of Adjustment did not overrule the decision of the Chief Sign Inspector.

Councilmember Perez then made a motion to deny the appeal. Councilmember Segovia seconded the motion.

After consideration, the motion, carrying with it the passage of the Resolution prevailed by the following vote: **AYES:** Flores, Segovia, Perez, Barrera, Hall, Schubert. **NAYS:** None. **ABSENT:** Williams, Radle, Castro, Haass, Garza.

The City Clerk read the following ordinance:

AN ORDINANCE 99973

AMENDING SECTION 16-412 OF THE CITY CODE TO REQUIRE INSURANCE OR BONDING FOR IRRIGATION CONTRACTORS.

Councilmember Perez made a motion to approve the proposed Ordinance with the increase of \$10,000 for the licensed irrigators bond. Councilmember Segovia seconded the motion.

Mr. Florencio Pena, Director of Development Services, narrated a slide presentation on the proposed amendment to Chapter 16 of the City Code regarding irrigation contractors, a copy of which is on file with the Office of the City Clerk. He delineated the proposed changes and related fees to each of the permits and its fiscal impact. He also noted the liability amounts per occurrence and property damage liability per occurrence and the amount of the bond for the licensed irrigators.

After consideration, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: **AYES:** Flores, Segovia, Barrera, Castro, Hall, Schubert. **NAYS:** None. **ABSENT:** Williams, Radle, Castro, Haass, Garza.

TRAVEL AUTHORIZATION - Granted:

Ratification of Travel Authorization for Councilmen Art A. Hall, District 8, and Christopher "Chip" Haass, District 10, who attended the Texas Municipal League's 92nd Annual Conference in Corpus Christi, Texas from Wednesday, October 27, 2004 through Friday, October, 29, 2004.

Councilmember Perez made a motion to approve the proposed Travel Ratification. Councilmember Segovia seconded the motion.

After consideration, the motion, carrying with it the passage of the Travel Ratification prevailed by the following vote: **AYES:** Flores, Segovia, Perez, Barrera, Hall, Schubert. **NAYS:** None. **ABSENT:** Williams, Radle, Castro, Haass, Garza.

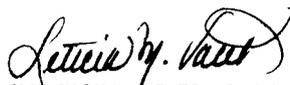
There being no further business to come before the City Council, the meeting was adjourned at 10:23 P.M.

A P P R O V E D



EDWARD D. GARZA
MAYOR

Attest:



LETICIA M. VACEK
City Clerk