

REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF SAN ANTONIO HELD IN
THE COUNCIL CHAMBER, CITY HALL ON
THURSDAY, DECEMBER 11, 1975.

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The meeting was called to order at 9:30 A. M., by the presiding officer, Mayor Lila Cockrell, with the following members present: PYNDUS, BILLA, CISNEROS, BLACK, HARTMAN, ROHDE, TENIENTE, NIELSEN, COCKRELL; Absent: NONE.

75-73 The invocation was given by The Reverend Msgr. John Matucha, St. Mary Magdalen Catholic Church.

75-73 Members of the City Council and the audience joined in the Pledge of Allegiance to the flag of the United States.

75-73 The minutes of the meeting of December 5, 1975 were approved.

75-73 REPORT BY THE CITY CLERK ON PETITION OF REFERENDUM
PERTAINING TO ORDINANCE NO. 45863

The following discussion took place:

MR. GARLAND V. JACKSON, JR., CITY CLERK: Mayor Cockrell and members of the City Council, this is to certify that on the 25th day of November, 1975, I received the attached petition, and subsequent thereto I have examined said petition and have determined that it has been signed by these 26,906 qualified electors of the City of San Antonio and that each paper of the petition contains the same statement of the circulator. It is further certified that at the last preceding regular municipal election, there were 269,065 qualified electors of the City.

This certification is made as to the facts herein stated only and not as to the legal sufficiency thereof.

MAYOR LILA COCKRELL: All right. We thank you very much for your report. Mr. City Attorney, does the Council move to accept the report, or is it simply a matter of record that it has been given to us.

CITY ATTORNEY JAMES PARKER: Yes, that's all. It's a matter of record.

MAYOR COCKRELL: All right, fine. At this time the Council had discussed the alternatives on Tuesday and had instructed that the ordinance be prepared today in accordance with the City Charter provision following up this certification, and I will ask that the Clerk read the caption of that ordinance and then I would like to make several statements.

CLERK: An ordinance repealing Ordinance No. 45863 of October 16, 1975, which rezoned and reclassified certain properties, being a 22.550 acre tract of land out of N.C.B. 15675 located 1750 feet southwest of FM 1604 Expressway and 865 feet southeast of U. S. Highway 281 North; and a 129.153 acre tract of land out of N.C.B.s 15672 and 15675, located southeast of the cutback between FM 1604 Expressway and U. S. Highway 281 North, from Temporary R-1 to "R-2" and "P-1(B-2)" respectively.

MAYOR COCKRELL: All right, the caption of the ordinance has been read. I would like to make several comments. I would like to first of all comment a little bit on procedure. I would then like to make a statement about my personal position, hear from any other Council members who would like to speak. We have then Citizens to be Heard, we have five citizens, six

citizens who are signed to be heard and who will be heard before any vote is taken and then we will proceed to vote according to the procedure on this matter.

As I see the procedure, the Council as a matter of parliamentary procedure has these procedural alternatives. On voting on this motion, those who are in favor of repealing the ordinance would vote for the ordinance, and if there were five votes, that would carry and further discussion would be concluded. If there are not five votes in favor, the motion will fail. The Council will then have before us the question of referendum. Should the Council for any reason not wish to proceed to have the vote today on the first item, the order would be that a motion to postpone would be in order for anyone wishing to take that alternative.

I would like to say that I feel it's important that I go ahead and state my position since I have not stated it up to now. I think each one of us has really considered the alternatives very carefully and very seriously. It is not a matter on which I felt the alternatives were really clear cut. I felt that there were problems really with each method that we could follow in terms of determining what was in the public interest. After serious consideration, I have decided to vote for referendum. I am doing it for these reasons. First, my first thought was that the method of initiating a new zoning case would be preferable, and I did this, I felt this way in response to the City Attorney's advice as to his view of the alternatives. However, it is clear that using the method of re-initiation, it would not be possible to complete the action prior to the 30 days. We would then be faced with the situation where not knowing what the outcome of re-initiation would be, we would then before the 30 days were up have to either vote to repeal or to set a referendum which could then not be held until April 1st. I do not feel that it is in the public interest to hold off a referendum date until April 1st. I say this for several reasons. I feel that it would continue the debate for a very long period of time and would prevent us from getting on with the next order of business which we all agree is to reach our final determination of policy on the whole issue. So for this reason although I felt the City Attorney had indicated as his legal preference, I did not feel I could support that route.

In looking at the route of repeal, I gave this very serious consideration because it has a number of advantages. The advantage that I see to it, it is a quick way of proceeding and permits us then to go very quickly into the second order of business which is to determine how we arrive at our policy. And so at that point, I would say that the matter of repeal would have significant advantages. I felt that it had this disadvantage. While the City Attorney, I think, has pointed out his legal reservations about either repeal or referendum as a viable legal alternative, I think the petitioners view the order of referendum as having possibly more legal advantages and in order to give the petitioners what they see as the alternative legal route, I think that that would be preferable to proceeding with repeal. Should repeal be set aside in the court, it would leave the thought in the minds of some of the public that possibly the petitioners had not had their full opportunity at what they viewed as the more legal route to follow.

In any event, I feel that every member of the Council and whatever position they are taking, is acting very sincerely and with a desire to try to resolve the issue. I certainly respect the differences of opinion. I think this is a very complex matter; it's not one on which the issues are all that clear cut. I do feel that if referendum is followed, that it should be held in January because I think extending beyond that date is simply prolonging the decision-making process, and I think it is not in the public interest to keep the discussion at this level going that long. I felt that I should make my own statement and certainly would be glad to hear from any of the other Council members, and we do have six citizens to be heard. Yes, Dr. Nielsen.

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DR. D. FORD NIELSEN: Madam Mayor, thank you. I'm certainly glad to find out where you do stand on it and respect your decision. I think for the record it should be made clear that I don't perhaps understand the legal question as you do. Whether or not we have an election on the matter does not change the fact of law or the facts in the case one way or the other. I think what it may do as far as the political process and any involvement in the courts is it could set a climate but that still doesn't change the facts, the law and the interpretation of that point. So, I just want it for the record. Maybe that's not what you were saying, but that's the way I heard it.

MAYOR COCKRELL: No, let me just say I feel that the City Attorney does not feel that there is any advantage to either method I think in terms of repeal or referendum. I think he would view them in the same category. I said I think that the petitioners viewed the legal possibility of referendum as being more desirable than repeal.

DR. NIELSEN: I don't quite follow that at all. As far as the legal aspects..let me just say again. I still think that as far as in the best interest of the City in terms of getting on with what you said was perhaps the second objective I think it's really the first, is the question of determining the policy, the matrix, some perimeters and just some criteria for - of what we're finally going to do over that recharge zone, is really what the first order of business is and this simply delays it. That's all it does.

MAYOR COCKRELL: Mr. Hartman.

MR. GLEN HARTMAN: Madam Mayor, Gentlemen of the Council, I would also like to state that my position is in favor of the referendum. I am in favor of a referendum and a referendum at the earliest feasible date. I, therefore, concur with your position. I would like to state that I have maintained on several occasions that the referendum system, the referendum mechanism, is a mechanism provided within our City Charter, and it's also provided in a number of constitutions within the various states, to provide a mechanism whereby the people have a recourse to take upon themselves a decision-making process that they feel perhaps has not been fulfilled by their elected representatives. The Charter of the City of San Antonio has such a provision. We have a provision for a referendum, and I think as I have stated on several occasions, once a referendum process has been set in the motion, it is my feeling that I, that it should be left to continue unmolestedly.

I also gave consideration to, perhaps, the other alternatives that have been indicated to us by our City Attorney, that is, either the repeal process or the process of re-initiation. I have come to the conclusion, firmly, that inasmuch as we have now certified 10 per cent of the electors who indicate that they would like to exercise this auxiliary process of government that in order to provide the full response to the citizenry is to let that process continue to its completion. We, I think, have that call from the citizenry, that is, to exercise the process. We do not yet have a decision from the citizenry as to whether the action should be overridden, any action taken by the City Council.

I have also considered the expense aspects. There has been quite a bit of discussion as to the expense of this election would entail. It has been estimated variously from some thirty to sixty thousand dollars to be able to conduct this election. I also feel in that context that that expenditure could be at least equal if not certainly surpassed by other legal complications that could also be generated if it were permitted to go in that direction. So, the expenditure aspect, I feel is, therefore, not further pertinent. So, I, my position is for referendum. I feel that the referendum election should be conducted, held at the earliest possible date in order to provide the, our earliest possible decision which the

citizenry of San Antonio have called for, and I am, therefore, in favor of the referendum action in January.

MAYOR COCKRELL: Mr. Pyndus.

MR. PHIL PYNDUS: Mayor Cockrell, it is my hope in my position that the referendum should be honored. It was also my hope that this Council would initiate action to repeal utilizing the language repeal has not been accepted legally. The process and the legal opinion of our City Attorney was that a re-initiation for a zoning change by the Council through the Planning and Zoning Commission would be a more favorable legal method to change the ordinance rather than an outright appeal of the ordinance. I understand there is legal precedence for this action. I feel we should respect and follow the City Attorney's legal expertise and, consequently, recommend to the Council that the re-initiation process be utilized, after and only after the date for the referendum has been established. I feel the date of the referendum election should be set no sooner than 90 days from this date, if possible. I feel the referendum process should be honored, and allowed to proceed in an orderly manner. At the same time, I feel this Council should utilize all available time to obtain honest and accurate information, regarding the possibilities of pollution of the Aquifer by the mall so that the citizens may be better informed and able to vote more intelligently on the referendum. This 90 day period would also allow Council sufficient time to activate the re-initiation process, to change the zoning without jeopardizing the referendum election. Finally, I think we should realize that the intent of the citizen referendum was to change the zoning back to its original state, and I feel Council should attempt to immediately initiate re-initiation steps as recommended by the City Attorney to accomplish the intent of the petitioners. Now, we have mentioned the fact that we didn't want to drag this matter on to the citizens, and I would like to plea that we allow more time to get additional facts, to calmly and deliberately agonize, if you wish, over this problem. I do think that we stand judged to take action and to show the leadership of this community by taking a dual approach and that is protecting your referendum rights and at the same time re-initiating the change for zoning in the same breath. Thank you, Mayor Cockrell.

MAYOR COCKRELL: Reverend Black.

REV. CLAUDE BLACK: I am sure that it's not a surprising matter that I am voting for the referendum process, but I would like to emphasize some points that led to this commitment. I think in the arena of community differences at the highest level of appeal is in public participation. No matter what that difference might be, the matters cannot simply be resolved in this fashion without inviting those who share the results of that action, the consequences of that action with some responsibility for responding to that action. I do hope that we will also understand that we owe an obligation to those who did not sign that petition, and I don't think they should be denied to participate in the ultimate decision that is made because it affects not only those persons who signed the petition, but the decision also affects those persons who did not sign the petition. I do, would like to add this as a footnote. This is not the end but the beginning of the process, beginning of the process to make secure that Aquifer that it would not in the future, endanger the quality of life of this area and this community. We will not see it as the end but as the beginning.

MAYOR COCKRELL: Mr. Rohde.

MR. AL ROHDE: Madam Mayor, it is clear to me what direction we're going in today. I'm going to support the referendum by this method and this statement. In addition to the City Charter there is also another charter on trial. It's a charter to dissent to disagree with a Council majority. It's a charter to always use your best judgment in your vote. It's a charter not to be intimidated by fear, emotion, recall or referendum election

I will not yield from my strong viewpoint on my vote to approve the mall vote that I did in October. My vote will be to abstain, and I feel by abstaining it will fairly adjudicate the wishes of the 27,000 voters who signed the petition. There is a clear showing to me that the people want the right to change the vote by their vote, and I mean by their vote going to the polls. I shall subordinate my vote to their vote to the vote of the people on this issue. I think that the fair-minded people and the fair-minded voters who are reasonable will uphold the majority vote of the Council that the zoning case made in October when they go to the polls. I will abstain from voting on this ordinance.

MAYOR COCKRELL: Does any other Councilman desire to be heard?

MR. BOB BILLA: I would like to make this statement, Mayor. On October 16, this Council voted to approve this mall, and I was one of those voting for this zoning. Based on the information that I had at that time, I thought it was a valid vote, a just vote, being fair to the petitioner, and those that were opposed to it. Then, after some time, some citizens come in and they bring us a petition, and the very basis of that petition is wanting to keep our water pure, and not whether the zoning was good or not but whether we're going to keep the water pure. I think that the Council if it's going to be responsible and responsive should respond to these things. There are those that say that if the referendum is denied, it would be subverting the democratic process. I don't believe this is true. I think elected officials by virtue of the wording of the Charter and what's even in the petition would indicate that elected officials have a choice whether they want to follow the will of the people to a referendum or through a petition. I think the petition speaks for itself. For that reason even though there were four members that voted against this change in zoning, whatever their reasons might have been is not important to me right now. They must have had some reason, I don't know what it is but I'm ready to join them now in repealing this ordinance today, because that, to me, in effect to be joining them and permitting time to make studies that would be necessary to resolve the question - is the Edwards Aquifer going to be polluted by development? I think that's the only question that needs to be resolved today. I think it must be done by the most expeditious manner possible. I think each Council person needs to have the courage to go ahead and repeal the ordinance, if that's what the citizens have indicated by their petition.

Reverend Black made a very good point. I made it the other day. Only 50,000 of 270,000 people responded to this petition, and maybe that 220,000 has not spoken, and I don't know whether they are for or against this, but I think that under provisions of the Charter that we have gotten a responsible response, and it is the prerogative and duty and responsibility of this Council to take the most expeditious means of repealing the ordinance in order that it may pursue the problem of how will it, will or will not, the Edwards Recharge Zone be polluted by development. Maybe the petitioners have some other motive beyond just whether the water will be polluted or not. I don't know what that is. But I am following the letter of what they say here, "We the undersigned qualified electors of the City of San Antonio request that the following ordinance passed October 16, 1975, be repealed or submitted to a vote of the electors." I think that by virtue of being elected I am charged with making that decision and again I want to say that I am ready to join those four people that voted against it for whatever their reason might have been, it had to be that they were either fearful that the Edwards would be polluted or maybe they didn't want growth to the North, that is not important now. But I am ready to join and for them to join me in the immediate repeal of this ordinance so that the proper studies can be made to resolve the question, will the Edwards be polluted? That's the only issue that is before this Council today, and I ask that each of you have that courage to do that.

MAYOR COCKRELL: All right, now the, there are, we will call then on the citizens who are registered on this issue. Fay Sinkin.

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MRS. FAY SINKIN: Mayor Cockrell and City Council people, may I reserve the five minutes that is allotted to me until after you vote.

MAYOR COCKRELL: Certainly. Andres Sarabia.

MR. ANDRES SARABIA: We would also like to reserve our time for the discussion after the motion has been made, please.

MAYOR COCKRELL: All right, fine. Father Benavides, do all of you wish to reserve your comments? All right. At this time, a motion would be in order for the...

DR. NIELSEN: I thought that the processes outlined would be after everyone was heard, that we would vote. Is that not what you said?

MAYOR COCKRELL: We had said that they would like to reserve comment for after the...

DR. NIELSEN: No, no, you said that after the proces...

MAYOR COCKRELL: That's right. May I then ask the Council, is it the Council's desire that the persons would be heard at their request at the conclusion of the vote, rather than prior to the vote as I had suggested.

DR. HENRY CISNEROS: No problem with that Mayor.

DR. NIELSEN: No problem - just to clarify the process.

MAYOR COCKRELL: All right fine, thank you. All right, at this time the caption has been read on the ordinance for repeal. Is there a second?

DR. NIELSEN: So move.

MAYOR COCKRELL: We have a motion. Is there a second?

MAYOR PRO-TEM RICHARD TENIENTE: I have a second, and I would like to make a statement. Madam Mayor, the same situation as Mr. Billa addressed just a short while ago is basically my same position. I was one of the five that voted for the zoning and immediately after having voted for that, and having had discussions with one of my fellow Councilmen, realized that there had to be additional study made and additional guidelines placed on storm drainage, and I think this in itself allowed me to come and make a statement saying that I felt that there should be stricter guidelines in whatever development would take place in the area.

And then the petition took its course, and I maintained a quiet attitude about, as the petition was being circulated so that no one would feel that I was hindering the petition drive or in any way trying to stop it. The petition drive being completed and on its way to success, I felt that I should then reconsider my vote which I have done. Again, I address myself to the caption that was passed out to the citizens, to the thousands of citizens that signed the petition. The last part asks that the ordinance be repealed or submitted to a vote of the electors. My position is that I will vote for the repeal of this ordinance because I am addressing myself to the request of the petitioners. For me to sit here or for anyone to come up and say that they speak for the 26,000 who voted for it that are all in unison saying that they want a referendum is something that I cannot speak, and I don't think anyone is using fair judgment can say that everyone is for referendum. I think in voting for a repeal I am also saying the, we should address ourselves to those concerns of the proper development, reasonable development in the North part of town. I think that zoning changes in this area demand and will continue to demand solid technical information based on a good engineering practice and that practice initiated by the City of San Antonio and not dependant upon

individual landowners or developers. Again, I say that there has to be a comprehensive storm drainage study, and this should be completed using up-to-date topographical information of sufficient detail to permit the delineation of twenty-five to a hundred year flood plains to service the basis of the required dedication of drainage easements.

My whole position on this is to allow the citizens to be heard. They have spoken, and for us to put this before a vote would do nothing other than just reaffirm the position that these citizens have taken and I think that the matter is quite clear, the citizens do not want this ordinance on the records as a favorable ordinance. They want the zoning changed and this is the reason I second the motion and would vote in this matter.

MAYOR COCKRELL: All right, Mr. Pyndus.

MR. PYNDUS: Mayor Cockrell, my position in the zoning case is known. The reason that I would not vote for the repeal as the motion is made and seconded is because of the advice of our City Attorney. As you have stated previously, we might, in going through the process of a repeal, abort the referendum, and I do not feel that the referendum should be jeopardized. I would vote against the repeal on those grounds.

MAYOR COCKRELL: Are there any further comments...yes, Mr. Teniente.

MR. TENIENTE: I would like to ask the City Attorney to see exactly what you are talking about, Mr. Pyndus, because I don't recall him saying the, I want you to repeat that, you have said it twice.

MR. PYNDUS: May I explain the process...as I understand, if we ignore the referendum, and we merely repeal the ordinance today, this ordinance can be challenged and this ordinance can go into court and drag on to such a period of time that we will have passed the time that we could legally initiate a referendum. Is this correct?

CITY ATTORNEY PARKER: The referendum process, Mr. Pyndus, is that the first step is that the Clerk certify he's gotten a petition. Then the Charter says that you have to vote to whether to repeal or not repeal that referred ordinance. If you do not vote to repeal it or take no action on it whatsoever, then it would be the proponents position that they would have to come in and seek a mandamus to compel you to vote, not how you would vote, but to compel you to have a vote. All right, then once you vote, if you vote to repeal it, then the question then would be up to whoever the landowners or any other party that may want to intervene to bring an action. If you vote not to repeal it, then the Charter specifically says that you have to set an election date, not sooner than 30 days nor more than 90 days to whether the people will then vote on whether the ordinance shall be repealed or not be repealed.

MR. PYNDUS: I am with you, Mr. Parker. To follow that conversation, in the "B" Session earlier this week, you gave us a choice of action towards the repeal of this ordinance, and you publicly stated that the repeal route was not the best legal route to take.

CITY ATTORNEY PARKER: In my opinion, it is not.

MR. PYNDUS: Fine. My reply to this is that I still with, I am still in the hope that this Council will not only honor the referendum but at the same time re-initiate the change for zoning. Now, if I voted, for instance, against this repeal and the Council voted for a referendum with the understanding that the zoning case would also, we would also initiate a re-initiation process through the Planning and Zoning Committee or Commission to appeal the ordinance. Is that legal?

CITY ATTORNEY PARKER: You can initiate at any time a rezoning of any property within the City.

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MR. PYNDUS: Fine, we have the referendum hanging over our heads with a time clock.

CITY ATTORNEY PARKER: The time element here is compounded by virtue of the fact that the last session of the Legislature set certain days in which the City can now hold any type of election. Under the provisions of that statute, and also giving service to the provisions of the City Charter, the only day that will fall within those two time limits is the 17th of January. It would comply with not less than 30 days nor more than 90 and also comply with the dates designated in that statute. Now, we have one of the people in my office has contacted the U. S. Attorney's Office to verify that we can follow that procedure since it's an amendment to the Election Code, and we have been referred to another office where they are suppose to pass on it and that is all we can do. We can say under that, I think we have to follow that Election Code and that means we have to have the election on the 17th.

MR. PYNDUS: Would you state your legal opinion with regards to a repeal?

CITY ATTORNEY PARKER: I do not think that a zoning matter is subject to repeal.

MR. PYNDUS: You feel that if we vote repeal it would not stand up in court.

CITY ATTORNEY PARKER: That would be my legal opinion.

MAYOR COCKRELL: He also has stated that he does not think a referendum...

CITY ATTORNEY PARKER: I do not think a referendum would either.

DR. NIELSEN: Would you make that clear because there seems to be some hope that by a vote it is going to assure that through the possible legal process that that, in fact, will assure the change in zoning and "then the purity of our water".

CITY ATTORNEY PARKER: The repeal I do not think will stand up. I do not think the referendum will stand up either, unless another appellate court reverses the holding of Hancock verses Rouse case and that is up some other public court.

MR. PYNDUS: One other question. May I wind this up please. Do you think a re-initiation effort would stand up?

CITY ATTORNEY PARKER: It has, in my opinion, more possibility of standing up than the other methods.

MR. PYNDUS: This is my understanding. This is...

CITY ATTORNEY PARKER: It has a greater potential in my opinion. It has a greater potential to be held valid. There is some legal precedence that we could probably rely on going in the other direction where in the repeal or the referendum we do not have - on one side we have legal precedence supporting it and one side, we got it the opposite.

MR. PYNDUS: Thank you very much.

MAYOR COCKRELL: Dr. Cisneros.

DR. CISNEROS: Madam Mayor, I want to speak against the motion to repeal. I have tried throughout this two month period of debate, the facts and charges and counter charges, information from different sources and so forth to keep my eye on one thing, and that is really what are we talking about? We're talking about an underground reservoir which is the City's water supply and then some terrain, some earth on top of it, rocks, crevices, roads, possible places where development can occur. And what we're trying to do, what we've been trying to do is to protect our water supply from the possible implications of pollution by development. Since we acted on October 16th in what I said then and still feel was a premature action to allow that kind of development, that particular shopping mall on that side. We have tried for various reasons since to undo that action, to revert the status of that land to an undeveloped status to "R-1" zoning so that we still have the opportunity before us to really make those intensive, very rational, very reasonable research studies that have to be done which have not occurred at this point in my belief on the whole Aquifer question. We now have the opportunity to do that. Laws and regulations procedures and charters and constitutions, the court cases are all in my opinion, devices that are used by a law-abiding society to accomplish objectives and can be used by either side to accomplish one objective or the other. In my opinion, the objective has been to undo what we did on October 16th and we have to find the most expeditious way to do that.

Repeal in my opinion would not be the most expeditious way to do that. If we repeal, we will be sued and the matter will be drawn into the courts and there's a good possibility that the courts would throw it out as Mr. Parker has indicated.

A referendum on January 17, if we call the - if we have the election on that day, on the 18th that zoning will have changed. Then we might be - we still might be sued and we might still have to go to court, but our legal position is somewhat different in that a number of citizens, 50,000 - 100,000 people have spoken in San Antonio and a court of law has to take that into account. But the question is the posture that we go into as a City, our legal posture, our posture with respect to law, our political posture is going to be different if the citizens of San Antonio have an opportunity to speak. And in my view, I think I have the same intention as Dr. Nielsen and that is to really put this particular zoning case behind us cause it's only a small part of the big picture that we have with respect to the Aquifer before us. I think the best way to get it behind us is to have this election on January 17th. On January 18th, the matter is effectively behind us, the zoning is changed, and at that point, we can get to the larger research questions before us.

MAYOR COCKRELL: All right. Is there any - I think Dr. Nielsen was next. Ladies and gentlemen, I know you have your interest, the longer the clapping goes on, the longer it's going to take us to get to the resolution of the issue. Dr. Nielsen.

DR. NIELSEN: I think again, Henry, and it may not be intentional, but I do not want the citizens to be misled that, in fact, the election part of a referendum process assures or guarantees anything, and I wanted...but you said it puts the City in a better legal position. The only way you could interpret that in terms of a point of law is in terms of the political process influencing a judge or a court.

DR. CISNEROS: (Inaudible)

DR. NIELSEN: Okay. Well, it's misleading in my humble opinion that's why I clarified it with the Mayor to, not intentionally there's no malice in saying that the election process is going to insure us a better, stronger legal position, I'm not saying that. I just hope that people understand that the election process as such is only part of a larger little "d" democratic process in this particular case, in the whole process of government, public policy, debate discussion, okay.

I hope that everybody understands that there's no guarantees, with either repeal or the election, which is.....

MAYOR COCKRELL: Mr. Hartman.

MR. HARTMAN: Madam Mayor, I'd like to address Dr. Nielsen's point. I think the matter that needs to be clearly identified here is the fact that as the legal counsel has stated, there are certain vulnerabilities with regard to the actions to be taken by the Council because either of those actions, either repeal or reinitiation involved this Council taking action to attempt to change a zoning situation. This is the point that the legal counsel has pointed out. By the referendum process, this Council is not taking that action but merely this Council is submitting to the people in accordance with our Charter an action which they may take under the referendum process. I think that addresses precisely, Ford, the point that you raised.

MAYOR COCKRELL: Yes, Mr. Billa.

MR. BOB BILLA: Mayor, I agree wholeheartedly with my distinguished and esteemed colleague, Dr. Cisneros, and to me what he's suggesting is the way I interpret what he says is that repeal is the only logical step to take.

MAYOR COCKRELL: He doesn't interpret it that way at all.

MR. BILLA: Well, he doesn't, but I mean he wants - he's trying to say that the issue is to revert the zoning back to what it was. But that's not going to protect our water supply and every action we take is open to legal action. So I think we need courage to do it expeditiously.

MAYOR COCKRELL: Reverend Black.

REV. BLACK: I think we are making an assumption in connection with this particular action that has been recommended in terms of the motion before us. And that is that if all of the people of the City of San Antonio had an opportunity to act on this matter that they would repeal it. I think that's not necessarily a true assumption. I think what we have really said is that the people themselves have a right to decide whether or not this action was acceptable. Now, it seems to me that when you vote against a referendum what you're saying is that this critical matter is a matter that can be decided by this Council and 51,000 voters. I don't think that's true. What is being decided on is whether or not and what they have said, they believe that it ought to be repealed, but they are not saying, they're saying, you submit it to the people, let the people decide what ought to be done and that seems to me to be the democratic, the big "D", the big "D" democratic system.

MAYOR COCKRELL: All right. Dr. Nielsen wants to make one final comment.

DR. NIELSEN: Just very briefly, Claude, I just can't understand or accept that. The fact that there is a big "D" or a little "d" democratic process is not up for debate, the responsibility that we have is clearly spelled out in the Charter, and the first choice we have to in fact get on to the number one issue which is the resolve of some policy questions out there over that recharge zone. In far out ways, whether or not somebody votes or not and we are not denying anybody the right to vote in this. It simply says in Section 40 that the Council must vote to repeal the ordinance, that's all it says. And I'm sorry that there's an insinuation or perhaps a misunderstanding that you think because we're voting for repeal that we would be against the people voting. That's not even the issue, Claude, not at all.

MAYOR COCKRELL: All right. May we proceed with the vote. I think everyone has had a fair opportunity to state their...position.

MR. ROHDE: Will the ordinance be reread?

DR. NIELSEN: Oh, I don't think it needs to be re-read. Let's get on with it.

MAYOR COCKRELL: The ordinance - the caption was read previously and the motion is for repeal of the zoning ordinance and the Clerk will call the roll.

ROLL CALL VOTE: AYES: Nielsen, Teniente, Billa; NAYS: Cockrell, Pyndus, Cisneros, Black, Hartman; ABSENT: None; ABSTAIN: Rohde.

MAYOR COCKRELL: The motion failed. At this time, a motion would be in order for consideration. May I ask the City Attorney, do we have the ordinance prepared on setting this.....

DR. NIELSEN: To follow the process, we were going to let the citizens speak now.

MAYOR COCKRELL: Oh, I thought they were going to speak at the conclusion of the action. May I ask for clarification, were you requesting to speak at the conclusion of this first vote?

MR. SARABIA: I prefer to speak after the motion - after the next motion is made.

MAYOR COCKRELL: I see. Yes. All right, just a moment.

DR. NIELSEN: Madam Mayor, I move for a five minute recess.

CITY MANAGER GRANATA: We have an add-on item.

MR. PYNDUS: We don't need a five minute recess.

MAYOR COCKRELL: There has been a request for a five minute recess. Would the Council like to take a five minute recess? All right. I would feel that we should honor the request of several Council members. We'll take a five minute recess.

MR. ROHDE: Thank you, Mayor.

* * * *

75-73 The Council recessed at 10:40 A. M. and reconvened at 10:50 A. M.

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The following discussion continued:

MAYOR COCKRELL: May we ask for the Council to reconvene.

MR. HARTMAN: Madam Mayor.

MAYOR COCKRELL: All right. The Chair recognizes Mr. Hartman.

MR. HARTMAN: Madam Mayor, inasmuch in constance with the City Charter, inasmuch as the vote has been taken on the action to repeal and that motion has failed, it is now incumbent upon the City Council in constance with the Charter to set a date for the referendum election. The Council has that option or the option of taking no action at all. I would like to make the motion at this time in constance with what I stated earlier, this matter should be dispensed with at the earliest possible date, that a date for election be set. The earliest possible date which I understand from the City Attorney in accordance with the Texas Election Code, is the 17th day of January, 1976.

MR. PYNDUS: What date?

MR. HARTMAN: The 17th of January. Is that the correct date?

CITY ATTORNEY PARKER: The third Saturday in January is the 17th.

MR. PYNDUS: Point of clarification.

DR. CISNEROS: I second that motion.

MAYOR COCKRELL: All right. Just a minute, we have a motion and a second, I think Dr. Nielsen was next.

DR. NIELSEN: I would like, as a matter of procedure, to ask that we have the citizens to be heard on this and then as quickly as possible... go to "B" Session to discuss all of the ratifications on the setting of the election, the election process, polling places, a whole host of things that we have a great deal of responsibility for and would rather that we do it deliberately and wisely today and make that decision. We can come back in here, ratify whatever we do. I just don't think that right now is the time to do it.

MAYOR COCKRELL: All right. We have had a procedural request that we first of all hear the citizens and that we then go into a "B" Session either now or later in the day, that we review the various aspects involved in a referendum election and then later in the day come back in to make the final action on the proposal. This procedural request has been made. Now this has come at a time when we have a motion and a second on the floor. I think in order to make this a formal request, it should be a motion then to postpone action until later in the day, and then be made in the form of a motion.

DR. NIELSEN: I so move, Madam Mayor.

MAYOR COCKRELL: All right. Is there a second to that motion?

MR. ROHDE: I second the motion.

MAYOR COCKRELL: It has been moved and seconded that the matter pending be postponed until later in the day following the procedure that has been outlined.

MR. PYNDUS: Question.

MAYOR COCKRELL: All right. We have two questions. Yes, Dr. Cisneros.

DR. CISNEROS: I can't see, Ford, whether that can't be accomplished right now in "A" Session, just sitting here, that's part of the discussion.

DR. NIELSEN: Anything is possible.

MAYOR COCKRELL: May I ask that the citizens would just.....

DR. NIELSEN: Just having been involved with a number of citizens in the past two years about the consideration of where polling places are, how that whole process is carried on, is very critical and apparently somehow or another somebody has assumed that there will be an ordinance on the 17th day, an election on the 17th day of January is on the agenda as such. It may be that I didn't understand this fully from the briefing on Tuesday, but a whole host of mechanism has already been put into action that this Council needs to take a very close look at it. I think we can do it much better in "B" Session.

MAYOR COCKRELL: All right. On the procedural question that has been raised about what ordinances were ready, I think that my understanding of what came out of the Tuesday meeting was simply that we would be open to all of the issues involved and I believe that the City Clerk has prepared alternate resolutions for the Council's consideration. Is that correct - several alternates?

DR. NIELSEN: Well, then why was not a motion also or an ordinance or whatever calling for reinitiation because we were still considering that as an option also.

REV. BLACK: No, I think in the "B" Session, we ruled that out.

MAYOR COCKRELL: All right. At this time I would like to ask the City Attorney for any clarifying remarks that he might make.

CITY ATTORNEY PARKER: It is my understanding at the "B" Session, we were instructed to put on this week's agenda, the two items. One to repeal the ordinance, the second was to set, in the event that the ordinance was not repealed, to set an ordinance to call a referendum vote at which time, I believe, Mr. Pyndus said that he wanted to leave it at some date other than the 17th of January at that time. I told him I would leave it blank. Subsequent to that, it developed that that is the only date that you can set it, in my opinion, legally. If you want to change that to some other date, fine, we can change the date on that as it is written, but that was why it was drafted in the form to set only for the 17th of January because within the frame work of the Election Code and the 30 to 90 day period of the Charter, that is the only date - that was the only reason it was prepared that way.

MR. PYNDUS: Question. Question, please.

MAYOR COCKRELL: Discussion is on the motion to postpone and any discussion is pertinent to that motion. Mr. Pyndus.

MR. PYNDUS: I need a point of clarification, Mayor Cockrell. Mr. Parker, did I understand you to say that the 17th of January is the only date that we can use?

CITY ATTORNEY PARKER: That is the only one that would comply with the Election Code plus comply with the Charter provisions as well, Mr. Pyndus.

MR. PYNDUS: Now, my posture was that we would take a 90 day, not later than 90 day under the Charter provision of not earlier than 30 days not later than 90. Would this 90 day stand up or no?

CITY ATTORNEY PARKER: No, sir. The 90 days, you would have to give honor to both, the Charter and to the State. All right. In the State law holds over the Charter, so the Charter says you have to hold an election not sooner than 30 days, nor more than 90 days from the date that you voted today, this morning, on the repeal of the ordinance. All right. By virtue of you having denied it, then the Charter says that you shall at that point or some time set an election that shall not be sooner than 30 days from today nor more than 90 days from today. All right, but because of the Texas Election Code, change to the Texas Election Code, they passed an amendment that said that only certain days during the year, that the Council can hold any special or general election and they specified one of those days as being the third Saturday in January, the next one was the first Saturday in April, the first Saturday in April is beyond the 90 day period that the Charter says.

MR. PYNDUS: Nothing in between?

CITY ATTORNEY PARKER: And the only thing in between would be the 17th of January, which would be the third Saturday in January.

MAYOR COCKRELL: All right. The Council now has before it a motion to postpone action until later in the day. The Clerk will call the roll.

MR. HARTMAN: Inasmuch as the motion related to my motion, initial motion on setting the date, I would like to address the fact that if there are any questions pertaining to procedural matters, I think that they could be discussed here. I see no need for a "B" session.

MAYOR COCKRELL: All right. The - at this time, the Clerk will call the roll.

MAYOR COCKRELL: There is no citizen assigned to speak on this particular motion. Yes, right. We are going to proceed with the procedural roll call. This is on the motion to postpone.

On the following roll call vote, the motion was passed and approved: AYES: Billa, Rohde, Teniente, Nielsen, Cockrell; NAYS: Pyndus, Cisneros, Black, Hartman.

MAYOR COCKRELL: I am going to vote to postpone just on the ground. No, the action will be taken today but I have four Councilmembers up to this point who have asked for a "B" session. And as a matter of Council courtesy, that's - I feel that I should vote to give them that courtesy. May I just say that it has been this Council's policy in trying to be fair to its own members to try to give time. Now, we can go into the "B" session just immediately following the public hearing. There is a public hearing and we will have the citizens to be heard.

MR. HARTMAN: Madam Mayor, I would just like to say is, as one of the four who voted against the postponement, I certainly have no objections to that.

MAYOR COCKRELL: Well, it is a matter that I try to honor as a courtesy to the members of the Council, those requesting postponement until later in the day, I think should be given this opportunity.

MR. HARTMAN: I think it's a reasonable request.

MR. BILLA: Out of curiosity, just to see what the citizens here in San Antonio are thinking, we have COPS organization and there may be some other citizens, I would just like to see a show of hands of all the COPS people and the show of hands of people not.....

MAYOR COCKRELL: May we come to order. All right. Let me outline - to be sure that everybody understands the final vote is going to be taken today, in difference to those Council members who asked to recess to a "B" session and to discuss all the alternatives and implications, we have decided to follow that course. Now then, if those citizens who have earlier signed up to be heard would like to be heard now, we will take you now at this time, if you would like, and I think Mrs. Sinkin was the first citizen who was signed under the citizens to be heard.

MRS. FAY SINKIN: This matter has been under discussion since November 25th when we brought in our petitions. I think that our Board of Directors would agree with me in saying that we're disappointed that you are not addressing the question of referendum and a vote on January 17 immediately. However, if you feel another session is necessary, we accept that. We hope that the result of this other session will be a referendum, a vote of the people on January 17.

MAYOR COCKRELL: Thank you. Mr. Sarabia.

MRS. SINKIN: May I ask you at what time you will be back to vote on this issue?

MAYOR COCKRELL: It is eleven o'clock now, we have the public hearing that was scheduled for 10 o'clock. I would say that it would probably be, it would probably be about, well, no earlier than 2:30 to 3. All right. And we have the 10 o'clock, we have the public hearing that was scheduled for 10 o'clock, and we will then go after that public hearing, we'll go into the "B" session.

MR. PYNDUS: Mayor Cockrell.

MRS. MARIA DOMINGUEZ: Will we have a choice to speak now or wait?

MAYOR COCKRELL: The citizens who were signed on this issue have a choice to speak now. The next - the others would be heard at the regular time unless they're signed on the public hearing issue. Just a moment, Mrs. Dominguez. The regular citizens - may I - just for the information of the citizens here, the regular citizens to be heard time is ordinarily at 1:30 but when citizens are signed on a particular item, they are called on that item and Mrs. Sinkin was the first called on the matter signed that we are now discussing. Mr. Sarabia is the next speaker, and...

CITY MANAGER GRANATA: There are approximately six more besides that.

MAYOR COCKRELL: Mrs. Dominguez, it was not indicated - the subject....

MRS. DOMINGUEZ: (Inaudible).

MAYOR COCKRELL: I see, then you would be the last speaker on this subject.

MRS. DOMINGUEZ: Okay.

MRS. SINKIN: Mayor Cockrell, may I reserve the rest of my time for after the vote is taken?

MAYOR COCKRELL: Yes, you may. Mr. Sarabia.

MR. ANDY SARABIA: Well, good morning. Well, it was - it started out to be a good morning.

MR. ROHDE: It's still a good morning.

MR. SARABIA: But the stalling that's taking place, the only issue the motion was made by Mr. Hartman, was to set the date for the referendum. Now going into the "B" session and talking where the election sites are going to be and coming up with all these other details could have been done any other time. The only motion was to set the date for the election and we're beginning to question why is Mr. Nielsen so frightened to let this thing go to the citizens and let the citizens decide how they want the City to grow and how they - whether they want their water pure or they don't want their water pure. Whether they want this thing zoned this way or rezoned, and it's really now, you're going to subject all these people back here to leave or stick around here, wait till 2:30 for you to make a decision that you could have made. You've had meetings after meetings after meetings. Distractions after distractions after distractions and now this - this is the ultimate distraction this morning.

MAYOR COCKRELL: All right.

MR. SARABIA: You have - the voting places and the voting sites are really immaterial until the vote is taken in words that you're actually going to have the referendum. And going into - we'll certainly be in your "B" session, Mr. Nielsen, and if necessary, we'll certainly participate in your "B" session, Mr. Nielsen, and if you want us to help you to decide where to put the sites, I offer Holy Family Parish Hall as Precinct 215 and you could have your election there. Now the other.....

MAYOR COCKRELL: May we try to be in order, please.

MR. SARABIA: I'm speaking to the motion - the business that was carried on here today or not carried on here today, and I hope this is free enough where I can express my feelings at the moment and these are my feelings, as all of you are expressing yours on the issue. And I just feel that it's tragic that you subject the citizens that come here in good faith, in good faith that the first item on this agenda this morning would be the item of the referendum. And now we find we're going to be subjected to another long wait, and it's unfortunate that Mr. Nielsen doesn't know about the add-ons that are added on to the agenda, but that's not the citizens' fault. If you don't know what order or what business is going to take place today, don't punish us for that.

DR. NIELSEN: Nobody is being punished.

MR. PYNDUS: Mayor Cockrell, may I address you please?

MAYOR COCKRELL: All right, Mr. Pyndus.

MR. PYNDUS: We both want to be orderly and it's really an inconvenience for those people that are in the Chamber, and their view is being blocked by people standing. Now I think that we have recognized the fact that there - you are speaking for them. Now, I think in order to have everybody participate and not crowd the issue, if you would have the courtesy, if you'd have the courtesy to maintain order and have a seat. If you don't have that courtesy, that's up to you.

MAYOR COCKRELL: May I ask if the audience would be very kind and be quiet. We really are trying to proceed, and we want the person at the podium to have the opportunity to speak.

MR. SARABIA: Thank you, Mayor. All right. In response, Mr. Pyndus, we certainly intend to be as orderly as we have to be. We came here orderly, we sat here orderly, and the disorderly conduct is on the part of specifically Mr. Nielsen, I mean, I just - I don't feel.....

MR. ROHDE: Mayor, a point of order, Mayor.

MAYOR COCKRELL: Point of order, yes.

MR. ROHDE: I resent that.

MAYOR COCKRELL: All right. May I make this comment to the audience. I know that many of you came here and would like to have seen the action concluded very speedily but I just want to say this to you. This has been a very difficult issue for the Council to weigh. Now then, this morning no one knew until the vote was taken what the outcome of that first vote would be for sure. Now then, there is following, there is a second issue and our Council no matter how we have felt individually, on issues has tried to act with courtesy in our own family, and I feel that if the Council members as a group would like to sit down and have a little more time to look at it in "B" session, this is simply a matter of courtesy. Now I am sorry that it does disappoint some members who would like to have had the action just immediate. But I, too just ask that you understand why the Council has decided to postpone till later today. Now there will be an action before the day is over, and we can assure you of that.

MR. SARABIA: Okay, Mayor. We - I agree with what you're saying. We did come here expecting action, and action, and we end up getting inaction. Now, after meeting, I mean, I hate to repeat myself but all the meetings you have subjected yourselves to on the same issue, the legality of this the illegality of that, the legality of this and that, and then to subject yourselves to more - it's unbelievable - it's really unbelievable and when Mr. Billa starts talking about motives, I think someone should start questioning the motives of going into "B" session at this particular time.

MAYOR COCKRELL: All right. Father Benavides, Dr. Cisneros.

DR. CISNEROS: I just want to say, Andy, I think that the governmental process, democratic process is a very deliberative process. It often requires checks and double checks on information and facts, and so forth, while it may have been postponed, and I know that it is inconvenient for some people who came here and expected to have lunch back at home and don't have - didn't bring money to have lunch and took off from their jobs and a lot of other things. It is inconvenient. On the other hand, there are four members of the City Council who indicated that they wanted more solid information and I don't think that they can be faulted for perhaps for wanting full information before they vote.

MR. SARABIA: What solid information?

DR. CISNEROS: There are things conceivably then you could say require.....For example, are we going to consolidate precincts or are we going to have all the machines and a whole lot of questions like that which could, might or might not be relevant to the decision that some people want to make. So, well, you know, I have sympathized all along with the goals and continue to and in this case, there is a matter of courtesy involved.

MAYOR COCKRELL: All right. Father Benavides.

MR. HARTMAN: Madam Mayor, I just merely wanted to state also that I - although I voted against the postponement, I felt that it was a reasonable request. My point is, that I think in any issue of this nature, I'm eager to go the extra mile to permit everybody an opportunity to raise whatever question they have. I am confident of the outcome, I think, because I think it's a logical action that will be taken by this Council before the end of the day. My point is that I want to extend every person an opportunity to any further questions that may arise. And I would, therefore, concur that this opportunity be extended. I don't - would not see the need for it, but nevertheless, I would extend it anyway.

MAYOR COCKRELL: All right.

MR. PYNDUS: Question, please.

MAYOR COCKRELL: Mr. Pyndus.

MR. PYNDUS: Mayor Cockrell, I have no expertise on consolidating voting precincts and I'm wondering if we can get a head start on that and get some recommendations from staff prior to the "B" session.

MAYOR COCKRELL: All right, there will be discussion in the "B" Session. Let me just point this out. We have five more citizens to be heard. It is now 11:15, we want to give them the opportunity to be heard. We then have the 10 o'clock public hearing. So, yes, Reverend Black.

REVEREND BLACK: May I raise this question. It seems to be that since the decision has been made to postpone it, and this group of citizens here would like to participate in that session, that we ought to define what will be discussed in that session, so that they will have adequate time to make such preparations necessary to also address the issues that Councilman and not Congressman Nielsen might bring up.

MAYOR COCKRELL: All right, to clarify the issues in the "B" session, the next item that was to come up under the Charter would be the item of referendum - setting a date for a referendum or any relevant matters thereto. And, so is that stating it adequately?

REVEREND BLACK: What are the matters at stake?

DR. NIELSEN: Are we assured of machines; are we going to use punch cards, are we going to use a paper ballot? I am serious now, this is the responsibility that this Council has. I am sorry, may I just say one thing, please, particularly to Father Benavides. If you may not respect some of us individually, would you at least respect the fact that there is an internal dynamic which goes along with nine people, and I am respecting that a great deal. Would you let me finish, Father Benavides?

FATHER BENAVIDES: Aren't these questions moot? Don't you have to vote for an election before you talk about machines, or consolidation of precincts?

MAYOR COCKRELL: All right, may I recommend to the Council that we listen to the remainder of the citizens to be heard and then we are able to proceed. Father Benavides is the next registered speaker.

FATHER BENAVIDES: I would like to reserve my time.

MAYOR COCKRELL: All right, fine. Mrs. Gallego.

MRS. GALLEGO: I'll reserve my time.

MAYOR COCKRELL: Fine. Mrs. Badillo.

MRS. BADILLO: Same.

MAYOR COCKRELL: Now, then the next speaker is Mr. Wall.

MR. WALL: I'd like to reserve my time.

MAYOR COCKRELL: All right, fine. In this case, we will then move on to the next item which is the 10:00 A. M. Public Hearing, on an ordinance to approve Amendment No. 1, the Urban Renewal Plan, Neighborhood Development Program.

CITY MANAGER GRANATA: Mayor, did Mrs. Dutmer want to speak on the referendum?

MAYOR COCKRELL: Oh, excuse me, did Mrs. Dutmer wish to speak now. She was also registered. All right, I am sorry.

MRS. HELEN DUTMER: For the record, I am Helen Dutmer. I reside at 739 McKinley Avenue. What I have to say may not be very important, but I sure would like to say it with a little bit of respect and quiet in the Chambers. If there is one way to defeat a referendum is by the actions we just saw. The average citizen will be a little bit hesitant to connect themselves with this type of operation, and I was a little bit hasty I suppose last week in saying that I favored the petition drive because it showed that the citizen could participate in their government without disruptive and violence actions. All right, I am very happy to see that you have voted for the referendum because it does bring citizen participation. It's more citizen participation than I have seen, in most anything I think, since the Northeast Expressway or Northwest Expressway, whichever one you want to call it. Now, to me, it doesn't make much difference whether you repeal this action today or whether you submit it to the referendum if you do not have a period of time where you can freeze the zoning over this Aquifer in order that we might have more studies and give us some concrete policies to follow. U. S. Geological Survey says one thing; Texas Water Quality Board says another thing. There are so many divert opinions that it seems to me it's sort of like the man who owns the rope factory, that he requests the manager to go out and test every piece of rope that's manufactured by putting it around his neck and jumping off of a box. Now, to test the zoning over the Aquifer, by this method, I think would be wrong. We need assurances. Once the citizenry has assurances that they are going to have pure water, and you can live without gas, you can live without electricity, you can live without an awful lot of things, but water is not one of them. Once you have assured the citizenry that you are going to do everything in your power to protect that Aquifer, and the recharge zone, then I think all of this hub bub will come to a halting stop. I think the problem is that we do not have any concrete policies and as I told you the other day, I am here representing the WIGS, Women in Government Studies. The, it seems to me that the criteria in this thing is not to stop growth or anything else, but merely to give them as much assurance as could possibly be given under any circumstances. That is all any, that is the step that anyone would have to take before that. Once this has been done, I think the furrow would have stopped and there is no assurances as the Reverend Black said, that there are going to be two hundred voters going out and voting for the rescinding of this zoning ordinance, none whatsoever. If it did pass, then at least you have given your citizenry the opportunity to speak, and if enough people do turn out, as I stated the other day, it will put the people in Austin and in Washington on notification that the City of San Antonio has a water problem and perhaps they will send some help down here to help us resolve our big problem. Thank you.

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(Later in the day the discussion of the referendum was resumed as follows:)

MAYOR COCKRELL: We go now to the "B" Session and may we, perhaps we should ask the City Clerk to outline alternative resolutions that he has prepared, so the Council can look at them including voting places and those kind of things.

MR. G. V. JACKSON, JR., CITY CLERK: Madam Mayor, the ordinance as we have prepared it is a standard notice of election. The caption of this ordinance reads:

AN ORDINANCE 46,045

CALLING A REFERENDUM ELECTION TO BE HELD ON THE 17TH DAY OF JANUARY, 1976, ON ORDINANCE NO. 45863 WHICH ZONED AND CLASSIFIED CERTAIN PROPERTIES IN THE VICINITY OF F.M. 1604 AND U.S. 281; DESIGNATING POLLING PLACES FOR SAID SPECIAL ELECTION; AND DECLARING AN EMERGENCY.

* * * *

Now, the Ordinance calls for a vote by voting machines, time from 7:00 A. M. to 7:00 P. M., and also provides for consolidation of precincts, that is, combining of precincts. Some people when they first think of this, think it's an inconvenience, and I think one of the - when this first came up last year we had the Firemen's election, and Dr. San Martin, for one, expressed concern that this might eliminate some people from wanting to vote. However, we went on with it, and it proved highly successful. Later we used the same polling places for the Police Officers' election, and it also was highly successful, and actually reduced the cost of the election considerably. The reason behind the combining of precincts is number one, we have a very simple ballot and it's a yes or no question, and people when they go into the machine know what they're going to do. So, it's not a time-consuming process.

We would like to add one additional clerk at each place, so they don't get a line jammed up, that's where the line jams up, it's the signing in, it's not in the machines. In a municipal election, it's just the reverse. But, we strongly recommend the adoption of this ordinance. I think it's an efficient way to go. We're reducing the number of precincts from about 200 to about 80. When you figure approximate cost of \$150.00 per precinct, it rapidly mounts up.

MAYOR COCKRELL: Would you tell us how many precincts there are that there would be combined in that kind of thing.

CITY CLERK: Yes, madam, we're providing a maximum, I believe the most are - have is four precincts combined in one. Some of these, if you look at a map that I had upstairs last year, some of these precincts were split, so they'd show up on here as two precincts, but actually they would be what used to be one precinct. It's not really as bad as it looks, it's a very expedient and very efficient way to put on an election of this kind.

MR. HARTMAN: Madam Mayor, perhaps, this is a procedural question. I notice that in the combining of these precincts, in the polling places that are indicated, Garland, have these, do we know that all of these are available for contracting as a polling place?

CITY CLERK: Well, yes, sir, we feel they certainly are. Of course, we can always amend the ordinance.

MR. HARTMAN: Okay, the only reason I asked that was the fact that I remember that in my own home precinct which is 329, there are three others combined with it. I remember there was some question about a contract with Blessed Sacrament School and I noticed it back here. I just noticed it. I just wonder by voting these polling places, we're not running the risk of any invalidity with regards to the ordinance, are we?

CITY CLERK: Oh, no. No, sir. Every year, as a matter of fact, I don't recall any election I've been in that we didn't have an amending ordinance of one kind or another. But this one gets it off the ground

and gets it started. I want to mention one other thing, all of you have heard that last summer, the San Antonio School District imposed rather high fees for the use of schools ranging anywhere from \$140 to \$500, but this has all been rescinded, and they've gone back to the standard policy of simply charging for the overtime for the maintenance crew that is necessary.

MAYOR COCKRELL: Fine, I think Dr. Cisneros was next.

DR. CISNEROS: Garland, I just wanted to know how you plan - how you would publicize the consolidation, just to reduce the confusion. I know the newspapers would run it the day before, but there can be quite a bit of confusion.

CITY CLERK: This could be. Since in this case, we're going to save \$15,000 to \$18,000, it would also be my recommendation that we spend \$500 or \$600 publicizing it on half page ads to let people know what to look for, I think if we put an ad in the paper like that, then our friends in the media are also going to put it in their columns, and we'll get good coverage.

DR. CISNEROS: Good idea. Thank you.

DR. NIELSEN: That expands our legal notice requirement also; we're more than covered.

CITY CLERK: If you would like to see what this looks like, this is the way the combined precincts are planned out. Now, this has been used twice before, and it works very well.

MAYOR COCKRELL: What elections has it been used in that you recall? The Fire and also the Police?

CITY CLERK: Yes, madam.

CITY MANAGER: For the collective bargaining, yes, madam.

MAYOR COCKRELL: There were single item referendum items.

CITY CLERK: Yes, again, just a yes or no vote.

MAYOR COCKRELL: Yes, Mr. Teniente.

MAYOR PRO-TEM TENIENTE: I'd recommend strongly that in publicizing the election, that you take the local neighborhood newspaper and make sure they are publicized there.

CITY CLERK: Yes, sir, the Northside Recorder.....

MAYOR PRO-TEM TENIENTE:and the Sun and the Chicano Times, the Southeast Reporter, and the whole thing, and put emphasis on that because in the local newspapers, these things get lost sometimes. So, I'd like to make sure that they, too, also have the.....

CITY CLERK: We might be able to design a map similar to this to put in the add as well. We'll work something out with PIO.

REV. BLACK: It appears that some precincts are split? Is that true?

CITY CLERK: No.....

MAYOR COCKRELL: You have not split any particular precinct, have you?

CITY CLERK: For instance, this is precinct 228, 229 and 263.

REV. BLACK: I thought that was split.

MAYOR COCKRELL: No. Are there other questions?

MR. BILLA: The list is going to be corrected for names and that, because I vote in that 403, and that 455 where's it's Brackenridge High School, and I'd never be able to find it.

CITY CLERK: Yes, sir, we'll change that.

MR. ROHDE: Garland, what do you anticipate the election will cost? You and I talked about that on the budget, several months ago, are you still sticking with that \$60,000?

CITY CLERK: Oh, no, no, sir.

MAYOR COCKRELL: No, sir.

MR. BILLA: About \$10,000.

CITY CLERK: Al, that \$60,000 we talked about was for that bond election, and I had money in there to support a bond committee?

MR. ROHDE: What are we looking at in terms of cost here?

CITY CLERK: Of course, costs have gone up some. I would think that not more than \$20,000, and probably less.

MAYOR COCKRELL: Well, that's good, that you're saving money through this method.

DR. CISNEROS: Very good.

DR. NIELSEN: Garland, I did ask you, you have no formal commitment yet from the Commissioners' Court for the use of the machines.

CITY CLERK: No, sir, but.....

DR. NIELSEN: As this ordinance is spelled out, it says machines, I guess if they just aren't available, we'll have to amend the ordinance for punch cards or whatever else.

CITY CLERK: There's no problem.

DR. NIELSEN: Next thing, would you read at the end of this whole ordinance, just exactly the last page, what it says, the way the ballot will appear on the last page of the Ordinance.

CITY CLERK: You mean what the ballot is going to be?

MAYOR COCKRELL: Yes, what will be on the ballot.

CITY CLERK: "Section 5. The ballot for said election shall have written or printed therein the following: 'Ordinance No. 45863 passed and approved October 16, 1975, providing for the zoning of certain properties in the vicinity of F.M. 1604 and U. S. 281 from temporary "R-1" to "R-1" and "P-1(B-2).'

DR. NIELSEN: It should be PUD.

CITY CLERK: I want to tell you the last page of this has been re-written, and I'm sorry I didn't get it in. There's a rewritten last page that puts in this. Yes, let me read this one. "Ordinance No. 45863 passed and approved October 16, 1975, providing for the zoning of certain properties in the vicinity of F.M. 1604 and U. S. 281 from temporary "R-1" to "R-1" Single Family Residential District and PUD-1 (B-2) Planned Unit Development Business District." Now, under that will be: FOR THE ORDINANCE or AGAINST THE ORDINANCE.

DR. NIELSEN: Okay, that's all it says.

CITY CLERK: Now, also under, we're researching this, and I think it's going to be necessary that under the new federal election code, we have to print this thing in Spanish and English.

DR. NIELSEN: Okay.

CITY CLERK: Instructions in the polling booths will be in Spanish and English.

DR. NIELSEN: Thank you, Garland. One more question for Mr. Parker, as far as the new voter rights act, and any changes or decisions that might be made in the next.....let's see, when do we have to print the ballot?

MR. PARKER: Printing of the ballot will only have to be done before the absentee voting begins.

MR. BILLA: Two weeks.

DR. NIELSEN: We've only got less than two weeks before we've got to print the ballots, right?

MR. PARKER: No, sir, it would be 20 days before the election, about a week or ten days after Christmas, a few days after Christmas.

CITY CLERK: One other point, Dr. Nielsen. Last year, we had some good comments made about the sub-stations. I haven't got them picked out yet. I see no reason we shouldn't use the same ones in the four quadrants plus City Hall.

DR. NIELSEN: Okay, one last thing still on this whole voter rights act. You wouldn't foresee any particular legal problem, once the ballot is printed, the courts have no really solid basis for, you know, all these questions that the voter rights act raises? Would that be just an opinion, or would you even care to express yourself one way or another?

MR. PARKER: I do not have a crystal ball to know what a court is going to consider a solid legal basis in view of certain decisions that have been passed on lately. We have already inquired of the U.S. Attorney's office and they won't give us an answer. They say well forward it to them, and in proper time, they'll answer our question about holding the election in accordance with the new provisions of the election code. But in view of the fact that it will also comply with the old provisions also, I don't see that there's going to be any problems.

DR. NIELSEN: Would you expect it if they have some serious questions, they would sure as heck raise it in the next few days. Not wait until five days before the election?

MR. PARKER: I don't want to be quoted on the answer that is supposed to have been given, but I can't.....but I don't foresee any legal problems.

CITY CLERK: One comment that was made to us by the U.S. Attorney's office was - we were asking, for instance, was it necessary to get permission from the Attorney General's office to change our polling places to be different from what the county used on November 3. He asked us what the nature of the election was, and we told him and he said, "Well, this doesn't involve any civil rights, so as long as it is the same as previous elections, you have held, I see no complications." This same thing applied to other questions we had.

MR. ROHDE: Ford, to give you a little guideline on that, the courts let the Houston election go with no problem and also the bond election in Austin was against the same cloud, and they approved that, so I don't foresee any problems.

MR. HARTMAN: Madam Mayor. Garland, I am wondering about the - I realize there are certain guidelines by which you word the issue on a ballot, and I assume that what you've read there, is in accordance with certain guidelines. It seems like a rather complicated way to say what is to be said. There might be any way legally we could make that less complex.

CITY CLERK: Nick and I talked about that. You really have to state what you are voting on and there is not much else you can do except state it as it is in the ordinance.

MR. HARTMAN: You have to cite the ordinance which is the caption, and then yes or no on that ordinance.

MR. PARKER: Section 42 of the Charter talks about that and what it says it has to be and that the - it should be "submitted by ballot title which shall contain a clear concise statement without argument of the substance of such ordinance. The ballot used shall have below the ballot title the following propositions, one above the other, in the order indicated: FOR THE ORDINANCE and AGAINST THE ORDINANCE."

MR. HARTMAN: So, you actually have to give the caption of the ordinance.

CITY CLERK: We do have a little more option in it since we only have one question, we can take up as many columns on the side of the voting machine as we want to. That doesn't pose any problem if it requires explanation.

MR. PARKER: You can not put it in under what it says here. It says here in Section 42, "a concise statement without argument." So, I think the more you put in the way of explanation you are going to get into the area of argument right quick as to what.....

DR. CISNEROS: I was worried about that also, and the thing I wanted to avoid is the situation where people in order to vote for would have to vote against, and that sort of a situation.

MR. HARTMAN: Yeah, I voted against a constitution amendment that way one time. I felt it was so misleading that I.....

DR. CISNEROS: When they want to cast a yes vote, they have to cast a no vote, it's that situation.

MAYOR COCKRELL: All right, are there other questions? All right, Mr. Billa.

MR. BILLA: Mayor, would it be against the law of proper, I think that for the Council on its own initiative to include another question in there that, "Are you for or against growth to the north of San Antonio?"

DR. NIELSEN: Wait a minute, Bob, this is not the time.

MR. HARTMAN: Madam Mayor, in the first place that would be an inaccurate statement.

MR. PARKER: That's argumentative.

MAYOR COCKRELL: I think it was just probably introduced.....

MR. PYNDUS: Mayor Cockrell, what is the proper way to introduce this motion for the referendum?

MAYOR COCKRELL: All right, when we conclude the "B" Session, then we will - if there are any other questions or any other action in the "B" Session, then we will conclude the "B" Session and go back into the "A" Session. Is there anything else? Do you have a question?

MR. HARTMAN: Madam Mayor, actually the motion has been made and seconded this morning.

MAYOR COCKRELL: Right, it was made and seconded, and so we're now - we have concluded with then the "B" Session, we're back with the "A" Session.

MR. SARABIA: I wanted to ask when you read the ordinance if I voted yes for what he said, what did I do?

MAYOR COCKRELL: All right. May I - you will be voting to sustain that ordinance. If you vote no, you vote to repeal that ordinance, is that correct? If you are for the ordinance, you vote yes. If you want it repealed you vote no.

MR. SARABIA: If you wanted to rezone, you vote no.

MAYOR COCKRELL: That's correct.

MR. SARABIA: If you wanted to say yes to rezone, you'd vote yes.

MR. HARTMAN: Madam Mayor. If Jim Parker and Garland, would it be feasible to just state to sustain - I mean is that within the rule?

MR. ROHDE: The Charter is very clear on that.

MR. HARTMAN: Just for or against the ordinance.

MR. PARKER:Under the Charter you have to state for the ordinance, or against the ordinance. The simplest way, the Charter says, "For the Ordinance, or against the ordinance."

MAYOR COCKRELL: Now, then, the pending motion that we have is the motion that will approve this ordinance which sets up the referendum on January 17, and with the consolidation of the precincts as it has been explained to you by the City Clerk. Are you ready? Mr. Pyndus.

MR. PYNDUS: Yes, madam. I'd like to make one more try, Mayor Cockrell. I would like to make an amendment to the motion - an amendment would be in view of the fact that this referendum process may possibly be ineffective due to certain legal precedents pointed out by the City Attorney. It is proposed that an amendment calling for immediate reinitiation of this zoning case by Council be included and initiated. I'm wondering, Glen, if you would accept that amendment:

MR. HARTMAN: Inaudible.

MAYOR COCKRELL: The Chair is going to rule that this is - it would need - the question would need to be divided. Under the City Charter, it seems to me that we have to vote on this referendum issue separately and that any other action that anyone wishes to propose will have to come separately. Now, Mr. Parker.

CITY ATTORNEY PARKER: Well, one other factor, there is the notice provisions that you can't put something in there that wasn't included in the notice provisions that were posted. So that would have to be subject matter that was separate action.....

MR. PYNDUS: That precludes it?

CITY ATTORNEY PARKER: It would preclude it being included today unless you want to instruct staff to prepare one and then I'll call a special Council session at the close of this Council session that you could - it would have to be at least two hours after this one - after it was posted before you could get.....

MR. PYNDUS: I want to be sure because this pertains to it and an amendment would make it all right, would it not?

CITY ATTORNEY PARKER: An amendment that would not include some subject matter that was not subject matter was, I mean so long as it was not in the subject matter of the notice but I don't think there was anything in the notice pertaining to initiative of directing another zoning of it. That could be properly the subject of another matter next week.

MR. PYNDUS: I would so move that it be included in next week's program agenda.

MAYOR COCKRELL: Well, another motion is not in order at this time. You certainly can make that at the proper time. Dr. Cisneros.

DR. CISNEROS: Madam Mayor, if we have discussion at the present motion which is as I recall, I've seconded it, which is to hold the election at the earliest possible date which is our understanding on January 17th.

MAYOR COCKRELL: Yes.

DR. CISNEROS: Okay. I just again want to refer by way of discussion on that motion to the wording one more time. I want to get that clarified. What people are actually voting on is whether to repeal or not. Is it not possible for a person to say, yes, I want to repeal and vote yes?

MAYOR COCKRELL: No. I think the City Attorney has read that to us. I think it can be made clear in all of the discussions what the effect of a vote for or the effect of a vote against is. The form of the referendum ordinance and the way it is stated is prescribed in the City Charter and the way it is in this motion is just according to the Charter. Is there any.....

MR. ROHDE: I call the question, Mayor.

DR. CISNEROS: People are in fact thinking that they're voting, making a positive aggressive action by voting for a change, for repeal that they ought to be allowed to do so in a positive fashion instead of having to exercise a negative vote to do so. That's what I was trying to address myself to.

MAYOR COCKRELL: Are there any other questions? All right. The Clerk will call the roll.

On roll call, the motion, carrying with it adoption of the ordinance, was passed and approved by the following vote: AYES: Pyndus, Cisneros, Black, Hartman, Rohde, Teniente, Nielsen, Cockrell; NAYS: Billa; ABSENT: None.

CITY CLERK: The motion carried.

MAYOR COCKRELL: Motion has carried and the referendum is set now for January 17th. I would like to say one word to the citizens and then I'm going to call on those citizens who have reserved comment. The only concern I had just had about a referendum was whether or not in the referendum process it would lead to any further division in the community. I want to make a direct appeal to all of the leaders of any point of view on this referendum that we all simply have tried to present the facts as we see them and understand them and that we all look down the road to the time after the referendum when everyone in the community, in effect, will have to be working with the City Council as we attempt to reach the ultimate policy decisions that are acceptable to the total community. I really feel that we will have your cooperation on this. We don't want to go through some sort of a community situation in these next few weeks that lend to a situation where we won't be all able to sit down at the table comfortably when it's over. I really just want to make that as an appeal whatever your point of view may be that we look at it in that light.

MR. TENIENTE: Madam Mayor and Council, we, or I should say, I feel basically the same way except that my first approach to this matter once the citizens had shown their willingness to go out and work for the petitions and then being successful requesting us to do one or the other of the two things that they submitted, then I felt that the repealing of this ordinance would assure the citizens who worked on this petition drive the right to have this ordinance repealed. What happens now is perhaps a question because this may not be the fact, it may not be successful, I'm not going to get involved in it openly to move it one way or another at this point but I do feel that my vote at the beginning was to repeal so that the citizens, 10 percent of the citizens had spoken and it's a matter of record that only about 10, about 15 or 20 percent of the citizens usually turn out for one of these type of elections, it's not the general election but this type of election and so I was just merely saying that the majority of those citizens, the ten percent have already spoken and I would hope that these same citizens come out and vote so that their vote against this zoning will be heard.

MR. HARTMAN: Madam Mayor, I would like to second both your remarks and those of the Mayor Pro-Tem with regard to urging heavy turn-out. I feel that the community has an opportunity to exercise a very basic democratic process and I hope that it can be exercised on as high level as possible. I think that we have a lot of issues that are involved here that need to be discussed and I would hope that it would be directed in the direction of trying to communicate issues and to sway persons thinking of basic issues rather than questioning motives or any other way impugning any one's motivations. I think that we do have an excellent opportunity and I hope we make most of it.

MR. PYNDUS: Mayor Cockrell, would it be the proper time now to ask for the placing on the agenda, with the Council's approval, the reinitiation process?

MAYOR COCKRELL: Perhaps we should hear first from the citizens who wanted to speak and then get.....

MR. PYNDUS: If you would, please.

MAYOR COCKRELL: All right, fine. Mrs. Sinkin has reserved a portion of her time.

MRS. SINKIN: In response to Mayor Cockrell and Mayor Pro-Tem Teniente, and Mr. Hartman, you have our cooperation on this score. We appreciate the difficulty has encountered in reaching their decision. We applaud you for calling the referendum on January 17. This may very well be the first nation-wide election to be held in 1976, our bicentennial year. Our voters have the opportunity to show the state and the nation that in San Antonio democracy works, that our government is flexible and responsive. The APA feels certain there will be a great outpouring of voters and we anticipate an overwhelming vote against. Thank you.

MAYOR COCKRELL: Mr. Andres Sarabia.

MR. SARABIA: My name is Andres Sarabia, President of the C.O.P.S. organization. COPS would like to congratulate the Council action taken this afternoon. Unfortunately, it could have been done this morning, and we would have had many, many more citizens here to help celebrate in the victory that resulted from the petition. We certainly agree, Madam Mayor, that the process, the democratic process, must continue and we pledge our resources to our position on this issue that the zoning should be repealed, reversed or whatever.

We also would like to announce that while you all were enjoying your chicken this afternoon, we, one of the major educational things to come out of the petition drive was that you have several thousand citizens walking around the City thinking they're registered to vote and they're not. So we've started today with a voter registration drive. We took our citizens over to the County Courthouse, we had them sworn in as deputies. So now we and we picked up the voter registration forms. So this week, all this weekend and up to the 18th or 17th of December, we will have a massive voter registration drive. So you can be assured that the issue and the issue of the mall and what is involved in the mall and all the side effects and the future of the city that this decision may and will involve will be - we will certainly bring to the people.

Many, many people have been involved in this, in the petition. We congratulate the APA for their efforts and their success also in this issue. It's going to be an interesting Christmas and it's going to be an interesting New Year, and it's going to be an interesting, exciting and challenging beginning of the Bicentennial year. I think that you all deserve congratulations on what you've been through and the organization has been through and I know that the - what we have been through over the last few months, over the last year, year and a half has really grown. The City - we are not against growth because we have - the City has grown internally in addition to sprawl. The people in the neighborhoods are getting involved with their government and the City government and they're concerned with their City on all sides of the City, east, west, south and north. That we'll continue to occur and we'll continue to participate in the democratic process. I'd like to thank you all.

MAYOR COCKRELL: I don't see Father Benavides. I guess - then Mrs. Gallego.

MS. BEATRICE GALLEGO: My name is Beatrice Gallego, Executive Vice-President of COPS. I think Mr. Sarabia said it all for us. We do want to thank you and congratulate you. We have been deputized and we already started on our registration drive and we will be getting copies of 40,000 people that were not registered. We're working on that too. We are just a little disappointed that we had to wait this late because we were supposed to work today, the majority of us, and had taken off half a day from our jobs and our mothers and children but again we thank you and we are looking forward to a happy holiday after this great victory. Thank you. And working with you, we worked before with you and we'll continue to work with you.

MAYOR COCKRELL: Thank you.

DR. CISNEROS: Thank you very much.

MAYOR COCKRELL: Mrs. Badillo.

MRS. BADILLO: One of the problems with being the first vice-president is to bring in the rear and I think everything has been said. I'm very happy - I'm sad in a way like it was said before that it did take the period of time that it did take. I've got four children. School was dismissed at two o'clock and I've got to get on to them but, again, I'm pleased and I'm looking forward to participating in our democratic system.

MAYOR COCKRELL: Let's see, was there anyone else from the COPS group that wished to be heard. Mr. Wall.

MR. HARTMAN: Madam Mayor, Mr. Wall who is from the residential area just south of the property questioned had to leave. He did ask me if I would convey to the Council the fact that the concern of those citizens was strictly to whatever happened - they wanted to maintain the buffer zone that had been established, you may recall on the zoning action. That was his concern.

MAYOR COCKRELL: All right, I believe that concludes this action. Mr. Pyndus, you had that.....

MR. PYNDUS: I would like to make my last effort. I cannot share your enthusiasm because I am concerned about this action we've taken. Now, as I understand our City Attorney has advised the City Council and also the people in the audience that the action that we've just taken will not stand up legally. So based on his opinion, it's my hope that we can take at next week's agenda, take up the subject of a reinitiation process by this Council as recommended by the City Attorney through the Planning and Zoning Commission to be sure that this action will go through as you in your mind believe will go through. I would so move to this Council that this action be taken up at the next session.

MAYOR COCKRELL: Hearing no second, the motion dies for want of a second.

DR. NIELSEN: Let me just say, Madam Mayor. Phil, there may come a time when we will have to do this. Right now, we really don't. In my humble opinion legally or politically or any other way, because until the election process is completed, nobody really knows the effort to simply repeal failed and now it's a political election process, and I think until that is acted upon there is no sense for us to reinitiate.....

MAYOR COCKRELL: My comment would be at this time that I would just be concerned that in some way it would muddy up the water of the referendum process. We have now initiated the referendum process. We have a date in January. At that time we're asking the citizens to speak to us and speak to the issue and for all the citizens to speak, and for us to be having concurrent other sessions, it seems to me that it, in effect, would muddy up the water for the referendum, and so, I would - I really would rather let it take its course now with the referendum having opted to go that way.

DR. NIELSEN: What do you mean muddy up the water?

MAYOR COCKRELL: I just like to use some of the expressions. Mr. Rohde and then Mr. Billa.

MR. ROHDE: My comment is that I don't always want to be in double jeopardy.

MR. BILLA: I just wanted to comment, I mean everyone has emphasized that they want to follow the democratic process, and I think that every Council person feels here now that they have done that, and certainly I would like to accept Mr. Pyndus' motion, but I think there wouldn't be sufficient time to do correctly what he is asking for. I hope there would have been more time between now and the election, because I think there will be sufficient time but everyone has already indicated their position. They've yielded and succumbed or whatever might be to the will of the people that are present here and the petitions, I see no reason to discuss it further. The election date is set. Let's get on with the election and see what the results are.

MAYOR COCKRELL: All right, thank you. Well, we'll then go to the regular agenda and proceed.

PUBLIC HEARING

The Clerk read the following Ordinance:

AN ORDINANCE 46,043

APPROVING AND ADOPTING MAJOR AMENDMENT NO. 1
MODIFYING THE URBAN RENEWAL PLAN FOR THE
NEIGHBORHOOD DEVELOPMENT PROGRAM, TEX. A-8,
AND DIRECTING THAT SAID AMENDMENT BE FILED
AS PART OF THE URBAN RENEWAL PLAN FOR THE
NEIGHBORHOOD DEVELOPMENT PROGRAM, FOURTH
ACTION YEAR, TEX. A-8.

* * * *

Mayor Cockrell declared the Public Hearing open.

Mr. Winston Martin, Executive Director of the San Antonio Development Agency, explained the proposed ordinance and displayed a map showing the boundaries of the property in question. He stated that the initiation of the request came from the citizens in the area asking that funds in the Neighborhood Development Project to be used to provide a park for their area. Total area is 9.7+ acres.

Father David Garcia, Associate Pastor of Immaculate Conception Church, which is just across the street from the park site, described the area as being an eyesore full of trash and junk. He said there are no parks in this area and a park would fill a great need in the neighborhood.

Councilmen Pyndus and Teniente expressed concern over the proposed purchase price saying that they felt that negotiations with the owners should be continued.

The following persons spoke in favor of the park and urged the Council to approve the ordinance:

Mrs. Rosalinda Martinez
Mrs. Huerta
Mary Esther Antu
Gustavio Montalvo
Carmen Hernandez
Gilbert Nieto
Mike Landeros
Joe Orosco

Mr. Karl Wurz and Mr. Raul Rodriguez said that they recognized a need for a park in the area but objected to the high price. They urged that condemnation proceedings be instituted to get the land for a better price.

Mr. Gordon Davis, attorney for the owner of the property, spoke in rebuttal to assertions that there was a secret deal. He assured the Council that such is not the case at all.

After consideration, Dr. Nielsen moved that the ordinance be approved with a proviso that through the administration process available to the Urban Renewal Agency that one more effort be made to negotiate a more favorable price with the property owner. The motion was seconded by Mr. Billa and on the following roll call vote, the motion, carrying with it adoption of the ordinance, was passed and approved: AYES: Billa, Cisneros, Black, Hartman, Rohde, Teniente, Nielsen, Cockrell; NAYS: None; ABSENT: None; ABSTAIN: Pyndus.

Father Charles Pugh thanked the Council for approving the ordinance and then announced that while his group was attending the Council meeting his bus was towed away by the Police Department.

Mayor Pro-Tem Teniente assured Father Pugh that he would recover the bus and personally pay whatever charge might be against it.

75-73 The Clerk read the following Resolution:

A RESOLUTION
NO. 75-73-108

ENDORISING AND SUPPORTING THE PROJECT
TO ESTABLISH A MEDICAL DETOXIFICATION
HOLDING UNIT AT BEXAR COUNTY JAIL.

* * * *

Mr. Cisneros reminded the Council that this matter had been discussed last week and that the Council's approval for this project is needed to assure that the grant is obtained. He urged approval of the resolution.

Mr. Cisneros moved that the resolution be adopted. The motion was seconded by Mr. Hartman and on the following roll call vote, the motion was defeated: AYES: Cisneros, Black, Hartman, Cockrell; NAYS: Pyndus, Billa, Nielsen; ABSTAIN: Rohde; ABSENT: Teniente.

75-73 The meeting recessed for lunch at 12:15 P.M. and reconvened at 1:30 P. M.

Mr. Rohde moved that the Council reconsider the action previously taken on Resolution No. 75-73-108 in view of the fact that Mr. Teniente had necessarily had to leave the Chamber at the time the vote was taken. The motion was seconded by Mr. Cisneros and on the following roll call vote, the motion was passed and approved: AYES: Cisneros, Black, Hartman, Rohde, Teniente, Cockrell; NAYS: Pyndus, Billa, Nielsen; ABSENT: None.

Councilmen Pyndus and Nielsen expressed concern that passage of this resolution could have an adverse effect on other projects of the City and in the future would be a cost to the City. They felt that more study should be given the matter before it was acted upon.

After consideration, Mr. Hartman moved that the resolution be approved. The motion was seconded by Mr. Teniente and on the following roll call vote, the motion, carrying with it approval of the resolution was passed and approved: AYES: Billa, Cisneros, Black, Hartman, Rohde, Teniente, Cockrell; NAYS: Pyndus, Nielsen; ABSENT: None.

75-73 ROBERT E. LEE VOLUNTEERS

Mayor Pro-Tem Teniente read a proclamation declaring Saturday, December 13, 1975 to be "Robert E. Lee Volunteers Day" honoring that football team that had reached the semi-finals in the State high school playoffs.

Mayor Cockrell presented the proclamation to Mr. Roy Sawyer, Head Coach, Mr. Bill Evans, Principal, and Mr. George Ploch, President of the Lee Booster Club.

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MR. PHIL KOEHNE

Mr. Phil Koehne reported to the Council on his continuing efforts regarding the Solar Energy Project. He related his meetings with engineers from City Public Service saying that they were apparently impressed with the idea.

After discussion, Mayor Cockrell asked that the Council be briefed by City Public Service engineers as to their evaluation of the project to this point. Mr. Koehne was asked to keep the Council informed on a regular basis.

MR. G. L. PASTRANO

Mr. G. L. Pastrano spoke concerning his high utility bill. He said that he simply could not pay it and asked for some relief.

Rev. Black suggested that the Council have additional conversation with City Public Service on this matter as it is working a hardship on many people.

Mayor Cockrell said that the Council could discuss this with CPS but that she knew that their attitude would be that any subsidy to rate payers would have to come from the City or some other source outside of CPS.

75-73

The Clerk read the following Ordinance:

AN ORDINANCE 46,044

AUTHORIZING THE CITY MANAGER TO TERMINATE THE LEASE OF LAND AT DURANGO AND SOUTH FLORES STREETS FROM MKT RAILROAD; AND TO TERMINATE THE AGREEMENT WITH ALLRIGHT PARKING TO MANAGE THIS LOT; AND FURTHER REPEALING ORDINANCES 45835 AND 45900.

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The Ordinance was explained by Mr. John Brooks, Director of Purchasing, who said that the S. A. Police Officers Association had asked for assistance in finding parking space for police officers. The City leased property from the MKT Railroad at Durango and South Flores on an experimental basis with the understanding that if the City could not break even on the parking lot, the lease would be cancelled. After two months of operation, it appears that the lot is not being patronized sufficiently to break even. This ordinance would authorize the City Manager to cancel the lease as of the end of January.

Mr. Jerry Clancy, President of the Police Officers Association, said that the City will soon require additional parking space. He mentioned the recent purchase by the City of the John Deere Building and the Detoxification Center which will be built on an existing employee parking lot. He suggested that the City should study the matter further before cancelling the lease.

The Council discussed possible use of the Park and Ride system which has just begun and other possible alternatives.

After consideration, Mr. Brooks recommended adoption of the ordinance and in the meantime, he said he would attempt to negotiate a lower lease rate with the Railroad.

After consideration, on motion of Mr. Teniente, seconded by Mr. Pyndus, the ordinance was passed and approved by the following vote: AYES: Pyndus, Black, Hartman, Rohde, Teniente, Cockrell; NAYS: Billa, Cisneros, Nielsen; ABSENT: None.

75-73 The following Ordinance was read by the Clerk and explained by Mr. Winston Martin, Executive Director of San Antonio Development Agency, and after consideration, on motion of Mr. Rohde, seconded by Mr. Billa, was passed and approved by the following vote: AYES: Pyndus, Billa, Cisneros, Black, Hartman, Rohde, Teniente, Nielsen, Cockrell; NAYS: None; ABSENT: None.

AN ORDINANCE 46,046

AUTHORIZING PURCHASE OF A PARCEL OF LAND OUT OF ORIGINAL CITY LOT 33, RANGE 3, DISTRICT 3, NEW CITY BLOCK 8569, LOCATED IN THE KENWOOD NORTH PROJECT, TEX. R-136, FROM THE URBAN RENEWAL AGENCY OF THE CITY OF SAN ANTONIO FOR A TOTAL CONSIDERATION OF \$125,000.00, AND AUTHORIZING PAYMENT FOR SAME FROM COMMUNITY DEVELOPMENT FUND 752-01, ACCOUNT NO. 75-21-65.

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75-73 The following Resolution was read by the Clerk and explained by Mr. Winston Martin, Executive Director of San Antonio Development Agency, and after consideration, on motion of Mr. Hartman, seconded by Rev. Black, was passed and approved by the following vote: AYES: Pyndus, Billa, Black, Hartman, Rohde, Teniente, Nielsen, Cockrell; NAYS: None; ABSENT: Cisneros.

A RESOLUTION
NO. 75-73-109

PROVIDING THAT A PUBLIC HEARING BE HELD BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO ON THE 22ND DAY OF JANUARY, 1976, AT 10:30 O'CLOCK A.M. IN THE COUNCIL CHAMBER OF THE CITY HALL IN THE CITY OF SAN ANTONIO ON A PROPOSED URBAN RENEWAL PLAN FOR ST. PAUL SQUARE A COMMUNITY DEVELOPMENT PROGRAM ACTIVITY BY THE URBAN RENEWAL AGENCY OF THE CITY OF SAN ANTONIO; DIRECTING THE CITY CLERK TO ADVERTISE NOTICE OF SAID HEARING AS PRESCRIBED BY LAW; IDENTIFYING THE PROJECT AREA; STATING THE PURPOSE OF SAID PUBLIC HEARING AND OUTLINING THE GENERAL SCOPE OF THE URBAN RENEWAL PROJECT UNDER CONSIDERATION; AND PROVIDING THAT ANY PERSON OR ORGANIZATION WILL BE AFFORDED AN OPPORTUNITY TO BE HEARD AT SAID PUBLIC HEARING.

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75-73 Item 3 of the agenda being an ordinance appropriating funds for the Alamo Plaza Project was withdrawn from consideration at the request of the City Manager.

75-73 The following Ordinances were read by the Clerk and explained by Mr. Ron Darner, Director of Parks and Recreation, and after consideration, on motion made and duly seconded, were each passed and approved by the following vote: AYES: Pyndus, Billa, Black, Rohde, Teniente, Nielsen, Cockrell; NAYS: None; ABSENT: Cisneros, Hartman.

AN ORDINANCE 46,047

ACCEPTING THE LOW BID OF \$21,364.00 FROM CADLE CONSTRUCTION COMPANY TO PERFORM A RENOVATION JOB ON THE OLD ACTIVITIES BUILDING AT WEST END PARK; AUTHORIZING A CONTRACT AND PAYMENT, INCLUDING CONTINGENT EXPENDITURES, FROM MODEL CITIES PROGRAM FUNDS; AND AUTHORIZING A BUDGET REVISION.

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AN ORDINANCE 46,048

APPROPRIATING THE AMOUNT OF \$15,000.00 FROM 1970 PARK IMPROVEMENT GENERAL OBLIGATION BOND FUNDS TO THE OAK HAVEN PARK DEVELOPMENT PROJECT; AUTHORIZING PROCUREMENT OF PARK DEVELOPMENT MATERIALS AND ARCHITECTURAL SERVICES.

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75-73 The following Ordinance was read by the Clerk and explained by Mr. Ron Darner, Director of Parks and Recreation, and after consideration, on motion of Mr. Billa, seconded by Dr. Nielsen, was passed and approved by the following vote: AYES: Pyndus, Billa, Rohde, Nielsen, Cockrell; NAYS: None; ABSENT: Cisneros, Black, Hartman, Teniente:

AN ORDINANCE 46,049

MANIFESTING AN AGREEMENT EXTENDING THE TERM OF A LEASE TO CASA RIO MEXICAN FOODS OF A PORTION OF THE BEAUTIFIED SECTION OF THE SAN ANTONIO RIVER FOR A PERIOD OF ONE YEAR.

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75-73

PIGEONS ON RIVER WALK

Mr. Pyndus said that he had eaten at Casa Rio recently and was concerned about pigeons being around the tables. He said that it seemed to be an unhealthy situation and asked what could be done about it.

Mr. Darner said that he recognized the problem which is almost impossible to resolve. All sorts of remedies have been tried but to no avail.

After discussion of the matter, Mayor Cockrell asked that the Health Department look into the situation to determine if there is any great danger to citizens.

75-73 The following Ordinances were read by the Clerk and explained by Mr. Ron Darner, Director of Parks and Recreation, and after consideration, on motion made and duly seconded, were each passed and approved by the following vote: AYES: Pyndus, Billa, Rohde, Nielsen, Cockrell; NAYS: None; ABSENT: Cisneros, Black, Hartman, Teniente.

AN ORDINANCE 46,050

EXTENDING THE AGREEMENT WITH WESTWOOD TERRACE LITTLE LEAGUE FOR LEASE OF CITY OWNED PROPERTY FOR A TWO-YEAR PERIOD.

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AN ORDINANCE 46,051

MANIFESTING A ONE YEAR EXTENSION AND AMENDMENT OF THE CURRENT CONTRACT WITH PASEO DEL RIO ASSOCIATION FOR USE OF THE RIVER WALK PROPERTY IN CONJUNCTION WITH RIVER FESTIVALS.

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75-73

LIGHTING OF RIVER WALK

Councilman Nielsen asked if lighting could be improved under the downtown bridges.

Mr. Darner said that research is now being done on necessary repairs in the river area and this item is included.

Mayor Cockrell said that a suggestion has been made to let student groups put murals along portions of the river that have not yet been beautified and asked for comment.

Mr. Darner said that Parks staff is working on a competition for colleges and high schools for murals to be put on the walls of the river.

75-73 The following Ordinances were read by the Clerk and explained by Members of the Administrative Staff, and after consideration, on motion made and duly seconded, were each passed and approved by the following vote: AYES: Pyndus, Billa, Rohde, Nielsen, Cockrell; NAYS: None; ABSENT: Cisneros, Black, Hartman, Teniente.

AN ORDINANCE 46,052

AUTHORIZING SUBMISSION OF AN APPLICATION TO THE CRIMINAL JUSTICE DIVISION FOR A \$9,000.00 GRANT FOR FUNDING THE MID-MANAGEMENT TRAINING PROJECT OF THE POLICE DEPARTMENT.

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AN ORDINANCE 46,053

CLOSING AND ABANDONING HALL STREET AND WEST MORALES STREET AND AUTHORIZING A QUITCLAIM DEED TO SAN ANTONIO DEVELOPMENT AGENCY FOR THE CONSIDERATION OF \$1.00 AND DEDICATION OF STREET RIGHT-OF-WAY BY UNRECORDED PLAT OF VISTA VERDE PROJECT TEX R-109 SUBDIVISION, UNIT 4, DATED SEPTEMBER 2, 1975.

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75-73 The following Ordinance was read by the Clerk and explained by Mr. W. S. Clark, Director of Land Acquisition and Right-of-Way, and after consideration, on motion of Mr. Rohde, seconded by Mr. Billa, was passed and approved by the following vote: AYES: Pyndus, Billa, Black, Hartman, Rohde, Nielsen, Cockrell; NAYS: None; ABSENT: Cisneros, Teniente.

AN ORDINANCE 46,054

ACCEPTING A WARRANTY DEED FROM B. LEE LIFSHUTZ, TRUSTEE, TO A CERTAIN TRACT OF LAND, AND AUTHORIZING THE EXECUTION OF A QUITCLAIM DEED TO A CERTAIN TRACT OF LAND IN EXCHANGE THEREFOR.

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75-73 The following Ordinances were read by the Clerk and explained by Members of the Administrative Staff, and after consideration, on motion made and duly seconded, were each passed and approved by the following vote: AYES: Pyndus, Billa, Black, Hartman, Rohde, Teniente, Nielsen, Cockrell; NAYS: None; ABSENT: Cisneros.

AN ORDINANCE 46,055

ESTABLISHING THE POSITIONS OF LEGAL SECRETARY, CLASS 0093, RANGE 30 AND RADIO SHOP TECHNICIAN, CLASS 0695, RANGE 30 AND CHANGING TRAFFIC SAFETY COORDINATOR, CLASS 0128, FROM RANGE 45 TO RANGE 37.

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AN ORDINANCE 46,056

ACCEPTING THE LOW QUALIFIED BID OF \$71,862.18 FROM UTILITY DEVELOPERS, INC. TO CONSTRUCT THE SALADO CREEK SANITARY SEWER OUTFALL EXTENSION, PHASE III - PART I AND AUTHORIZING AN AGREEMENT WITH THE CONTRACTOR; REVISING THE BUDGET OF THE PROJECT AND PROVIDING FOR AN ADDITIONAL CONTRIBUTION TO THE PROJECT IN THE AMOUNT OF \$296,903.00 FROM SEWER REVENUE BOND FUNDS.

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Mr. Mel Sueltenfuss, Director of Public Works, displayed a map showing Unit 3 of University Hills Subdivision. This subdivision is over the Edwards Aquifer and the Council had asked to be shown these plats before going to the Planning Commission. He pointed out that Units 1, 2 and 4 have already been approved.

Mr. Hartman said that he felt that some sort of tax relief should be allowed for land over the Aquifer that is not being developed.

City Attorney James Parker said that state law makes no provision for special classes of tax rates and that this would not be legal.

Mr. Ralph Langley, Attorney for the property owners, reviewed for the Council the many things that have already been done in order to comply with Texas Water Quality Board regulations. He had photographs of manholes and sewer lines to illustrate his point. He said that about \$750,000 has already been spent by the developers. A financing commitment will expire on January 31st, so it is imperative that this plat be approved.

City Attorney Parker said that the sole authority for approving plats lies with the Planning Commission. He cautioned that any delay caused by the Council could make the Council liable for damages.

In answer to a question, Mr. Langley said that a six month delay on approval would cause severe losses by his client.

After discussion, the matter was dropped with no action being taken by the Council.

Mayor Cockrell asked that no zoning cases over the Aquifer be scheduled for Council hearing until after the referendum election.

75-73 The following Resolutions were read by the Clerk and explained by Members of the Administrative Staff, and after consideration, on motion made and duly seconded, were each passed and approved by the following vote: AYES: Pyndus, Billa, Cisneros, Hartman, Nielsen, Cockrell; NAYS: None; ABSENT: Black, Rohde, Teniente.

A RESOLUTION
No. 75-73-110

PROVIDING THAT A PUBLIC HEARING BE HELD BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO ON THE 22ND DAY OF JANUARY, 1976, AT 11:00 A.M. IN THE COUNCIL CHAMBER OF THE CITY HALL IN THE CITY OF SAN ANTONIO ON A MAJOR AMENDMENT MODIFYING THE URBAN RENEWAL PLAN FOR CIVIC CENTER PROJECT, TEX. R-83; DIRECTING THE CITY CLERK TO ADVERTISE NOTICE OF SAID PUBLIC HEARING AS PRESCRIBED BY LAW, IDENTIFYING THE PROJECT AREA; STATING THE PURPOSE OF SAID PUBLIC HEARING AND OUTLINING THE GENERAL SCOPE OF THE AMENDMENT UNDER CONSIDERATION; AND PROVIDING THAT ANY PERSON OR ORGANIZATION WILL BE AFFORDED AN OPPORTUNITY TO BE HEARD AT SUCH PUBLIC HEARING.

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A RESOLUTION
NO. 75-73-111

URGING THE TEXAS STATE LIBRARY COMMISSION TO REASSESS ALLOCATION OF STATE AND FEDERAL FUNDS WITHIN MAJOR RESOURCE CENTERS TO MORE EFFECTIVELY STRUCTURE REPORTING REQUIREMENTS AND TO PROVIDE GREATER FLEXABILITY WITHIN MAJOR RESOURCE CENTERS CONCERNING PERSONNEL POSITIONS AND TO AUTHORIZE CONTRACTING FOR EXISITNG MAJOR RESOURCE CENTERS LIBRARY PERSONNEL AS AGAINST HIRING SEPARATE STAFF.

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75-73 The following Resolution was read by the Clerk, and after consideration, on motion of Mr. Billa, seconded by Mr. Pyndus, was passed and approved by the following vote: AYES: Pyndus, Billa, Cisneros, Hartman, Rohde, Nielsen, Cockrell; NAYS: None; ABSENT: Black, Teniente.

A RESOLUTION
NO. 75-73-112

ESTABLISHING A COUNCIL POLICY TO FURNISH AND PAY FOR LEGAL SERVICES IN BEHALF OF ALL COUNCIL MEMBERS AND THE CITY MANAGER AND ALL OTHER OFFICERS AND EMPLOYEES OF THE CITY OF SAN ANTONIO WHO ARE SUED OR THREATENED WITH SUIT AS A RESULT OF THE PROPER DISCHARGE OF THEIR DUTIES, AND DECLARING AN EMERGENCY.

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75-73

ECONOMIC DEVELOPMENT

Councilman Cisneros read a prepared statement outlining his concern over the economy of the San Atonio area and enumerating specific steps which he felt should be taken by the City in this regard. (A copy of the statement is included with the papers of this meeting.)

After discussion, it was agreed that Council would take up the matter of economic development in "B" Session on December 23, 1975.

75-73

STATUS REPORT BY:
POLICY AND PLANNING OBJECTIVES COMMITTEE

Councilman Glen Hartman read a prepared report on the deliberations of the Planning and Policy Objectives Committee with regard to the City Water Board request for a rate increase.

In September the Council denied a 30 per cent increase and instead granted a 19 per cent increase with it being understood that the 19 per cent was an interim rate for a six month period during which time the Council would review the City Water Board rate structure and policy with particular attention to the main extension policy.

He reviewed steps taken by the committee in looking at City Water Board policies.

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The City Water Board has adopted a new budget which leaves some question as to the status of moving of mains for City projects. He said that the committee finds it difficult to understand statements made that funds are not available for these City projects. (A copy of Mr. Hartman's report is on file with the papers of this meeting.)

Mayor Cockrell expressed concern that the Mayberry Drainage Project might be held up because of the City Water Board problems.

Mr. Sueltenfuss said that there will be a bond sale in May. He said that he has discussed the possibility of advancing funds to City Water Board until funds are available.

Mayor Cockrell said that she has requested that the City Water Board adopt the same policy that the City has in requiring that all contracts for services be approved by the Board in the future. In the past, the General Manager has been authorized to enter into contracts without Board approval.

Mayor Cockrell said also that the matter of wholesale contracts by City Water Board has been looked into. It is now provided in the contracts that the rates are those as set by the City Council.

Father Benavides said that he had attended meetings of Mr. Hartman's committee and agreed with the report made by Mr. Hartman. He said that the Council should insist that the City projects be completed.

75-73 COMMENDATION TO MAYOR COCKRELL

Councilman Rohde commended Mayor Cockrell for the leadership she has displayed during the controversy over the Aquifer zoning matter. He expressed his appreciation to her.

75-73 KUDOS TO COUNCILMEN

Mayor Cockrell congratulated Mayor Pro-Tem Teniente on the affair which was held in his honor.

She congratulated Councilman Hartman on his selection as Vice-Chairman of the Alamo Area Council of Governments. She also congratulated Councilman Cisneros on being named by the Jaycee's as the outstanding young man of the year.

75-73 COUNCILMAN CLAUDE BLACK

Councilman Black invited the members of the Council to attend his church service on December 21 when the congregation goes back to its new sanctuary. There will be a reception at 4 o'clock in the afternoon.

75-73 MISSION COUNTY PARK

Mayor Pro-Tem Teniente asked that discussion of the development of Mission County Park be scheduled for a "B" Session at which time Commissioner Bustamante should be invited to attend.

There being no further business to come before the Council, the meeting adjourned at 4:35 P.M.

A P P R O V E D

Lila Cockrell

M A Y O R

ATTEST: *[Signature]*
City Clerk

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