

REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF SAN ANTONIO HELD IN
THE COUNCIL CHAMBER, CITY HALL, ON
THURSDAY, MAY 15, 1980.

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The meeting was called to order at 1:00 P.M. by the presiding officer, Mayor Lila Cockrell with the following members present: CISNEROS, WEBB, DUTMER, WING, EURESTE, THOMPSON, ALDERETE, CANAVAN, ARCHER, STEEN, COCKRELL; Absent: NONE.

80-23 The invocation was given by the Reverend Henry Laenan, San Juan De Los Lagos Catholic Church.

80-23 Members of the City Council and the audience joined in the Pledge of Allegiance to the flag of the United States.

80-23 Councilman Dr. Cisneros on behalf of District 1, thanked the previous Councils for the fine drainage system in his district. He stated that due to the drainage system, there are parts of district 1 which are completely water free and that there has been no flooding in the area which once occurred ten years ago.

Mayor Cockrell stated that there is still a backlog of drainage problems that need to be taken care of and that the City would continue to address these type of problems.

80-23 SPECIAL MEETING

Mr. Alderete asked that an ordinance be prepared for today's agenda regarding Chapter 34's amendments to the Electrical Code Book.

Ms. Jane Macon, City Attorney, stated that this item would need to be addressed as a special meeting.

Mayor Cockrell instructed staff to post notice for a Special Meeting which would take place at the conclusion of today's agenda.

80-23 JOHN J. PERSHING ELEMENTARY SCHOOL

Mayor Cockrell recognized a group of fifth grade students from John J. Pershing Elementary School who were present in the audience.

They were accompanied by their instructor, Mrs. Hastings.

80-23 STONEWALL ELEMENTARY SCHOOL

Mayor Cockrell recognized a group of fifth grade students from Stonewall Elementary School who were also present in the audience.

Mrs. Dennis, their instructor, accompanied the group.

80-23

KERRVILLE FOLK FESTIVAL

Mr. Rod Kennedy, a resident of Kerrville, Texas, extended an invitation to the Council to their Ninth Annual Folk Festival in Kerrville, Texas, which would take place on the Memorial Day weekend.

Mayor and Council thanked Mr. Kennedy for his invitation.

80-23

ZONING HEARINGS

5. CASE 8022 - to rezone the north 83' of Lots 302, 303 and 304, NCB 6184, in the 200 Block of Pendelton Avenue, from "C" Apartment District to "B-3" Business District, located southwest of the intersection of Pendelton Avenue and Homecrest Avenue, having 75' on Pendelton Avenue and 85' on Homecrest Avenue.

Mr. Gene Camargo, Planning Administrator, explained the proposed change which the Zoning Commission recommended be denied by the City Council. He stated that thirty-six notices were mailed out to the surrounding property owners; nineteen notices were returned in opposition and five notices were returned in favor. He stated that nine affirmative votes would be needed to approve the change in zoning.

Mr. Randy Janssen, representing Ms. Sanchez the applicant, explained the proposed plans for the subject property. He explained that there is an 8X10 area in back of the property that she wishes to utilize as a restaurant with alcoholic consumption. He stated that Ms. Sanchez is requesting an on-premises license that will allow the consumption of alcohol. He presented a petition which was signed by people living in the area who are not in opposition to the proposed plans. (The Petition is on file with the minutes of this meeting.) He stated that the applicant needs the change in zoning to help support her family; without the zoning change, she would be forced to close down.

In response to a question by Mr. Eureste, Mr. Janssen stated that the previous owner had been selling beer at this property for the longest time.

Mr. Eureste expressed his concern that the consumption of alcohol has been occurring at this location for a number of years and stated that this does not justify the City making this legal. He felt that a beer lounge in the middle of a residential neighborhood should not be allowed.

Mr. Thompson also expressed concern about the drinking allowed in this area.

Mr. Barnabe Calderon, a resident of 255 Pendleton, spoke mainly to the good character of Ms. Sanchez. He stated that drinking has been occurring at this property for many years and there has never been a problem with fighting or disturbances at this location due to the sale of alcoholic beverages. He spoke in support of the requested zoning change.

Mr. Nicasio B. Dimas, 328 Pendleton, also spoke in support of the zoning change.

Mr. Martin Daniels, 124 Pendleton Avenue, stated that he has lived at this residence for 33 years and stated that there is a traffic problem that exists in the area. He stated that with any type of business that allows consumption of alcohol there would eventually be an increase in the present traffic problem, since the subject property does not allow for parking within the premises. He spoke very strongly in opposition to the requested zoning change.

Mrs. Dutmer stated that the grocery store at this location can continue to operate under the existing non-conforming rights.

In response to Mr. Eureste, Mr. Daniels stated that at one time he counted as many as 12 people drinking on the premises. He noted other times that people have been cited consuming beer on the premises.

Ms. Minnie Olivarri stated that she does not object to the grocery store but does object to the drinking that has been occurring on the premises. (She distributed a picture of the subject property as it presently exists, which is on file with the minutes of this meeting.)

Ms. Anna Beltran, also a resident of the area, spoke in opposition to the consumption of beer on the premises. She also spoke regarding the heavy commercial traffic that this business would incur should the zoning change be granted.

At this point in the meeting, Mr. Eureste made a motion to deny the requested zoning change. Mr. Archer seconded the motion.

Ms. Felicita Cantu, stated that she lives only fifty feet from the subject property and spoke strongly in opposition to the requested zoning change. She submitted a petition of five signatures of people who live in the immediate area in opposition to the zoning change. She asked that the residential area remain just that. (The petition submitted by Ms. Cantu, is on file with the minutes of this meeting.)

Mr. Leonard Huskey, Plant Manager for Swift and Company, stated that his property borders Pendleton Street and spoke strongly in opposition to the requested zoning change. He stated that this zoning change would not be compatible with the surrounding residential area. He also stated that there is very little off-street parking available at the subject location and if the zoning change is granted, it would increase the traffic situation. He stated that a beer lounge would not be in keeping with the health, safety and morals of the community.

Ms. Carol Cuszuski, 7634 Antique Oak Drive, also spoke in opposition to the requested zoning change. She stated that this change would be detrimental to the character of the neighborhood.

In rebuttal, Mr. Janssen stated that Ms. Sanchez the applicant is only trying to take what was and make it legal. He stated that beer is at the present time being sold outside the store and should the zoning change be granted, the beer would only be consumed inside the premises, in more private surroundings.

Mr. Eureste asked that staff take all legal steps possible regarding the on-premise alcoholic beverage consumption currently taking place at the convenience store at the corner of Pendleton and Homecrest.

After discussion, the motion to deny the requested zoning change, prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Eureste, Thompson, Canavan, Archer, Steen, Cockrell; NAYS: None; ABSENT: Alderete.

CASE 8022 was denied.

80-23

CORPORATION COURT JUDGES

Mr. Archer asked that staff investigate and report regarding the possibility of the legislative delegation granting injunctive powers to the Municipal Court Judges.

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6. CASE 7998 - to rezone Lots 13 thru 16, Block 9, NCB 2839, 335, 339 and 347 Cottonwood Avenue, from "C" Apartment District to "B-3R" Restrictive Business District, located northeast of the intersection of Rochambeau Street and Cottonwood Avenue, having 150' on Rochambeau Street and 200' on Cottonwood Avenue.

Mr. Gene Camargo, Planning Administrator, explained the proposed change which the Zoning Commission recommended be denied by the City Council. He stated that twenty-one notices were mailed out to the surrounding property owners; ten notices were returned in opposition, and one was returned in opposition from outside the 200' radius and one returned in favor. He explained that six affirmative votes would be needed to approve the change in zoning.

The applicant, Mr. Jesus Cortez, stated that he is the owner of the subject property and presented his plans to construct a funeral home on this location. He stated that he is a licensed mortician and stated that a funeral home in this location would be a great service to the area. He stated that he has sufficient parking and would be erecting a fence to enclose the building for the privacy of the neighbors. He explained that a Security Guard would be on the premises twenty-four hours a day and that the property would be properly lighted. He also stated that he would be hiring ten people as his employees.

In response to a question by Mr. Thompson, Mr. Cortez stated that he would be living on the premises.

In response to a question by Dr. Cisneros, the applicant stated that he will be looking for additional lots to solve the parking problem. He stated that there was the possibility that a few residents may be selling their homes in the near future since many of these homes are located at the major intersection of I.H. 35 Expressway, Theo and Malone.

No citizen appeared to speak in opposition.

After discussion, Mr. Wing moved that the recommendation of the Zoning Commission be approved provided that a non-access easement is imposed along the south property lines of Lots 13 through 16 and that a six foot solid screen fence is erected and maintained along the south, north, and east property lines. Mr. Webb seconded the motion. On roll call, the motion, carrying with it the passage of the following Ordinance, prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Eureste, Alderete, Canavan, Steen, Cockrell; NAYS: Thompson, Archer; ABSENT: None.

AN ORDINANCE 52,191

AMENDING CHAPTER 42 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS LOTS 13 THROUGH 16, BLOCK 9, NCB 2839, 335, 339 and 347 COTTONWOOD AVENUE, FROM "C" APARTMENT DISTRICT TO "B-3R" RESTRICTIVE BUSINESS DISTRICT, PROVIDED THAT A NON-ACCESS EASEMENT IS IMPOSED ALONG THE SOUTHERN PROPERTY LINES OF LOTS 13 THROUGH 16 AND THAT A SIX FOOT SOLID SCREEN FENCE IS ERECTED AND MAINTAINED ALONG THE SOUTH, NORTH, AND EAST PROPERTY LINES.

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7. CASE 8042 - to rezone Lot 5, Block 5, NCB 3732, 435 Sims Avenue, from "C" Apartment District to "R-3" Multiple Family Residential District, located on the northside of Sims Avenue, being 400' west of the intersection of Collingsworth Avenue and Sims Avenue, having 100' on Sims Avenue and a maximum depth of 221.2'.

Mr. Gene Camargo, Planning Administrator, explained the proposed change which the Zoning Commission recommended be approved by the City Council. He stated that twenty-six notices were mailed out to the surrounding property owners; seven notices were returned in opposition and eight notices were returned in favor. He stated that nine affirmative votes would be needed to approve the change in zoning.

Mrs. Consuelo Rocha, 647 Gladstone, stated that she is requesting a change in zoning in order to establish a day care nursery which will care for up to twenty children. She stated that in 1978 she had applied for a permit to build a day care center and after she had made several repairs to the center, she was informed that the proposed use was no longer allowed under "C" Apartment District; only allowed under "R-3" Multiple Family Residential District. She stated that there is a need for good quality child care centers in the neighborhood. She cited the other child care centers that presently exist in the south side with their long waiting lists. She explained the ingress and egress to the subject property.

Mr. Camargo explained the details of transferring the day care centers from one zoning classification to another.

Mr. Alderete expressed concern that an individual's intent to developing business in an area had fallen prey to an administrative oversight on the City's part. He stated that the City Council has always worked closely with people who develop child care centers in neighborhoods. He spoke in support of Mrs. Rocha's request and also expressed concern that nine affirmative votes would be needed to approve the change in zoning.

In response to a question by Mrs. Dutmer, Mr. Camargo explained that taxes may increase as a result of an overvaluation.

Mr. Daniel Lizcario, 443 Sims, spoke to the Council in Spanish and stated that he could not see how taking care of children could create any problems. He asked that some of the neighbors rescind the petition in opposition to the rezoning change. He spoke in support of the day care center in the neighborhood and stated that the requested zoning change would provide benefits to the community.

Mr. Juan C. Gomez, 411 Sims also spoke in support of the requested zoning change.

Mr. Henry A. Weilbacher, 621 Pierce, past president of the Licensed Day Care Association, stated that he has known Mrs. Rocha for 10 years or longer. He stated that this type of business is needed in the south side and urged the Council to grant the zoning change.

Ms. Paula Ozuniga, 448 Sims Avenue, spoke in opposition to the requested zoning change. She stated that she would like to keep the area residential. She also stated that the street is not very wide and feared that a lot of traffic would be generated from this type of business.

Ms. Emilia Rodriguez, 436 Sims Avenue, also spoke in opposition to the requested zoning change. She expressed concern regarding the traffic that would be generated and also stated that many retired people that live in the area would prefer to keep the area residential. She also mentioned the other lots in the neighborhood that are owned by Mrs. Rocha.

Mrs. Fisher also spoke in opposition. She expressed concern regarding the property across the street from her home which Mrs. Rocha owns and feared that Mrs. Rocha could erect apartments on this lot.

In response to a question by Mr. Webb, Mrs. Rocha stated that she owns a van which she could utilize in picking up the children herself instead of having them dropped off at the day care center. She felt this would eliminate a lot of traffic congestion.

Mr. Camargo explained that apartments could be built on the subject property which would accommodate 32 units. He stated that this would result in 32 cars in the area.

Mr. Eureste spoke in support of the requested zoning change. He felt that a mistake had been made administratively by the City; it was caught and corrected but to the detriment of the owner of the property. He stated that the applicant should be allowed to proceed with her proposed plans.

After much discussion, Mrs. Dutmer moved that the recommendation of the Zoning Commission be approved provided that the applicant work with the Traffic Department for proper ingress and egress. Mr. Alderete seconded the motion. On roll call, the motion, carrying with it the passage of the following Ordinance, prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Eureste, Alderete, Canavan, Steen, Cockrell; NAYS: Thompson, Archer; ABSENT: None.

AN ORDINANCE 52,192

AMENDING CHAPTER 42 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS LOT 5, BLOCK 5, NCB 3732 435 SIMS AVENUE, FROM "C" APARTMENT DISTRICT TO "R-3" MULTIPLE FAMILY RESIDENTIAL DISTRICT, PROVIDED THAT THE APPLICANT WORK WITH THE TRAFFIC DEPARTMENT FOR PROPER INGRESS AND EGRESS.

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80-23

3:00 P.M. -- PUBLIC HEARING AMENDING THE
TAXICAB ORDINANCE

Mayor Cockrell declared the hearing open.

No citizens were present to speak on the matter.

Mayor Cockrell declared the hearing closed.

The Clerk then read the following Ordinance:

AN ORDINANCE 52,193

AUTHORIZING AN INCREASE IN THE WAITING TIME CHARGE FOR TAXICAB SERVICE IN THE CITY OF SAN ANTONIO.

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Mr. Webb moved to approve the Ordinance. Mr. Steen seconded the motion.

In response to Mr. Alderete, Mr. Thompson, Chairman of the Taxicab Committee, explained that the situation is not finally resolved. He stated that the increase in cost on the operation of vehicles will require continuing monitoring of the rates that are charged; a periodic review will be needed by the City Council.

In response to Mrs. Dutmer, Mr. Roger Ibarra, Public Utilities Supervisor, explained that in a determination of any charge there must be a basis for substantiation and in this case, since there is no basis for substantiation, it is difficult to base it on fact, or data, therefore, it is necessary to look at other cities of comparable size. He stated that when looking at other cities, the comparable range is between \$7.50 and \$8.50.

Mrs. Dutmer stated that the Committee had not come to a definite determination, and expressed concern that the taxicab drivers did not keep records as they were told. At this time, she made a motion to set the amount for waiting time at \$8.50 in lieu of \$9.00 per hour. She felt that this is waiting time whereby the taxicab drivers will not be using any fuel or wear and tear on their vehicles and at the same time, it may serve as a warning to keep records in the future.

The motion died for a lack of a second.

Mr. Thompson then stated that he had been under the impression that the Committee had agreed on an \$8.00 per hour waiting time charge. He then made a substitute motion to charge \$8.00 per hour for waiting time. Mrs. Dutmer seconded the motion.

Ms. Karen Davis, Executive Assistant to the City Manager, then explained what had transpired at the public hearing two weeks ago.

After discussion, the substitute motion prevailed by the following vote: AYES: Cisneros, Dutmer, Wing, Eureste, Thompson, Canavan, Archer, Steen, Cockrell; NAYS: Alderete; ABSENT: Webb.

The meeting was recessed at 3:30 and reconvened at 3:50 P.M.

80-23 ZONING HEARINGS (Continued)

13. CASE 8054 - to rezone the southeast 300.15' of the northeast 260.86' of Parcel 9, NCB 15723, 16475 Judson Road, from Temporary "R-1" Single Family Residential District to "B-2" Business District, located on the southwest side of Judson Road, being 165' southeast of the intersection of Fountain Wood Drive and Judson Road, having 300.15' on Judson Road and a depth of 260.86'.

Mr. Gene Camargo, Planning Administrator, explained the proposed change which the Zoning Commission recommended be approved by the City Council.

No citizen appeared to speak in opposition.

After consideration, Mr. Thompson moved that the recommendation of the Zoning Commission be approved provided that a six foot solid screen fence is erected and maintained along the southwest property line abutting the single family residences, also that proper platting is accomplished. Mrs. Dutmer seconded the motion. On roll call, the motion, carrying with it the passage of the following Ordinance, prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Thompson, Canavan, Steen, Cockrell; NAYS: None; ABSENT: Eureste, Alderete, Archer.

AN ORDINANCE 52,194

AMENDING CHAPTER 42 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS THE SOUTHEAST 300.15' OF THE NORTHEAST 260.86' OF PARCEL 9, NCB 15723, 16475 JUDSON ROAD, FROM TEMPORARY "R-1" SINGLE FAMILY RESIDENTIAL DISTRICT TO "B-2" BUSINESS DISTRICT PROVIDED THAT A SIX FOOT SOLID SCREEN FENCE IS ERECTED AND MAINTAINED ALONG THE SOUTHWEST PROPERTY LINE, ABUTTING THE SINGLE FAMILY RESIDENCES, AND THAT PROPER PLATTING IS ACCOMPLISHED.

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14. CASE 8064 - to rezone lots 31 through 34 and the west irregular 727.5' of the east 1708.3' of Tract 5-C, NCB 11149, in the 4400 Block of Commercial Avenue, in the 700 Block of Chavaneaux Road, from "B" Two Family Residential District and "B-3" Business District to "I-1" Light Industry District, located northeast of the intersection of Commercial Avenue and Chavaneaux Road, having 268.4' on Commercial Avenue and 200' on Chavaneaux Road.

Mr. Gene Camargo, Planning Administrator, explained the proposed change which the Zoning Commission recommended be approved by the City Council.

No citizen appeared to speak in opposition.

After consideration, Mr. Canavan moved that the recommendation of the Zoning Commission be approved provided that the property is properly platted. Mr. Steen seconded the motion. On roll call, the motion, carrying with it the passage of the following Ordinance, prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Eureste, Thompson, Canavan, Steen, Cockrell; NAYS: None; ABSENT: Alderete, Archer.

AN ORDINANCE 52,195

AMENDING CHAPTER 42 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS LOTS 31 THROUGH 34 AND THE WEST IRREGULAR 727.5' OF THE EAST 1708.3' OF TRACT 5-C, NCB 11149, IN THE 4400 BLOCK OF COMMERCIAL AVENUE, IN THE 700 BLOCK OF CHAVANEAUX ROAD, FROM "B" TWO FAMILY RESIDENTIAL DISTRICT AND "B-3" BUSINESS DISTRICT TO "I-1" LIGHT INDUSTRY DISTRICT, PROVIDED THAT THE PROPERTY IS PROPERLY PLATTED.

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15. CASE 8061 - to rezone Lot 12, Block 3-A, NCB 11954, 8423 Eastern Avenue, from "A" Single Family Residential District to "I-1" Light Industry District, located on the west side of Eastern Avenue, being 145' northeast of the intersection of Chulie Drive and Eastern Avenue, having 145' on Eastern Avenue and a depth of 150.2'.

Mr. Gene Camargo, Planning Administrator, explained the proposed change which the Zoning Commission recommended be approved by the City Council.

No citizen appeared to speak in opposition.

After consideration, Mrs. Dutmer moved that the recommendation of the Zoning Commission be approved. Mr. Webb seconded the motion. On roll call, the motion, carrying with it the passage of the following Ordinance, prevailed by the following vote: AYES; Cisneros, Webb, Dutmer, Wing, Eureste, Thompson, Canavan, Archer, Steen, Cockrell; NAYS: None; ABSENT: Alderete.

AN ORDINANCE 52,196

AMENDING CHAPTER 42 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS LOT 12, BLOCK 3-A, NCB 11954, 8423 EASTERN AVENUE, FROM "A" SINGLE FAMILY RESIDENTIAL DISTRICT TO "I-1" LIGHT INDUSTRY DISTRICT.

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16. CASE 8060 - to rezone Lot 64 and the south 110' of the west 72.6' of Lot 37, NCB 11889, 123 Terra Alta Drive, from "A" Single Family Residential District to "R-3" Multiple Family Residential District, located on the north side of Terra Alta Drive, being 200' east of the intersection of Broadway and Terra Alta Drive having 145.2' on Terra Alta Drive and a maximum depth of 420.5'.

Mr. Gene Camargo, Planning Administrator, explained the proposed change which the Zoning Commission recommended be approved by the City Council.

No citizen appeared to speak in opposition.

After consideration, Mr. Canavan moved that the recommendation of the Zoning Commission be approved provided that proper platting is accomplished and that a six foot solid screen fence is erected and maintained on the east and north property lines adjacent to the single family dwellings. Mr. Thompson seconded the motion.

Mr. Archer stated that in talking with the applicant, he had agreed to put a non-access easement along the southern property line adjacent to Terra Alta Drive. He asked if this could be incorporated into the motion.

Mr. Camargo stated that apparently the Zoning Commission had felt that the zoning was appropriate without the non-access easement however, it could be incorporated into the motion if Council so desired.

After discussion, the motion, carrying with it the passage of the following Ordinance, prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Eureste, Thompson, Canavan, Archer, Steen, Cockrell; NAYS: None; ABSENT: Alderete.

AN ORDINANCE 52,197

AMENDING CHAPTER 42 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS LOT 64 AND THE SOUTH 110' OF THE WEST 72.6' OF LOT 37, NCB 11889, 123 TERRA ALTA DRIVE, FROM "A" SINGLE FAMILY RESIDENTIAL DISTRICT TO "R-3" MULTIPLE FAMILY RESIDENTIAL DISTRICT, PROVIDED THAT PROPER PLATTING IS ACCOMPLISHED; THAT A ONE FOOT NON-ACCESS EASEMENT IS PROVIDED ALONG THE SOUTH PROPERTY LINE ADJACENT TO TERRA ALTA DRIVE; AND THAT A SIX FOOT SOLID SCREEN FENCE IS ERECTED AND MAINTAINED ON THE EAST AND NORTH PROPERTY LINES ADJACENT TO THE SINGLE FAMILY DWELLINGS.

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8. CASE 8026 - to rezone Lot 7, Block 6, NCB 11848, 263 Thrushview Drive, from "A" Single Family Residential District to "R-2" Two Family Residential District, located on the west side of Thrushview Lane, being 1180' north of the cutback between Eisenhower Road and Thrushview Lane, having 198' on Thrushview Lane and a depth of 220'.

Mr. Gene Camargo, Planning Administrator, explained the proposed change which the Zoning Commission recommended be approved by the City Council. He stated that sixteen notices were mailed out to the surrounding property owners; four notices were returned in opposition, thirty-eight notices were returned in opposition from outside the 200' radius and two notices were returned in favor. He also stated that nine affirmative votes would be needed to approve the change in zoning.

Mr. Laddie Denton, representing the Denton Development Company and Mr. and Mrs. Johnson, the property owners, explained the proposed plans for the property. He stated that the proposed duplexes would not be detrimental to the neighborhood. He felt that this would be the best and highest use for the subject property.

Mr. Albert D. Hatcher, 7123 Thrushview, President of the Board of Directors of Promenade Townhomes, Inc., spoke in opposition to the reclassification of the area from type "A" Single Family Residential District to "R-2" Two Family Residential District. He expressed concern regarding the high density that is typical of duplex zoning.

Colonel R.A. Icker (retired), 7410 Robin Rest, presented a petition in opposition to the zoning change. (The petition is on file with the minutes of this meeting.) He gave background information regarding the subject property and requested that the zoning be denied.

In rebuttal, Mr. Denton stated that the proposed plan would be utilizing the property to its best and highest use. He also stated that the plans would not detract from the character of the neighborhood.

In response to a question by Mrs. Dutmer, Mr. Camargo explained the classification of "R-5" zoning.

Mr. Steen stated that both the Zoning Commission and staff had recommended approval of this zoning change. He stated that the Denton Development Company has kept a good track record with the City in past cases and at this time made a motion that the recommendation of the Zoning Commission be approved. Mrs. Dutmer seconded the motion.

Mr. Thompson stated that the residents in the area are very much opposed to the zoning change and feels that the City Council has a responsibility to protect the neighborhood.

After discussion and on roll call, the motion to approve the zoning change failed to carry by the following vote: AYES: Webb, Dutmer, Wing, Steen; NAYS: Cisneros, Thompson, Alderete, Canavan, Archer, Cockrell; ABSENT: None; ABSTAIN: Eureste.

CASE 8026 was denied.

9. CASE 8058 - to rezone Lot 1 and Tract 22-C, NCB 12061, in the 1800 Block of Blue Crest Lane and in the 12400 Block of Jones-Maltsberger Road, from Temporary "A" Single Family Residential District to "R-3" Multiple Family Residential District, located west of the intersection of Blue Crest Lane and Jones Maltsberger Road, having 523.2' on Blue Crest Lane and 677.8' on Jones Maltsberger Road; Tract 22-C is located north of the intersection of Blue Crest Lane and Jones Maltsberger Road, having 263.4' on Blue Crest Lane and 234.7' on Jones Maltsberger Road.

Mr. Gene Camargo, Planning Administrator, explained the proposed change which the Zoning Commission recommended be approved by the City Council.

Mr. William Godden, 1827 Blue Crest Lane, representing Mrs. Ethelyne F. Parker the owner, stated that the rezoning request is in the best interest of future housing in San Antonio. He stated that there needs to be more multiple family units in San Antonio and should the rezoning be granted the applicant would have a better chance to sell this piece of property. He urged the passage of the rezoning request.

Mr. Jack Crawford, 1454 Bluecrest Lane, stated that the area has been of a residential character. He spoke about the existing traffic and the fact that the zoning change would cause congestion. He expressed concern that an "R-3" type zoning would allow construction of approximately 680 units on the subject property. He spoke about retaining the residential character of the neighborhood.

Mr. A.W. Harris, 1730 Blue Crest, stated that his property adjoins Mrs. Parker's and spoke in opposition to the zoning change. He stated that it is a beautiful piece of property and expressed concern as to what would happen to the property should the zoning be changed.

Mrs. Thomas Earley, 4302 Limpio, spoke in opposition to the rezoning request. She expressed concern that the streets are not wide enough to take care of the present traffic congestion.

In rebuttal, Mr. Godden stated that other development that has occurred in the area is responsible for the changing of the neighborhood. He stated that he doesn't feel that "R-3" zoning would deter from the other residents' homes. He stated that the traffic density problem has existed for some time. He asked the Council to consider the zoning request on behalf of Mrs. Parker.

Mr. Steen expressed concern that there are no definite plans for the subject property at the present time and was not in favor of rezoning the land just for the purpose of selling it.

At this time, Mr. Steen made a motion that the zoning request be denied. Mr. Canavan seconded the motion. On roll call, the motion to deny, prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Eureste, Thompson, Alderete, Canavan, Archer, Steen, Cockrell; NAYS: None; ABSENT: Wing.

CASE 8058 was denied.

10. CASE 7992 - to rezone a 16.662 acre tract of land out of NCB 12174, being further described by field notes filed in the Office of the City Clerk, in the 1000 Block of Holbrook Road, from "A" Single Family Residential District, "B-2" Business District, "P-1(B-2)" Planned Unit Development Business District and "P-1(B-3)" Planned Unit Development Business District to "R-3" Multiple Family Residential District, located on the northeast side of Holbrook Road, being 230' northwest of the intersection of Holbrook Road and Rittiman Road, having 355.85' on Holbrook Road and a maximum depth of 1250'; to rezone a 4.120 acre tract of land out of NCB 12174, being further described by field notes filed in the Office of the City Clerk, from "A" Single Family Residential District and "B-2" Business District to "B-3R" Restrictive Business District, located northeast of the intersection of Holbrook Road and Rittiman Road, having 239.04' on Holbrook Road and 839.59' on Rittiman Road.

Mr. Gene Camargo, Planning Administrator, explained the proposed change which the Zoning Commission recommended be approved by the City Council.

No citizen appeared to speak in opposition.

After consideration, Mr. Wing moved that the recommendation of the Zoning Commission be approved provided that proper platting is accomplished; that a six foot solid screen fence is erected and maintained adjacent to the single family residences; and that a non-access easement is imposed adjacent to Maji and Bloomdale. Mr. Archer seconded the motion. On roll call, the motion, carrying with it the passage of the following Ordinance, prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Eureste, Canavan, Archer, Steen, Cockrell; NAYS: Thompson; ABSENT: Alderete.

AN ORDINANCE 52,198

AMENDING CHAPTER 42 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS A 16.662 ACRE TRACT OF LAND OUT OF NCB 12174, BEING FURTHER DESCRIBED BY FIELD NOTES FILED IN THE OFFICE OF THE CITY CLERK, IN THE 1000 BLOCK OF HOLBROOK ROAD, FROM "A" SINGLE FAMILY RESIDENTIAL DISTRICT, "B-2" BUSINESS DISTRICT, "P-1(B-2)" PLANNED UNIT DEVELOPMENT BUSINESS DISTRICT AND "P-1(B-3)" PLANNED UNIT DEVELOPMENT BUSINESS DISTRICT TO "R-3" MULTIPLE FAMILY RESIDENTIAL DISTRICT AND A 4.240 ACRE TRACT OF LAND OUT OF NCB 12174, BEING FURTHER DESCRIBED BY FIELD NOTES FILED IN THE OFFICE OF THE CITY CLERK FROM "A" SINGLE FAMILY RESIDENTIAL DISTRICT AND "B-2" BUSINESS DISTRICT TO "B-3R" RESTRICTIVE BUSINESS DISTRICT, PROVIDED THAT PROPER PLATTING IS ACCOMPLISHED AND THAT A SIX FOOT SOLID SCREEN FENCE IS ERECTED AND MAINTAINED ADJACENT TO THE SINGLE FAMILY RESIDENCES; AND THAT A NON-ACCESS EASEMENT IS IMPOSED ADJACENT TO MAJI AND BLOOMDALE.

* * * *

11. CASE 8041 - to rezone Tract 16-B, NCB 8407, 3735 Fredericksburg Road, from "E" Office District and "F" Local Retail District to "B-2" Business District, located on the southwest side of Fredericksburg Road, being 140' southeast of the intersection of Williamsburg Place and Fredericksburg Road, having 25.05' on Fredericksburg Road and a maximum depth of 500'.

Mr. Gene Camargo, Planning Administrator, explained the proposed change which the Zoning Commission recommended be approved by the City Council.

No citizen appeared to speak in opposition.

Ms. Theresa A. Cameron, the applicant explained the proposed plans for the subject property.

Mr. Archer stated that he is familiar with the area and noted that Staff recommends that this request be denied. He expressed concern that the proposed plans would be an intrusion into a residential neighborhood.

At this time, Mr. Archer made a motion to deny the requested change in zoning. Mr. Canavan seconded the motion. On roll call, the motion to deny prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Eureste, Thompson, Canavan, Archer, Steen, Cockrell; NAYS: None; ABSENT: Alderete.

CASE 8041 was denied.

12. CASE 8002 - to rezone a 1.167 acre tract of land out of NCB 14940, being further described by field notes filed in the Office of the City Clerk, in the 12100 Block of Leonhardt Road, from Temporary "R-1" Single Family Residential District to "B-1" Business District, located west of the intersection of Leonhardt Road and El Sendero, having 182.64' on Leonhardt Road and 331.91' on El Sendero.

Mr. Gene Camargo, Planning Administrator, explained the proposed change which the Zoning Commission recommended be approved by the City Council.

No citizen appeared to speak in opposition.

After consideration, Mr. Canavan moved that the recommendation of the Zoning Commission be approved provided that proper platting is accomplished; that a six foot solid screen fence is erected and maintained along the southwest and northwest property line in accordance with the City Code requirements. Mr. Steen seconded the motion. On roll call, the motion, carrying with it the passage of the following Ordinance, prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Eureste, Canavan, Archer, Steen, Cockrell; NAYS: Thompson; ABSENT: Alderete.

AN ORDINANCE 52,199

AMENDING CHAPTER 42 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS A 1.167 ACRE TRACT OF LAND OUT OF NCB 14940, BEING FURTHER DESCRIBED BY FIELD NOTES FILED IN THE OFFICE OF THE CITY CLERK, IN THE 12100 BLOCK OF LEONHARDT ROAD, FROM TEMPORARY "R-1" SINGLE FAMILY RESIDENTIAL DISTRICT TO "B-1" BUSINESS DISTRICT, PROVIDED THAT PROPER PLATTING IS ACCOMPLISHED AND THAT A SIX FOOT SOLID SCREEN FENCE IS ERECTED AND MAINTAINED ALONG THE SOUTHWEST AND NORTHWEST PROPERTY LINES IN ACCORDANCE WITH THE CITY CODE REQUIREMENTS.

* * * *

80-23 The following Ordinances were read by the Clerk and after consideration, on motion made and duly seconded, were each passed and approved by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Eureste, Thompson, Canavan, Archer, Steen, Cockrell; NAYS: None; ABSENT: Alderete.

AN ORDINANCE 52,200

AUTHORIZING EXECUTION OF FIELD ALTERATION NO. 13 TO THE CONTRACT FOR THE LONE STAR BOULEVARD OUTFALL (PLACEMENT OF GRAVEL SUBGRADE FILLER TO STABILIZE SOIL).

* * * *

AN ORDINANCE 52,201

ACCEPTING THE LOW QUALIFIED BID OF H.B. ZACHRY COMPANY IN THE AMOUNT OF \$179,561 FOR CONSTRUCTION OF THE STONEHILL SUBDIVISION OFF-SITE SANITARY SEWER MAIN (ALTERNATE B), AUTHORIZING EXECUTION OF A STANDARD PUBLIC WORKS CONTRACT, APPROPRIATING FUNDS AND AUTHORIZING PAYMENT OF SUCH WORK, ENGINEERING FEES, AND CONTINGENCIES.

* * * *

AN ORDINANCE 52,202

ACCEPTING THE LOW QUALIFIED BID OF RAY CARPENTER CO. IN THE AMOUNT OF \$85,369.60 FOR CONSTRUCTION OF THE NORTH HILLS VILLAGE UNIT I OFF-SITE SANITARY SEWER PROJECT, AUTHORIZING EXECUTION OF A STANDARD PUBLIC WORKS CONSTRUCTION CONTRACT, APPROPRIATING FUNDS, AND AUTHORIZING PAYMENT FOR SUCH WORK, AND CONSTRUCTION CONTINGENCIES.

* * * *

80-23 Mayor Cockrell was obliged to leave the meeting and Mayor Pro-Tem Cisneros presided.

80-23 The Clerk read the following Ordinance:

AN ORDINANCE 52,203

AUTHORIZING A LEASE AGREEMENT FOR A CONSIDERATION OF ONE DOLLAR, BETWEEN THE CITY AND THE SAN ANTONIO INDEPENDENT SCHOOL DISTRICT FOR THE UTILIZATION OF THE GONZALES ELEMENTARY SCHOOL AS AN ADULT EDUCATION CENTER DURING THE PERIOD FROM MAY 1, 1980 TO AUGUST 1, 1981; AND AUTHORIZING THE PAYMENT OF INSURANCE, MAINTENANCE AND UTILITY COSTS FOR THE DURATION OF THE LEASE.

* * * *

Dr. Cisneros moved to approve the Ordinance. Mr. Steen seconded the motion.

In response to a question by Mr. Archer, Mr. Eddie Garcia, Assistant Director for CETA Program Management, explained that there is adequate off-street parking. He stated that many of the participants will be taking the Northside bus and they had not anticipated any problems. He explained the ingress and egress to the facility.

After discussion, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Eureste, Thompson, Alderete, Canavan, Archer, Steen; NAYS: None; ABSENT: Cockrell.

80-23 The Clerk read the following Ordinance:

AN ORDINANCE 52,204

AUTHORIZING EXECUTION OF AN AGREEMENT WITH THE NATIONAL ALLIANCE OF BUSINESS FOR LEASE OF BUILDINGS NO. 560A-560B IN HEMISFAIR PLAZA FOR USE AS OFFICES FOR THE SUMMER YOUTH EMPLOYMENT SERVICE, FOR A TWO MONTH TERM, AT \$2.00 RENTAL.

* * * *

Mr. Archer moved to approve the Ordinance. Mr. Steen seconded the motion.

In response to Mr. Thompson, Mr. Joe Madison, Acting Director of Convention Facilities explained that this vacant space has been vacant for the past six months and that 800 square feet is being leased to help pay the utility costs.

In response to a question by Mrs. Dutmer, Mr. Madison stated that the lease is for two months.

After discussion, the motion, carrying with it the passage of the Ordinance, prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Eureste, Thompson, Alderete, Canavan, Archer, Steen; NAYS: None; ABSENT: Cockrell.

The Clerk read the following Ordinance:

AN ORDINANCE 52,205

AUTHORIZING THE SUBMISSION OF A JOINT APPLICATION WITH BEXAR COUNTY TO THE CRIMINAL JUSTICE DIVISION OF THE GOVERNOR'S OFFICE FOR A GRANT IN THE AMOUNT OF \$114,928 FOR CONTINUING THE METROPOLITAN CRIMINAL JUSTICE PLANNING UNIT.

* * * *

Mr. Steen moved to approve the Ordinance. Mr. Wing seconded the motion.

In response to a question by Mr. Webb, Mr. Marcus Jahns, Director of the Budget and Research Department, explained the general duties of the Metropolitan Criminal Justice Planning Unit.

Mr. Webb expressed concern as to what the Planning Unit does or is doing in directing funds that come into the City from LEAA. He stated that he was also concerned about areas of community relations.

Mr. Thompson stated that he would like some information as to what the planning unit has done in the past year and also information as to what this unit has done in the past year's budget and what the City may expect in this year's budget with this amount of money.

Mr. Jahns then explained that the planning unit basically looks at the crime statistics and various other information in order to identify what the needs of the community are and then they establish certain goals and objectives that should be accomplished.

In response to Mr. Thompson, Mr. Jahns stated that he would be providing the Council with a report on the activities of the Metro-Criminal Justice Planning Unit during the last year.

At this time, Mr. Eureste requested a report regarding the gang fight and shooting that occurred at the San Juan Homes on May 10, 1980.

Mr. Steen felt that it would be easier to get a thorough briefing from the people who serve on the Criminal Justice Council.

Mr. Eureste asked for a presentation from the Police Department at the Council's next briefing on the functions of the Sheriff's Department.

After discussion and on roll call, the motion carrying with it the passage of the Ordinance, prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Eureste, Thompson, Alderete, Canavan, Archer, Steen; NAYS: None; ABSENT: Cockrell.

80-23 The following Ordinances and Resolution were read by the Clerk and after consideration, on motion made and duly seconded, were each passed and approved by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Eureste, Thompson, Alderete, Canavan, Archer, Steen; NAYS: None; ABSENT: Cockrell.

AN ORDINANCE 52,206

AUTHORIZING SUBMISSION OF 1980/81 PROJECT NOTIFICATION SHEETS TO THE TEXAS CRIMINAL JUSTICE DIVISION OF THE OFFICE OF THE GOVERNOR.

* * * *

A RESOLUTION
NO. 80-23-42

AUTHORIZING THE CITY ATTORNEY TO INSTITUTE ALL LEGAL PROCEEDINGS NECESSARY TO OBTAIN RELIEF FOR DAMAGES SUFFERED BY THE CITY OF SAN ANTONIO IN CONNECTION WITH LEON CREEK WASTEWATER TREATMENT PLANT PROJECT WPC-TEX-826.

* * * *

AN ORDINANCE 52,207

SETTING THE DATE, TIME AND PLACE FOR PUBLIC HEARINGS ON AMENDMENTS TO THE COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AND THE ALLOCATION OF GENERAL REVENUE SHARING FUNDS.

* * * *

80-23

DISCUSSION ON THE PROPOSED CHARGES TO THE SAN ANTONIO
INDEPENDENT SCHOOL DISTRICT FOR THE
COLLECTION OF AD VALOREM TAXES

Mr. Canavan made a motion to authorize the City to negotiate with the San Antonio Independent School District for fair and equitable charges and move Staff recommendation. Mrs. Dutmer seconded the motion.

MR. MARCUS JAHNS, DIRECTOR OF BUDGET AND RESEARCH: The City has been assessing and collecting taxes for the San Antonio Independent without charge since 1910. However, due to changes in the Property Tax Code and Education code, the Legal Department is issuing an opinion which will allow the City to charge for these services. The San Independent School District is the only school district in the City which has been provided these services at no charge which places the City in somewhat an awkward position of subsidizing one school district at the expense of all the other school districts in the City. We also feel that this leaves us open to potential litigation. Other school districts in the County either provide their own collection of assessing services or they contract with the County or other school districts and generally the fee paid has been 2% of the collections for this service. In addition, the City has experienced some extra-ordinary costs which are associated with the School Practices Assessment Act whereby you have to send out special notices for the school districts when they change their assessment ratio and other cases when you have the whole tax exemption. We estimate that we expended \$100,000.00 for the school district which the City had no involvement in it at all, which we have not been reimbursed, however, we have requested payments for it. It is therefore recommended that Council give us authorization to work with the school district in negotiating a fare and charge for these services. I believe Ms. Macon can address any legal questions you may have.

MAYOR PRO-TEM HENRY G. CISNEROS: There is a motion to that effect and we have two Councilmembers' questions. Ms. Macon if a legal question comes up we will refer it to you.

MS. JANE MACON, CITY ATTORNEY: I believe we briefed the Council last time but we will be glad to do whatever.

MR. ROBERT THOMPSON: The concern I had was what reaction does the school board have about this, what kind of interplay have we had or dialogue have we had with them in regards to this. They're going to reimburse us \$100,000.00. Have we conferred with them about this? Do we have any . . .

MR. JAHNS: As you recall, Councilman Thompson, we brought this issue to the Council thirty days ago and they requested a 30-day delay. I believe Ms. Macon has been in touch with them. They have not been in touch with me.

MR. THOMPSON: Well, they were here that day.

MS. MACON: Mr. Pete Torres is here who represents the School Board and has written a letter to the School Board regarding this matter as well as some discussion on that. I will not paraphrase basically what he obviously has a different opinion than we do on the matter but we all agree on the Statute.

DR. CISNEROS: Does that exhaust your question or did you want to take it further?

MR. THOMPSON: Well, I'm not sure what the School Board's position is if tomorrow we hear the City bankrupts School Board, I'm a little disturbed about this, I don't know what the facts of this is going to be.

DR. CISNEROS: If I may get the Council's wishes on this, Mr. Torres, Attorney for the School District is here. He is not signed up as a citizen as the normal procedure but Mr. Thompson has asked a question that requires an answer from a representative from the School District. Is it the Council's pleasure that we hear the answer, directly from Mr. Torres?

MRS. DUTMER: Sure, this is business.

MR. PETE TORRES, ATTORNEY FOR THE SAN ANTONIO INDEPENDENT

SCHOOL DISTRICT: Dr. Cisneros, thank you for the opportunity to address the Council. I have, I discussed this with my Board at the last Board meeting last Monday evening. And I have been . . . Councilman Thompson asked for an opinion in response to the position that the City was taking, that is Section 23.96C of the Texas Education Code recently adopted which provides that the School District shall pay for this service. Of course, the service has been provided by the City of San Antonio under Section 152 of the San Antonio City Charter which specifically states that there shall be no charge for this service. The position that we are taking of course, is that if the City did charge for this service, that it would be contrary to your own City Charter and of course, that you would not be able to provide a charge without contravening your City Charter. Further, Section 23.96C of the Education Code under which I believe the City Attorney's staff is relying for imposing this charge also says that the charge shall be such an amount as may be agreed upon by the governing bodies. And of course, our position is that that agreed upon charge is stated in Section 152 of the San Antonio City Charter. I may add also, that there are a number of services that we provide to the City at less than commercial rates. If I could look at the intent of the framers of our present City Charter, as to why that provision was injected into the City Charter, I think I could read into it that it was conceived that there would be a cooperative venture between the City and the School District in a number of matters, one of which is the taxing situation in terms of facilities that we provide for you. We provide at election time, facilities for your polls which are less than commercial rates. I believe that we provide summer recreational facilities, less than commercial rates, so that there is a give and take in this kind of thing. I believe that the position of our Board is that if we are going to be charged for the collection of the taxes then of course, we would have to countermand with a charge, to charge the City at commercial rates for other services that we provide. I would be more than happy to answer that basically, Councilman Thompson is the position that our Board has taken, sir.

MR. THOMPSON: Okay, so you are saying that 23.96C, the State Statute which allows the City and the School to negotiate a price has in fact, been negotiated by virtue of the position taking under our City Charter of Section 152, wherein we have said that we will do that, at no cost to the School Board.

MR. TORRES: That is, essentially correct.

MR. THOMPSON: Okay, now, are there any other services that the School provides to the City other than providing locations for voting on City Elections?

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MR. TORRES: I asked Mr. Frank Medina, our Deputy, one of our Deputy Superintendents, and he provided me with a memorandum stating that we, the San Antonio School District does lease various School biddings to the City of San Antonio for City Elections, one, number two, recreational summer programs and number three, lease of buildings for special grants, or projects. He adds that the only charge to the City for the use of our facilities, is for the time of our custodian during elections of the lease of a building. The total reimbursement from the rental of the San Antonio Independent School District facilities since last March, 1979 has been \$13,263.00. If the district he goes on were to rent these same properties to the City on commercial rates, then the City would have to pay approximately \$245,000.00 using a fifty cent per square foot per month also charging for utilities and by billing for the total incurred labor cost. So, that if we were to equalize the situation, you would owe us \$145,000.00 per year.

MR. THOMPSON: Are you saying that we would have to pay rent for the whole year if just held an Election at one of the facilities?

MR. TORRES: Well, we're talking about on the basis of the use of the facilities in the past that we would have to estimate an annual rental would be, from what we have calculated, \$245,000.00, Councilman, per year for what you have used these facilities, taken into consideration, summer recreation and these things.

MR. THOMPSON: We must use a lot of space in the summer recreation. We really don't. . . .one Saturday, maybe twice a year, at the most for our Election facilities.

MR. TORRES: Well, that's for Election facilities, but when we talk about summer recreation programs, you understand, there is a number of school facilities that are used throughout the summer.

MR. THOMPSON: Well, we look to each of the School Boards, some fourteen or fifteen school districts in the City for participation for a kind of an in-kind contribution for those programs and the San Antonio Independent School District is no different. We don't ask more of them than we do of some of the other school districts.

MR. TORRES: I recognize that. Any other questions?

DR. CISNEROS: Does that exhaust your questions, Mr. Thompson?

MR. THOMPSON: No, I'm satisfied. Thank you very much, Mr. Torres.

MR. TORRES: Thank you.

DR. CISNEROS: Mrs. Dutmer.

MRS. HELEN DUTMER: Mr. Torres, of course, our City Charter as you well know, follows the State Statute's words applicable and we have to adhere to the State Law simply because it supercedes the City. Now, that the State has changed that law, our Charter automatically changes because that law still supercedes the City. We have our choice, now. We either can or cannot, before it was a mandate. Now, it is no longer a mandate, it is left up to us. So, while I realize that the School District does a lot for the City at the same time, they don't do that much. And, I for one have questioned any number of times why they don't change the law whereby we can collect. I see now that the School District has released their funds on a negotiated basis, tit for tat on the \$400,000.00 that they owe, that we feel that they owe on, in lieu of taxes.

MR. TORRES: The in-lieu of taxes to the City Public Service Board, yes Madam.

MRS. DUTMER: Alright, they negotiated that and that's their prerogative. But at the same time, this is an on-going situation here, and it does cost an awful lot of money. Everytime they take a vote, we have to send out notices.

MR. TORRES: Well, is that a question, Councilwoman Dutmer?

MRS. DUTMER: Well, no, I would ask you, Mr. Torres, do you think that a 10% plus the actual cost of anything extra is being unduly harsh with the School District in exchange for us using their Schools once every two years?

MR. TORRES: I think that there is an overlapping in our responsibilities and in the services that we provide and the reason it's overlapping, if you charge the San Antonio School District that is, if the City charges the School District, we have contiguous territories and we have contiguous tax payers and ultimately the tax payer would bear the brunt in the final analysis anyway. And, so, it comes out of the same pocket. What I was so keenly interested in Councilman Eureste's comments earlier about why we have a Sheriff's Office and frankly I think that is germane to the situation we are talking about. When we talk about the City and the School District cooperating on the tax assessment business, we are eliminating some of the overlapping and some of the duplication that is evident in the Police functions, just by way of analogy. Going back to your original proposition of whether the State mandates under 23.96C, and I recognize that you are not a lawyer and you have to rely on the interpretations given you, there is no mandate by 23.96C, Councilwoman Dutmer, that says that you have to assess that charge, it merely provides a charge shall be assessed as agreed upon by the governmental agencies. And your agency and our agency has agreed upon a charge being no charge under Section 152 which regulates you. And it specifically says that you shall not charge for this function.

DR. CISNEROS: Mrs. Dutmer, does that answer your question?

MRS. DUTMER: Well, in a few thousand words, more or less, yes.

MR. TORRES: I get paid by the word.

MRS. DUTMER: I can see I know attorneys get paid by the hour and that's why they extend it as long as they can. I realize that; I pounded a typewriter for them long enough.

The thing that I can't quite get at, is that I can understand your reasoning if it's a once a year tax statement sent out but everytime they vote over there to change the assessment, everytime they vote to hike the old rate, and everything it has to go out to the people, San Antonio City sends it out, not the San Antonio Independent School District, but San Antonio City.

MR. TORRES: But the City Charter, Madam, was written in 1952 before we were

MRS. DUTMER: And the Constitution was written further back than that.

MR. TORRES: That is absolutely correct. The City Charter that regulates you does specifically say that there shall be no charge for these services. Are there any other questions, Dr. Cisneros?

DR. CISNEROS: No other persons are signed, if that concludes Mrs. Dutmer's question, I'm not sure it does.

MRS. DUTMER: Well, we might as well conclude it, we're not going to get anywhere anyhow, just going to bump heads.

DR. CISNEROS: There is no other person signed to speak, except Mr. Eureste.

MR. BERNARDO EURESTE: Yes, if the Charter does state that the City will do this for the School District, or perform this function for the School District, then how, don't we have to follow the Charter? I mean, if the State Law was mandating us to do something, then I can understand that it then I can understand that the State Law would supercede. But there is no mandating required.

MS. MACON: This gives you the authority. Our position is, Mr. Eureste, that the two Statutes, the Peveto Bill and the Education Act, 23.96 give you the authority to ask the School District, or require the School District to pay. Now, Mr. Torres' position is that there was already an agreement prior to passage of this act and that that carries forth. We feel that under these Statutes, you now have the authority to ask the School District to pay. I might point out to the Council, that this particular provision, the Charter has been around since 1910, and was merely picked up in 1952 and carried forward. So, in fact the City has been collecting the taxes for the School District since 1910. One other matter is that in the Texas Constitution under Article 3, Section 51 and 52, you will recall that it says that we should not perform public services for free and there is a case on point, that was cited in 1948, the style of the case was San Antonio Independent School District vs. Board of Trustees of the San Antonio Electric Company and it says that a City cannot donate its funds to an independent Municipal Corporation, such as an Independent School District. And so, we feel that all those working together would now give you the authority but let me stress that this is a policy-decision on this Council and from that standpoint it is policy and it's the direction that you would give us that we are looking to.

MR. EURESTE: Well, it seems to me that it would require a Charter amendment.

MS. MACON: That is the legal question. Our position is that there is enough Statutory authority that would supercede the Charter and give you authority to require the School District to pay.

MR. EURESTE: Well, let me cite the example. There was Statutory authority that would have allowed for City Councils to be elected by districts. Was there any prohibition to that?

MS. MACON: There was no specific statute that apply to districting for City Council. The Voting Rights Act merely dealt with equality, as it is related to voting and so the Council considered districting as one means of alleviating what the Justice Department considered to be a problem under the Voting Rights Act.

MR. EURESTE: Yes, but then it was for the Council to decide, it was for the people who passed the Charter to decide.

MS. MACON: That's correct but there was no Statute that was specifically dealing with that, is the distinction that we would make. Obviously, you could argue both sides of the question.

But we feel that there are enough Statutory authority and the Constitution provides enough basis that if the Council felt that in their wisdom, from a policy standpoint that they would like to require or ask the School District to pay for this service that we have been performing since 1910, then it's your decision, but it is a business decision.

MR. EURESTE: Let me ask, how much money does it cost us to do for them what we do? Like this here, what will it cost us in a twelve-month period?

MR. JAHNS: For the collection in assessment services, we estimate that probably somewhere in the neighborhood of as much as \$500,000.00, just to do the collecting and assessing. In addition to that we are also involved with the contract with the County in the Metropolitan Tax Office whereby we in effect are paying for the reappraisal for the value of the School District, as well as our own. We estimate that to be another \$500,000.00. The total amount comes to as much as a million dollars.

DR. CISNEROS: Does that terminate your questioning, Mr. Eureste?

MR. EURESTE: No, you see because it does not say here. You don't have it here, right. You don't have the cost broken down to half a million dollars.

MR. JAHNS: No sir, this is very difficult to estimate for one thing and I really think that it is a matter that is subject to negotiation with the School District in terms of what is fair and equitable.

MS. MACON: If the Council were to negotiate this with the School District then whatever was the result of that negotiation, of course, would come back to this Council for discussion and vote.

MR. EURESTE: How much is that re-appraisal program going to cost all together? One and a half million?

MR. JAHNS: One and a half million.

MR. EURESTE: And you're saying that the School District's cost there would be half? I mean one third?

MR. JAHNS: It's approximately forty-five percent of the total accounts.

MR. EURESTE: And how much does the County pay? Does that include the County's cost?

MR. JAHNS: The County pays 53% of the reappraisal.

MR. EURESTE: And the City 47.

MR. JAHNS: Right.

MR. EURESTE: And you're telling me that the School District's cost would be one-third of 1.5, which is 33%?

MR. JAHNS: In addition to the reappraisal we also have additional costs which are associated with just maintaining the existing account which runs \$750,000.00 a year.

MR. EURESTE: No, but you had cited two different costs, you had cited the current cost.

MR. JAHNS: Well, there are two different type of costs. There are the collection, assessing and collection costs. . .

MR. EURESTE: Which you estimated at . . .

MR. JAHNS: As much as a half a million dollars.

MR. EURESTE: To the School District . . .

MR. JAHNS: It would be their fair share, yes sir.

MR. EURESTE: And the reappraisal cost to the School District?

MR. JAHNS: About a half a million dollars there also. Which would be one-third.

MR. EURESTE: I can't understand how the School District would pay one-third when you've got the City involved and the County involved and the County is bigger than the City and the City is bigger than the School District. How many households does the School District have in comparison to the City?

MR. LOUIS FOX, ASSISTANT CITY MANAGER: Let me address that, as you know, the City Council authorizes the City's participation in the MTO. Other School Districts within the City are not participating at this point with the County and there may be one or two, I'm not certain. They pay a cost per parcel, in other words, they will buy those values and the City of San Antonio buys, we represent a negotiated forty-seven percent of the total cost. And the Northside Independent School District, for example, pays for their own assessment and their own appraisal services. The San Antonio Independent School District has no staff, has no vehicle for providing to collect their taxes, assessed or appraised. So, what we're saying is that if we are partners with the School District in a joint appraisal program, then we would request that they pay a part of this cost. When Mr. Jahns says, one-third, it's my understanding that 45% of all the parcels of the City, are within the San Antonio Independent School District

and then there are overlapping jurisdictions or jurisdictions outside of those boundaries. What we're saying is that if the San Antonio Independent School District does not choose to work with the City, then they have a choice of negotiating with the Council themselves, or for that service, or establishing their own tax office. That was the rationale behind charging them a share of the cost of the City expense.

MR. EURESTE: I understand. What I find arbitrary is the amount that you are proposing to charge them. That is what I find arbitrary. And if I find that arbitrary, it makes it kind of difficult to compare that cost to the contributions that are made by the School District in other arrangements that we have with them in other matter.

MR. FOX: I think you're right, that is a very arbitrary number and what we're proposing is for you to give us authority to sit down and negotiate what both parties feel is a fair and equitable number.

MR. EURESTE: I'm saying that it's very likely that the trade-off is, cancels each other out. And I mean, my figure is as good as yours. And that it balances out and the other one is that we have, you know, a long-standing tradition, a long-standing pattern that has really brought no harm to anyone. Why impose on the School District a situation where they have to go out and hire staff and get all tied up in, basically a duplication, of what is already being performed. And I don't know why the idea to charge the School District for something that has been allowed in the Charter and sure, we have State Law that allows us to do something different, but there is no mandating by the State that we do this. I can see the State mandating us to do something, but there is no requirement on the part of the State for us to do this. And I say that until we get a Charter revision and the people of San Antonio want to change it, at that point, then we do it. But, the people of San Antonio have not asked for that change. And I think that the people who put that Charter together, felt that we should provide this service. And the in-product has been a good relationship between the School District and the City and I would assume that we use more facilities of the San Antonio Independent School District than we do the facilities of the other School Districts, I would assume that to be the case. There's more trade-off, we relate to them more often, in business terms, than we would with other School Districts. I'm not saying that we don't do it with other School Districts, but I think that with the San Antonio Independent School District, we do more business with them. That's the end of my . . .

DR. CISNEROS: Mrs. Dutmer.

MRS. DUTMER: I became a little frustrated a little while ago, but I have served on every Charter Commission that this City has had on revision of the Charter and each and every one of you will look at the record that is documented, I asked the question why we were collecting School District taxes for nothing. On each board, we had at least two attorneys, and on one, we had the Attorney, John Daniels and Cecil Wheatley, who I think everyone knows, knows their law pretty doggone well. In addition, we had Jerry Henckel and everytime, I was informed, because it was a State Statute. Now, I may not be an attorney but I am able to understand pure old United States English, and this is what I was told, and so I would take their word at it. Now, I ask the question again, as to why we are not charging and then let the City of San Antonio pay the debts that we owe the School District and the School District pay us what they owe us and there will never be anymore squabbles about it.

DR. CISNEROS: Mr. Thompson.

MR. THOMPSON: How can we, if, I'm not sure of the stability on our practical position we're in in negotiating. I'm not sure that there is a middle in this. Either we are in fact obligated to do this or I can't justify any kind of negotiative position. On behalf of the people that pay taxes in Edgewood, and Southwest, and South San of my district. How can their City taxes and the taxes they pay to their School, how can their City taxes go to support another School District. I don't think it can. So, I'm against any negotiating position, either in fact, we are with an agreement or we have none and if our Legal staff

tells us that we are not bound with that Charter position, I'm against any position, any sharing of tax funds collected out of other School Districts to support another School District.

DR. CISNEROS: I think the question of negotiation was not so much to find a middle ground, but to interpret how to define the number that would be used. That is to say, it is difficult to know exactly what the charge, what the costs are, depending on various interpretations.

MS. MACON: That's correct, the Statute, Mr. Thompson, says an amount as may be agreed upon. So when we say, negotiation, that's probably a mis-number in terms of the semantics. Basically, what we're saying is to work out a contract.

MR. THOMPSON: So, it's a fair value, and you're negotiating that figure.

MR. JOE ALDERETE: Jane, what is the pending of State Statute on City Manager, Council form of government versus strong Mayor form of government.

MS. MACON: It's a home-rule, Mr. Alderete. Basically, it's up to City Charter and our Charter provides for Council-Manager government and it depends under the home rule Statute and it is up to the voters and up to the electorate to determine the type of government that they want under that home-rule Statute. It does not, the State Statute does not specifically deal with whether you have a strong Mayor or Council-Manager government.

MR. ALDERETE: It doesn't deal with it.

MS. MACON: It embodies, the home-rule gives you authority in numerous ways and one of the authorities under home rule is for the Local Electorate to make that decision and we have done so through our Charter.

MR. ALDERETE: Well, following your line of approach on your legal interpretation here, if the Charter was voted upon by the Citizens of the City of San Antonio and your opinion on the charging of SAISD is saying that the Council can overcome or overrule a point in the City Charter, something that, a legal document that was voted upon by the electorate, in that case, your ruling could also apply that this Council could eliminate the City Manager form of government and go to a strong Mayor.

MS. MACON: No sir, not without a vote of the Electorate, the reason being, if I could just respond just one second. Basically, because the reason rationale that we say that you have authority now is because there is a State Statute that says a School District shall pay for collection and assessment. There is no such Statute that deals with the Council-Manager form of government that says that a City shall have a strong Mayor or the City shall have Council-Manager government. Your home-rule Statute merely gives you the authority to set up through Charter the type of government that you as a City would like to have.

MR. ALDERETE: Let me clarify something. Your seemingly giving me a mandate under the existing law for the School District in that it shall pay, or are you saying that it will pay. Or what are you saying exactly.

MS. MACON: I'm just saying that the Statute says that a School District shall pay, this does not say what a City shall ask for. So, the authority is there for this Council to give direction. It is a business decision. It does not say that City must charge. It says that a School District shall pay, the School District could come in and pay this Council and they could refuse that fee. But it's a policy decision by this Council to make that business decision, whether you want to accept it or request it.

MR. ALDERETE: But that document, in which the School District is allowed to not pay or not be charged for the collection of taxes and the assessment of taxes is a part of our City Charter. Is it not, that was voted upon by the electorate. Is that correct?

MS. MACON: Oh, yes.

MR. ALDERETE: Then I don't understand your legal interpretation. In one instance, the State Statute is saying the School District shall pay if that is decided between the two different governmental agencies and in the home-rule Statute, the City shall determine whether it wants to have City-Manager, Council form of government versus strong Mayor. In both cases, they are saying that the City shall determine what it wants. Is that not correct?

MS. MACON: In both cases they are, Mr. Alderete, the difference is that we have a Statute that says that the School District will do something, you do not have a Statute that says the City will do something. And that is the distinction. Obviously, you can argue both sides of the legal point. We think there is an opportunity for this Council if they desire to charge the School District and you can argue both sides of the issue from a legal issue.

MR. ALDERETE: You just changed your wording from "shall pay" to "will pay" now that's a mandate. Is that what you're saying, that the State Law is a mandate.

MS. MACON: I'm saying that the State Law says "shall" and at this point that is what they are obligated under the Statute to do, it is up to you as to whether you want to ask for that payment. That is all I am saying.

MR. ALDERETE: And the term, "shall" is that a mandate. Or what is your interpretation of the word, "shall."

MS. MACON: I would say that if someone "shall pay," they "will pay". Now, obviously that determines on what your Webster's interpretation is and there are cases on both sides of that issue as to how Webster has defined "shall."

MR. ALDERETE: Thank you.

DR. CISNEROS: We have Mr. Wing up next.

MR. FRANK WING: Ms. Macon, if the negotiation is pursued and there is no agreement, what is the next step?

MS. MACON: Then we would come back to Council and get further direction.

MR. WING: So, there is a possibility that Council direction would dictate litigation of some sort?

MS. MACON: It could, at some future time. This merely sets a policy direction to authorize us to work on an agreement.

MR. WING: I have a problem. The problem being . . .

MS. MACON: But at this point, we are not coming into this Council asking that we have the authority to sue the School District.

MR. WING: I have a problem that we're talking about the same money, the same tax payer money and an additional problem that Mr. Thompson stated that we do have, that my Councilmanic district does not include any schools in the San Antonio Independent School District but three other School Districts. How will they, other School Districts excluded from this type of arrangement, if you will.

MS. MACON: Well, it's my understanding, the Charter you know, was passed in '52 and also, this particular provision by the City Council has been around since 1910 and Mr. Fox can elaborate on the history as to when the other School Districts came in. That's really what happens, is when the other School Districts came into line.

MR. FOX: I think the boundaries of the School District and the City were coterminous at that time.

MR. WING: But what I was trying to state or trying to get out is that why cannot other School Districts qualify for the same type of treatment.

MS. MACON: But our Charter only says the San Antonio Independent School District.

MR. FOX: I've had some contact, by the way, from other School Districts seeking information on this very point and that question has come up and they've asked what services the City might be interested in providing them if they continue to supply the San Antonio Independent School District and I just suggested that the issue surface after the Council direction today, and left it at that. But I've been contacted by three other School Districts asking that question.

MR. WING: You see what the problem is, Lou, that you keep saying, you keep referring back to the Charter that stipulates only the San Antonio Independent School District but yet you say that there is a State Law that says that School Districts may be charged, if School Districts may be charged then other School Districts that are not covered by the Charter can not be charged.

MR. FOX: That would be their request.

MR. WING: But if it's against the Charter, then we have to follow 152, if that makes any sense. Do you see what I am getting at?

(Mayor Cockrell returned to the meeting and presided.)

MAYOR COCKRELL: Mr. Eureste.

MR. EURESTE: How did this thing come up?

MAYOR COCKRELL: May I ask staff to advise?

MS. MACON: I think it actually originated, Mr. Eureste, because we got a question from Budget as to the legal rationale and whether we would research, whether one could collect for the cost of collecting the taxes of the School District so we did research into that and brought it back.

MR. EURESTE: How far back does the School District go, when was it founded? Was the School District, at any one point a part of the City, of the City government?

MAYOR COCKRELL: Mr. Iglehart.

MR. THADDEUS IGLEHART, BACK-TAX ATTORNEY: Yes, sir, up until 1901 the City controlled the School District.

MR. EURESTE: That's why when they separated the School District as a Board, we picked up this obligation under the Charter, at that time.

MR. IGLEHART: Yes, sir, we brought it forward.

MR. EURESTE: At what time did the Charter include . . .

MR. IGLEHART: Okay, in 1911, we were a general City, and the State Legislature gave us a Charter which provided that we would collect the taxes free. In 1914, the citizens adopted a home-rule Charter and we also brought the same provision forward. That we would do it for free.

MR. EURESTE: Okay, I was looking at the City Charters today, that go back to the 1800s, I think I looked at one, 1873, and looked at some other bits and pieces of the Charters from 1839 to 73. And I noted in there that there was a section in the Charter that talked about the school matters, I think, I don't know what we called it, the Director of Education, or the Office of Education, or something like that and I didn't think that our City Fathers would have just included that requirement in the Charter, had there not been a special relationship in the past. And it is, because the School District was a spin-off of our City government, it's something that we controlled and it got spun-off into a Board.

MR. IGLEHART: Yes, it was a municipal school district. We still have such districts.

MR. EURESTE: Right. What it appears to me on the surface, is that the City is trying to find ways to make money and while it's fine to make money, unless there is a real strong mandate, then I just can't see why we go after that money, especially when the money comes out of the same tax payer. Now, I think a fair arrangement would be for the City to go ahead and charge the School District half a million dollars for the annual assessment and collection of taxes and whatever arrangements we work out on the appraisal program, reappraisal program and since we are already paying for that already, using the taxes of the tax payers that we would rebate whatever amount we got from the taxpayers that are paying taxes to the San Antonio Independent School District to pay for this service, that we would rebate that money back to the taxpayers of San Antonio, since it is a savings to them. And to me, that would be fair. But to somehow or another, go out there and collect a half a million and then half a million more and then to hit the School District with a million dollars, which very likely is going to put him in the position of having to reduce services by that amount or raise taxes by that amount. And let's just return that money right back to where it came from. That service is being paid for already. If we were starting from scratch, I could understand, but it is already being covered in the budget and if it's going to make us five hundred thousand or a million dollars fatter in one year, I just don't like to make my money that way. I think we ought to return it right back to where it came from and then let's deal upfront with the School District. If the School District wants to charge us more for their use of their buildings, that's their thing. They can make a decision as to what they want to do. I think to me that would be a fair way to get at this matter. But to simply hit the School District with an extra whatever for this year, for the next year, or for the future and just fatten our budget that much more doesn't make any sense at all. And I represent the tax payer of San Antonio as I represent the tax payer of the School District. It just happens to be the same folks. I pay taxes to the School District, and I pay taxes to the City of San Antonio. I would be a fool to want to go out there and hit the School District with an extra cost and they in turn are going to pass right back down to me. I don't know.

MR. GENE CANAVAN: I can't even believe the discussion. You know, we are elected by the citizens of San Antonio to represent the citizens in affairs of government, not the School District. And when we talk about coming out of the same tax payers' pockets, that's not true, either, because we in certain areas of this community that pay taxes to the northside or northeast or other districts, are subsidizing in this manner the support of the San Antonio Independent School District. I feel that the School District should pay its own way as the other Districts pay their own way. And I don't think that we're looking at a situation that we're fattening the revenue of the City. I think what we're doing is cutting out an expense that I don't feel should be part of the City expenses at this point. I feel that the School District, if they have to raise their taxes, then they are going to have to account to the people within that School District for the quality of education they're putting out. But

I don't think the entire City of San Antonio should continue to pay their taxes or should subsidize them. When we talked about using their facilities, it is very obvious that we use facilities of all the School Districts, and yet they are not charging us to any greater degree than is the San Antonio Independent School District, but I think it's time that when we have an opportunity as a City to cut our expenses to provide better services in the areas that by Charter we are obligated to, then we should take full advantage of it. And I think that everyone in this community realizes that.

MAYOR COCKRELL: Mr. Steen.

MR. JOHN STEEN: Thank you Madam Mayor. You know, in the financial data that is furnished to us on this particular memo that we have on this agenda item, it clearly states, of the fourteen school districts in the County, the San Antonio Independent School District is the only one that this service is provided to free of charge. Accordingly, an argument could be made that the City is subsidizing the San Antonio Independent School District at the expense of all the school districts. Well, like I live in the City of San Antonio, but I live in the Alamo Heights School District, so I pay Alamo Heights School taxes but I pay City of San Antonio taxes on my home. And what I'm doing, and the way we have it arranged now, of course, is subsidizing some of this money for the San Antonio Independent School District and I don't think that is fair to myself or anybody else that does the same thing. And I don't know whether we are going to reach a real crisis this fiscal year that is coming up for the City, or whether it's going to be a year from now, but one of these years, within the next year or two, we're going to have a real financial crisis in this City and we're going to have to be looking for every dollar that we can to support our budget and talk about increasing the school tax rate or their evaluations, whatever, however you want to express it, I think the San Antonio Independent School District just went up and had a pretty good increase on their rates a year ago. If we don't watch out for our own selves, our own budget, and our own money, we're going to be the ones looking for a tax rate increase for the City of San Antonio and I don't think any of us want that with inflation and everybody complaining about everything, I sure don't want to be a party to saying that we're going to increase the tax-rate for our taxes. And for this reason, we have to scramble for every dollar and this is a \$500,000.00 figure that we can pick up in an honest and fair way without even mentioning a tax rate increase. So, I'm fairly in favor of the motion, I think that we have to do things like this, from now on, or we're going to be in more trouble than probably we will be anyway. Thank you, Mayor.

MAYOR COCKRELL: Mrs. Dutmer.

MRS. DUTMER: I think that some of the remarks, I agree with the one that, I've forgotten who it was, that made the statement that we are elected to serve the City and the citizens from the City-government standpoint. And the truth, the money does come out of the same taxpayers' pocket. However, with just elementary mathematics, if the City's take on taxes is for the sake of argument, \$100,000.00 a year and the San Antonio School District receives \$90,000.00 a year but it costs the City \$60,000.00 to sent out those tax statements for both the City and the School District, then we would assume that they would pay \$30,000.00 of it, we would wind up in the City receiving \$60,000.00, while the School District who has not done anything, is still receiving their full \$90,000.00. So, it is costing your City and it is costing your tax payers. It's elementary mathematics.

MR. EURESTE: Would you repeat that again?

MRS. DUTMER: Well, for those who don't quite understand, yes.

MAYOR COCKRELL: Mr. Eureste.

MR. EURESTE: Yes, as I said a while ago, I think this can be approached logically. And I think that I am the only one that is approaching it logically. Mathematics has it that if the City of San Antonio has a budget and the School District already has a budget and you are now telling the School District that it's going to cost them, well, it is not a new cost to the City. It is not a new cost to the City. That cost has been

there since the year, 1901 or 1902 or 1911, whenever you want to conclude that it became a requirement that we do this. So, we have been bearing this expense. To hit the School District with an extra half-a-million and just to take that money as a new revenue for the City and not rebate that, I don't see how you're saving anybody anything. Yes, you are getting the School District but the School District also happens to be a tax payer, happens to be individuals who walk the street. It is not an inhuman entity and I don't know how the magic of this Council and the logic that this Council uses to go out there and make sure that the School District pays, well, fine, that argument is fine, but the revenues are just going to become added revenues to the City and in the process you are representing the City, you are representing City government but at the same time, you have just clipped the very people you represent to the two-and-a-half million dollars. Now, if they give awards for that, I hope that nobody is out there giving awards for this type of logic. But if they do that, you know, if we want more revenue, we ought to hit them for two million dollars, no I tell you what, let's hit them for everything that has cost us in the past since 1902. I mean, we can do that. Then, we will really get them, and then we'll really stick to them, but it's not the School District it's the very same tax payer that is paying taxes to the City of San Antonio. I don't know where the logic is, that anybody benefits, unless you give the money back. Now, if you are sincere about representing the people of San Antonio, then you give that money back to them. If you are going to hit the School District with \$500,000.00 and another \$500,000.00, with a total of a million dollars, and you're just going to get fat on that, that's not being responsible. If you turn that money around and give it right back to the tax payer of San Antonio, as a tax rebate, as a reduction in their tax, that to me, would be responsible. And I can support that kind of logic, but the other one is nothing more than arbitrariness, it is nothing more than capriciousness, the law allows us to do it, so therefore, we're going to do it, and we're going to stick it to them. But who are we sticking it to? How many here, I don't know how many Council members live in the San Antonio Independent School District? And you return the money to the people that have subsidized this effort. And those people who have subsidized this effort are all the people of San Antonio. A piece of it goes back to people that live within the San Antonio Independent School District and a piece goes to the people that live in the other School District, Harlandale, and the other School Districts throughout the City, Edgewood, Northside, etc., etc. I mean, you know, you can get the money back to them. I just cannot see the logic. You know, I cannot see the logic of you know, getting even with the School District and coming out a million dollars fatter and then saying that you have squirt for the citizens. You have just ripped off the citizens to the tune of either a half-a-million dollars or one million dollars. Now, if you want to rip them off, go ahead and do it, but I won't go along with it. I think it's crazy.

MAYOR COCKRELL: The Chair would like to ask a couple of questions, I missed a little bit of the discussion. Number one, of the City Attorney, did the State Legislation which was changed, mandate that the City charge for the collection?

MS. MACON: No, Madam.

MAYOR COCKRELL: All right, did it invalidate the Charter provision?

MS. MACON: An argument could be made that it supercedes the Charter provisions. There are several thoughts on this, one is the Statute gives the authority to come in and ask or require the School District to pay. The second is, the Constitutional question, if the provision was declared unconstitutional, then of course, it would also be invalidated. But it is definitely a policy and a business decision.

MAYOR COCKRELL: I see, in other words, that the Council at this point could elect either to operate under the new-revised State Law or under our Charter.

MS. MACON: Yes, because the Statute deals with the School District and it says that the School District shall pay.

MAYOR COCKRELL: It would seem to me that there are several courses that are open to the City, one of which is to follow the recommended course, another would be to consider in a Charter revision, asking the citizens if they wish to repeal the section of the Charter that mandated the collection and that would in effect, clear any possible confusion at all. So, that would be another approach. Mrs. Dutmer.

MRS. DUTMER: Yes, I'm not going to pass the buck to someone else. It's our decision that we have to make, and we might as well make it. As I see it now, addressing my colleague's arguments over here, I think those are rather illogical. I don't see how the City of San Antonio in collecting from San Antonio Independent School District in donating it back is donating the money back to Edgewood, Harlandale, Alamo Heights, Northside, Northeast, or any of the rest of them. And in effect, these are citizens that we are representing on this Council, the same as those of the San Antonio Independent School District and I think that in all fairness, we should treat San Antonio Independent School District and I am a member of San Antonio Independent School District. I think we should treat them the same as all the other school districts are treated and then there can be no hollering of the discrimination or anything else that we have favored one school district over another, and all the rest of the folderol, and everybody has an equal edge in it, the rest of these school districts are having to pay for their tax services and I think it's non-the-less the responsibility of the San Antonio Independent School District to pay theirs.

MAYOR COCKRELL: Dr. Cisneros.

DR. CISNEROS: Yes, I've heard the arguments and I really don't think there's any glory on either side of this issue whether you try to save money for the City or not, because I think that Mr. Eureste is correct in the point that he makes, they're the same citizens. It is the same citizens. I happen to live in the San Antonio Independent School District. So, I don't think there's any glory in saving the City any money because all we're doing is putting some money onto the tax payers of the School District, it's not that kind of an issue. What it is, is strictly a business decision. And that is that the City of San Antonio is going to treat the School District, the San Antonio School District in exactly the same even-handed fashion as every other school district in the City. And, when we charge every other entity and including the San Antonio Independent School District, do we end up with control over that \$500,000.00 that is, to say, is the City of San Antonio the master of how it's going to spend that \$500,000.00. It's not a question of rebating it, it's just a question of when we have police wage increases, and we have fire-wage demands, and we have increasing costs of inflation and everything else that we want to have as much control over our own budget as we possibly can. Now, the School District, in response to an increase from the City, would have to make a similar decision as to the City among priorities. So, all it is, is a decision to put the burden as to how you are going to allocate \$500,000.00 in the City and in the School District but it treats the school districts fairly. I cannot personally justify or explain how we treat, why we would treat the San Antonio Independent School District different than any of the other districts. This would be an even-handed thing. I'm going to support the staff's recommendations for proceeding with negotiations and whatever is negotiated, I hope is fair, and I hope that it has some good professional appraisal technique in it for coming up with how, what the cost is, I think as I say, it's just a matter of two elements; number one, treating all the school districts exactly the same and secondly, I have every confidence that the School District is going to be able to adjust to a different \$500,000.00 amount of money that they are going to have to come up, just as we are going to have to budget ourselves, with that \$500,000.00. It's just a question of everybody managing their own shop and no special relationship.

MAYOR COCKRELL: Thank you. Mr. Alderete.

MR. ALDERETE: I think there are a couple of points that really need to be clarified from what I understood from Jane in response to you, was that the State Legislation was not a mandate. The document known as our City Charter just voted upon states that we shall not charge the San Antonio Independent School District. That document, in order for revision, needs to be done by the electorate, is that not correct, Mayor?

MAYOR COCKRELL: Unless the State Statute supercedes it, and lets ask the City Attorney.

MS. MACON: It's our position that is superceded. One thing, Mr. Alderete you asked earlier about the word, "shall," and I've taken liberty of taking Black's Law Dictionary and basically it says that as used in Statutes, it is imperative or mandatory, so basically what we're looking at is that the School District would be coming to the City with the money to pay for the cost of collection and then it would be up to you as a business decision.

MR. ALDERETE: Then your proper answer to the Mayor is that it is a mandatory . . .

MS. MACON: No, I'm not saying that it is mandatory, I'm saying it's superceded. The difference, Mr. Alderete is that there is not a Statute and the Education Code deals with the School District, it does not deal with the City. He says that the School District shall pay and what we're saying is, is the City going to accept that payment. That's really where you are. The other issue is a Constitutional question and whether the particular provision in the Charter is unconstitutional, and those are the two issues. And if we litigate that, that would be the position.

MR. ALDERETE: All right, that's what I wanted a clarification, on that portion there, in your response to the Mayor as it being not mandatory but yet in the Educational Code you're saying that it was decided that the School District shall pay and according to Black's Law Dictionary, "shall" means mandatory. Fine, thank you.

MAYOR COCKRELL: Mr. Eureste.

MR. EURESTE: Who does it say, it shall pay to. Who do they pay to?

MS. MACON: If the City is collecting the taxes, it would be to the City. I'll specifically deal with that.

MR. EURESTE: What is the intent of that language there? I mean why were they concerned that the School District shall pay? And what if the School District got it for free, what is wrong with that?

MS. MACON: Mr. Eureste, I can't go into the minds of the Legislature. The Statute merely says that the District shall pay the Municipality for said services and for such other incidental expenses, as are necessarily incurred in connection with rendering of such services, such an amount as may be agreed upon by the governing bodies of the municipality and Independent School District. And that's what we're talking about, is that direction from this Council.

MR. EURESTE: I again, you weren't here, Madam Mayor, and I don't know if you heard my big . . . and I won't repeat it, on the history . . .

MAYOR COCKRELL: Yes, sir, I did happen to hear it.

MR. EURESTE: Well, she came in here and said I didn't hear the conversation.

MAYOR COCKRELL: I missed part of the attorney's responses, I heard the question and I didn't hear all the responses so that's why I wanted to clarify that.

MR. EURESTE: Well, I was going to go into the history of the School District, did you hear that part?

MAYOR COCKRELL: Let me just say that from 1959 to 1963, I was a PTA President and I was on the PTA Council at the time that this issue was fought in the previous battle and I've remembered arguments and arguments and arguments, so I have a long history of remembering all the different points of view.

MR. EURESTE: You know that the School District is a spin-off of the City government in 1901.

MAYOR COCKRELL: Yes, I know, and I think that at one time the boundaries were coterminous and that led to the Charter provision.

MR. EURESTE: She knows more than I do. Well, that is a check-mate and a check-mate is when you don't have the votes. And I have been check-mated but I think my argument is still a good argument. I don't think the Council would make a decision just based on history but I think there is a stronger logic and that is the one in which we would be collecting additional revenue. And we would be simply collecting additional revenue and just putting it into our budget and going out and spending it and somehow or another, being satisfied that we have accomplished something and I don't know how the taxpayer, be it the taxpayer of the San Antonio Independent School District or the taxpayer of the City or the taxpayer of the other school districts could be happy, when we have simply collected additional revenue and not somehow or another rebated that additional revenue which was already covering a cost, that is, that cost was already being covered with the City budget of the City. And I just cannot understand the logic in which we have succeeded or accomplished anything when we in effect, are putting another governmental entity, in this case, the School District, any position of very likely having to either increase taxes or reduce services by the amount that they will be paying the City of San Antonio. And it's the same tax payers that are going to have to pay for this new requirement. And the current tax payers, the people that are currently supporting the budget with the City would not receive any rebate whatsoever, in what is done. So, the logic, you know, of what the Council wants to do, just really escapes me.

MAYOR COCKRELL: Thank you, sir. Mrs. Dutmer.

MRS. DUTMER: Let me see if I can sort something out, I'd like to ask first the City Attorney, and I think I already know the answer, but I just want to hear it once more. How did the School District article get into our Charter, why was it included, and was it because of an old State recognition that the City and School District were one and the same and therefore, the law applies to the School District the same as to the City? Was it a mandate, was it just a tradition? I'm trying to figure out why this was even included in the Charter and was it because the State did address both, when it said City because it was the only School District at the time the State dealt with it?

MS. MACON: Yes, madam, and at the beginning we started back in 1901 as we've had numerous historical discussions, it's carried forth.

MRS. DUTMER: Therefore, the law that applied to the City applied to the School District, they were one and the same and that law was never changed until this past Legislature when it gave us the right to make up our minds.

MS. MACON: We feel that the Statue at this time, gives you that authority at that time.

MRS. DUTMER: Well, that is what I wanted to get straight, some of them tells me that it isn't, it wasn't the law, and then somebody else comes along and says that they were coterminous and okay, thank you.

MR. VAN HENRY ARCHER: Was the motion an hour and a half ago to authorize the staff . . .

MAYOR COCKRELL: To approve the staff's recommendation, as I recall.

MR. ARCHER: Was to meet with the Board of the School District on an even-handed manner and see if you can work out something? Well, why does it take you all so long to debate that?

MAYOR COCKRELL: We understand, Mr. Archer, Mr. Wing.

MR. WING: If I understand correctly, you're stating that Section 152 of that is the right Section of the City Charter has been superceded by a new State Law.

MS. MACON: That's correct.

MAYOR COCKRELL: All right, if there is no further discussion, the motion is that we authorize the staff to proceed with negotiations as with the recommendation that came to the Council. I see Mr. Eureste would like to speak.

MR. EURESTE: I would like to offer an amendment to that and that is that whatever money we get from the School District, you rebate it back to every taxpayer in the City of San Antonio which would include the taxpayers of every school district in the City.

MAYOR COCKRELL: The motion, I do not hear a second, the motion dies for a lack of a second. Mr. Thompson.

MR. THOMPSON: That continues on the same ill-conceived premise that he has been on all day. That money is City money. We are . . . the logic or illogic I will leave for individual judgement but the monies that we are talking is City-taxed money, they are here. We are quarreling about allocating them to a specific School District and not having equal treatment for all school districts. That is the premise. That is the logic. And it's not a business decision, it's actually a constitutional decision and it's wrong for us to allocate monies to a preferential group of one school district without treating all school districts equal.

MAYOR COCKRELL: The Chair would like to proceed with the vote. Mr. Eureste.

MR. EURESTE: I'm just going to say that it's just a modern way of ripping off the taxpayer. That's all I have to say.

MAYOR COCKRELL: All right, the Clerk will call the roll: AYES: Dutmer, Wing, Thompson, Canavan, Archer, Steen, Cockrell, Cisneros; NAYS: Eureste, Alderete; ABSENT: Webb.

The motion carried.

SAVE SHEARER HILLS FOR HOMEOWNERSMR. ROBERT J. MANUEL

Mr. Manuel, 351 Ave Maria, representing the group, Save Shearer Hills for Homeowners, presented a petition to the City Council objecting to the proposed site of 43 units of low housing on Meliff and Ave Maria Drive. (A copy of which is on file with the minutes of this meeting.)

He stated that there are no parks in the community and expressed concern about the crowded conditions in the area.

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MRS. MINNIE VANDERON

Mrs. Vanderon, 218 Ave Maria, spoke about the need to investigate the site planned for the apartments since it is located in the flood plain.

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MR. DALE SCOTT

Mr. Scott, 7203 Dubies Street, representing the group, Save Shearer Hills for Homeowners, also spoke against the housing project. He stated that the people in this area are concerned about what the housing units will do to their neighborhood. He stated that they are already surrounded by commercial development. He also stated that the traffic and population will be more than doubled. He stated that the subject property is in a flood plain and not suitable for development. He further stated that the people in this community are also concerned about the added drainage problems that would occur.

Mr. Archer stated that the people he has spoken with have indicated that they will not locate the housing site at that location because it is on a flood plain.

Mayor Cockrell stated that the Council is involved with the Zoning of the subject property and must fit in with the Housing Assistance Plan. She stated that all decisions are made by the San Antonio Housing Authority.

Mr. Eureste stated that only three neighbors will really be affected out of the fourteen that are being considered. He then explained the process which is used to locate the Housing Units. He stated that if the area is zoned, then the City Council is limited to what it can do.

Mr. Webb stated that the Federal Government has mandated that low cost housing be constructed throughout the United States. He stated that the subject area mentioned by the Shearer Hills Association will probably not be used since it is on a flood plain.

Mrs. Dutmer stated that District 3 has subsidized housing and yet is not eligible for CD funds and feels that equality in housing should also mean equality in funds coming in.

Mr. Steen stated that he will support the residents of the area if they are opposed to low income housing in this area.

MRS. BARBARA MILLER

Mrs. Miller, representing the Citizens Concerned About Nuclear Power, stated that the City Council should call for a Public Hearing before May 25, and feels that the cost overruns will never enable the plant to be paid.

MR. LANNY SINKIN

Mr. Sinkin, representing Citizens Concerned About Nuclear Power, presented the City Council with a prepared statement and a resolution requesting the Nuclear Regulatory Commission to hold a public hearing on April 30, 1980. (A copy of his statement is on file with the minutes of this meeting.)

Dr. Cisneros stated that he doesn't want to be a part of a strategy to delay the South Texas Nuclear Plant. He stated that he wants a strong statement where San Antonio speaks to the need to get the project on line.

Mr. Alderete spoke about the cost factor and the delays caused by the ineffectiveness on the part of the manager and building contractor of the Nuclear Plant. He stated that a minority report from the City Council should be allowed at the Public Hearing scheduled for early Fall. He then moved that the resolution proposed by Lanny Sinkin be considered later this evening. The motion died for a lack of a second.

Mrs. Dutmer then spoke in support of the South Texas Nuclear Project, however expressed concern about the problems of the Plant and wants questions answered.

Mr. Thompson stated that he read through the Nuclear Regulatory Commission's report and stated that a project of such a magnitude will have some defects. He stated that he doesn't want the project delayed.

MR. TOMMY LEIFSTER

Mr. Leifster asked the City Council to approve a resolution of support to encourage malls to designate handicap spaces according to the State Statute and enforce the towing of automobiles which are in violation. He asked the Legal Department to come up with an ordinance that covers private property.

Mayor Cockrell stated that the request will be referred to the Handicap Access Program.

Mr. Webb then made a motion that vehicles which are improperly parked in the handicap spaces on City property be towed away. Mr. Alderete seconded the motion.

Assistant City Attorney, Louis Garcia, stated that signs could be erected at these locations.

After discussion, and on roll call, the motion prevailed by the following vote: AYES: Cisneros, Webb, Dutmer, Wing, Thompson, Alderete, Cockrell; NAYS: None; ABSENT: Eureste, Canavan, Archer, Steen.

Mr. Alderete stated that an attempt can be made to see if cooperation on such action can be obtained from private property owners.

Dr. Cisneros asked that the Handicap Access Office send a letter to businesses asking them for their cooperation.

Dr. Cisneros asked that Mr. Eureste's request regarding the briefing by the Police Chief on the San Juan-Alazan Court's incident be placed on the next upcoming "B" Session agenda.

80-23 The Clerk read the following Letter:

May 12, 1980

Honorable Mayor and Members of the City Council
City of San Antonio

The following petitions were received in my office and forwarded to the City Manager for investigation and report to the City Council.

May 8, 1980 Petition submitted by Mr. Richard Moore, requesting a variance on the building site encroachment at 200 Navarro.

May 8, 1980 Petition submitted by the residents of Calle Valencia, requesting street improvements.

May 8, 1980 Petition submitted by the residents of Oak Meadow, requesting annexation into the City of San Antonio.

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/s/ NORMA S. RODRIGUEZ
City Clerk

There being no further business to come before the Council, the meeting was adjourned at 7:35 P.M.

A P P R O V E D

Lila Cockrell

M A Y O R

ATTEST: *Norma S. Rodriguez*
City Clerk