

REGULAR MEETING OF THE CITY COUNCIL
OF THE CITY OF SAN ANTONIO HELD IN
THE COUNCIL CHAMBER, CITY HALL, ON
THURSDAY, SEPTEMBER 7, 1972.

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The meeting was called to order at 9:30 A. M. by the presiding officer, Mayor John Gatti, with the following members present: HABERMAN, HILL, BECKER, HILLIARD, MENDOZA, GARZA, GATTI; Absent: NAYLOR, PADILLA.

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72-39 The invocation was given by Councilman Leo Mendoza, Jr.

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72-39 Members of the City Council and the audience joined in the Pledge of Allegiance to the flag of the United States of America.

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72-39 The minutes of the meeting of August 31, 1972 were approved.

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72-39 Mayor Gatti stated that the Mayor of Atlanta and Mayors of many cities have joined together in passing Resolutions regarding the tragic events in the Olympic games.

The Mayor introduced the following Resolution:

A RESOLUTION
In Memorium
No. 72-39-49

WHEREAS, on September 5, 1972, a group of Arab political terrorists captured and held hostage Israeli athletes in the XX Olympiad at Munich, Germany, and as a result eleven team members lost their lives, and

WHEREAS, the Olympic games have traditionally been an event where athletes from all Nations have competed on a friendly basis and fostered a better understanding among the peoples of the World, and

WHEREAS, this tragic event has shocked and offended the World, NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

Section 1. that this Council does hereby express its profound sympathy to the people of Israel in the loss of eleven of its finest athletes and citizens;

Section 2. that in their memory a copy of this Resolution be spread upon the permanent records of this City.

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On motion of Mr. Hill, seconded by Dr. Hilliard, the Resolution was passed and approved by the following vote: AYES: HABERMAN, HILL, BECKER, HILLIARD, MENDOZA, GARZA, GATTI; NAYS: None; ABSENT: Naylor, Padilla.

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72-39 The following Ordinances were read by the Clerk and explained by Mr. John Brooks, Director of Purchasing, and after consideration, on motion made and duly seconded, were each passed and approved by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Garza, Gatti; NAYS: None; ABSENT: Naylor, Padilla.

AN ORDINANCE 41,151

ACCEPTING THE BID OF INSTRUMENTATION SPECIALTIES CO. TO FURNISH THE CITY WITH CERTAIN WATER SAMPLE COLLECTORS FOR A TOTAL AMOUNT OF \$2,373.00.

* * * *

AN ORDINANCE 41,152

ACCEPTING THE LOW BID OF VULCAN SIGNS & STAMPINGS, INC. TO FURNISH THE CITY OF SAN ANTONIO WITH CERTAIN ALUMINUM SIGN BLANKS FOR A NET TOTAL OF \$6,294.80.

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72-39 The Clerk read the following Ordinance:

AN ORDINANCE 41,153

MANIFESTING THE CONSENT OF THE CITY OF SAN ANTONIO TO THE ASSIGNMENT BY SOMERS PFEUFFER OF ALL HIS RIGHT, TITLE AND INTEREST IN THAT LEASE AGREEMENT AT HEMISFAIR PLAZA PROVIDING LEASE OF SPACE IN BUILDING NO. 509, TO CHARLES J. MULLER.

* * * *

Mr. James M. Gaines, Director of HemisFair Plaza, advised that Mr. Pfeuffer and Mr. Muller operated Pez a Pizza as a partnership. Mr. Muller has purchased his partner's interest in this operation and will be the sole lessee.

After consideration, on motion of Mr. Becker, seconded by Mrs. Haberman, the Ordinance was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Garza, Gatti; NAYS: None; ABSENT: Naylor, Padilla.

72-39 The Clerk read the following Ordinance:

AN ORDINANCE 41,154

AUTHORIZING EXECUTION OF A LEASE AGREEMENT WITH ROBERT M. TREADWELL, JR., AN INDIVIDUAL D/B/A 30 PIECES OF SILVER, PROVIDING SPACE IN BUILDING NO. 502 AT HEMISFAIR PLAZA FOR A ONE YEAR TERM, COMMENCING SEPTEMBER 1, 1972.

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Mr. James M. Gaines, Director of HemisFair Plaza, stated that this property is located adjacent to the Goliad Food Cluster. It will be used for the manufacture and sale of artistic gift items. Rent is \$50.00 a month plus 10% of the gross monthly sales in excess of \$500.00. The lessee will pay for utilities.

After consideration, on motion of Mr. Becker, seconded by Mr. Hill, the Ordinance was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Garza, Gatti; NAYS: None; ABSENT: Naylor, Padilla.

72-39 The Clerk read the following Ordinance:

AN ORDINANCE 41,155

AUTHORIZING EXECUTION OF A LEASE
WITH JAMES E. JOHNSON, AN INDIVIDUAL,
PROVIDING SPACE IN BUILDING NO. 205
AT HEMISFAIR PLAZA FOR A TERM OF
THREE YEARS COMMENCING AUGUST 1, 1972.

* * * *

Mr. James M. Gaines, Director of HemisFair Plaza, explained that the property is known as the former Girard Building. Mr. Johnson, the lessee, plans to recreate an old-time grist mill. Eventually, other old-time processes will be added. The lease is for a three year term beginning August 1, 1972.

The rental fee is \$1.00 for the first year of the lease. For the second and third years, lessee will pay the sum of \$1.00 per year plus 10% of the gross receipts. Mr. Johnson will remodel the building, furnish the necessary equipment, and will pay for utilities and maintain the interior of the building.

Councilman Becker stated he was familiar with the proposed project. The cost of the grist mill and the reconstruction of it will run about \$15,000.00.

Mr. Gaines further stated that Mr. Johnson plans to add other things so that his capital outlay in this venture to bring Americana to HemisFair Plaza would represent an investment of \$50,000.00 before it is finished.

Mayor Gatti stated that he has worked with Mr. Johnson for several years on other projects and felt that this would be a welcomed attraction at HemisFair Plaza.

After consideration, on motion of Mr. Becker, seconded by Mr. Hill, the Ordinance was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Mendoza, Garza, Gatti; NAYS: None; ABSENT: Hilliard, Naylor, Padilla.

72-39 The following Ordinance was read by the Clerk and explained by Mr. Robert L. Frazer, Director of Parks and Recreation, and after consideration, on motion of Mr. Hill, seconded by Mr. Becker, was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Mendoza, Garza, Gatti; NAYS: None; ABSENT: Hilliard, Naylor, Padilla.

AN ORDINANCE 41,156

MANIFESTING A TWO-YEAR EXTENSION OF THE CONTRACT WITH GEORGE EVERS AND LESLIE SCHWETHELM FOR THE RIGHT AND PRIVILEGE OF OPERATING PEDAL BOATS FOR HIRE ON THE SAN ANTONIO RIVER IN BRACKENRIDGE PARK FROM OCTOBER 1, 1972 THROUGH SEPTEMBER 30, 1974.

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72-39

The Clerk read the following Ordinance:

AN ORDINANCE 41,157

AUTHORIZING EXECUTION OF A CONTRACT WITH THE TEXAS HIGHWAY DEPARTMENT PERTAINING TO INSTALLATION AND MAINTENANCE OF A STREET ILLUMINATION SYSTEM ON POTEET-JOURDANTON FREEWAY.

* * * *

Mr. John Miller, Assistant Director of Traffic and Transportation, stated that upon execution of this agreement it will permit the City to complete the illumination system in the center of the median on Spur 422 between I. H. 35 and Loop 410.

After consideration, on motion of Mr. Becker, seconded by Mr. Hill, the Ordinance was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Mendoza, Garza, Gatti; NAYS: None; ABSENT: Hilliard, Naylor, Padilla.

72-39

The Clerk read the following Ordinance:

AN ORDINANCE 41,158

DECLARING THAT THE STRUCTURE ON THE PREMISES AT 1308 PARKRIDGE IS A DANGEROUS BUILDING AND PRESENTS AN IMMEDIATE DANGER TO THE HEALTH, SAFETY AND WELFARE OF PERSONS AND PROPERTY IN THE VICINITY; AUTHORIZING AND DIRECTING THE DIRECTOR OF HOUSING AND INSPECTIONS TO CAUSE THE IMMEDIATE DEMOLITION OF SAID STRUCTURE.

* * * *

Mr. George D. Vann, Jr., Director of Housing and Inspections, stated that the premises at 1308 Parkridge is described as Lot 8, Block 5A, New City Block 11957. The premises contain a vacant one-story wooden residence structure in a run-down, damaged, and decayed condition which has deteriorated more than 50% of its value. The premises have been inspected by the Housing and Inspections Department, Fire and Health Departments, and has been found to be a fire and safety hazard.

Mr. Vann stated that the owner of the property, Mr. Aubrey L. Smith, was notified of the hearing today. He reviewed the attempts to get the owner to have the structure demolished or repaired. He presented Council with photographs showing the condition of the premises

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and recommended that the Ordinance be passed.

Neither the owner nor his representative was present.

After consideration, on motion of Mr. Becker, seconded by Mrs. Haberman, the Ordinance was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Mendoza, Garza, Gatti; NAYS: None; ABSENT: Hilliard, Naylor, Padilla.

72-39 The Clerk read the following Ordinance:

AN ORDINANCE 41,159

DECLARING THAT THE STRUCTURE ON THE PREMISES AT 1310 PARKRIDGE IS A "DANGEROUS BUILDING" AND PRESENTS AN IMMEDIATE DANGER TO THE HEALTH, SAFETY AND WELFARE OF PERSONS AND PROPERTY IN THE VICINITY; AUTHORIZING AND DIRECTING THE DIRECTOR OF HOUSING AND INSPECTIONS TO CAUSE THE IMMEDIATE DEMOLITION OF SAID STRUCTURE.

* * * *

Mr. George D. Vann, Jr., Director of Housing and Inspections, stated that the premises at 1310 Parkridge is described as Lot 8, Block 5A, New City Block 11957. The premises contain a vacant one-story wooden residence structure in a run-down, damaged, and decayed condition which has deteriorated more than 50% of its value. The premises has been inspected by the Housing and Inspections Department, Fire and Health Departments, and has been found to be a fire and safety hazard.

Mr. Vann stated that the owner of the property, Mr. Aubrey L. Smith, was notified of the hearing today. He reviewed the attempts to get the owner to have the structure demolished or repaired. He presented Council with photographs showing the condition of the premises and recommended that the Ordinance be passed.

Neither the owner nor his representative was present.

After consideration, on motion of Mr. Hill, seconded by Mr. Becker, the Ordinance was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Garza, Gatti; NAYS: None; ABSENT: Naylor, Padilla.

72-39 The Clerk read the following Ordinance:

AN ORDINANCE 41,160

DECLARING THAT THE STRUCTURE ON THE PREMISES AT 218 HERMITAGE COURT IS A "DANGEROUS BUILDING" AND PRESENTS AN IMMEDIATE DANGER TO THE HEALTH, SAFETY AND WELFARE OF PERSONS AND PROPERTY IN THE VICINITY; AUTHORIZING AND DIRECTING THE DIRECTOR OF HOUSING AND INSPECTIONS TO CAUSE THE IMMEDIATE DEMOLITION OF SAID STRUCTURE.

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Mr. George D. Vann, Jr., Director of Housing and Inspections, stated that the premises at 218 Hermitage Court is described as Lot 5, Block 13, New City Block 7615. The premises contain a vacant one-story wooden residence structure in a run-down, damaged, and decayed condition which has deteriorated more than 50% of its value. The premises has been inspected by the Housing and Inspections Department, Fire and Health Departments, and has been found to be a fire and safety hazard.

Mr. Vann stated that the owner of the property, Mrs. Gloria Price, was notified of the hearing today. He reviewed the attempts to get the owner to have the structure demolished or repaired. He presented Council with photographs showing the condition of the premises and recommended that the Ordinance be passed.

Mrs. M. L. Williams, 115 West Mariposa, representing Mrs. Gloria Price owner of the property, agreed that the building is unfinished. As late as July 24, 1972, she asked for a permit to finish the building at 218 Hermitage Court. This was when she was getting another building permit in the same area. Mr. Cadena of Housing and Inspections promised her that when the other building was completed he would give her a permit for 218 Hermitage Court. She further commented that taxes have increased and, therefore, the City considers the property of more value. She said that they are ready to complete the building. She felt that the pictures presented were not very representative of the condition of the building.

To questions by Council, Mr. Vann stated that the building has been in its present condition since July of 1969. He stated that the Housing and Inspections Department is presently processing 258 such vacant houses and there are about eight to nine hundred of them in the City.

Mrs. Williams, in answer to a question, stated that the time required to make the necessary corrections would depend on the availability of labor. A building permit allows six months to complete the work.

After consideration, on motion of Mr. Becker, seconded by Mr. Hill, the Ordinance was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Garza, Gatti; NAYS: None; ABSENT: Naylor, Padilla.

72-39 Mayor Gatti was obliged to leave the meeting and Mayor Pro-Tem Garza presided.

72-39 The Clerk read the following Ordinance:

AN ORDINANCE 41,161

AUTHORIZING THE CITY MANAGER TO EXECUTE
AN AGREEMENT WITH THE CITY OF KIRBY
REQUIRING SAN ANTONIO TO PROVIDE
TRANSPORTATION AND TREATMENT SERVICES
FOR SEWAGE GENERATED WITHIN THE CITY
OF KIRBY IN CONSIDERATION FOR PAYMENT
OF THE ENTITY SEWER SERVICE RATE AS
ESTABLISHED BY CITY COUNCIL.

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Mr. Carl White, Director of Finance, explained that this provides for the transportation and treatment of sewage from the City of Kirby at the standard entity sewer service rate of \$ 0.121 per 1,000 gallons based on 70% of total water consumption. The agreement will not take effect until the sewer line can be connected which is anticipated to be in April of 1973 and which will terminate January 1, 1977.

After consideration, on motion of Mr. Becker, seconded by Mr. Mendoza, the Ordinance was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Garza; NAYS: None; ABSENT: Naylor, Padilla, Gatti.

72-39 The Clerk read the following Ordinance:

AN ORDINANCE 41,162

AMENDING THE RENTAL RATE CHARGED FOR
THE ARENA AT THE SAN ANTONIO CONVENTION
CENTER.

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Mr. Francis W. Vickers, Convention Facilities Director, explained that this changes the rental rate for use of the arena on a Class I basis which covers events for which admission is charged or other compensation realized. The present rate is \$750.00 per day or 10% of ticket sales, whichever is greater, or lessee may choose to contract for a flat fee of \$1,000.00 per day.

The new rates will be \$850.00 per day minimum or 10% of ticket sales, whichever is greater, or lessee may choose to contract for a flat fee of \$2,500.00 per performance.

After consideration, on motion of Mr. Hill, seconded by Dr. Hilliard, the Ordinance was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Garza; NAYS: None; ABSENT: Naylor, Padilla, Gatti.

72-39 The Clerk read the following Ordinance:

AN ORDINANCE 41,163

AUTHORIZING THE CITY MANAGER TO ENTER
INTO LEASE AGREEMENTS FOR ADDITIONAL
OFFICE SPACE TO BE UTILIZED BY THE
PERSONNEL AND LEGAL DEPARTMENTS,
APPROPRIATING FUNDS AND AUTHORIZING
PAYMENT IN THE AMOUNT OF \$13,840.00
TO COVER RENTAL EXPENSES FOR ONE YEAR.

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Mr. Winston Ulmer, Assistant to the City Manager, explained that this Ordinance would authorize the City Manager to enter into two, one-year leases; one for 2,100 square feet of space in the Petroleum Commerce Building and, one for 625 square feet of space in the former Police Headquarters Building at 140 Main Plaza now owned by David Carter. The space will be used as additional office space by the Personnel and Legal Departments.

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After consideration, on motion of Dr. Hilliard, seconded by Mr. Hill, the Ordinance was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Garza; NAYS: None; ABSENT: Naylor, Padilla, Gatti.

72-39 The Clerk read the following Ordinance:

AN ORDINANCE 41,164

ACCEPTING THE PROPOSAL OF BROOKS MARTIN AND HENRY ORTEGA, ARCHITECTS, TO DEVELOP A COMMUNICATIONS PLAN AND DESIGN FOR THE SAN ANTONIO FIRE DEPARTMENT AT A COST OF \$8,000.00.

* * * *

Fire Chief Bart T. Mulhern explained that this firm will determine the present needs and requirements of the Fire Department in the communication area of their operation which will be compatible with police equipment. It will determine the feasibility and cost of relocating the present Communications Center to the proposed Emergency Operations Center.

Councilman Hill asked if this could possibly be a duplication of the work being done by Page Communications who were awarded a contract last week. He said that he understood that the new communications and central dispatching could handle police, fire and ambulance, and if such is the case, there should not be a need for another study.

Associate City Manager George Bichsel stated that the Communications Center to be built in the new police substation held certain attractions for Civil Defense because of its "fall out" factor. It is also possible that it can be used as the primary fire alarm. While this arrangement appears to be attractive, it does have certain disadvantages. It is essential that a thorough study be made and that is the purpose of this contract. It does not overlap any of the work being done by Page Communications.

After consideration, on motion of Mr. Becker, seconded by Dr. Hilliard, the Ordinance was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Garza; NAYS: None; ABSENT: Naylor, Padilla, Gatti.

72-39 The Clerk read the following Ordinance:

AN ORDINANCE 41,165

AMENDING CERTAIN SECTIONS OF CHAPTER 6 OF THE CITY CODE OF THE CITY OF SAN ANTONIO, BY PROVIDING FOR: DESIGNATION OF THE RABIES CONTROL SECTION AS THE ANIMAL CONTROL DIVISION; ESTABLISHMENT OF FEES FOR BOARDING, LICENSING, IMPOUNDING, AND SELLING OF ANIMALS UNDER THE PROVISIONS OF THIS CHAPTER; ESTABLISHING THE ANIMAL CONTROL ADVISORY BOARD, SETTING FORTH ITS DUTIES AND POWERS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR A FINE NOT TO EXCEED \$200.00 FOR VIOLATION.

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Mr. Robert J. Macdonald, Director of Intergovernmental Services, explained the Ordinance which has been under consideration for some time. He added that other cities the size of San Antonio have such an Ordinance and it is being successfully enforced.

Councilman Becker stated that he could not see where this would be practical and was opposed to a \$200.00 fine.

In answer to a question from Councilman Hill, City Attorney Howard Walker explained that the citations which would be issued by the animal wardens to owners whose dogs are running at large would not be worth the paper it is written on. They will merely serve as a warning to owners. The animal warden would have to file a complaint with the Municipal Court in order to get enforcement. Under the old Ordinance, a citizen was required to file a complaint with Municipal Court.

After consideration, on motion of Mrs. Haberman, seconded by Mr. Hill, the Ordinance was passed and approved by the following vote: AYES: Haberman, Hill, Hilliard, Mendoza, Garza; NAYS: Becker; ABSENT: Naylor, Padilla, Gatti.

72-39 Item No. 16 being consideration of an Ordinance relating to additional employees in the Public Information Office was withdrawn at the request of the City Manager.

72-39 The following Ordinance was read by the Clerk and explained by City Attorney Howard Walker, and after consideration, on motion of Mr. Hill, seconded by Mrs. Haberman, was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Garza; NAYS: None; ABSENT: Naylor, Padilla, Gatti.

AN ORDINANCE 41,166

AUTHORIZING PAYMENT OF THE SUM OF \$3,750.00 AND ALL COURT COSTS OUT OF FUND NO. 7-99 IN FULL AND FINAL SETTLEMENT OF PLAINTIFFS' CLAIM IN CAUSE NO. F-247379 IN THE 150TH DISTRICT COURT, J. R. BRUCE, ET AL VS. CITY OF SAN ANTONIO, ET AL.

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72-39 Mayor Gatti returned to the meeting and presided.

72-39 The following Ordinance was read by the Clerk and explained by City Attorney Howard Walker, and after consideration, on motion of Mr. Becker, seconded by Mrs. Haberman, was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Garza, Gatti; NAYS: None; ABSENT: Naylor, Padilla.

AN ORDINANCE 41,167

AUTHORIZING PAYMENT OF THE SUM OF \$12,500.00 AND ALL COURT COSTS OUT OF FUND NO. 7-99 IN FULL AND FINAL SETTLEMENT OF PLAINTIFFS' CLAIM IN

CAUSE NO. F-239,076 IN THE 166TH
DISTRICT COURT, MATILDE F. BURTON,
ET AL VS. CITY OF SAN ANTONIO.

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72-39 The following Ordinance was read by the Clerk and after consideration, on motion of Mr. Hill, seconded by Mr. Garza, was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Garza, Gatti; NAYS: None; ABSENT: Naylor, Padilla.

AN ORDINANCE 41,168

AMENDING ORDINANCE NO. 41069 APPOINTING
MEMBERS OF THE BOARD OF EQUALIZATION.
(DESIGNATING MR. C. RAY DAVIS AS CHAIRMAN
OF SAID BOARD.)

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72-39 The following Ordinance was read by the Clerk and explained by Mr. Paul Edwards, Coordinator for Manpower Planning Services, and after consideration, on motion of Mrs. Haberman, seconded by Mr. Hill, was passed and approved by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Garza, Gatti; NAYS: None; ABSENT: Naylor, Padilla.

AN ORDINANCE 41,169

ACCEPTING A GRANT IN THE AMOUNT OF
\$78,138.00 FOR EXTENSION OF THE
COOPERATIVE AREA MANPOWER PLANNING
SYSTEM GRANT FOR AN ADDITIONAL YEAR,
AUTHORIZING EXECUTION OF EXTENSION
DOCUMENTS, CREATING A NEW PERSONNEL
POSITION, AND APPROPRIATING FUNDS
FOR OPERATION OF THIS PROJECT FOR
SAID ADDITIONAL YEAR.

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72-39

CITY MANAGER REPORTS

REDUCED BUS FARES FOR SENIOR CITIZENS

City Manager Loyd Hunt reported that as of August 31, 1972 the entire 50,000 tokens were issued to senior citizens. An additional supply has been ordered. As of the 5th of September, senior citizens have taken advantage of the reduced fare at the rate of 1,000 per day.

EYE PROTECTION PROGRAM

City Manager Hunt reported that he put out a directive at the end of last month to promote eye safety among City employees. The City has had several serious accidents. If employees had been wearing safety glasses, the injuries would not have happened.

A. CASE 4661 - to rezone the southwest 500' of tracts 38 and 39, NCB 14735, being those portions presently within the City Limits, 6900 Block of Vance Jackson, from Temporary "R-1" Single Family Residential District to "R-6" Townhouse District; located on the northwest side of Vance Jackson Road 796.10' northeast of the intersection of Wurzbach Road and Vance Jackson Road having 240.2' on Vance Jackson Road and a depth of 500'.

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

No one spoke in opposition.

After consideration, Dr. Hilliard made a motion that the recommendation of the Planning Commission be approved, provided that proper replatting is accomplished and a six foot solid screen fence be erected on the Southeast and Northwest property lines adjacent to single family homes. Mr. Mendoza seconded the motion. On roll call, the motion, carrying with it the passage of the following Ordinance, prevailed by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Gatti; NAYS: None; ABSENT: Garza, Naylor, Padilla.

AN ORDINANCE 41,170

AMENDING CHAPTER 42 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS THE SOUTHWEST 500' OF TRACTS 38 AND 39, NCB 14735, BEING THOSE PORTIONS PRESENTLY WITHIN THE CITY LIMITS, 6900 BLOCK OF VANCE JACKSON, FROM TEMPORARY "R-1" SINGLE FAMILY RESIDENTIAL DISTRICT TO "R-6" TOWNHOUSE DISTRICT, PROVIDED THAT PROPER REPLATTING IS ACCOMPLISHED AND A SIX FOOT SOLID SCREEN FENCE BE ERECTED ON THE SOUTHEAST AND NORTHWEST PROPERTY LINES ADJACENT TO SINGLE FAMILY HOMES.

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B. CASE 4709 - to rezone Lot 35-B, Block A, NCB 11529, 3.79 acres, 1900 Block of Bandera Road, from "A" Single Family Residential District to "B-1" Business District; located on the south side of Bandera Road being 816.61' west of the intersection of Broadview Drive and Bandera Road having 50.11' on Bandera and a depth of 740.66'.

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

No one spoke in opposition.

After consideration, on motion of Mr. Becker, seconded by Mr. Mendoza, the recommendation of the Planning Commission was approved by the passage of the following Ordinance by the following vote: AYES: Haberman, Hill, Becker, Hilliard, Mendoza, Gatti; NAYS: None; ABSENT: Garza, Naylor, Padilla.

AN ORDINANCE 41,171

AMENDING CHAPTER 42 OF THE CITY CODE THAT CONSTITUTES THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF SAN ANTONIO BY CHANGING THE CLASSIFICATION AND REZONING OF CERTAIN PROPERTY DESCRIBED HEREIN AS LOT 35-B, BLOCK A, NCB 11529, 3.79 ACRES, 1900 BLOCK OF BANDERA ROAD, FROM "A" SINGLE FAMILY RESIDENTIAL DISTRICT TO "B-1" BUSINESS DISTRICT.

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72-39

CITIZENS TO BE HEARD

MR. JAMES F. STUART

Mr. James F. Stuart, 7903 Robinhill Drive, appeared before the Council to protest what he called misconduct on the part of the members of the Board of Adjustment. He reviewed the circumstances of a case involving Mr. Mel Hughes wherein he was granted a variance to permit the erection of a four-story office building. On appeal to the District Court, the ruling of the Board of Adjustment was thrown out.

Mr. Stuart described in detail what he said was willful violation of the Zoning Ordinance and said that now the matter has again been set for hearing before the Board. He asked that the entire Board of Adjustment be replaced and that the hearing be called off.

After considering the matter, the Council suggested the Board of Adjustment postpone the scheduled hearing until a full staff report could be made to the Council.

(A complete transcript of Mr. Stuart's presentation is included with the papers of this meeting.)

72-39 The Clerk read the following letter:

September 1, 1972

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

Gentlemen and Madam:

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

August 28, 1972

Petition of Mr. Desiderio Morado, et al, requesting the City to correct the drainage condition on Dolores Street.

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August 28, 1972

Petition of Mr. Wesley Jackson, requesting permission to construct an 8 foot corrugated iron fence around the property at 2826 Mission Road.

August 31, 1972

Petition of Mr. B. E. Ellison, appeal of denial of application for renewal and reissuance on a Home Improvement Contractor's License.

/s/ J. H. INSELMANN
City Clerk

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There being no further business to come before the Council, the meeting adjourned at 11:05 A. M.

A P P R O V E D



M A Y O R

ATTEST: 
City Clerk

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Transcript of the presentation of Mr. James F. Stuart
making charges against the Board of Adjustment.

JAMES F. STUART: Honorable Mayor and City Council, my name is James F. Stuart. I am a resident of the City of San Antonio, 7903 Robin Hill Drive. I am a voting citizen and tax payer of the City. I come before the Council as a last resort and bring to the City Council's attention some matters that I think should be investigated.

There is a piece of property across the street from my house that is on an "O-1" and went before the Board of Adjustment the first time on April 28, 1972. The Board at that time could not reach a decision because one member was not present although, at that time, they said they were split. So, saying, they should have taken a vote since they said they were split we obviously had it won. This is in the minutes of the meeting. However, they voted to postpone the meeting until May 19. At this time we met. I have an exhibit I would like to pass. This is a copy that 52 citizens in our community have signed against this project. The official copy is in the file. At this meeting we were represented by Mr. Henry Christopher, Attorney at Law, City of San Antonio. He so pointed out to the Board of Adjustment, that first of all, they did not even have the authority to hear this case. He showed them very distinctly that they did not have the authority. He showed them in the ordinance, and all this is recorded in the minutes, however, they chose, with complete utter disregard for the law to hear it irregardless. The decision made by the Board of Adjustment, constituted an abuse and discretion of the power of the Board. It is not fair or just and it is illegal. This was ruled illegal in the 150th District Court by the Honorable Spears, judge of the 150th District Court. Mr. Hughes' application, on the above described property, that is this location, did not comply with the Law and therefore did not vest the Board of Adjustment with the jurisdiction to even hear it to begin with. As I said, they chose with complete utter disregard for the law to hear it anyway.

Now, I assume that they have an Attorney on the Board that they do understand the law and the ordinance that it is set out by the City of San Antonio. He did not specify any particular grounds that he was making his application. This is specifically set out in the Code and required that he state his particular grounds. He stated no grounds whatsoever. There was no evidence presented at all which is required. The Ordinance specifically says that a mere enumeration of facts is not a finding of fact. They did not even go so far as to enumerate the facts. They still ruled in their favor.

Now, this substantially weakens the general character of our Zoning Ordinances in the City of San Antonio, substantially. As I said, if we have a Zoning Ordinance and you give a blanket variance to anyone to do anything they would like to do, then we actually should not have a Zoning Ordinance. Now, I was told by a member of the Board of Adjustment in front of my house, and a neighbor of mine, Mr. Green, who is here, that the Board of Adjustment does not grant blanket variances to no one. However, at the hearing they gave it. They gave this individual permission to expand his building in all four directions and up in violation of the Ordinance. We maintain this is illegal which was upheld by the court. There were no findings of fact. He has proved absolutely nothing. Now, the things that must be proved, by the way, I would like to ask our Mayor this time that we have other individuals here that could relinquish their time to me. Is this the proper time for this??

MAYOR GATTI: Yes, you have four, five people sign up. They all, Mr. Allen, Mr. Green, Mr. Yarger, and Mr. Gilbert. Will you relinquish your time?

BACK GROUND: Alright.

GATTI: You have 25 minutes, you're not going to take that long?

STUART: I hope not.

GATTI: O.K.

STUART: Such ruling was not in the public interest. It was not approved in the public interest or enumerated. These are facts that

must be proven-not enumerated. And I repeat they were not even given the courtesy to enumerate them. "Such variance will not substantially or permanently injure the appropriate use of adjacent property." We do have and have had real estate people tell us, that we will suffer substantial damage on our property if this variance is given. "Such variance will not alter the essential character of the district." We maintain that this will absolutely. "Such variance will be in harmony with the spirit and purposes of this chapter and this is our Zoning Ordinance." This is strictly not in harmony with the purpose of this Chapter when you grant blanket variances. When you grant it to one you must grant to all. So when they start giving blanket variances to some one to build buildings right up the property line, up to the edge of the sidewalk and also in residential neighborhood of housing from 20 to 35,000 dollars which our neighborhood is. They have given them permission to build a building 40' high where it looks directly with the pent house on the top directly on to your back yard, as Mr. Green has a swimming pool which he would no more have any privacy or I would not either or other neighbors. "The plight of the owner of the property for which the variance is sought is due to unique circumstances?" There are no unique circumstances existing on the property and the unique circumstances were not created by the owner and are not merely financial. They can not grant it for merely financial reasons. Mr. Hughes and his architect at my living room which I have witness of about nine people and also a tape recorder, he said it was merely financial he could not develop it in compliance for financial reasons. He said just before the Board of Adjustment and is recorded in the minutes. If any one of these items are not met they can not grant variance. They do not have the power according to the Ordinance. Variances will not substantially weaken the general purposes of this chapter or the regulations herein established. We maintain that it will substantially weaken our Zoning Code that we have here in the City of San Antonio when you grant blanket variances to do anything you want to do.

"The variance will not adversely effect the public health, safety or welfare." We maintain it will substantially effect us in our neighborhood. From the best estimates of a civil engineer in this matter, he said there would be approximately 142 cars in our neighborhood. They provided parking for approximately 70. This leaves about 70 cars that we don't know where they are going to park. We've got a 30 foot street. So with cars parking on both sides for two blocks away we have one lane of traffic. This is a very, very heavily traveled street and it is a developing neighborhood out there. If any of you are familiar with the Cherry Ridge exit off of Loop 410 there is a Fed-Mart Store, there is a Steak and Ale Resturant. We are right up the hill from that. It is a very heavily traveled street. There is a Stewart Title Company and many other businesses have gone in on down about two blocks away.

Now, as I have said, there was no evidence presented, no substantial evidence, to support the affirmative findings of this Board. The Board failed to make specific findings. Now, I'll read the Ordinance. It is section 42-45.4. "Every decision of the Board shall be based on findings of fact and every finding of fact shall be supported in the record of the proceedings" which they are not and I invite you to inspect the records over there. They have copies. For the past year or two years they has been absolutely complete disregard; utter disregard for the law.

The enumerative conditions required to exist on any matter for which the Board is required to pass on under this article or to effect any variance in this chapter shall be construed as limitations on the power of the Board. A mere finding or recitation of specific facts shall not be deemed as findings of fact and shall not be deemed in compliance with this article.

I have some exhibits that I would like to pass around. I have several things that are not in compliance. First of all, they mailed out a notice to appear before the Board of Adjustment. The

notice is in complete error. As I pointed out to Mr. Davis, Chairman of the Planning Commission yesterday, and I think he does agree that it is in error although he didn't know and neither did his assistant or his assistant or his assistant. No one knew even what the diagram was or couldn't figure it out. I don't work there but there was an employee that worked there six years that is in charge of this and he didn't know. When they told me he didn't know - Mr. Lozano-he really didn't know what was going on-well, I've only been there two times. I tried to show him. I pointed out and he agreed now he understands. This is in error to start with.

The application does not give us the particular grounds upon which the variance is sought. Therefore, they shouldn't hear it to start with.

Now, at the second variance meeting that we went to, it looks like the deck was stacked against us to start with. I'd like to pass a copy of a letter that was in the file. I'd like all of you to read that. I don't believe it will show up on here. This is a letter from Mr. uh uh - he is in the Traffic Department upstairs. to Mr. Neuman who is Chairman of the Board, Mr. Kiobassa, who works in the Traffic Department. Now, Mr. Kiobassa told me during the meeting that he had not reached any decision. They could only base their decision upon facts as I so pointed out. The fact is the plans as submitted by Mr. Hughes did not meet it under any circumstances. There were many, many sections of the Ordinance that they did not meet. The Ordinance requires mandatory that they meet certain requirements. They must and no one can grant an exception to provide parking spaces of 180 square feet per car. The space provided on his application is 162 feet per car.

It also provides that you must provide one parking space for every 300 square feet of gross office area. Well, he had parking spaces that you might get a small bicycle or motorcycle in and called it a space for a car. The measurements are on the plan. However, according to Mr. Kiobassa he wrote a secret note in the meeting and gave it to him and told Mr. Neuman "don't tell these people but I've already approved this". Now, he told me yesterday afternoon at 4:15 that he did not have the power to approve this. He only made recommendations. However, in this little note he wrote he said he had already approved it but not tell us about it.

Now, because of these and many other conditions I could go on and on and on, it has caused a severe hardship on our neighborhood. First of all, when we lose at the Board of Adjustment our next recourse is the District courts which we went to and won. The judge, in fact, would not even hear the case on its merits because he said there were no merits. The City Attorney's office agreed. They did not even appear before the judge. They said there was absolutely no grounds for them giving this decision and they ruled in our favor.

However, as tax payers this cost us \$916.50 and in addition we had to pay the court costs even though we won. Mr. Hughes did not have to furnish an attorney. This is furnished by the City of San Antonio because the suit is filed against the City because it was a division of the City or a board of the City that made this decision which is illegal. But, as taxpayers because it was illegal and our attorney got up and told them specifically and held the book and said "Gentlemen it says here you can't do it," and they made the motion and passed it anyway in complete and utter disregard of the law.

Now, they have turned around within a period of 13 days after the last hearing, after the last court case which was won, refiled the same identical application. They did not even change the blueprints or plans. In fact, Mr. Hughes called up the Planning Commission and told them "Gentlemen, use the same old plans." He didn't even go to the trouble of altering them or do nothing of this sort.

Now, we are faced with the same thing over again in the morning at 9:15. And when this goes to court again we are out another \$1,000 for attorney's fees. You have to have an attorney to represent you in District Court. This can keep going on and on, month after month we win it. He takes it back to the Board of Adjustment and files again. It doesn't cost him any money. The City Attorney fights the case for the City which they lost. However, it cost us \$1,000 every time we go around. This is a severe hardship upon us when we're not at fault under any stretch of the imagination, and so felt by the courts.

I have these copies of checks that I'd like to pass around. This is just copies of some checks that have been paid to our attorney just to show you that I'm not out there all alone. We have many, many interested citizens in our community that are willing to support this fight that is illegal.

Now, I would like to ask the City Council, because of gross misconduct and gross negligence and utter disregard of the law, for the immediate removal of all members of the Board of Adjustment. At this time I would like to ask that it is provided in the Zoning Ordinance for removal of these Board members for such conduct. It is provided in Section 42-40 of the Code.

Now, he is trying to build a building, Gentlemen, that--it's a 22,000 square feet lot, about twice the size of my house, but he's trying to put a building on it that's 20 times a lot that's two times as big and he's trying to put a building 20 times as big on a lot right next door to me. He maintains that he has a severe hardship, that he can only use 27% of the land area to develop. This is quite normal. Right down the street from that same building Stewart Title Company only used 10% and I'm sure they didn't lose money. Around the corner from us there is a \$50 million project going in. They are only using 21% of the land area. This, obviously, does not create a hardship. Other businesses in our community do it.

He is trying to build a four story building - forty feet high in this residential neighborhood when, in fact, there are no buildings 40 feet high within two miles of us at this time. In fact, there are none over two stories.

COUNCILMAN BECKER: What is the square footage, may I ask? Of each floor?

STUART: This time he has changed his plans this way and that way. When I went down to the Planning Office yesterday a gentlemen told me "Well, Mr. Hughes one time says one thing and his plot plan says another. I don't really know." However, I have some facts from the last meeting. The ground floor area, according to this, was approximately 15,579 square feet out of 22,000--over 60% of the ground area being used. This is not normal in any stretch of the imagination on any code that's given for "O-1" Office. No one does in the City of San Antonio.

BECKER: The first floor is actually ground level? It isn't raised? Is there parking underneath?

STUART: The first floor is raised and that did not comply with the law because the law says that it must be raised nine feet for trucks to get under it for parking. This is a requirement.

BECKER: Well, what I'm saying is that if the first floor is grade level then it would prohibit parking under the building.

STUART: Right!

BECKER: But it is raised? There is parking under the building?

STUART: Right! Part of the parking. He also has parking in every possible combination--cars parked that you couldn't possibly maneuver a car into--to get the bare minimum requirements. However, as I have said, they did not meet the minimum requirements. This was pointed out on his last blueprints which were shown before the Board of Adjustment. It did not meet it because it did not meet with the mandatory requirement of 180 square feet.

However, it appeared that Mr. Kiobassa had already approved the plan before he even went down there but he tells me he didn't have the authority.

So I would like to ask the City Council to get a legal opinion from the City Attorney on this application. I'd also like to ask that the meeting for tomorrow be indefinitely postponed. First of all, we didn't receive 10 days notice, we only received 9. The notice that they mailed us is invalid because its completely invalid. It does not point out its deception. I can point it out to you if you would like the reasons.

Another point I'd like to bring out. I called up-it requires that they mail a notice to all property owners within 200 feet as a minimum requirement of the law-or other interested citizens as directed by the Board of Adjustment. When we, appeared before the Board of Adjustment we had 52 interested citizens that signed and we had almost that many that were so interested that they gave us money. So evidently they were interested. We asked them that in the future when we had a meeting could they possibly mail notices to the other interested citizens as required by the Ordinance. They said no, they could not. So we were stuck down there and they only mailed them to 200 feet but obviously, there were other citizens interested that live outside of the 200 feet. I called day before yesterday, the Board of Adjustment, and asked if they would mail me the copies and I would take them around to each citizen so they could mail in their letter on our position. Well, they write me a letter back and send me two copies of this notice. The letter says, and this is from Mr. Fitch who works in the Planning Department. "As per your request of September 5 I am sending you what notices we have left. Unfortunately, all of the secretaries and craftsmen are so overloaded with their required work." So evidently, this is not required. I don't know what they do if this is not required but he says with their required work "it would be impossible for me to make any new notices for several days." This is day before yesterday. The hearing is tomorrow. "I sincerely hope it will not inconvenience you if I ask you to use whatever resources are available to you to make the additional copies." Well, I used my resources and tried but the copy was so light it would not print. It would not even print on the copier here in City Hall. Here it is. So, I got in my car and went down there yesterday. I walked in and said I'd like some additional notices and some guy gives me a stack of them. They've got plenty of them. So, you can make your own implications from this why we did not get the additional notices. There were plenty of notices available because I did pick up a stack. I carried them home and I worked until 11 o'clock last night getting them ready and taking them around so they could sign them and getting them in the mail last night so they would be received today.

GATTI: Mr. Stuart, let me ask Mr. Walker a few questions. Have you been aware of this, Mr. Walker?

CITY ATTY. HOWARD WALKER: Yes, Sir.

GATTI: Would you give us your feelings on it.

WALKER: Well, first of all, in order to put this in proper perspective I would point out that this office is the attorney for the Board of Adjustment. My comments will be made on the basis of that legal posture.

Now, this matter went to the District Court and they complained that the Board of Adjustment had not followed the Ordinance and State Law. As a matter of fact, the Board of Adjustment had not followed the Ordinance and the State Law and the Court very promptly said so. Number One.

Number two. Apparently now they are going to try it over. I mean it appears that is what they are doing. Now the question is whether the Board of Adjustment will follow the law and the Ordinance

the second time around. I can't speculate on that. If they follow the law then presumably it will pass judicial inspection-if.

Now, with reference to the City Council. You see, this is a little different than the Planning Commission. When the Planning Commission does something the appeal is to the City Council. The law says so. But when the Board of Adjustment does something the State law says that the appeal is to the District Courts and you have no jurisdiction over it.

GATTI: Well, we do have a jurisdiction in that we appoint the Board of Adjustment.

WALKER: That is the point that this gentlemen, I think, is making here this morning and I address myself to that in a minute.

GATTI: Well, Mr. Walker, in the submission the second time to the Board of Adjustment what kind of checks and balances do we have to see that the proceedings are legal?

WALKER: Well, our checks and balances—we have an Ordinance that is very plain. There is no question about it. The Ordinance says before the Board of Adjustment can made an exception or a variance the evidence must show certain things, the Board must make specific findings that the evidence shows those certain things and then must make its decision based on its written findings of facts, so to speak.

GATTI: It's a fact situation?

WALKER: In effect it is a fact situation, yes. But jurisdictionally speaking the Board must make the findings called for in the Ordinance. It was on this technical point that the court threw this case out. Now, it didn't get into the substantive question of whether or not the evidence supported the findings had there been findings. But the fact remains that there were no findings and there must be findings.

Now, if this goes back to the Board of Adjustment and on this go around lets assume that they make findings. That is going to at least release them from that obligation as far as the Court is concerned. Now, whether or not their finding is justified from the record I have no way of knowing. The only relief this man or any other man has from an attitude of this kind assuming that the Board of Adjustment is incorrect, is to appeal to the District Court. You people do not have the jurisdiction to hear that type of complaint. So that the only authority you have in this matter is to adjust the membership of the Board of Adjustment should you see fit to do so.

COUNCILMAN HILLIARD: Who is the applicant in this case?

STUART: Mr. M. M. Hughes. He is Chairman of the Planning and Zoning Commission, Sir. We think such a direct conflict of interest-I just can't come out and make it so plain. The members of this Board with the exception of one man are all connected with the real estate business. They are either in mortgage banking, they are real estate salesmen or developers except Mr. Williams who is an Attorney. There is such a direct conflict of interest that I just can't say what I'd like to say at this point.

GATTI: Everybody else does.

STUART: I would rather not on the record.

GATTI: Mr. Walker, you know there is always two sides to every story, and I think that we would be rash if we made a judgement based on just one side—not that I am disputing anything you said. Are we authorized to---could we postpone this hearing until we got a complete staff report on this?

WALKER: You have no authority to postpone the hearing. You might request that they do so but they don't have to follow it.

GATTI: Well, if we request it and they don't follow it can we change Boards?

WALKER: Well, the question then is whether that is misconduct. I doubt if that in itself would be misconduct.

STUART: The Board says that they will do as they please and I was so told.

GATTI: This is, as Mr. Walker said, the characteristic of the law. I would like-I don't know if they will honor our request but I certainly hope that they would and we could postpone this hearing until we got a complete staff report on it.

STUART: The fact is if they don't I will have to be represented again in the morning at another \$150 expense as an innocent citizen.

COUNCILMAN HILL: I have a question, Mr. Mayor. If the Board took this action and the court threw it out as illegal why are they hearing it again?

ED DAVIS: Well, it is our understanding that the court threw it back to us to rehear it at the Board of Adjustment.

HILL: Well, as Mr. Stuart says, this can go on and on and on.

STUART: The fact is I can spend \$1000 a month on this thing.

BECKER: Well, I don't like to ask you this question, Mr. Stuart, and if you don't care to answer it you don't have to, and I don't know anything about this thing except what you have said this morning. Is there any type of an office building there that you would accept?

STUART: Yes, Sir. We went to the trouble of drawing up the prints for him and showed him it is economically feasible. This is in the record.

BECKER: Well, then I don't see how you are being unreasonable at all if you do all that.

STUART: We offered to Mr. Hughes, we even got a civil engineer to draw the plans to show Mr. Hughes this is more than economic. Look if a \$50 million project can develop on 21% certainly you can economically develop it on 27%.

BECKER: Of course the 22,000 square feet is the thing. That \$50 million project is on 50 acres or something.

GATTI: Who is the Chairman of this Commission?

BECKER: You haven't been unreasonable in my opinion.

STUART: We even invited the gentlemen to my living room at my house and took my time with his architects and all his buddies to listen. We showed him the courtesy. I said "Gentlemen, we are rational, we are not trying to be unreasonable and we will extend you the courtesy of my house in my living room and we will listen to you."

GATTI: Does the chairman have the right to postpone the hearing?

WALKER: Well, I wouldn't see why not? He is a man by the name of Neuman.

GATTI: All right. Will someone in your office call him right now and see if he will be willing to postpone this until we get a complete report on it. We'll see if we can get this postponed and, failing in that, I don't know what we are going to do. Thank you, Sir. We will do the best we can to get it postponed.

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