

WORKSHOP, TUESDAY, OCTOBER 9, 2012, 6:00 P.M.

The Mayor and City Council met for a Workshop on Tuesday, October 9, 2012 at 6:00 p.m. with the following members present: Mayor Nunez, Council Members Diaz, Lee and Gonzales; City Manager Maner, City Attorney DeFoyd and City Secretary Raines. Council Members Garcia and Rivas arrived after roll call.

Mayor Nunez stated that tonight we have three different items on the Workshop agenda and the first one would be Council discussion on regulation and control of shopping carts on the right-a-way.

City Manager Maner stated that he was sure they recalled that several weeks ago, he brought this matter to the attention of the council and brought in a series of pictures that he had taken that day so he thought everyone was aware of the problem and the problem was that folks use the shopping carts from the various stores to take their purchases home but they don't take them back to the stores, they leave them on the side of the road and sometimes just out in the streets and that presents several problems for the city. First of all, it was just plain unsightly, it was a traffic hazard if it was in or near the street and as Kyle was very aware, they end up in the ditches and they stop up the flow of the storm water and cause flooding, it was just a bad situation and he thinks it has reached the time when we need to do something about it and the problem was twofold, in his opinion. First of all, he was not putting total fault on the businesses but this is a method of doing business for them and they allow the people to take them and therefore, he thinks they have some responsibility here and secondly, of course, the people take them and they leave them on the street and he knew the people have responsibilities but the probability of either a police officer or any employee of the city actually being there when a citizen drops that cart off in the street or wherever they leave it is not very likely so he thinks when the council considers this, if it considers it to be a problem, that they need to consider two ways of enforcing it, No. 1, if someone can actually be caught leaving the shopping carts then they should be cited and if they are found guilty of that in court, they should be fined. He stated secondly, he thought some of the responsibility had to be put upon the owners of the carts, meaning the stores, and they could do whatever is reasonable to them, they have chosen to allow people to take these carts off premises because there are ways to stop that. For instance, at Kroger's on Normandy, those carts have something mounted on them and they have a system there and if you try to push them past a certain point in that parking lot and they just quit going. He stated that the stores could stop it if they chose to but they consider this a method of doing businesses and he had no problem with that as long as it was controlled but he did think that if it happens they do have to bear some responsibility and he spoke to Kyle earlier today about it and the public works department picks up these carts right they find around town and he ask Kyle how many he had now and he advised that they had 52 at the barn. He ask Kyle how long the oldest one had been there and was advised probably about two months. Mr. Maner stated the

stores were not doing anything about this and his suggestion to the council was and Jim had drafted an ordinance here and which in all honesty, he had to admit to Jim, that he just got it this afternoon and he hadn't had time to read it so they would go over it he was sure, but what he was saying, was the stores need some responsibility, there needs to be a charge for picking them up and a daily charge so they would have to pick them up promptly and probably, since Kyle had advised that it had been approximately two months without them picking up some carts, there needs to be a fine for not picking them up, they need to share in the responsibility and that is his opinion and he would just throw it open, that was just what he suggested and what he would like to be discussed tonight.

Mayor Nunez ask the City Secretary to make a note that representatives from El Ahorro were here to attend the meeting tonight.

City Manager Maner stated that he mailed notices of this meeting to all of the merchants in our city who used shopping carts so they were all aware this meeting was taking place and they had the opportunity to be here and he was glad El Ahorro was represented here.

City Attorney DeFoyd stated that he prepared a draft of an ordinance that he thought might address most of the issues for the businesses as well as for the citizens here and he suggested that we go into it, that he just got it prepared today because he didn't know about the meeting until today but anyway he did go through it and made something that we could at least discuss and they were obviously not going to take any action tonight anyway as it is just a workshop and he knew that the council had really not had time to really go over it and read it in detail, that he thought it addressed all the issues that Jack had brought up, it did provide for fines in the event businesses, as well as individuals, continue to do what they are doing. He stated that this one take a different step, it kinda makes a deal with the businesses where we can enter into a contract with them, the ones that want too and we can exempt them from parts of the penalties and he thought that most of them would agree to it but he thought that everybody should really take a look at this and study it before making any decisions.

Mayor Nunez advised that she thought that was a good idea, that the council could look over it and whenever they were ready, we could put it on the agenda or have another workshop.

City Manager Maner passed out some sample ordinances from other cities.

Council Member Lee stated that he had been out and talked with some of the merchants about their policies for retrieving carts and a lot of them don't have any written policy, other than they replace the ones they loose and they write it off or that type of thing. He stated that he did know that a couple of the merchants he talked to said if we would call

and let them know, they would pick up their baskets. Council Member Lee ask the El Ahorro representative if they had any kind of shopping cart policy and were they responsible for carts that get damaged or lost.

Mayor Nunez ask Mr. Reed if he called the people as soon as they got the shopping carts and tell them. She was advised that they didn't call them.

Mr. Reed stated they knew, that some of them have people they pay to come and pick them up, when they did come and pick them up but that we didn't call them.

Mayor Nunez stated that she had seen people use the shopping carts, go down Wiggins or Palestine and then they put them out in the front yard and she does tell them that we can fine them because she is seeing them leave that shopping cart, that they brought it home and left it on the street and ask if that was correct and she was advised it was.

Council Member Diaz stated that some of the shopping carts didn't have names on them so you didn't know who they belonged to.

Mayor Nunez ask El Ahorro if they had their name on the carts and was advised they did.

Mayor Nunez ask the council if they had any questions for the City Attorney or City Manager in regards to this.

Council Member Lee ask Kyle why we didn't contact them and let them know.

Mr. Reed stated they hadn't been picking them up that long and when we started, we told them where the carts were and ask that they try to pick them up themselves.

City Manager Maner ask to address that saying that he would suggest , in his opinion, that we shouldn't put the responsibility on the city or city employees, these shopping carts belong to these merchants and he guaranteed you that if they were missing some, he would suggest that it was their responsibility to call us and see if we have them because as Kyle pointed out, they really already know it, that we do this and we have them sometimes.

Council Member Lee stated that he was not sure all the new merchants realize that there might be carts down there.

Council Member Diaz stated that she was sure that when they go low, they were going to know because at El Ahorra they didn't have that many, probably 20 to 30.

City Manager Maner stated that it wasn't really quite the same but to think about it this way, if your dog gets out and is gone, they are not going to call you and tell you that they picked up your dog but you know where that dog is.

Council Member Lee stated because they know there is a dog pound there and they may not know there is a basket pound.

Mayor Nunez stated that she would like to make a comment, that these merchants had always been very good to contribute to the city and if there was some way, that she would even call them herself if she knew they had some carts there because she had called and advised them that they had some carts on various streets because she didn't want to lose their support on Santa on the Fire Truck or Toys for Tots or Food Baskets.

Council Member Lee stated or have them move away to Galena Park or Channelview.

City Manager Maner stated that in his opinion, the ideal would be that we wouldn't have to pick them up at all, that these merchants would simply have someone make the rounds each day in the city and then pick them up.

Mayor Nunez ask El Ahorro if they didn't have somebody go around in a pickup truck and pick up their carts.

Council Member Diaz stated that she thought it was a little white truck and El Ahorro advised that they did twice a week.

Mayor Nunez stated that we had the ordinance here and the council needed to take time to look at it and make the right decision, that they were a problem because they could roll out into the street , etc..

Council Member Rivas ask Kyle if he knew how many carts were from what store. Kyle stated no because they were not marked and Mr. Rivas questioned how were we going to know who to fine if they were not marked.

Council Member Lee stated that we needed to provide that they mark their carts.

There was general discussion about the carts not being marked.

City Manager Maner stated that if they were going to allow their carts to be taken off premises they have to be marked with their name and he thought that was a good idea.

Council Member Garcia stated that she also agreed with what the city Manager said that the people needed to be responsible, we shouldn't have to take away other people's property so we need to put the responsibility back on the shoppers, the merchants are being kind enough by lending them to carry their groceries so they need to be more respectable and the city already has enough to do.

Mayor Nunez advised that Helping Hands had about three shopping carts and a lot of time, they don't return them back and if they don't, they don't get to use a shopping cart again and she would hate to have a pantry fined.

City Manager Maner stated that he would suggest the council take the time to go over the ordinance that Jim prepared, as well as other sample ordinances, and give this some thought and maybe we could have another workshop.

Mayor Nunez stated that maybe we could get some feedback from the merchants and ask if we could deliver a copy of the ordinance notifying them of what we are proposing so that they will be aware since there is not that many of them and City Manager Maner advised that he thought there was about seven or eight of them.

Mayor Nunez stated that she wouldn't mind taking this to these merchants and letting them know this is what is going to be coming up and ask if the council objected to her doing that. She also ask the City Attorney if it would be ok to do this.

The council agreed that we needed to let them know.

City Manager Maner stated that if she would like to deliver it that was fine but if the council wishes, we would mail everybody one so we can be sure that everybody gets one.

Mayor Nunez stated that would be fine and maybe we could get addresses to their corporate offices as well.

City Manager Maner stated that might be where we send the water bills.

City Attorney DeFoyd stated that he would like to suggest that if we were going to mail these out, let's wait for the council to review this first and get back with him and let him know what they would like in addition to this.

All agreed that was a good idea and what we would send them would be what the council was considering.

Council Member Rivas ask if we did mail these out could something be attached so that they give us a written confirmation that they received the letter.

He was advised that we could send them certified.

There was general discussion on sending them certified so that they could not say they were not aware of the proposed ordinance.

B. City Manager Maner stated that he wanted to bring this to the council attention, Sec. 18 of Article 5 and he was just going to read one sentence, that he thought that when the council was considering this they need to keep in mind and this was the new amended City Charter of course and he read the following sentence, "The City Council shall, by ordinance, determine it's own rules and order of business and the rules shall provide that citizens of the city shall have a reasonable opportunity to be heard at any meeting in regard to any matter under consideration ." Mr. Maner stated that he thought the council needed to keep that in mind when it was talking about this and one thing that he would point out was he sent an e-mail out but it was late this afternoon and they may have not gotten it or read it but it only seem logical to him that if a citizen has a right to be heard on any matter under consideration, that citizen has a right to be heard before that matter is passed, before it is adopted or turned down so he thought that was important too and he wanted to point that out as it was a charter requirement that citizens be allowed to be heard on any matter under consideration.

Mayor Nunez stated that going back to what the City Manager said, she had made it a habit with anything that was on the agenda, that before we take a vote to allow the public to ask questions, was there some other way we were going to implement this or what.

City Attorney DeFoyd stated that he had prepared an ordinance and he had done this about 15 times starting in 2000 and something. He stated this latest one sets forth the rules of procedures that the council would consider adopting and he thinks that most of the heat comes from either an agenda order or the limitation of time that the council decides they would allow and here again, he would like all the council here to go over this Proposed rules of procedure and it should have be adopted years and years ago and never has been and he specifically changed one section about the agenda order. He stated that he changed it to let the council make an agenda order by resolution, which simply requires a motion and a second so that you can change the order any way you want to, at anytime you want too without going to the formal procedure of an ordinance. He addressed the issues that the city manager and Councilman Lee brought up, that the charter didn't

require us to set the comments from the public first or last or in the middle, it was up to the city council, they could do it anyway they wanted to, the charter only provided that the people could discuss any issue that it wants at any time. He stated that he had also drafted a resolution for an agenda order and on this one you could put any time limit they wanted, they had originally said ten minutes which was fine, he thought if they were going to let the people talk, there was no reason for them to say they wanted to talk about this or that, they can talk about whatever they want to talk about on their ten minutes and they shouldn't have to be on the agenda, we could ask them if they would be courteous enough to say they would like to take ten minutes and he thought that would be the thing to do and he thought this was something that the city council ought to study and consider and come back with some recommendation and hopefully this time we would be able to do it. He stated there was no question that we wanted input from the citizens, that was very important to him and to the council because at times they have better ideas than the people sitting up here and we need to listen to them so that was kind of what he did when he prepared this.

Council Member Lee stated that he believed that when a person goes through the trouble of getting on the agenda they should have their ten minutes, they should have more time than someone who just wants to make statements and ask if we could still do that and not hold them to an agenda and still give them ten minutes.

City Attorney DeFoyd stated that a lot of the cities say if you sign up, you don't have to sign up but if you sign up and say you want ten minutes or you want fifteen minutes ahead of time the council would know that this person wants ten minutes but remember, we only have so many ten minutes and a lot of people would like to not be here until midnight like we used to do, he had been here until midnight many times and advised Mr. Lee that was a good suggestion.

There was discussion on different ways they could sign up.

Council Member Lee stated that the problem he had with calling it an agenda was that they didn't really have an agenda, it was just kinda a broad term, they were going to talk about stuff.

Mayor Nunez stated that her concern is and it was when he did the first resolution where the city manager made some changes and then Ms. Raines e-mail each council person the resolution and the problem was that nobody took time to find out exactly that any thing that is put on the agenda is open for discussion, it doesn't have to be acted on then because we want the input of the public but her concern and she had spoken to several council people is that you have a person sign up on the agenda to talk about an employee

and her concern is that we need to respect our employees, and she suggested that if a citizen has a problem with an employee, they go to him and talk with him about it, if the problem is not resolved then they go to the city manager because he is over the employees and if they are not satisfied, then they would go to the council member who is the liaison over that department and this way we will know there will be three people that knows there is a problem with this employee, the employee is aware of the problem and she was sure that by the time it came to the last person that the problem would be resolved and they don't have to come in and start talking about the employee and gave an example of what someone said about the police officers at the last council meeting and that the lady couldn't speak English and she had definitely found out that she was bilingual and it was unfair that you come up to the podium and point fingers at somebody without having gone through the channels because she didn't think it was fair for an employee to be treated that way, they need to be treated with respect, employees, department heads or council member and if they have followed the procedures, they don't need to come up to that podium and insult the city employees because that employee is not aware of what is going on if the department head doesn't know about it. She stated that she thought if they follow the proper steps we could eliminate a person coming up to the podium and not being honest with them because she definitely found out that this lady is bilingual and the officer understood what was going on and the Judge knew that the lady understood and she doesn't think it is fair to come in and say anything like that about the employee but it was up to the council, she was just suggesting that and had talked to several of them sometime back and they could think about this.

City Attorney DeFoyd stated that the thing that he always cautioned the council about doing was commenting, in public, about any employee and they should not do that. He stated that the city manager was the only person that had the authority over the employees and they could create more problems for the city if they started discussing a personnel problem, that was what he was talking about, a personnel problem in public without the consent of that employee because an employee has certain rights and he would assure them that they enforce them and they should enforce them.

Mayor Nunez stated that she thinks, with what he said, if a person gets up to the podium and starts talking about an employee that she would gavel them down and tell them it was a personnel issue and with the council's permission she would like to do that and make sure the proper channels were gone through because she didn't think our employees should be talked about without the department head or Mr. Maner being aware of a problem so from now on she was going to gavel that person down if it was going to be a personnel issue.

City Manager Maner stated that he would like to comment, and he stated that probably most of the things that were brought to the City Council Meeting like she was talking about could probably be resolved without even being made public and he would point out that the Texas Open Meeting Act specifically provides that personnel matters will be handled in a closed meeting and it gives the employee the right to say otherwise, the employee might say he wanted his heard in a public meeting but no one else has that right, the city doesn't have that right nor the person that is making any allegations against them so he didn't think the council should even consider those things out here.

Council Member Lee stated that he agreed with everything the Mayor said and he felt the same way about our department heads and employees and he would like to see more respect and order in our meetings and what he was asking, was how far can we go to restrict that, people will have a constitutional right to be rude.

Mayor Nunez stated that it was like the city attorney said, the employee has rights also and it was a personnel issue and it needs to be discussed behind closed doors but if the procedure is followed, it should be resolved.

Council Member Lee stated that it could be and should be but it was not always that way.

Mayor Nunez stated that she would make people angry and she was sure they would get up there and tell her they were going to get her out but that was fine, she would do what is right for the city.

Council Member Gonzales stated that he just wanted to make sure he was hearing this right, if there was a personnel matter it shouldn't even be coming to the council meetings, it should be handled within the department, with the exclusion of an elected official because they could discuss them.

City Attorney DeFoyd stated elected officials were not an employee and this didn't apply to public officials, only employees is what the open meeting act covers.

Council Member Lee ask if that was the way they would handle it, let the Mayor gavel it and they would talk about it later.

City Attorney DeFoyd stated there was a number of ways they could handle it, the Mayor could gavel them and say that was a personnel matter and ask the city manager to look into it or they could even call a personnel meeting and invite the person who has the complaint to come to the personnel meeting but first the city manager needed to have the authority to deal with this and he wanted to maintain that separation so he would first have

the person talk with the city manager and if it was not resolved then we would have a personnel meeting.

Councilman Lee stated that if the person had a legitimate complaint and it was something they wanted to hear and know about but they get mad and turn it into an attack on an employee that is when we can stop them.

City Attorney DeFoyd advised that they simply tell them to get with the city manager and if it can't be resolved they would call an personnel meeting to give this person every opportunity to tell us what their problem was with the employee, it might be something the city needed to know about.

Council Member Garcia stated that she would like to make some suggestions, that last night she was looking over some different cities in Texas and out of Texas and just got some ideas and was comparing ordinance/resolution that Jim typed up and she actually had a lot of the stuff that he type up on there and what was represented in black was what we already had and what was in red was what she would like to see added on there. She stated that very few cities had a mission statement and she would like to see Jacinto city with a mission statement, something that we say all the time and she had heard the Mayor say this several times, We are a family so if maybe it is just stated on the agenda, we don't have to read it out loud, maybe they can read it on their own time and remember that we are a family. She stated that as a mission statement this was something that she had in mind and she would like the council to consider and she didn't know the process of this. Ms. Garcia read the mission statement that she was proposing "The city of Jacinto City is committed to delivering fiscally responsible municipal services and continuous improvement to ensure a safe, healthy, vibrant and family-oriented community" and like she said, we didn't have to read it, just post it on there. Ms. Garcia went over the proposed agenda order that she was suggesting (copy attached for record) and suggested that we might also put on there to please silence or turn off cell phone and outlining other changes such as approval or correction of the minutes and she took off the previous meeting because she remembered when we were staying until midnight here and it was impossible to get it done by the next meeting, she also discussed the recognition of former Officials and special guest so she would like to see recognitions added on there and also the proclamations could be done at that point, etc.. She stated that the next thing on the agenda was the reports of Officers, Employees and Committees and she liked the way it was written right now and she would love to see added Department Reports/Announcements, it was already done but she would just like to see it in writing and then we could start in the same order that we are seated, Parks and Recreation, Heritage Hall, Police Department, Fire Department, Public Works Department, Harris County Public Library and then leave committees on there because any of us could start a committee and if we don't have committees there will be nothing to discuss. She stated to

leave Mayor's Report and City Manager's Report as it is. She stated that we also have on the current agenda Unfinished Business and that was fine that normally we don't have anything and under New Business leave that the same and under comments, the way it is written right now is comments from the public and she like the way Jim had put Comments from members of the audience or comments from the audience and then add, because we kept talking about respect, and she knew this probably sounded childish but we need to remind our public and we could have new members sitting out there and this is their first time at a meeting so maybe just a little paragraph written at the beginning reading, "The members of the audience may address the Council regarding matters of concern/interest within the city's jurisdiction, other than the character of any employee of the city, department head or Mayor and Council. Matters of such should follow proper protocol and items that cannot be referred to the city staff for action may be added to a meeting agenda for a future meeting (call city Hall at 713-674-8424 during business hours for protocol procedures). The Mayor and Council may only listen to the individual's concern/interest and may not discuss, respond to, nor act upon any matter not on the agenda. There is a ten (10) minute time allotment for all written request submitted within seventy-two (72) hours of the regular city meeting and a three (3) minute time limit for all other interested individuals. Comments on controversial items may be limited and large groups are encouraged to select a representative to express the opinions of the group. More time may be given by the majority vote of the Council ."

Ms. Garcia stated that a lot of the residents thought the ten minutes was going to be taken away from them but the thing was that throughout the years it has always been that residents comments have always gone under city business and they shouldn't be so she had distinguished two different areas, one for written request and they would have their full ten minutes to speak, that was not going to change, it was just labeled differently and B, appearance of interested individuals which was the three minute time limit which we have always been giving our residents and she would just like for them to look at it and something that was not on the agenda but we had always done was council comments and she would also like a short paragraph written to them to remind them that the Mayor and council may make a comment during this portion of the agenda and comment items may not pertain to the character of any member from the audience and may not be discussed or deliberated upon at this meeting.

She Discussed teaching the residents the proper procedures to go through because everyone did not know and she had attached just a rough draft for them to look at and it was all about educating the citizens and this could be on line and available at city hall for them to view.

Mayor Nunez advised Council Member Garcia that she thought if we put all of that on the agenda, we would be here until 8:00 o'clock before we started discussing the city business.

Council Member Garcia stated she thought it was well worth it, that it may sound like a lot but in reality once we get going, obviously what we have been doing and this is a new time and age, something need to be done differently, and what we have been doing in the past has not been working and it has caused so many issues so she would just like for them to look at it and consider it and it sounds long because she was speaking but it really wasn't, it was better to invest now instead of dealing with it every time at every council meeting, you could just record it and play it, she would just like for everybody to consider it and it didn't take her thirty minutes to think about this, she really gave it some thought.

Mayor Nunez stated that she knew she mentioned that we were not handling the agendas but she remembered where people would get up there and talk for forty or fifty minutes about a council member or something so she had cut that out and she thinks it is a little different, that we had accomplished a lot by eliminating things but she didn't want to go back where the council meetings were three or four hours long and have the city secretary spend a whole week getting the minutes ready.

Council Member Diaz stated that Mayor we had then sure made those meetings long.

Mayor Nunez stated that she would not, with the city attorney's advice, let someone get up there and talk forty-five minutes and she thinks the way she is handling the meetings is more professional like how she wants to protect our citizens and employees and it is like Jim said, if they are going to come down on us, we just have to sit here, turn red or whatever but she is proud of the way she handles the meetings.

Council Member Garcia stated that she had nothing against that, she didn't say anything about that and if reading a small paragraph is an issue because it sounds long, then maybe just reminding our audience to read that before they stand and that way we won't have to go through that and it doesn't have to appear in the meetings at all if typing it or reading it is an issue. She stated that she felt like the audience needed reminders just as much as we need to be reminded ourselves and again, we are always seeking to improve, there is never going to be a point when we are just the right way.

Mayor Nunez advised Council Member Garcia that there was a time when even the council members would get down on each other, she was here, she saw it happen when she would attend the council meetings and a wife of a council member would jump up and just go off and she ask the Jim if he remembered that and he stated that he sure did.

City Attorney DeFoyd advised that everybody had a copy of the proposed Ordinance that they could go over and they could make comments or suggestions.

Mayor Nunez stated that she wanted the council to remember that an item put on the agenda is not a done deal and that is why it is put on the agenda for discussion and if you want to make changes but they had plenty of time when the city secretary e-mails you the agenda to come and talk to Jack or call Jim DeFoyd if you have a concern about it and not wait until the meeting.

C. City Manager Maner stated that he would like to address some background and he would point out to the council that he knew it said leash law but we already had a leash law and right now, if you are outside of your fenced in yard walking your dog you have to have your dog on a leash but of course it had always been a problem but it had gotten a lot worse in the last few years and with people walking their dogs and dogs doing what dogs do and the people not taking the time to clean it up and leaving it for somebody else. He stated that where it was particularly giving the city problems is in the parks, in particular down on Challenger 7 by Heritage Hall, the Pre-school and the swimming pool because of the apartment project, those folks in the apartments had pet dogs and they take them walking and most of them don't take care of it after they do their business. Mr. Maner ask Kim to describe the problems she was having down there.

Kim Bellotte advised that it was becoming a really big problem. She stated that since the apartments had changed owners and been remodeled, they were almost 100% full and there was a big increase in dogs and also a big increase in people walking their dogs around the park, which was a good thing and we want to promote that but they were just not picking up after their dogs. She stated the kids get in it, the lawn mowers hit it and throw it everywhere and it smells down there.

City Manager Maner stated it was annoying but it was also a health hazard.

Kim stated that it was a health hazard and she was speaking with our Public Works Director and it was going to be written into our Storm Water Management Program also as they were coming out with some dog poop regulations so we were just trying to get a grip on it, that in the past they had sent out notices to the apartment dwellers about the health hazards from the dog poop, what it causes in the storm drains and different information and they had also put container for baggies help them and it seems like the more we do the more poop there is.

Mayor Nunez ask the City Manager who would be responsible for giving the citations or tickets.

City Manager Maner stated that he would like to address a couple of things there, that in his opinion, you had to approach this thing two way, one, he didn't think it was very likely or it would be rare for a police officer or the code enforcement officer or even city employees as a whole to actually observe this happening, it was much like the loud music complaint we are always getting, if the police officer is not right there and sees it there is nothing he can do, so he thinks one of the approaches we need to do, of course if the police officer or code enforcement officer does see it, they would issue a citation to that person that allows their dog to relieve themselves on either public property or private property that doesn't belong to the person with the dog but that isn't going to happen a lot because he is not going to be in the right place at the right time so he thought it also needs to be a requirement that anybody walking a dog have these disposable plastic bags with them or something to take care of it and failure to have those with them would be a violation in itself.

Mayor Nunez ask if the code enforcement officer see a person walking their dog on a leash can he approach them and ask them if they have a bag.

Jack stated that he thought he or a police officer could actually do that, our ordinance requires that you have bags, show me yours please, just like asking for a driver's license.

Council Member Diaz stated that she bet when you ask them that, they were not going to have a bag with them.

City Manager Maner stated they wouldn't until it was enforced.

There was general discussion regarding the enforcement of the ordinance.

City Attorney DeFoyd advised that he thought it was going to be extremely difficult to enforce an ordinance like that and he had not really had a chance to look and see if there were any cases of it. He stated that New York had a very similar law and everybody followed that law but he needed to research to see if there is any and the problem that he sees is how are we going to prove that he didn't have something he was going to scoop it with, that we had to prove that if we are making it a crime.

City Manager Maner stated that he thought it was like we require the dogs to have a city license and that he could ask them to see the city license and he didn't know why he couldn't ask them if they have the means to clean it up and to see it.

City Attorney Defoyd stated that he might have the right to ask them but when you start charging somebody with a crime that was going to be something else.

Council Member Rivas ask what if they do decide to carry a pooper scooper or bag and don't use it and say their dog hasn't gone.

City Manager Maner advised that if he had the right stuff and you didn't see the dog do something and not clean it up there is nothing he could think of that you could do.

City Attorney DeFoyd ask what probable cause did a police office have to stop him anyway, just because he was walking a dog, he just didn't see how he would have probable cause to do that.

Council Member Diaz stated that maybe we could get a bigger sign to put out there because she knew they had a tiny little sign.

There was discussion about different parks that had designated spots just for that.

Public Works Director Kyle Reed stated that he wanted to mention that the Storm Water Management stuff was going to get real strict and our engineers were going to be here on the 25th at 5:30 p.m. for a special meeting and the city was going to have to figure out something to do about these people who don't clean up after their dogs because they are going to check us and if we don't make them do what they are supposed to do then they are going to come after the city and this was all going to get very nasty, he stated that he knew he wasn't an attorney but there were a couple of city that have ordinances that says they have to carry something with them and he was just throwing this out there because he was going to be the guy that had to enforce the storm water management program.

City Attorney DeFoyd stated that a lot of cities had the ordinances, he had seen them but he had found no cases that addresses the criminal issue.

City Manager Maner ask Jim if the fact that he hasn't found any cases only mean that they haven't been appealed to an appellant level, it doesn't mean that it hasn't be enforced or filed upon or found guilty or whatever.

City Attorney stated that is what it means but if we are going to pass an ordinance we should set some kind of standards, we can't, in good consensus, pass an ordinance that we know that we can't enforce or that would actually violate someone civil rights, that he really had a problem with a police officer going up to somebody because he has a dog and saying he had probable cause to ask you if you have a method to clean up after your dog and he was not sure that you could arrest him for that.

Council Member Diaz stated that she wasn't saying arrest him just give him a ticket.

City Attorney Defoyd advised that it was the same thing, he had to go to court, if you hand him a citation, he was arrested, that is what that means. He stated that the only reason he was not going to jail was because he signed a ticket and as a fact of the matter, there was only one ticket that you couldn't bring somebody to jail and that was a speeding ticket, you could bring somebody to jail for any other reason, any other ticket, we don't, obviously we would have a full jail. He stated that he was not knocking the thing, he thought we should have something, he just want to make sure we had something that would work and we don't stir up a lot of problems that we don't need, that was his only concern.

Council Member Gonzales stated that if he could play the devil's advocate here, if from a public standpoint here, we start ticketing people that are letting these dog do their business and actually have police officers ticketing them then your public is probably going to wonder why we are ticketing those people when we should be ticketing the people who are speeding through our neighborhoods and things like that and he believed that they would actually come after us with that.

City Attorney DeFoyd ask them to let him draw up something that he would try the best he could do.

City Manager Maner ask him to check with TML and see if there was any Attorney General's opinion on this that he hadn't done that.

City Attorney DeFoyd stated that he tried to find some cases and could not find a one, he would check with the AG.

City Manager Maner stated that he just thought we needed to recognize that it was a problem.

There was general discussion on possible thing that might be done.

Mayor Nunez advised council that they had all the information that the City Attorney had Prepared and she was glad on the procedure that there was things they discussed that was going to be good for the employees and she was sure that by the time it got to Mr. Maner the problem would be resolved.

City Manager Maner advised the Mayor that he couldn't tell her the number of time that things had been brought up here at the council meeting that, first of all, we didn't know about and once we found out about them, not him personally, he had been able to get

them to the right department head to get some communication going and most of the time they do get solved right there, so if people would start with us, it would be helpful.

Mayor Nunez stated that her concern when she ask Jim to see what he could come up with a resolution was that we conduct city business because for one thing, when we have projects and we have the owners of the businesses and you read the bids then they can go ahead and leave or when we have the auditors or a council member that needs to leave for some reason, they will have already voted on the city business and this way if we have someone that wants to get up to the podium and speak, we have already conducted the city business and again, it would be the city council's decision to do the city business first and then hear from member of the public and like she said, when that first resolution came out it was in regards to protecting our employees, that she had talked to some of them before it was on the agenda recently.

Council Member Rivas stated that like Carmela was saying, if they were here to address the council about a situation, shouldn't that podium be repositioned where they face us and not look at the person they are pointing the blame at.

Mayor Nunez stated that like she said, they needed to respect our department heads, they need to respect our employees. She stated that she knew that a lot of times some of them wished they could jump up from their seat and answer but they have to show control like the council and herself because we are all working for the same thing and that was our city and it was like Carmela said, we need to be family like she says all the time but her concern on procedures for conducting council meetings is that lets be respectful to each other. She stated that sometimes they ask if they wanted to give a person more time, well if they start talking about an employee and that is personnel business, she would gavel them down because it was the right thing to do and they have to follow that procedure. She stated that if they had any question about any of this, the City Manager or City Attorney would be able to help them.

Council Member Rivas stated that on the last issue, animal waste, he knew it was tough to say that we were going to put a law into effect on that but how about if we did a campaign, kinda ask more than demand, educate the people and discussed ways that this might be done.

Mr. Larry Schion spoke from the audience to comment on the dog issue.

There was general discussion on having an area at the park designated for a dog potty area.

City Manager Maner stated that if you have a relatively small area, that one little area was going to stink and he didn't think the people would want to take their dogs in there or the dogs might not want to go in there but if there was such a thing, we would do our best to keep it clean. He stated this was not an easy situation here and you wished that you didn't even have to consider it and it shouldn't even be a problem but it was and he thinks we just need to consider all the alternatives and try to come up with something that will help, that Mr. Rivas mentioned a campaign and he didn't think that was a bad idea but he did recall that Kim had already mentioned that she went over to the apartments and talked to them.

Council Member Diaz excused herself to attend her son's ballgame.

Council Member Lee stated that Kyle's men were out talking to citizens about this and asking them to clean up after their dogs.

There was general discussion on the possibility of a campaign like Mr. Rivas had mentioned.

City Attorney DeFoyd stated that he would look into the matter further.

Council Member Rivas stated that if we didn't address this it was going to become an issue.

Kyle Reed, Public Works Director, updated the Mayor and Council on the boil water notice they had to issue last Friday night, that they had to do that because the system had to be drained to make repairs and this was TCEQ regulations, they had tested the water and there were no problems and they lifted the order on Monday morning at 8:30 a.m..

Mayor Nunez stated she was glad that he texted her because there were a lot of seniors that didn't have computers and you needed to call and let them know, that she knew Heritage Hall was told about it but she had to call some of her neighbors and advise them.

Council Member Gonzales stated that he knew this was done late at night and ask how long it was actually down and Kyle advised an hour and forty-five minutes.

Mayor Nunez advised the status on Ms. Hernandez, the lady that was killed in the auto accident and that her best friend was keeping her updated on everything and some of the council and the bank was working together and since this is a crime they may be able to get aid from the state but she was just waiting for them to tell her what they were going to do.

City Manager Maner stated that he was not aware of what happened and was advised of the situation.

Ms. Donna Dailey ask a question about the leash law and asked if most of our problem was coming from the apartments and Kim advised that about 95% was from the apartments and they had talked with the apartment manager and they discussed the bags provided for this.

There was general discussion on the people not using the bags that were provided for them.

Ms. Daily stated she had one more question about the procedures for conducting business during council meetings, stating that she was pretty irate about that when she first heard it and she had (Ms. Daily was speaking from the audience and the sound system did not pick up all the sentence) she ask didn't our charter state that you couldn't attack employees and if it was already in the charter, should we be gaveling them and not have to have more rules or resolutions.

Mayor Nunez advised her that it was not going to be new rules or anything that Mr. DeFoyd had already said that there is going to have to be a procedure they have to follow and explained the procedure and she was sure that by the time they followed the procedure it would be resolved, she didn't think it was fair that any employee was attacked without any body knowing but know anytime someone get up there and starts talking about an employee he or she will be gaveled down because that is a personnel issue and then the comments will be ten minutes like it was.

There was discussion about the ten minutes and the three minutes to speak.

Mayor Nunez stated there was miss information when it was put on the agenda, that any information that is put on the agenda is not a solid because the council has the right to question it or decide to table it but she would like, in the future, for them to get in touch with the council because before she ask Mr. DeFoyd to try to bring up a procedure she talked to the council people and ask them if we need to follow this procedure before a person comes up to the podium but they would be gaveled down if they were going to attack a department head or an employee because that is a personnel issue and she assured them they would be gaveled down.

Ms. Dailey's comment was not picked up by the sound system.

Mr. Larry Schion stated that he had talked to his attorney, Mike Fleming and he was told that you could talk about employees.

City Attorney DeFoyd stated that we would have another workshop and go over each section by section.

Mayor Nunez advised Mr. Schion that like the city Attorney said, it was a personnel issue and they were going to have to follow that procedure and she knew that by the time they did this the issue would be resolved.

Mayor Nunez stated that she felt they all had trust in Mr. DeFoyd that he was going to research everything that was brought before him but she was sure that council had their home work and ask them if they would like another workshop and see what they could come up with, to just remember that it has to be posted 72 hours prior to the meeting and she thinks that if they have these workshops and people are aware that we are discussing things that are going to be put on the agenda so that it doesn't happen like it did the last time when the resolution was put on the agenda, that every council person is aware and take that responsibility, that the city secretary e-mails them, the city manager looks over the resolution, make corrections like he did the last time and sends it back to Mr. DeFoyd and thanks to our very professional city secretary, each of them are aware of what is going to be discussed and that way it won't happen like last time when she was told that she was trying to be like Hitler.

Council Member Garcia ask when would be a good time to have this workshop again so that they could leave with a set date.

Mayor Nunez suggested they do their homework and City Attorney DeFoyd ask for at least a couple of weeks.

Mayor Nunez stated that they would have to consider the holidays but by the next time the meeting should be shorter because they had already discussed it and we would have that ready.

City Manager Maner stated that something that was mentioned tonight that just really hit home with him and that was, he thought maybe Carmela and Jimmy mentioned it, that when people come here and they either get on the agenda or have comments, they are addressing the council, so would anybody have an objection if the podium was moved around and faced the Mayor and Council.

The question was raised from the audience what if they just want to make an announcement about the softball parade or something and was advised that they could stand on the other side of the podium.

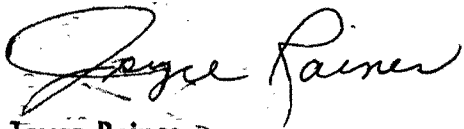
It was the consensus of the council that the repositioning of the podium was a good idea.

Council Member Garcia stated that Ms. Hernandez, who Rachel mentioned earlier was a wonderful person and she would definitely be missed.

Mayor Nunez stated that she would be greatly missed but all of us were working trying to see what we can do for her one way or another and she thinks council should be commended for that because we all come together and we don't need anybody to tell us that we need to and she knows that each of them do it in their own individual way.

Mayor Nunez adjourned the meeting at 7:40 p.m..

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Joyce Raines".

Joyce Raines
City Secretary