

Closed Caption Log, Council Meeting, 10/2/08

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good morning, I'm austin mayor will wynn, it's my privilege to welcome calahan, pastor, agape baptist church, who will lead us in our invocation, please rise.

Shall we pray? Bless the lord of my soul and all that is within me. Bless his holy name. Bless the lord of my soul. Father god we come before you this beautiful morning of your creation to bless you. We bless you because of who you are. We bless you because you, god, are our creator and our maker. We bless you for you are our provider and our refuge. Father god, we recognize that your mercies are new every morning and we bless you for your faithfulness and loving care. We come before you, this morning, with many voices of thanksgiving for allowing us to see this day and another city council meeting as we gather here this morning, drawing us together in love, peace and unity. Father god, bless our country, which is at a major cross road of decision making. We need your guidance and direction for our leaders. Now master we ask your divine blessing on the mayor and each of the city council members in their individual and collective need. We need you to lead and guide them as our city leaders. Father, we thank you for the diversity of our neighbors and friends and recognizing our cultural differences and yet at the same time being thankful for there's so many ways in which we are the same. Only you, god, can create such a beautiful bouquet. Lord, we recognize that we come with our various cultures, beliefs and faiths, but we recognize that some may pray to you no the name of jehovah, buda and jesus christ, our savior and lord, amen.

Thank you, pastor callahan. There being a quorum present, at this time I will call to order this meeting of the austin city council. It is thursday, october 2nd, 2008. We're here in the city council chambers, the city hall building of 301 west 2nd street. 23 a.m. Before I sort of start our procedures here to ask for upcoming council items to walk us through changes and corrections to the agenda, also talk about the -- the likely schedule of our actions today. I would like to -- to of course continue to offer my congratulations to councilmember shade. I think that she would like to say a few words, councilmember?

For those of you who don't know I had a baby since last time, a healthy beautiful girl named emily austin shade shell, two wokes before that my partner had major spinal surgery. We had a crazy two weeks, coming off of a busy time going through the election and starting a new job. I could not be more proud to be a citizen of this community than I've been these last few weeks. I felt compelled to say the medical

care, community support, the friends right here on this dais, you know, my staff and the office all who is a few team. I just wanted to publicly say for the record how much I appreciate it and everybody here at city hall. And in the community at large. Thank you so much. I feel so blessed to be here. And again I -- I take it really seriously that this is an honor to get to serve. I'm just glad to be here, be on this side of all of the craziness that we've had the last few weeks. Thank you to especially my colleagues and to my staff.

Mayor Wynn: Okay. Congratulations. So, council, before I then walk through the changes and corrections and talk about what appears to be a relatively light agenda. At this time we ask for any potential upcoming items from council. Councilmember morrison?

Thank you, mayor, over the past year, there was a group of families and children's task force, all the work culminated in a report that was put out in june. So I have interested and i think some of my colleagues are, also, in getting a report from the task force on the work that they have done so that we can look at potentially moving forward with some of those items and recommendations that they have come up and I think that staff had tentatively scheduled that report for OCTOBER 16th. So -- so I'm looking forward to hearing from them.

Thank you. Potential items from council? Councilmember martinez?

Thanks, mayor. I'm not sure that this is actually going to turn into an item from council, but moving forward, I want to bring some -- some points up that -- that -- some things that we have experienced since last thursday's meeting and that I think are wholly flawed in terms of our process. Last week we adopted a five million dollar interlocal agreement with travis county for jailing services. We adopted this without any language in the backup. And in fact we didn't get the language of the interlocal agreement until two days ago. Five days after we adopted it. In this language was in my mind a significant policy shift. In that it spoke to a potential phlebotomist doing blood draws via this interlocal agreement. Whether or not that's the right thing to do, whether or not we should be moving in that direction, the bottom line was that's a major policy shift that had no public scrutiny, no public input and no council scrutiny. So on tuesday, when i realized that the county commissioners court had agreed to the interlocal agreement, I simply sent an e-mail up to the city manager's office requesting that we not sign that interlocal agreement, repost it, allow for public scrutiny, and comment, and then if we vote for it, we move forward. I was told by a senior staff member that I should not be doing things like that and in the future I should use the normal council process. Meaning put an item from the council, let four councilmembers vote for it. That's what we do. I believe it's my absolute right and responsibility to make that request when the process is that flawed. I understand the city manager has acknowledged that it's flawed. And it won't happen again. But quite frankly the [indiscernible] assurances for a flawed process I don't believe is enough. And so I look forward to working with staff on process improvements that are clearly outlined and defined and if need be that are codified so that we don't have this happen again. I'm very concerned that we adopt an interlocal agreement with a major policy shift and nobody knew about it.

Mayor Wynn: Understood. Very good points. Further comments or potential items from council? For the

next few meetings? I will say briefly again we have -- our old schedule shows that we have canceled next thursday, octob 9th'S MEETING AND SHIFTED IT TO OCTOBER 16th. It's my understanding that -- that on that meeting it very likely might be that we can get a presentation or just a quick report from two important task forces that we have ongoing. One is the live music task force and the other is the street closure task force. Both of those task forces, if I remember correctly, were given deadlines of this fall to report back to council. My I think so extinct is that both of those task forces may be requesting additional time. I suspect on the 16th we will at least have a short briefing from the two task forces and an update to their work and timing if is needed an extension of course that's council's prerogative to do that. Any further potential items from council over the next meeting or two? Thank you all. If not, I'll read into the record our changes and corrections to this week's posted agenda. They are -- they are -- we 9 as part of the consent agenda will be postponed to that next meeting, thursday OCTOBER 16th, 2008. 34, staff -- a public hearing this evening, staff will be requesting a pto the october 23rd meeting, technically we won't go over both -- we won't vote to postpone that until after the 6:00 p.m. Time certain time. I expect that to happen. Our schedule today, after we get through our consent agenda and any potential items this morning publicly, we will of course conduct our noon general citizens communication, I believe we have a full slate of 10 citizens to address us, and the afternoon we have a series of public presentations, two of which relate in some form or fashion to the -- to the proposition 2 or the stop the domain subsidies charter amendment. We also have a briefing regarding recommendations related to crane safety inspection and operator certification here in the city. 00 We will take up a few zoning matters. 30 Of course is live music and proclamations, our musicians today are the greyhounds, they are a renowned act here locally. 00 we have a handful of public hearings. I will say this posted agenda is quite like we -- we actually anticipated and I would not be here today, but of course with councilmember shade's giving birth this past week, we wanted to also be respectful of her health and everybody at the house, so we purposely have a very light agenda today. Of course we have a full slate on the dais. We will have most of that for most of the day. So just note my instinct is that there will be a couple of -- maybe three recess periods where we won't have anything to do, we will recess, I do anticipate the entire meeting ending quite early this evening and for those of us who are interested in watching the vice presidential debate i think we should get out in time for that. So far there's just a couple of items pulled from the 10 relates to the executive session item regarding a site plan issues with austin community college parking garbage near 12th and lamar. That will be -- parking garage. Councilmember cole pulled 13, we will have that -- we will be announcing that for closed session to take action on that item. So far, council, just items 10 and 13 have been pulled off the consent agenda. Any further items to be pulled? If not I will read the consent agenda today. It will be to approve item 1, minutes from the previous meeting, from the austin water utility approving item 2, from our contract and land management department approving item 3, from it is fire department approving items 4 and 5, from the health and human services department, approving items 6 and 7. From our neighborhood housing and community development department, approving item 8. Item 9 is postponed to our october 16th meeting. From our watershed protection and development review department, approving item 11. Item 12 are our board and commission appointments, that I will read into the record. They are to our animal advisory commission, ellen jefferson is my nomination. Councilmember morrison has nominated brad hughes to our austin airport advisory commission. To the environmental board, john dutnick is mayor pro tem's nomination. To our resource management commission, amy hardberger

is councilmember morrison's nomination. We should also note that as parts of this item we will be approving a resolution reappointing eleanor powell to the travis county appraisal district board of directors and ratifying the reappointment of block and zamora garcia to the travis county appraisal district board of directors. That's item 12, on our consent agenda. We also will be approving item 14, 15, and our addenda item 35. I'll entertain a motion on that proposed consent agenda.

Leffingwell: Mayor?

Mayor Wynn: Councilmember leffingwell?

Leffingwell: I had a question on item no. 9. It was my understanding that there was -- there was a question that had been asked by council to -- to the staff, they didn't have the answer yet, but there's a possibility that they might have it by the end of the day. And so -- so with that information, I was willing to pull it from the agenda and table it until the end of the day. And consider it at a later time if staff has the answer to that question by the end we could go ahead and address it.

Mayor Wynn: Well, I see guernsey shaking his head. Of course council always has the prerogative to postpone an item later. So without objection, I'll consider my proposed consent agenda to -- to having pulled item 9, not to postpone it perhaps yet to our october 16th meeting. Thank you, councilmember. So I will entertain a motion on that revised proposed consent agenda. Motion by councilmember martinez, seconded by councilmember morrison to approve the consent agenda as read. Before I ask for council comments, I think that we do have a couple of citizens who might want to give us a comment on items here. Let's see. On item 14 regarding austin energy funding of new holiday light system downtown, I think scott johnson would like to give us testimony. Welcome, mr. johnson.

Good morning, mayor, councilmembers, city manager and city staff. Regarding item 14, I'm well aware of some of the circumstances regarding this lighting that the lighting that's in place now was purchased about 8 years ago and needs to be replaced or should be replaced for different reasons, including the safety of the lights. But looking back and getting some information from councilmember cole's office as well as from staff, from austin energy, when this item came before the city before, the cost sharing for the lights, which currently now is \$145,000 contribution from the city and then the maintenance is paid for by the downtown austin alliance as well as the other decorations, I'm concerned because eight years ago the city paid about \$50,000 towards this amount and the daa paid approximately \$70,000 toward the purchase of these lights at that time. As well, there was no involvement process with regard to the resource management commission, the electric utility commission, or staff really at a mid management level or below. So it's troubling that some of these items come before the council. The process to evaluate them, whether the cost benefit is there or whether or not it's a fair deal for the city in terms of cost sharing in this case is questionable. Also, were other alternatives discussed? For example, more cost sharing, should we hang less lights to save money? Should we hang less lights because we have a budget shortfall with the city? Should we hang less lights because less lights use less energy? Even if they are led lights, because climate change is honest and we're not taking decisive enough action with that regard. \$145,000 is at least or more than 50% of the total budget for austin energy's air quality outreach program. We're talking about four or five staff positions, f.t.e.'s. So the benefit for these lights

from what i understand may be about \$5,000 per year. I would suggest that the city look at this proposal again, request more cost sharing from the daa, some of its core members are doing quite fine and if they want lights in the city, obviously it's a benefit for the entire city for the citizenry, then we should look at that opportunity. I would be happy to answer any questions.

Mayor Wynn: Thank you, mr. johnson. Questions for scott, council? Councilmember cole?

Cole: I just wanted to -- to point out to mr. Johnson that the decision to think about going to l.e.d. Lights from some of my discussions with the other councilmembers has been in the works for a while. Just the idea of our whole climate protection plan and the need to go to l.e.d. Lights. But we literally pulled out the old lights and recognized that they were eight years old and they were unsafe. They are simply a fire hazard. These are the lights that i want to point out to the public that go on congress avenue. So we simply had a choice of no lights or l.e.d. lights. Or these new lights. And I brought this item forward with the recognition that we wanted to continue some traditions in our city and to maintain a festive atmosphere downtown. At the same time that we are being energy efficient. actually does the storage and maintenance and plans to raise additional funding and this is not all of the cost of the downtown decorations that we do for the holidays. And they will try to raise approximately \$150,000 to go along with our \$145,000 for this match. So I think that in the -- in the spirit of the holiday season and with the recognition that downtown is for everybody and that these lights will last twice as long as our existing lights, that we are still moving forward in a prudent manner.

Mayor Wynn: Thank you, councilmember.

Thank you, scott. Further questions of scott or comments on item 14? Also note that a number of folks have signed up in favor but only needing to speak if we have questions for them or of them for item 35 our add den dem item regarding -- addendum item regarding concession feasibility for carbon neutral gem with our -- gym for our park system. We have a number of items we may take up later in the day. That's all of our citizen speakers on the proposed consent agenda. Any further council comments? Hearing none, all those in favor please say aye.

Aye.

Wynn: Opposed? Motion passes on a vote of thank you all very much. Council, let's see. So our potential discussion items, two of them relate to advice we will get in closed session, legal advice. 10 regarding austin community college parking garage, item 13 regarding an item from council regarding to a summary judgment hearing with save town lake 9, the seinna hills m.u.d. Apparently is going to take a few hours or so for staff to confirm a few items for us before we take that up much later in the day is my anticipation. So with that I guess we have no -- and our briefings are posted for the afternoon. So we have no further public business. So without objection, we will go into closed session this morning, perhaps take up item 13 legal advice regarding a lawsuit filed against the city by save town lake. And item 16 legal issues regarding development agreements with austin community college which relates to action item no. 10. So we -- we will now go into closed session. I wouldn't be surprised if this executive session ends before our noon general citizens communication. If that's the case I will come out and

recess the meeting. Noting that we will -- we will reconvene at noon. And then again sometime for our briefings. We are now in closed session. Thank you. Regarding a lawsuit involves the city of austin, no final decisions were made. I anticipate us continuing that discussion in closed session after we now go to our general citizen communication. We have a full slate of citizens signed up wish to go give us feedback. The first speaker is nailah sankofa. Our next speaker is jennifer gale. Welcome, jennifer. Jennifer was to be followed by gus pena. My understanding is pena and/or his family were involved in an automobile accident and will not be with us this afternoon. Welcome, jennifer. You will have three minutes to be followed by susana almanza.

Hi, austin. It's good to be back here this autumn afternoon. To make my mayoral announcement for the city of austin. Now, who would be crazy enough to run for mayor of austin? Bruce mccracken, comal, do you know who would be crazy enough to run for mayor? Councilman randy shade, congratulations on your young baby. Mayor wynn --

Mayor Wynn: I was crazy enough to run. [Laughter]

but why?

Mayor Wynn: I promise i won't do it again. [Laughter]

well, that's just it. If you were to collect the signatures to run for mayor and you were elected by the city of austin, wouldn't that be a win, win, win situation? Councilmembers martinez, our councilwoman laura morrison, who defeated me soundly, and councilwoman sherry cole, thank you for inviting me here today. I want to make some propositions as I run for mayor of austin. I'm asking that everyone carry a quarter, a few quarters or a dollar bill so they can hand them out to the homeless that may be unsure if they should ask you for money. I'd also like to suggest that we purchase the austin american-statesman from cox enterprises. I'm sure we can get a good deal for it. Make it our newspaper. We would have a morning delivery and an evening delivery. That way people are either going to bed or waking up would have a chance to read the newspaper, and it would be owned by the people of austin. We would produce stocks so that everyone could purchase into the newspaper that actually lives in austin. Not someone that lives elsewhere. So I'm asking you to purchase the newspaper on behalf of the people of austin. The upcoming election is MAY 9th. The -- a lot of people are interested in the presidential election right now and you'll be able to watch senator joe biden and governor sarah palin tonight. A lot of people think that sarah palin can't see the forest from the trees, but people don't understand she is from alaska. That's all they have up there are forests and trees. So I want to thank you for inviting me here to announce my candidacy, jennifer gale for mayor. Thank you.

Mayor Wynn: Thank you, jennifer. Our next speaker is susana almanza. Welcome. You too will have three minutes to be followed by diana perez.

Good afternoon. I'm susana almanza with poder, people organized in defense of earth and her resources and I'm here to talk about pure casting prefers just to give the public an update of how we got to this position because pure casting is a facility in east austin that uses hazardous chemicals. What

happened in 1928, the city put together the master plan and in that master plan it decided that basically all communities of color would live east of IH-35, but in also that master plan said that all the unwanted hazardous facilities would also be placed in east Austin. And if you look at this industrial zoning map, the purple is industrial and the red is commercial. And even though the city made history in 2003 by rezoning over 600 properties that were zoned industrial or commercial services impact and rezoned them to compatible zonings such as residential, you know, commercial services without the pawn shops or industries that use history, there was a big history made. A lot of these industries continued to be in our community because they are grandfathered until they close down, sell or relocate. One of those industries is pure casting. If you can see in the picture, the playground you are seeing here a right across the street. If you look at where the little kids are on the playground, across the street is pure casting and this is a residential area. And pure casting uses a lot of different chemicals. Neal Carmen with the Sierra Club and he said he is going to be sending a letter to the council talking more about not just these chemicals but how serious an issue this is because he says when you begin to melt and use the different chemicals into the sand that uses glue to make the molding, then you even get more hazardous chemicals and you get emissions. And so he is going to be sending a letter to you all to talk about that this situation is worse than people even think about. And what we would like to see is we would like the city to -- because there are over 8,000 people on the waiting list looking for public housing under section 8 and we know there's over 4,000 children in AISD that are homeless, that we would like for the city council to use the affordable housing bond money that we passed, 55 million, to buy this particular site, and the good thing about this particular site is that this site is adjacent to the property that the city owns, the brown BUILDING ON CHICON AND 4th. It backs up into the pure casting facility. So it's from one block of Chicon all the way to Robert Martinez. And our young scholars for justice did a door-to-door survey informing the people and the majority of the people didn't know the chemicals were being used there, but the majority of people did say they would like to see affordable housing put there, and then again is a picture of pure casting. [Buzzer sounding] if you give me one second. You can see the 18-wheelers that have to back up into the residential area just to get their -- the children that are right there in the community that have to cross in front of the pure casting. We've come to you before, we've met with councilman Martinez to begin the process and with Laura and Randy Shade to bring them information. We did have our first meeting with the owner of the facility. He is willing to sell. And so we would like the city really to work with all the different council people to really put the appropriate committee together to begin to look at purchasing this particular site. It would be a good investment for affordable housing bond money. Thank you.

Mayor Wynn: Thank you. Our next speaker is Diana Perez. Welcome. You will have three minutes to be followed by Paul Avina.

Good afternoon, city council member. My name is Diana Perez, a native of East Austin, born and raised 42 years. I was raised and attended Zavala elementary. I raised my three children at Zavala. I'm very aware of the dangers, the health hazards we've been putting up with for years having pure casting in our neighborhood. We're the 21st century already and you guys have the power to help my community, my neighborhood to move pure casting out of there. We don't want pure casting in anybody's neighborhood. We don't want it in anybody's backyard. I come to you to ask you again for your support, for your help. Like when you guys want my vote, I give it to you. That's why you are sitting up there.

Taking care of my city, my neighborhood. My community. I also would like to see affordable housing put there. I'd like to raise my granddaughter up in zavalá, but having pure casting next to an elementary school makes no sense no more. We have all these zoning laws, code enforcement, and yet the city has allowed pure casting on to stay there. This master plan they put up in 1928, that's old. We need a new master plan. It's the 21st century. Nobody wants a facility, a factory like that next to anybody's elementary school. Anybody's neighborhood. And anybody's community. We come to you and we ask for your support, for your help to help us relocate pure casting. Help the children's future. This is a very sentimental, and I'm going to be strong, I'm not going to shed a tear for nobody. I've smelled pure casting for 42 years and I'm tired of smelling it. I go to zavalá every day to make sure the smell isn't getting inside the schools and it is. I invite you to zavalá and go smell it. Come one afternoon. Go over there. Imagine your child attending zavalá elementary. You no, the workers get to go home at 5:00. I have to live there. I have to put up with the smell. And I've been putting up with it. And again, we come to you for your help, for your support. Help us back it up. Help us relocate pure casting. 42 Years is a long time coming. My testimony should be enough proof for everybody to know that a facility like that does not belong in a neighborhood. It does not belong next to an elementary school. [Buzzer sounding] thank you. Have a good day.

Mayor Wynn: Next speaker is paul avina. Councilmember morrison. Yes.

Morrison: Actually -- councilmember morrison. I wanted to thank susana perez for coming down. One of the concerns I have and one of the avenues I would hope that the city might be able to consider proceeding along is looking at our actual regulation -- regulation and laws that we have either local, state or federal in terms of environmental protections and public health protections. And I understand that tceq maybe already did one survey, but I thought it would be interesting, and I see louri in the audience, he might be able to get back to me, I thought it would be interesting to really investigate all the potential avenues that there might be in terms of working to look at the public health impacts of the environmental impacts there.

Mayor Wynn: Thank you, councilmember. Well, paul. Appreciate your patience.

Thank you. This is for mr. [inaudible]. I hope he can see it. You've heard about my plea to help out prostitutes released in our neighborhood and the lousy response from your staff. Once again, you have a social agenda. With mayor wynn [inaudible] forgione giving jobs mainly to outside and auceveda opting for ticket runs on housewives, indigents and the poor. Even the legislators drafting more bills against immigrants than the jews ever got from germany, italy or poland. With plenty of legal support. The impact on east austin is as ever it's been, not promising. ott, why couldn't you handle one medical truck in a nonemergency situation? Staffed with three people to work in a 100-meter radius to treat prostitutes, pimps and druggies, all american citizens to prevent potential infections, including h.i.v. It was your chance to show some concern. I also have noticed [inaudible] with no regard for local prospects. Just like mrs. futrell did. With \$8 million a day leaving austin from the paychecks of top officials from other cities including yourself. This practice is what makes aisd principal the typical blood suckers they have created misery zones around reagan, lbj, johnson and every elementary school in between by sheer arrogance, despotism and fear. Your policies, your ticket rates, your twisted verdicts

have kept these austin residents from reaching their true potential. [Inaudible] to restrict the access to education and place a check hold. Forces forced into illegal acts for survival have relegated them into intellectual misery for life. wayne and auceveda to stop playing sticky fingers with us, hold forgione responsible for the state of ignorance our children are in and bring east austin into 21st vision.

Mayor Wynn: Our next speaker is paul robbins. Paul signed up to give testimony as has sharon blythe. Welcome, ma'am. You too will have three minutes to be followed guy akwasi evans.

I this sign here. It's good to finally make the citizen communications. I have been trying to get on this agenda for many months and finally figured out how to do it. 00 on the morning when it opens up. So I wanted to say it's a beautiful day in austin, texas and it's great to be living here. I want to congratulate randy on her new baby and it brings a great joy to her I'm sure and a great joy to all of us. But as I said, I'm sharon blythe, director of austin ramp. Austin ramp is a texas nonprofit corporation and a member of the austin neighborhoods council. You are aware of the anguish over the last 12 months citizens have had to endure in the city of austin by a construction site within the boundaries of austin memorial park. mccracken is a member of presbyterian covenant church currently using the cemetery as a construction site and he voted august 23, 2007, to allow his church to use the cemetery. This construction in the cemetery is called a staging area. I guess the definition of a staging area is a junkyard because that's what it has become. Ministers have told me that the construction has disrupted funerals and visits to the cemetery by patrons, is disrupted by cranes swinging overhead and the noise of the construction activities. Just yesterday, october 1, i became aware of a fire that was started by the covenant construction workers that spread to the cemetery. Now we have a large black scorched area within the cemetery. That is just according to covenant just a burned piece of grass, which is actually cemetery. To date, the cemetery is still endangered in that the city of austin leaders it seems cannot say no to covenant presbyterian church when covenant wants to lease or use cemetery grounds for their own purposes. These attempts started in 1991 and continue. I bring to your attention that the city manager, mark ott, on september 19, 2008, extended the lease for covenant to remain in the cemetery until february 9, 2009, an additional four months. This is a total of 18 months, the time covenant had on their website they would need to construct their building. Is this really temporary since the cemetery is being used as a junkyard, would you want to by cemetery lots in a junkyard? This is an endangered cemetery and is protected from -- is unprotected because of opinions of those who wish to grant favors to special interest groups. Let's make the state, the nation and the world aware of that austin protects the public and trust as it has its cemeteries. As benjamin franklin said, a society is judged by the way they treat their dead. Future city leaders need a document that clearly spells out the cemetery is for burial only and not inappropriate use is to be allowed. Aus suggests a permanent solution. Consequently, the city council should strengthen and make clear the 1992 city code 10-1 dealing with cemeteries. I'm delivering to your office a copy of that code as well as a copy of the attorney general's opinion that explains cemeteries are for burial only.

Mayor Wynn: Please conclude. Your time has expired.

Please read these documents and act upon them. I ask you to today to please amend the code with no wiggle room. The amendment should read no sale, no lease, no right of entry agreement, no

encroachment, no staging area, construction activity or other activities not related to burial.

Mayor Wynn: Please conclude.

Further permanent --

Mayor Wynn: Your time has long since expired.

Let's work together to make this happen. No one should object if they have the best interest of the city and cemetery.

Mayor Wynn: Our next speaker is akwasi evans. Yes, councilmember shade.

I just wanted to say something to sharon. I was really upset when I came back today and found out about the spark and the burning and, you know, as I've been saying and I know several of my colleagues, several of us are looking for a more permanent solution and I want you to know we're empathetic and I'm glad that you've learned the process of how to sign up. I can empathize with that as well. It's hard to figure out sometimes how these things work, but I can assure you my office is working with some of my colleagues to find a more permanent solution. Thank you for your work and thanks for taking the time to protect our community as you are. I just want to say thank you publicly.

Mayor Wynn: Thank you, councilmember. Next speaker is akwasi evans. To be followed by cynthia valadez. Just to reconfirm, nailah sankofa. The name was called earlier. valadez is just arriving. Welcome, you will have three minutes.

Hi. Good afternoon. My name is cynthia valadez. I'm with mothers against discrimination, racism and education society. I'm basically going to continue my comments and my thoughts. From last week. When members of latino community come forward to express concerns about very public firings, deficiencies in the m.b.e. or w.b.e. Program and a failure to achieve management diversity goals that appropriately reflect our city's demographics from the top down, it is suspected that these should merit full reflection and discussion. When these same members of the latino community include the first mexican to be elected to the house of representatives and senate from austin, and that is senator gonzalo barrientos or the first to be elected to the school board of austin, gus garcia. Member of the board of trustees, sam guzman. And andy martinez, who is current president of the hispanic chamber of commerce and board member of the ta of macom. Frank fuentes, chairman of the u.s. contractors association. Andy ramirez, who is a local businessman. And juan oliveira, who is president of -- a member of the united hispanic contractors association. You have alisa may, president and former ceo for the greater austin hispanic chamber of commerce and albert cortez, a [inaudible] and business person. It is expected full respect condition argues be given by those present in august of this year in the office of the city manager this did not occur. Hence the need to voice concern by many in our latino community the fact that professional etiquette and demeanor did not appear to be followed. It does not matter that the media created an alleged race relations issue out of a failure to exhibit proper decorum during a meeting at city hall between the city manager and a distinguished group of latino business and

community and elected leaders. It does matter members of the city council felt a need to hold a press conference in support of the city manager behind a podium that held a sign stating in bold letters " what is at the heart of the issue is the perception and the very real belief that those who went to discuss issues and concerns relevant to our community did not receive just consideration. What matters is that many in our community believe at the very least an apology from the city manager is necessary. [Buzzer sounding] not because they felt disrespected but because the perception of disrespect existed then and continues to exist today. It's good that many of the 11 members have already met with city manager mark ott and have begun to engage in full discourse regarding those issues that they intended to discuss with him during that infamous meeting in may. I'm sorry, in august. But there are still other issues that need to be brought to the table and discussed. Full implementation of the hispanic quality of life initiative, diversity at all levels of the city administrative organizational chart. These are things we would like to see achieved and implemented during this year. We're committed to work together with you to serve -- to resolve all our issues, discuss our quality of life and we look forward to continuation of a relationship that we feel has existed in the past and will continue to exist in the future. Thank you very much. [Applause]

Mayor Wynn: Thank you. Council, that concludes our citizen communication segment for today's meeting. We have our briefings posted for 2:00 p.m. We still have potential action items, if you remember we have -- we pulled off the consent agenda earlier item number 9, senna hills m.u.d. We may take that up later this the day. There is one action item related to the austin community college proposed parking garage near 12th and lamar. I think there's a couple of discussions occurring at the staff level about that. So without objection, we'll go back into closed session and continue our conversation about item 13, technically an item from council regarding a lawsuit that the city is in with save town lake. I anticipate that executive session last -- not lasting 00 at which time i will come out and recess this meeting of the city council and do anticipate us taking up our afternoon briefings beginning at 2:00. We are now in closed session.

Mayor Wynn: We are out of closed session. In executive session, just this last part of it, we concluded our discussing legal issues pertaining to a lawsuit, I guess the city of austin is item 13 on our agenda. I think that we will probably take up that item here in a few minutes after I give staff time to help us think through it. Meanwhile, we have now come 00, so we can take up our afternoon briefings. Looks like staff is prepared to start with the first two, perhaps, items 17 and 18, posted separately but somewhat related, both relate to the domain project and/or the proposition 2 charter -- potential charter amendment to stop domain subsidies. Welcome a staff presentation. On item -- [indiscernible] take it up first. Rodney, welcome.

Mayor, council, city manager, I'm rodney gonzalez. The acting director for the city's -- city of austin's economic growth and redevelopment services office. Today's presentation will cover six main areas. Those areas include the public benefits from the performance based chapter 380 economic development agreement, with simon property group. A summary of the domain project, the terms of the chapter 380 agreement, the city's compliance process, a detailed review of simon's performance criteria and the city's compliance procedures used to determining compliance and the summary of the payment obligations by both the city and simon. The domain is a mixed use urban village development that

captures the fundamental principals of new urbanism design. It covers an area of 53-acres and includes a mix of uses including residential, office, shopping, entertainment, recreation, restaurants and a hotel. New urbanist features include walkability, connectability, quality of accidenttture and design, mixes of uses, density, sustainability, neighborhood structure and quality of life. These principles are developed in the form of varying features including residential over retail, wide sidewalks, pedestrian amenities, play scapes, sidewalk cafes, open public spaces, structured parking, native landscaping and public art. The chapter 380 agreement requires other public benefits from the project. Including employment opportunities, leveraging the city's financial contribution, support for small local business, opportunities for minority and women owned businesses and the development of smart housing. In summary, the domain project serves several purposes, including the revitalization of a 40-year-old industrial campus, the creation of high density new urbanism development with permanent jobs and affordable housing and a stimulus for the local economy. The city's economic development grant is performed based. Meaning that simon must demonstrate and evidence compliance with performance criteria identified in the chapter 380 agreement. And the city must confirm that compliance prior to paying out the grant. For this particular agreement, the terms are based on percentages of property taxes and sales taxes collected at the domain. The property tax is 25% of the increment for 20 years. The sales tax grant is 80% of sales tax collection for the first five years. This percentage drops to 50% for another 15 years. Another 2% of sales tax collection is provided to simon for the specific purpose of contributing to the city's affordable housing finance corporation. There is an incentive grant cap of 25 million in net enpresent value dollars so the city's incentive grants and after 20 years of property tax and sales tax payments or when the cap is reached, whichever is sooner. The agreement requires simon to contribute to the -- the additional 2% sales tax grant from the city to the affordable housing finance corporation. This contribution is for 20 years or the end of the agreement. Whichever comes first. Council, the purpose of this presentation is to provide you a summary of the city's compliance review findings. You have asked for staff to have an independent party verify the compliance review and make the results available for the public -- for public inspection. The city hired the firm of package gent stratman and they have provided their support. They have provided the service for three other compliance reviews of the city, including home depot, robertson hill and atbf. All of this information provided to you today including the city's presentation, the city's compliance review report and the consultant's report will be posted at www.Cl.austin.TX.USslashre de www.Cl.austin.TX.USslashrede velopment. Itbeginsthewiththecity deliver itbeginsthewiththecitydeliver ingacompliancepackage. Thisisthecompliancepackage th thisisthecompliancepackageth atsimonsubmitted. A signed certification from simon, the testing to the accuracy of the information and the compliance package. The city, namely egrso begins it's compliance review. Other city departments include the department of small and minority businesses and the neighborhood and community development department. The compliance review involves obtaining, inspecting and reviewing varies documentation and performing procedures to ascertain compliance. The city's department maintain backup documentation for each of the performance criteria. There are 8 performance criteria in the city's agreement with simon. This presentation will detail simon's specific performance requirements and the city's compliance procedures used for verifying compliance. These performance criteria include [reading graphic] starting with the maximum project area and project construction commencement. The domain project development is limited to 55 acres and simon has a project construction commencement date of june 13th, 2007. We reviewed the decision plat information

for the -- subdivision plat information and confirmed that it is 53.16 acres. We confirmed that Simon issued the notice to proceed with construction before the specified date. The domain opened on March 9th, 2007. Compliance for this criteria is confirmed. Moving to employment opportunities, Simon is obligated to create jobs at 0016 per square foot constructed if the construction of the project is phased. Or 1100 jobs on completion of the project. The project is phased so the .0016 multiplier is used as Simon's job creation requirement. It includes [indiscernible] against the square feet constructed. We determined that Simon is required to create 861 full time equivalent jobs. We obtained signed tenant employment reports from the tenants that affirm the number of employees hired. As a compliance procedure we selected a mix of tenants and compared the information on their reports to Texas Workforce Commission reports. We validated 1647 employees were hired. Compliance for this criteria is confirmed. Moving to the fourth criteria, Simon is obligated to seek contributions and grants from the Capital Metro Transit Authority and Travis County. We confirmed that Simon and Travis County entered into a Chapter 381 agreement that provides a not to exceed incentive of 5 million to Simon. Additionally, Simon met several times with key officials at Capital Metro. We reviewed documentation and confirmed that Simon made reasonable efforts to seek a contribution from Capital Metro. Compliance is confirmed for this criteria. The sixth performance criteria is support for small local businesses. [Reading graphic] Simon has the entire term of the agreement to meet this obligation. Simon can provide assistance for any of the following. Designing and constructing interior improvements, collateral or small business loans, store location advertising or subsidization of rental rates. The tenant leases for businesses assisted should generally be for a five year period. Simon is to submit an annual report to the city manager then clear the results through exit interviews, performance results and the remaining balance of the fund. Through the city's compliance review, we confirmed documentation that Simon created, allocated and capitalized the one million dollar fund and provided assistance to five businesses. We inspected tenant leases at the five businesses assisted and confirmed that 1 million in assistance was provided for the design and construction of interior improvements. And we obtained copies of canceled Simon checks to confirm the amounts paid to these businesses. We reviewed the annual report submitted by Simon and confirmed that the five businesses opened in 2007 and those businesses negotiated 10 year leases with Simon. And through the city's compliance review we confirmed that the assistance provided by Simon is in accordance with the performance criteria and there is no remaining balance in the fund. Exit interviews are not required at this time because the five businesses are still operating at the domain. Compliance release criteria is confirmed. Simon is obligated to retain a third party consultant to perform outreach to qualified M and W.B.E. Contractors and consultants. Simon is obligated to use good faith efforts to cause its agents and contractors to comply with the spirit and intent of the city's M and W.B.E. requirements. We obtained a contractual obligation between Simon and Lopez Phelps that confirms the firm was hired as a third party consultant for the purposes of outreach. We obtained documentation and confirmed that four outreach and prebid meetings were held in 2005. [Reading graphic] moving to the 7th criteria. Simon is to commence CONSTRUCTION BY JUNE 13th, 2009 For a minimum 300 residential units. Simon is to comply with smart housing guidelines and set aside 10% of the units for households at or below 65% of the median family income. Inspections conducted by both Austin Energy and Neighborhood Housing and Community Development resulted in certification of Simon's smart housing program. Neighborhood Housing conducted a follow-up review and confirmed that Simon is in compliance with the affordability requirements. Neighborhood Housing verified

the income eligibility of the residents of the affordable units as part of its compliance procedures. Simon completed a final affordable housing report reviewed and confirmed by neighborhood housing. [Reading graphic] the 8th and final criteria is related to sales tax reporting. Simon is obligated to report sales taxes from the domain project on a quarterly basis. We determined that the most efficient method is to obtain sales tax revenue information directly from the Texas Comptroller. The sales tax revenue information has been obtained and is confirmed. The final portion of this presentation is a review of the payment obligations of the city and Simon. The city's first sales tax payment is due to Simon by OCTOBER 30th, 2008. That payment is estimated at \$946,964 and it's based on 80% of city sales tax collected from September 2007 through April 2008. Simon is not eligible for a property tax grant until OCTOBER 30th, 2009. Simon's payment to the Affordable Housing Finance Corporation is due approximately by November 14th, 2008. This amount is based on 2% of city sales tax collected from September 2007 through April 2008. In summary the city's economic development grant is performed based. The city's first sales tax payment is due by October 30th, 2008. The city's grant is provided to generate public benefits, including a high density mixed use urban destination, employment opportunities, leveraged the city's financial contribution, small local business support, m/w.b.e. Opportunities and smart housing. The city has completed its compliance review and finds Simon is in compliance with all performance criteria. No exceptions were found to the compliance review. All of this information will be posted on the EGRSO website. This concludes my presentation. Thank you.

Mayor Wynn: Thank you, Rodney. Questions for staff, Council? Councilmember Shade?

Thank you for that presentation. I'm curious to know what -- you say that the payment is DUE ON OCTOBER THE 30th. I want to know what the implications are if the payments are not made since they have met -- it appears they met the requirements --

Councilmember, I will be happy to answer that question. It is more legal than anything else. Under the amended agreement with the domain, the Chapter 380 payments, the exact language says the Chapter 380 payments shall be paid by the city to owner no later than October 30th of each year. There's not a lot of wiggle room on that being the date. Now that amended agreement is -- made subject to future appropriations and it does provide that if the funds to make those payments are not appropriated, then the city won't have liability for not making the payment. In this case, though, the funds have already been appropriated. Not to make the payment on the 30th with the funds having been appropriated with not be in compliance with the terms of the agreement.

Mayor Wynn: I have a follow-up question. Those funds were appropriated as part of our annual budget process?

I believe that's correct.

Yes, they were. Yes, they are in the fiscal year 2008-'09 budget approved by Council.

All right. 2007.

Mayor Wynn: Further questions of mr. gonzalez? Comments? Councilmember morrison?

I do think that there's a certain amount of community information in reviewing this information and all and I want to ask I guess my colleagues how we might plan to receive comments from the public? I appreciate the work that you have done and all of that. But I think oftentimes there are different takes, I would like to hear different viewpoints if there are some from the public. There's a question of how we might entertain that input.

Rodney reminds us. You said this information now you presented is available on our website.

It will be posted on the website, yes.

Today, tomorrow, how soon?

We're trying to get it posted, we would hope for today. It may not be until tomorrow morning. There's a lot of backup documentation that we're trying to scan in and post to the website. So it's volumes of information.

So essentially all of the backup they showed the summary that we just saw, so the backup for everything from -- from tenant improvement allowances for the small businesses to and through the actual --

exactly.

Employment.

There's at least about 16 or 17 various attachments that go to the report as backup documentation.

I guess my instinct then councilmember is let's get that information up on the website, see how much it is, then as people, citizens and us get a chance to really drill down through it --

yes.

Mayor Wynn: Have some ability of the folks to give us feedback.

It provides for the transparency that council has requested in the past, which is to provide as much information as possible regarding compliance.

Mayor Wynn: Any further questions for mr. gonzalez? Thank you, rodney.

Okay. So then in a somewhat related topic, I guess, would be our posted item no. 18, Staff presentation related to the impact of proposition 2, which is known as the stop domain subsidies, a proposed charter amendment on the ballot for november on the city's existing contract obligations, welcome our jim

cowser.

Thank you, mayor, councilmembers. Can we have the blue screen, thank you. At the outset I wanted to say that this discussion today is diagnostic in nature. I want to talk about potential impacts of the charter amendment if it passes on two important city agreements, the mueller master development agreement and the domain agreement. This is not proscriptive. We are not here to tell people how to vote. That's not the purpose. We are not here today to talk about what we would do if the charter amendment passes. There's a lot of uncertainty about what the ultimate legal remedies would be in the charter amendment passed. That's appropriate for executive session, but not appropriate at this point where we don't really know if the charter amendment is going to pass. So I really want to just re-emphasize that this is about the potential impact on two existing agreements that the city is already operating under. One of them has been in effect since 2003, the other one has been in effect since 2004. And so this -- think of this as basically a diagnostic session. The -- the key -- go to the first slide, please. The -- the key points of the charter with respect to the two city agreements we're talking about are the charter amendment language that would prohibit financial incentives in connection with the development of real property if that real property includes retail uses and as we'll see in a minute that is going to describe both the domain project and the mueller project. The provisions of the charter amendment apply or would apply to future agreements that the city entered into it. Significantly it would apply to pending agreements if those pending agreements are contingent on or subject to future appropriations. Once again that qualifying language is going to bring both the domain agreement and the mueller agreement within the scope of the charter amendment. I want to give you a little background on this whole question of future appropriations clauses. Many of the agreements that the city enters into have a future appropriation clause and there's a solid legal and constitutional reason that the city puts that in there. The texas constitution for many decades has prohibited cities from taking on unfunded future debt. Basically if it's a debt that is going to be paid in a time period that's more than one year, the city cannot contractually agree to that provision unless it dedicates a revenue source or alternatively, go to the next slide, if the city in that contract puts in a provision that the future payments are subject to future appropriations, texas courts have recognized that the city is an acceptable way to deal -- an acceptable way to deal with the prohibition of future debt. Since 2005 there's also a new provision in the texas constitution which states that unfunded debt in chapter 380 agreements, which is the domain agreement but not the mueller agreement, does not violate the prohibition. So it is possible now to enter into a 380 agreement without stating that the future payments are subject to future appropriations, but that does not really address either of existing agreements because both of those have already been entered into, both of those already have the subject of future appropriation language. Briefly, you've heard today about compliance under the domain agreement. It is a chapter 380. The city and then owner of the domain signed it in june of 2003. It was amended significantly in 2004 to address certain contingencies and to add, subject to future appropriation language, and from our analysis, which the city attorney and outside counsel have reviewed, the city's funding obligations in the domain, primarily the reimbursement of funds to the owner of the domain, would trigger the charter amendments prohibition on financial city of san on -- financial incentives. If the domain, if the stop domain subsidies agreement passes, the city would then be in a position where the charter would prohibit the city from providing certain financial incentives under the agreement. It would say the city council cannot do that, the city

cannot make these payments. The contract with certain qualifications obligates the city to pay grants to the owners on an annual basis subject to future appropriations if the owner meets certain obligations, now, we have discussed various qualifications in there, but the agreement currently does say the city will pay grants subject to future appropriations, so the net result is the charter would prohibit the city from doing -- taking an action that a contract of the city provides that the city will do each year subject to certain conditions. The result is a conflict. Now, the domain agreement as the city attorney just stated addresses damages and termination right if the city does not appropriate the funds. The city attorney also pointed out this year the domain with respect to the domain agreement the city already has appropriated funds. The larger long run problem and conflict that the city has, if the agreement passes and if the -- if the charter amendment passes and if the domain agreement remains in place is that the agreement does not address the consequences if there's a new and intervening law that prohibits the city from appropriating the funds. That's the essence of the problem that the city would have under the domain agreement. There would be a charter amendment saying the city cannot appropriate or pay these funds and there would be still the agreement addressing the terms of the payment of the funds. So a new law would come in and tell the city that it could not do something that it currently has bargained to do. That's the issue under the domain agreement that -- the mueller agreement, you have a slide, is with a company called catellus, in existence since 2004. A long-term agreement, the current estimate that the city and catellus will be operating under the master development agreement for about 10 or 15 more years. The most important agreement in the mueller agreement for our purposes is the obligation that the city fund certain project costs that under the language of the charter amendment would meet the definition of financial incentives. The reason once again that mueller falls within the scope of the charter amendment or would, is that the mueller project involves extensive retail uses. The financial incentives in the mueller agreement, the biggest financial incentive is the city's reinvestment of land sale procedures under the financing agreements with catellus. When the land is sold, the procedures that would others go to the city go back into the project revenue fund. The second important financial incentive the city is providing in mueller is the project infrastructure is being funded by city sales tax bonds and by city property tax bonds. While we don't have a problem under the charter amendment with infrastructure funded through property tax bonds, there would be an issue with project infrastructure funded by city sales tax bonds. The basic reason there is our property tax at mueller and 's are accepted from the charter amendment. The sales tax funds at mueller do not go through a , so they would be a simple financial incentive paid for from city taxes to build infrastructure to support retail. Another city financial incentive is mueller, mueller is funding off-site infrastructure typically funded by a developer in a development of this type. Fourth and fifth, city financial incentives is that the city is making annual payments, committed to make annual payments at mueller for pond maintenance, pond that in the future will not belong to the city. The city is committed to making annual payments for park maintenance at mueller for parks at mueller that belong to the owners association there and not to the city. Most but not all of the financial incentives at mueller are specifically made subject to annual appropriations and in the slide that you see. Citations to the sections of the mueller agreement that -- that are very specifically subject to annual appropriations. The conclusions as to mueller is once again if the charter amendment is enacted it would prohibit the city from making payments for certain financial incentives that right now are contractually required. The failure to provide the funding could lead to various legal claims, it kind the agreement there are provisions addressing termination, if the city does

not make certain payments specific performance, which is a legal remedy. Potentially actual damages. The problem was complying both with the prohibitions and the charter and the mandates and a contract. As I said we would be getting ahead of ourselves today to try to figure out what the -- what the likely result would be in terms of -- of litigation or renegotiations. But what is very clear on both of these agreements is that the city will be subject to a legal conflict in which it would be subject to mutually inconsistent obligations, one in the charter and one by contract. Thank you, mayor.

Mayor Wynn: Thank you, mr. cowser. Questions, council, comments? And, jim, are we obviously we have made this quite public. Are we also going to have this presentation available perhaps on our website or hard copies sent to our offices so we could have them available for folks as they call in or ask?

I will work with city attorney on that. That can be done today i think.

And our public information office.

Yes.

Thank you, mayor.

Mayor Wynn: Further questions, comments? Thank you, mr. cowser. Council, we have one final afternoon briefing and that's regarding the recommendations related to crane safety inspection and operator certification. If council --

good afternoon, mayor, council and city manager. Leon [indiscernible] the assistants director with the watershed protection and development review department. Before I start I would like to recognize some individuals that helped me with a lot of advice and information on this project as I was working on it. Frank fuentes, chairman of the hispanic united states hispanic. [Indiscernible], association of general contractors, larry collie safety director for agc, liz slatten assistant area director for osha, and also jo anne [indiscernible] with osha. She's a compliance assistance specialist. So I want to thank them for the help they gave me on this presentation. Go to the next slide. These are typical of what we see around the austin skyline. This -- I didn't know they had names, now I do. A hammer head and right is luffing type. Pretty common around our area. The resolution to council -- on august 7th we got a resolution from council asking us to do the above. [Reading graphic] this is what we did. We actually had two scenarios or two situations. We had those cranes that swing out over public private or right-of-way as we commonly call it. We recently completed an agreement with the block 21 folks and this is what we asked them to do. [Reading graphic] typically on license agreements we have a \$500,000 requirement of the insurance, we raised that to \$10 million. [Reading graphic] if it's over private property, obviously I can't use a license agreement for that. If it's over private property obviously we can't do a license agreement. So what we want to make sure that we do, I will drop down to the third bullet on there, our concern is with the utilities that are in and around these towers so we do want them to make sure that they go to our utility location and coordination committee to make sure that they are far enough away from our utilities so we don't have any issues with power lines, telephone lines, so forth, so on. They

also will notify the adjacent property owners and comply with osha guidelines and provide us copies of their inspection reports. The second part of the resolution that we got on august 7th was to study the best practices nation-wide regarding crane safety, inspections and operator certification, including the forthcoming new osha guidelines. The first thing that we obviously look for was which states require operation of being licensed. We found 15. You will note down at the lower left, washington still doesn't have their guidelines in place. On january 1st of 2010 they do plan to implement their process, programs and their inspections. These were the cities that we found that -- that had their own separate ordinances that license the crane operators. Chicago, los angeles, new orleans, new york city, and omaha, nebraska. Los angeles when I talked to them they said they didn't do it anymore. They leave it up to the state of california, run bycal osha. I did interview the four or five cities that I could get ahold of. I would say the city of chicago probably had the best program that we talked to. They have a test for the operators. If you want to run a crane in the city of chicago, you have to take their test and pass their test. You can also, if you are certified through an accredited crane certification type of company, committee, commission, you can also -- they will accept that certification, too. And think also have city inspectors, they do have city inspectors from the beginning of the project to the -- from the moment that the design is planned from the time they are inspecting or installing these cranes to when they are taking them down, they do have inspectors in the case of the city of chicago, they have seven inspectors, right now they have 35 cranes at one time they had as many as 53, kind of down right now. They told me they provided inspection once a week no matter what. The other cities, some did require certifications, but they don't follow up with inspections. I have talked to -- to city of new orleans, they said they just permit the crane operators in the companies that's it. That's as far as they go. They let the general contractor handle the inspections that are required. I did visit with the state of california and from what I understand, probably one of the most stringent and toughest requirements around. They do license cranes, they do license the operators. And they do have inspectors. In fact when you call for an inspection, when you are doing something major to your crane, they send two inspectors out each time. The state of washington is planning to move towards what they believe is going to be more restrictive than the state of california. They are not going to be able to go into effect until the year 2010. Before I talked about the proposed rules I have to share this with you. This is a copy of the current guidelines for osha. 16 Pages. This is the proposed rule, 1,110 pages. To say that they have improved their guidelines is an understatement. The first 860 pages is the preamble. Tells about the 7 committee that was created -- about the committee, awful of the stakeholders -- all of the stakeholders, statistics, cases, anything that they could do to improve the guidelines and came up with 40 guidelines. The last 250 pages are the guidelines they propose to go out for posting. These rules will increase requirements on assessing ground conditions, they will increase regulations on the assembly and disassembly of cranes, they will increase requirements for operation of cranes near power lines. [Reading graphic] this is the current schedule. From what I understand tomorrow these will be rest looked for the public review and comment. 60 Day review period if they should choose to do so, depending on the kind of and number of comments they get in. A public hearing scheduled after that, then anticipate adopting these rules sometime in 2009. Obviously they can't tell us when at this point in time. Here are the recommendations that we have for you today. We will continue to implement the listen agreement process we implemented on august the 28th of this year. We do want to require certification for operators, we would recommend we wait for the adoption of the osha rules. Of course we will return to council after the

adoption and with any proposed building code changes that relate to certification if it's appropriate. Of course we would need some help in this area, I am and the funding that goes along with that. That concludes my presentation. Concludes my presentation.

Mayor Wynn: Thank you, questions, council? Leon, you may have said this, what is the rejected -- projected timing of osha adopting their new rules.

If they are true to form they told me they would put these out tomorrow and they are expecting 60 day review period. We are looking at november, into november sometime i would think. They can still extend that date. With the holidays as such, I'm expecting in january or february hopefully they will have their hearing. There's a lot of pressure on them to get these rules out. As some of you may or may not know, they started on this process in 2004.

Mayor Wynn: Internally from your perspective, from inspection and council adoption, those type of issues, is there a -- it doesn't really matter throughout the course of a year when we would take that up, right? There's no -- there's no critical month or so that we would need to get something done and then otherwise miss an opportunity to do it. Throughout the course of the year.

Not that I'm aware of. One of the reasons we are making this recommendation in these guidelines, the certification for example of the operators, they are going to give them, once they adopt the rules, they are going to have up to four years to be certified as a crane operator. So in some people's opinion we think that's too long. So can we shorten that time frame? We need to ask the question.

Mayor Wynn: Any further questions? Council? Councilmember martinez?

Mayor, I just want to thank staff for working on this. You know, bringing this item before us in the presentation. I want to thank the association of general contractors, all of the other participants, the u.s. Hispanic contractors also contacted our office and gave their input. This was something we didn't realize how significant it could become until we saw some major incidents around the country. I'm looking forward to improving the safety while maintaining our economic development programs here in town, making sure that we're not killing the construction industry and we're not trying to hurt the economy. Just want to make sure has we do it appropriate limit thank you, leon, for all of your work.

Further questions of leon, comments? Thank you, leon. Council, that concludes our three afternoon briefings today. We still have a couple of potential discussion or action items for us to take up prior to us starting our zoning cases. I am told that on item no. 9, The sienna hills mud issue, seems to have everything worked out and will bring that item to us just prior to us taking up our zoning cases here in the next 45 minutes or so. smith, have we heard -- I guess earlier in closed session we talked 16 was the executive session posting related to development standards for a parking garage for the austin community college campus there on north lamar. Question had a few questions. I'm not sure if they are ready for that update.

I think they are ready, mayor.

Mayor Wynn: Council, we 10 which is posted as approving an ordinance approving an agreement with austin community college regarding those improvements. Appreciate a brief staff presentation.

Thank you, mayor, members of the city council, city manager. I'm bobby ray assistant director with watershed protection development review. Item 10 is a proposed agreement between the city and the austin community college governing development of the rio grande campus. is proposing the development of a new parking garage located at 824 west 12th street in the conversion of an existing gymnasium on west avenue to office and classroom. The community college is seeking an agreement with the city addressing site development, use and procedural issues. This is similar in nature to agreements that the city has with the independent school districts located within our jurisdiction. The agreement we allow for a parking garage of seven floors with a ground floor book store. The proposed height is 75 feet and a base zoning district with a maximum height of 60 feet. Compatibility standards triggered by a residential use approximately 200 feet from the parking garage would further reduce the height between 50 and 60 feet. The use issue is related to the conversion of the existing gymnasium. Since it would not allow the proposed office classroom use, the use of the property is being addressed within this agreement. Procedurally the city will designate review staff to through the application process and designate a liaison to address the issues that may arise during the development process. Our legal staff have been meeting with the , have come to an agreement on three issues, primarily there is an issue regarding street setback. They have come to an agreement on the street site set back which would provide for the maintenance of the 12-foot sidewalk. There's a new section that's been added to the draft agreement, encouraging the maximized use of the parking garage by cooperative agreement between the city, austin community college and the austin independent school district. Additionally there's been language added to the agreement which just basically specifies that other than the items specifically addressed in the agreement, all other applicable codes would apply to these specific buildings. With those changes staff is supportive of -- of the proposal and recommended its approval.

Mayor Wynn: Thank you, mr. ray. Questions for mr. ray? Comments, councilmember morrison? [One moment please for change in captioners] the plan is proposed to encroach inside an existing 1 building setback so reducing that to 6 feet the sidewalk remains 12-foot wide, commercial design standards compatible design sidewalk.

And that's on 12th and both sides of the building?

No, that's on 12th street. Along shoal creek the sidewalk is narrow at the corner. It's 10 feet. Now, as you move north along shoal creek, the sidewalk actually gets wider.

Is there some kind of constraint that makes it 10 feet at the corner?

It's actually the scare case. There's a staircase because they have to elevate themselves out of the flood plain. There's a staircase that sticks out so you can get into the bookstore.

Okay. Thank you.

Mayor Wynn: Chris, the 12-foot commercial design standard compliance sidewalk ON WEST 12th, THAT IS TO BE Constructed as part of the project. So as the garage gets built, that sidewalk gets approved as well?

That is correct.

Mayor Wynn: Lastly, i think we had also talked about the obviously need for this parking garage between the community housing and you have the field house, aisd property, of course, there's any number of businesses in and around that corridor just going by there frequently you see the cars trying to park everywhere, the need is obviously there. Remind me of the -- sort of the conversations or the concept or how much potential sort of shared parking, i guess we don't have control over, but what would be the hours of the garage, is it available for patrons of house field or even some of the small businesses around there?

You can read the proposed 4 which is coordinated use of the parking garage. Acc and the city will endeavor to establish an agreement 2003 acc, the city and the austin independent school district that will allow for greatest use described in article 3 of the development agreement. The agreement for parking garage use may include reasonable use to the parking garage by the city and the austin independent school district at designated times. So it provides a lot of flexibility.

Mayor Wynn: Questions of staff, council? Comments? We have a staff recommendation approving this amended ordinance or the amended agreement. This ordinance approving the amended agreement with austin community college, item number 10. Motion by councilmember leffingwell, seconded by councilmember.

Martinez: To approve -- councilmember martinez to approve. All those in favor please say aye. Opposed? Motions passes on a vote of 7-0. Thank you all very much. Council, let's see, that leaves us then with -- we still have item 13 was an item from council related to a lawsuit the city was involved in with the town lake organization. We had good discussion in closed session. The legal issues related to that lawsuit. I'll just say in looking at the item from council, I am in complete agreement with what appears to be the obvious goal here and that is here we have this pending lawsuit that has been pending for quite some time, different moving parts. Meanwhile, there's been some very good progress both specific project based progress when it comes to developments that probably had some type of grandfathered rights but now with help from council and mostly a bunch of good stakeholders agreement to change some of those developments. And maybe even more important there any there's also this ongoing task force that's going to be bringing council back some recommendations about the -- you know, tightening up the regulations, making sure everybody is aware of the restrictions up and down the lady bird lake corridor, and my understanding this work mighting complete as early as december. It would be nice for council to be able to receive that final set of recommendations before we have to then now take legal action as a city to ultimately, you know, defend ourselves in court. I'll recognize any member of the sponsors of item number 13, then we'll open it up for discussion.

Councilmember martinez.

Martinez: Thanks, mayor. First of all I want to thank councilmember cole for asking this item be pulled. I think we had a very productive executive session, not just as it relates to this item but as it relates to process and how we move forward as a council and as a city manager so I want to thank all of you for the discussion that took place. I know it wasn't easy the whole time, but I think what we have is an item that's going to be adopted that achieves our overall goal of maintaining the policy per suspect itch on the water front overlay but also respecting the councilmember manager form of government in terms of process. As the mayor said, this has been an issue that's gone on for quite some time and i think we've made significant process in that the waterfront overlay task force is going to come forward with what i believe are going to be some comprehensive recommendations to cleaning up the ordinance, making it more uniform and achieving the goals of protecting the shores of lady bird lake and our environment. So I just wanted to acknowledge those folks that continue their efforts in this every friday they are meeting, been doing it for months. I see jeff jack here. He's certainly been one of the instrumental folks from the very beginning on this particular issue. And having this resolution adopted today simply states our values that we want to let the waterfront overlay task force continue their work, make their recommendation to us. I firmly agree and support that at some port we need to seek summary judgment on this pending lawsuit because it's not just the waterfront overlay, but there's our entire land development code. And so what I -- you know, what the intention of the resolution was was to simply allow the waterfront overlay process to continue and then summary judgment once their work is concluded. So I appreciate everybody's work today and patience.

Mayor Wynn: Thank you, councilmember. I agree. Further -- so perhaps there might be a motion for a slightly amended be it resolved section on this item.

I don't think you need to read the entire resolution, but to be clear, the one sentence, be it resolved that, I think it would be most advisable.

McCracken: I'll move approval of item 13 with the resolve being that the city council expressly desires to be presented with the final recommendations of the waterfront overlay task force prior to hearing on the city's motion for summary judgment and the lawsuit filed by save town lake.

Mayor Wynn: Motion by councilmember martinez, seconded by councilmember McCracken SLIGHTLY AMENDING The item number 13. Further comment? Councilmember morrison, then we'll hear from the city manager.

Morrison: I just want to take this moment to thank the folks participating in the task force all of them whether they are here or not because it's always been amazing to me how much time and commitment citizens are willing to put into making this a better city and to work out some really, really difficult issues. And if we didn't have that kind of participation, we would not be able to move forward in the way that we really need to as a city. So I appreciate that and i want to thank councilmember martinez for getting us to consider this resolution because I think it's absolutely the right thing to do.

Mayor Wynn: city manager.

Thank you, mayor. I just wanted to take a moment before council takes action to acknowledge the intent and the goal associated with this resolution and simply wanted to say to the mayor and council that both the city attorney and I will be mindful of the goals and spirit and intent of this resolution and our efforts relative to the lawsuit associated with this particular issue.

Mayor Wynn: Again, further comment? We have a motion and second on the table, item number 13. Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of 7-0. Thank you all very much. So council, let's see, that leaves us then with only one potential action item prior to our discussion item, even 00 zoning cases. I'm not sure if staff is quite ready for this or not, item number 9 is approving a ordinance related to the senna hills m.u.d. It looks like staff isn't quite ready or in the room. Without objection, why don't we recess this meeting of the austin city council and i expect to reconvene just prior 00 where we'll take up item number 9 and move state into our 4:00 zoning cases. We are now in recess for approximately 30 minutes. Thank you. Ridge haven. Ridge haven. Lawyer son.

Mayor Wynn: There being a quorum present, at this time I'll call back to order this meeting of the austin city council. We've been recessed now for about 35 minutes. Council, prior to taking up our zoning cases, earlier i did mention that we still had the posted item number 9 related to the senna hills m.u.d. Appreciate a brief staff presentation or introduction by mr. greg guernsey.

Greg guernsey, neighborhood planning and zoning. Item 9 was approve an ordinance consent to go the annexation of approximately .7 acres of land in the senna hills municipal utility district. After discussions with our attorney and the m.u.d. Attorney and property owner attorney, we've concluded this item needs to be pulled from your agenda and we will bring it back with a revised posting in two weeks. And that will be on 16th. We would suggest that no action be taken on this item and we will bring it back in two weeks with a revised posting.

Mayor Wynn: Thank you, mr. guernsey. Questions for staff, council? Comments? Greg, can I be so bold as to say there have been some questions about how this relates to the s.o.s. Ordinance. And my instinct is perhaps, you know, by reposting, renotification, we make sure that regardless of what action that council might take that it's handled proper vis-a-vis the s.o.s. ordinance.

That's correct, and we'll address that in our backup as well so you will be clear.

Leffingwell: Do we need to postpone this officially?

Mayor Wynn: Yes, that would be --

we could postpone it, but we will be bringing it back with revised posting language so it will not be the same language as you see on the agenda.

Leffingwell: So it's a different item? You are withdrawing this item entirely?

We'll remove it from the agenda and bring it back for your consideration in two weeks with different language, revised language.

Mayor Wynn: So you all have -- and then can meet all the technical requirements for notice and all that.

Right. I don't believe --

Mayor Wynn: I hate to withdraw this --

there's no a public hearing notice that maybe you would have with a zoning case that would require additional notice to be sent out and we can bring it back in two weeks.

Mayor Wynn: Okay. So then council, without knuckols is okay with this, item 9 has been withdrawn. That takes us to our 4:00 zoning case.

Item 20 is a briefing. Would you like to hear that briefing on the planned unit development. This would be the first assessment we present to you.

Mayor Wynn: Yes, we should do that.

Item 20, cd-2008-0007, development assessment for the west park planned unit development for the property located in the 7800 to 8022 highway290, with the exception of 7912 west u.s. Highway290. It's within the williamson creek wastewater and part of the barton springs zone. This is the first process that we'll be presenting to you. I'm sure you'll have many more in the upcoming years. Council adopted an ordinance earlier this year in june which took effect later that month and dealt with revisions to our planned unit development ordinance. And part of that is a briefing that we would bring to you on the ordinance itself as it addresses this particular p.u.d. is located in the oak hill area and consists of approximately 130.8 acres. It lies just beyond the y in oak hill along the northern side of 290 near its intersection with camp ben McCULLOUGH ROAD. The property itself, as i mentioned before, is within the williamson creek watershed and subject to the barton springs ordinance and is a proposed mixed use project. In accordance with the p.u.d. Horns, it speaks to meeting certain criteria known as tier 1 and tier 2 criteria. These criteria would be used to evaluate the p.u.d. We are currently working with the property owner's representative on these items dealing with tier 1. And I'll note portions of tier 1 which would be required of would address open space, in this instance the property owner is proposing a greater amount of open space than would normally be required by our code. Address items such as the green building program and the owner has agreed to a two star green building program. There is a pending neighborhood plan and is not yet adopted for the oak hill. It may be in a couple weeks, but not this evening. But they have reviewed the oak hill neighborhood plan in its draft form and have met with many of the neighbors and neighborhood organizations that are participating in the plan, and they will be making a presentation shortly to speak to some of that. They have proposed a greater impervious cover than what is currently allowed by the ordinance, but they are proposing greater water quality and

they also are proposing a mitigation plan which we have not been in receipt of, but I think they will speak to that in their portion of this presentation. They are also proposing to meet the minimum -- or exceeding the minimum landscaping requirements of our codes. They are not proposing to have this as a gated community. They also are proposing as a transit facility that would be for use by capital metro that would be located on the property. itself has some tracts that are numbered 1 through 9, and there's an exhibit that you see before you. Generally most of these tracts would fall to a base district of gr or grmu. There are exceptions on tract 1 and 2 where there are heights that would exceed the gr standards. Tract 1 I believe they are looking at heights as high as 75 feet and heights of 115 on tract 2. This is immediately west of the acc pinnacle campus and the elevations of these buildings would thought be higher than the pinnacle buildings so they would sit lower on the horizon than those structures. Let me pause and then go on and tell you about what already exists on the property. In 2000 the city council , which is on the same property but a slightly smaller area. It did not include certain parcels that were located on highway 290. That property was only about 120 acres in size. And it proposed a village cluster area of approximately 11 acres that consisted of only about 70,000 square feet of commercial and associated residential units of about 140 units. There was a larger portion that would be developed of 45 acres that would have shared access with the adjoining acc property and would contain approximately 766 units of residential development as a maximum and proposed open space area of approximately 63 acres. That project does not have an approved site plan at this time but does have an approved conceptual land plan and that zoning change still exists today. I think at this time I'll pause, if you have any questions. The applicant is here on behalf of the owner and the land planner is also here, paul linehan and will go over the proposed land use development and if you have questions for me or them, we'll be happy to answer them. We did provide notice in advance of this meeting to the public of property owners, utility customers within 500 feet as required by the ordinance, provided 11 days in advance of this meeting. However, it is not a public hearing. The notice was to provide notice to our adjacent property owners and the residents in the area that this briefing could occur, as I said before, though, this is not a public hearing. So with that, I'll pause and gillette come up and he can make his presentation.

Mayor Wynn: Councilmember leffingwell.

Leffingwell: I understand it's not a public hearing, but I think I understand also that the purpose of the briefing is to determine whether or not amendment proposal will go through the process. Is that correct? Or are we making any decision on that today or --

well, you can certainly give input and direction. You will not be making a decision on this, we're not posted for action today, but the ordinance actually encourages questions and dialogue between I think the applicant and the council to get some better understanding of where are some things that are important to the city council that the property owner should be aware of. If there are things you would like certainly staff to look at and be concerned in particular about this property, we can certainly make note of those things.

Leffingwell: I may be wrong, I thought there was something in the ordinance that referred to making --

determining whether or not proposal was worthy of consideration.

At this time staff would say that it -- we are still working with the property owner to address all of the tier 1 requirements and tier 2 requirements that may be proposed. And at this time we don't have enough information to give you a definitive recommendation that it does affirmatively meet all the tier 1 requirements. We believe that we will get that information from the applicant, but we do not have -- for instance, the mitigation plan that's proposed by the applicant, we are not in receipt of that so I can't tell you about, gillette can i think cover that and fill in those gaps.

Mayor Wynn: Councilmember martinez.

Martinez: This is the request since revision of the p.u.d. Ordinance and so the intention of the first public hearing was so that council is involved in the entire planning process from start to finish. Based on what we're about to see in the presentation, i think what we're initially going to find is that the revisions to the ordinance, the spirit of those revisions have truly been met. Because based on my experience requests, you rarely see such detail, you rarely see this kind of conversation taking place at the very beginning of the p.u.d. process request. So what -- what's going to happen today is we're going to be presented with a proposal. I assume they are going to talk to us about things like mitigation and design and layout and how it fits in with the existing neighborhood. But then it will move into the formal p.u.d. request process. And at this point we could certainly -- we're open to giving input if we see things we like, if we see things we're concerned about, now is the time to do that so that the developer and the knows moving forward where our values lie, where our concerns and issues lie. It does not in any way, shape at this point. It simply starts the process, but it starts it with council having, you know, as much input as necessary from the very beginning. So I'm looking forward to the presentation. I think, you know, based on what I've seen in previous gillette that, you know, it's an improved process. And so I look forward to continuing to work with the ordinance and making sure it meets the spirit and intent.

Council, I will note prior to this amendment, the p.u.d. Ordinance this past summer, we didn't send out a notice with the assessment as they came in s, and that something is new that we actually provided notice to the community. So it forces the applicant to realize that before they come to you, that the notification is going out to the neighbors and that actually probably makes them more engaged into that process of talking to adjacent property owners and environmental groups and registered neighborhood organizations.

Mayor Wynn: Further guernsey, council? Comments? Thank you, greg. [inaudible] to come up and I believe he has a power point presentation.

Thank you, greg. Mayor, council, I'm dal gillette representing the applicant buffalo equities on revision for west park p.u.d. Mayor, a point of question, i don't think I've ever appeared before council without a time limitation, so I can speak for a long time, but I'm certainly aware of the need of council and we try to keep this to 5 or 10 minutes.

Mayor Wynn: I would think council would appreciate a 5 or 10-minute presentation. This is all new to us

as well, gillette, so I think a 5 or 10-minute presentation to the extent the detail is there and questions are there, of course it could be extended feedback and dialogue afterwards.

Thank you, mayor. I passed out yesterday and I've had the opportunity to meet with most of the council on this revision to this p.u.d. or this new p.u.d. Application and we passed out a power point presentation to each of you. We gave you a revised one today that we're going to run through quickly. The only addition we realized the regulations of the p.u.d. Unless you had unbelievable good eyesight you weren't going to be able to see it on there. We weren't trying to hide anything from you. guernsey did a good job laying this out for us. The subject tract is in oak hill. It's primarily bounded by windmill run, scenic brook neighborhoods and acc campus. The next slide we have there shows you the primarily affected neighborhoods and some of the commercial establishments in the area. guernsey said, this is for approximately 120 acres. This was obtained about 10 years ago and it's moderately that has a commercial and a residential component. What we're doing, council, is we're adding to this p.u.d. The purple outline for lots. And we're changing the uses and densifying the uses on the existing p.u.d. Basically what we're doing is we're trying to create a portion of a town center for oak hill. We didn't do this in a vacuum. Several years ago my client, rudy belton, met with several of the neighborhood representatives and the idea of a town center or the need for a town center was first brought to my client's attention. He was very excited about it and engaged us sometime after to assist in accomplishing that. The next slide basically is a portion, we passed the slide, but it's a portion of the proposed neighborhood plan that, in our opinion, we think what we're proposing is in keeping with what the neighborhood would like to see, which is a town center, and we think we meet the spirit of that. With that being said, we engaged the services of paul linehan's firm to help us come up with this idea. The idea was to come up with a town center you can work, live and play. Everybody has different opinions what a town center should be. This is our initial best shot of what we should have on there. It was a mix of uses. It had community space component to it and open spaces, and you'll notice in the original plan we had five ballfields on. We didn't just make that up, we realize add strong need for athletic facilities in oak hill. Three months ago we started the process of reaching out to the community. Over that period we had at least 20 meetings with all these listed associations, some of these associations we met with more than once, some more than twice, and continue to meet with these different groups. From that we came up with some revisions, which paul is going to basically go through for you, but primarily what we did is we heard some concerns about too many ballfields close to a neighborhood, so we took out that ball field component and had left one ball field and agreed this would be an unlighted ball field. We expanded the transit. We felt that there was a larger need for a better looking transit facility. We added a common areas and an amphitheater. We increased retail components in sliding things around and we modified the uses slightly to have more of a mixed use with retail and residential on top of it. Then we had the opportunity to reach out to the ymca. We learned the ymca had outgrown their existing facility and we engaged with a dialogue with the ymca and they are very interested. There is nothing to report i have any kind of deal at this point, but they are very interested in the prospect of putting a facility on our site where you see the athletic community facility. We are in discussions with them. Obviously they are eagerly awaiting the outcome of this p.u.d. process. With that being said, I'm going to pause and let paul address what his task was in trying to come up with the concept plan, and he also has some elevations that gives you a look-feel of what this site would look like from two of the adjacent neighbors.

My name is paul linehan, here representing buffalo equities. The main thing is we try to consolidate the site plan and bring everything into a dense area. We've left 52 acres or more as mitigation in and around the neighborhoods. We are not making any connections to the neighborhoods. And we've come in and we've introduced an 8-story hotel on the owner side of the project where the entertainment and retail district around it. We've tried to kind of open the retail area as you come in off 1826 into what work west park boulevard, which we are trying to make very urban in nature. The distance across this plan is about one quarter of a mile which in urban standards is a 5-minute walk so we want to make this very walkable. We've created medical offices to the west that would tie in with the seton southwest medical hospital. Created a cinema and also apartments, town homes and wetland and reduced the number of ballfields down to one. This is the concept plan bubble diagram thaw saw earlier, but it shows the matching of the retail and hotel and center around west park boulevard with medical office again to the west and office in a strong interaction with acc pinnacle campus to the east. And then as we go to the north, we have the residential components surrounding the community center amphitheater and wet pond and greenbelt area. The next slide shows that we are very cognizant and aware of the pedestrian circulation. We have scenic brook and windmill neighborhoods directly adjacent, a large residential area. We want to make sure we are allowing these people to actually walk to this project and not to have to get in their cars to go to it. There is also connections with acc. And as you can see, it's completely dotted with pedestrian circulation in and around and through those buildings. We are trying to bring in community areas like the ymca. We're creating crosswalks. We visited other projects that are town centers in other cities. We're trying to make the building human scale, street scale so it's very urban in nature, arbors, walkways, flags, parking that's hidden that you can walk through the retail center and enjoy the journey along the way. We also did a pretty detailed inventory. Again we visited with the estates of loma vista and these areas and tried to address concerns and view quarters. I'm going to try to take you around the periphery of the project and give you a sense of what this would look like in more of a 3-d perspective. This area shows you zooming down there's a cinema, ymca off to the left. We're coming down into what we consider the heart of the project wich is the transit station where you can come in and out, and west park boulevard that would run through the middle of this would be urban in scale similar to the downtown area of austin. So it would be a town center. It is very designed for live, work and play, to be pedestrian friendly and to address the community benefits. If you go to the northwest area of the site, we are going to show you example from the neighborhood from the estates of loma vista what this would look like in 3-d. Everything in front of that has been flattened so you can get a sense of scale in comparison to the acc pinnacle campus. Again, if you go over to the other side over on the windmill run area off of the main street there, this is a view looking down into the project as you would come down, and the final view that you see there is standing on the street at the highest point of any of the elevations in the area, which is about 10,020 feet and that's what you would see with the tree line. So we really want you to understand that this is very, very much buffered by the neighborhood, although it allows for pedestrian circulation into this project and creates a town center and open space and community values. With that, I'll -- I can show you any view anywhere around from it the start to the side, but for matter of time, I'll just pass it on to dal and we'll talk about the tier 1 aspects.

The final two slides we have are basically the tier 1 requirements, we've listed all the tier 1 requirements

and stated beside those how we meet those or intend to meet those, and I don't know if time allows for us to go through those. I know all of you all can read those. The final site is tier 2. The primary point of this is, to answer councilmember martinez's questions is we really appreciate the opportunity to appear before you, get your feet back on you and if I read the ordinance correctly and you know better than i, councilmembers, that the intention was to get us in front of you and get feedback from you guys as to where we are in this whole process. The thing that's most important to us, to get the density to accomplish this, we have taken on the task of asking you for an amendment to s.o.s. We're going to approximately 39% impervious cover. That's over the 25% allowable. To do that, in our opinion, we have to do something in the way of mitigation for you. Something -- meaning something rather substantial. In that regard, we are working on our plan for that. We've had lots of different ideas. At this point for lack of better terminology what our intentions are is to create a fund, a fund primarily some money on the front end, some money on the back end from after development dollars as each square foot goes on in excess of the 25% of impervious cover, there would be some amount of money that's created, and that money would be available for mitigation purposes. I can get into more details if you have questions on that, but that's an evolving concept. As far as water quality goes, we're agreeing even though we may be entitled or asking for 39%, we're going to meet water quality standards of s.o.s. We're going to retain and spray irrigate on site, and we think we've got past that. We're proposing our engineers looking at a vegetative strip capturing runoff from the windmill run neighborhood where there's currently no capture of those runoff. That's set out in our tier 2 component. In addition, one of the sites that's being brought into the we believe has potential for grandfathering because it's a p.u.d. Subdivision pre-dates the s.o.s. ordinance. We have not filed any 1704 determination on that is correct but our intention is to treat that just like any of the other property on the tract and treat it as a s.o.s. For water quality purposes. By doing that, in our opinion, we create superior active as relates to that portion of the tract. Those are two components of that tract and we're going to continue to look for additional things we can do that are superior in that regard. that was granted 10 years ago, I think the big thing that the council latched on to was the large amount of open space. We have preserved that large amount of open space. What that does is keeps that for lots of different purposes. For environmental purposes. It could be a spread out development over to site, but by doing that we have done lots of different good things for the environment and for the adjacent landowners. We're continue to go honor that. Another important point that we believe creates superiority is the tremendous amount of community benefit that we're adding here. The amphitheater component, the community center comment and over four acres of hike and bike trail throughout the area. With that said, I'll pause and be happy to answer any questions or happy to go through any of the details on any of the slides.

Mayor Wynn: Thank you, mr. gillette. gillette or mr. linehan? I guess I have one that might be for -- I guess for either gentleman or mr. guernsey. This report as it ends in tier 1 and 2 requirements, there's a column that says determinations. I presume that means, you know, how it relates to those requirements. Who -- who has drafted these determinations? Is that --.

These were -- this is our slide. It's not staff's slide. I didn't see a similar slide or any kind of report from staff on that other than their report. againsty said we either meet or continue to work with staff to tier 1 and tier 2 components as we go through the process.

Mayor Wynn: I guess at some point, greg, there's some format by which you and your staff make determinations vis-a-vis the different elements of our tier requirements.

That's right. We would go in probably more detail. Some of these would be difficult for us to determine at this point when they say we're going to exceed the landscaping requirements. How far do we go with that? That's one example where we probably need to have a little more dialogue th the applicant. Is it adding one more tree or a great deal of landscaping or putting in a different type of landscaping?

That's why at this point staff would like to continue working with the applicant. We think that the p.u.d. Ordinance as it's been presented has been a great benefit by bringing this to your tension and also to the neighborhoods' attention in the surrounding area that there still needs to be work done especially on the mitigation portion of this that we need to talk with the milk can't. [One moment, please, for change in captioners] I haven't seen the kind of detail that would enable me to analyze it, but I did get an email, as I think everyone else on the council did, from a person saying there would be variances sought from critical environmental features, and other environmental variances would be a part of this pud. Can you explain how it's different now or -- as opposed to the existing pud? well, the existing pud was sos compliant, and we know that this one would actually see the impervious cover, but we don't know with the mitigation in detail. When dell alluded to grandfathering on certain tracts, we haven't investigated that. Normally done by a team called the 245 team and we actually do some analysis to see if the tracts could be grandfathered. But we don't have a notification or fair notice before that team to make that determination. We just need some more detail from the owner to see more precisely -- does the existing pud contain exceptions or variances to, for example, setbacks from cef's?

I'm not aware that they actually had to come in and seek variances for those, but it never got beyond the pud. There was never a site plan submitted, so we would get that detailed review on portions of it. But there was a great deal of land that was left, over 60 acres was left as open space in that original proposal, and some of this proposes recreation ball fields and trails where they may not have been proposed previously.

I wondered, I was a little surprised myself because I haven't seen that level of detail but there's somebody out there writing emails that thinks they have that level of detail so i wanted to know if you had it. Less than I has not lenihan is the landscape architect, he might be able to address details on that, because they had invited the public to come meet with them and this tract coming back for full review and approval back in 2000, there have been a tremendous number of people that have been hiking along this property and looking at the nooks and crannies along this area. So it wouldn't surprise me that you'd receive several emails regarding some particular improvements or detail of cef's on the --

council member, I have personally walked the track. We used slope -- we used normal procedures for calculating and it's in the same format we do everything with the city today. There is one area that is a core area on the site that's denuded of any vegetation that I've heard someone say might be a cf. I don't consider it to be a cf. It's man-made. Doesn't hold any water. It's just a cut from an old quarry, and then there's water -- a ditch that runs along 290 in front of the property that doesn't drain 64 a until it gets to the heart of the property. The old pud looked at it, we're looking at it. We've been talking to the

engineers on how to deal with it but as far as i know, having walked the property on the area we're proposing to develop we will not be looking to answer any significant environmental variances other than what i just mentioned.

Council member, in our development session we filed with the city that's part of the file that's at the city, we indicated that there was a -- an environmental assessment done on the existing 120 acres, and that reports in the backup can be provided and says there are no critical environmental features on the existing 120 acres. so that the bar ditch that you're talking about, that's on -- that's on the annexed area -- that's an amendment to the pud as far as annexing additional --

that's correct. Yes, that's correct.

-- Areas? further questions of staff? Council member martinez? thank you, mayor. gillette, I was looking at the original concept plan and then the revised concept plan, and I know you went over verbally some of the revisions. Can you -- can you remind me again the substantive revisions or amendments that you've made in the proposal?

Okay.

And paul feel free to jump in at any time. The first thing we did was we heard from the neighborhood, windmill run, that they didn't want the five ball fields and they certainly didn't want them lighted, so we took that component out and reduced to one ball field. We thought this was a community amenity because our research indicated it was needed, but we listened and we reduced it -- that component down. We expanded the [indiscernible] component, made that area larger in order to -- in hopes of working with cap metro, somehow providing appropriate transit for this time and throughout oak hill. We added common areas and a amphitheater. There was thought of a need for an outdoor -- not for rock concerts, not for whatever but for art exhibits, poetry readings, you know, quiet, friendly neighbo-type gatherings. We added that component there. We moved some of the property around to increase the retail because there was concern we didn't have enough retail, and there wasn't enough close proximity for our residential with retail, and we've investigated the vmu aspect of it. I hate to go down that path. That was a very lively discussion in lots of our meetings. We'd love guidance from council. We're certainly not opposed to a tremendous amount of vertical mixed use throughout this pud to make it work. And then the concept of going from what we originally envisioned was an athletic facility into if the situation with ymca becomes a reality, they have a great history of community involvement, community outreach, running community programs, and we're very hopeful that they will see fit to relocate on our site, and we're trying to provide in the pud for that. Paul, did I miss anything?

Well, and I just was saying, we all learned through this process. When we met with cap metro and understand more their needs for a transit station, we ended up interjecting more retail and a parking garage back behind the station, so could be a potential park and ride. We created more retail along west park boulevard with the residential directly adjacent to it and behind it, because we wanted more of a walkable street scene. We kind of opened up the front at 1826 so it would be more welcoming as you came into the project, and then we visited also with acc, and we kind of felt like everyone got excited

with the potential that acc may even be able to expand into the site. And so there's about 200,000 square feet of office building or potential campus that might be able to be worked out in conjunction with acc. No commitments have been made, but we're looking at trying to make this more of a vibrant area for everyone, so we traded coffee shops and restaurants over in that area so the students themselves could use it. Even though it's conceptual in nature we've been trying to fine tune it and address the concerns of not only the neighborhood but acc and cap metro.

Council member, we're continuing that dialogue with the neighborhood groups/representatives and we'll continue throughout the process.

When I look at the concept plan in both plans, it seems like there's a main tree going down the center called west park boulevard -- main arterial, and when we spoke the other day you mentioned that you have some kind of an easement access but that that property is not part of the overall tract of land.

If you notice the -- i guess it's slide 3 or 4 that you showed that breaks down the pud, you'll see a little rr area. That is the speedy stop property, and that -- we have an easement, and I'm happy to provide that to council, that has been grant to do my client many years ago to have access across that property to the development.

Without the property owners' consent?

Well, the -- that's been the subject of litigation that's gone all the way to the court of appeals, and basically I think the upshot of that was there was a failure to exhaust administrative remedies and guernsey was proven to be exactly correct in his assessments of certain aspects of it. The issue, if I understand, relates in part to what the zoning of that site is. That site is sought to be rezoned in the neighborhood plan. It's been used as a commercial convenience store for at least 20 years. And we look forward to working through that -- that process.

Thank you. council member cole? yes, I have a few questions. I'm really trying to understand, when I look down west park boulevard and i see the -- I guess it says t station, was that part of the area that you-all were contemplating for transit?

Yes, ma'am. tell me a little bit more about what those discussions went like with capital metro. I know that transit issues out in this area are quite challenging and --

well, it was interesting. Paul and I met with cap metro several months ago. They gave us lots of good feedback and said we needed to be denser. We need more impervious cover, more density to be able to support transit, and we've asked for appropriate feedback from them, and we -- we're continuing the dialogue with open arms with cap metro to try to figure out something that works best for them. well, what --

council member, you may not remember but two years ago there was a transit-oriented development planning process that went through on this area, and all the neighboring properties got together. That

process lasted about two years, and the long and short of it, nothing was worked out. So we took the ball and ran with it and said, we want -- we're willing to take on the transit component inside of our -- our pud. and so when you say we're taking on the transit component, do you mean that that transit component is contemplating rail, rapid bus or --

that's a better question for cap metro, but we envision it as, on the very low level, to be a t stop, a transit stop, like the bus stop at acc, next door to it, or it could incorporate park and ride aspects, or it could be an actual transit center where people come park and -- much like the hard rail transit stops on the cap metro line. So we're very open for that, and we're -- we're just trying to provide in our pud the vehicle for it, the appropriate zoning authorization for it.

And that's one of the major changes we made, with the capital metro designs for buses and backups and stops and parking garages and being denser and having more retail that so that when people came out of the garage they were enjoying their walk to the transit stop. We changed the design and made it larger. We also have a commons right next door to that area for people to enjoy the open space in that zone. And one of those scenarios that I showed you, one of the prospectuses showed you exactly that location.

Cole: okay. I really am glad that you-all had those discussions with capital metro, and I do remember some of the challenges in that, the discussions two years ago didn't go very far and I think it probably is incumbent on us and staff to make sure as we talk about this pud that we visit with capital metro to find out what their future plans are in the area. Let me jump to something else. I was real curious about the open space, and I thought i saw a park.

There is a park, windmill run. It's a county park that is on the, I guess, northwest corner of the property.

It's a county park and it's not very well developed, but it's on the northwest portion of the property.

Cole: okay. I noticed that one of the results of your stakeholders meeting was taking down the ball fields from a contemplated 5 to 1, and that kind of shocked me because I knew this area really kind of wanted recreational uses and lots of open space. So I just want you to give me some feedback about what the park discussions were like and what the community is contemplating.

Well, all of you know that in a community there are lots of opinions, and --

cole: no.

Oak hill is not like any other community. There's lots of different opinions. There's a strong feeling in oak hill for ball fields, we need ball fields, but there was push back from people that are most directly affected by ball fields because there's concern about lighting, noise, invasion of their rights. So based on that we thought, and I give paul all the credit for this -- we thought that would be a great community benefit, perfect spot for them, but then we decided you know, unless we get directives from somewhere else we don't want that target necessarily on our back on this and we'll figure out additional community

benefits and that's why the opportunity came along with the ymca that we felt leveraged that situation and the ymca has a great history of reaching out to the community, and sometimes ball fields are -- bring people from all over a community and outlying areas to use that facility, and we thought on balance that reduction down to one, even though we know there's a need for it, is the best way for us to go at this particular juncture. We're open for continued dialogue on that.

Cole: okay. Thank you. further questions of staff? Council member morris? I want to begin by following up on some questions that council member leffingwell mentioned in terms of environmental variances, because what i did see were staff comments, and in the staff comments they appear to have listed what they see as 11 exceptions to the code, the environmental code. Is that something that you-all are aware of and are planning to need or are you going to work around those exceptions and change things?

Well, in our initial application -- in our development assessment we identified, out of an abundance of caution, as many variances as we felt we might need, and we're seeking to carve those back and reduce those. Some of those I think with our decision to spray irrigate on-site and put vegetative strips and to try to move away from certain slope areas, we have been able to reduce those, and we're still working on trying to reduce that number. I don't have, you know, a final determination on that issue, council member. so it's still in flux.

Still in flux. you may need 11, but maybe fewer than that, the sos variance.

That's correct.

To follow up on the sos question again, the number 39% that you're talking about for impervious cover, is that net site area or gross site area.

Net site area.

That's net site area. Okay. Because it was suggested otherwise. I just wanted to get that --

no, it's --

okay. And then with regard to the ever challenging trying to balance everybody's needs and all, I understand you've been working with not only ohan but the neighbors -- the nearby neighbors that are made up of windmill and granada, I'm not going to get them all right, loma --

scenic hills, loma vista.

Loma vista. So I wanted to ask -- they sent me a copy of the last time they met, which was in august, with some concerns that they still have, and so I wanted to know if as of august -- I don't know if you've changed -- if they've been addressed by then, but I wanted to ask if you envisioned being able to address some of those in the future. One of the things, of course, they brought up was the scale and the density there, and mainly that's related to concern about traffic on 290 and how 290 may or may not be

able to handle the traffic. So I wonder if you could talk a little bit about your vision of what 290 is going to look like when you -- if this were developed.

Well, we've actually had txdot in some of these meetings, and they've actually fielded a lot of those questions about 290 and the improvements to 1826, and we've talked about the possibility of this west park boulevard that's going through and towards acc actually continuing on, possibly, and tying into highway 71 or to crossing the covered bridge on 290. Those are tracts that are off our property, but we are looking into it. We're working with nieman, who is the district engineer for txdot. We've even asked him to look at the possibility of lowering 290 in this area so there would be more pedestrian cross-over from seton hospital into the site. Drainage may not allow us to do that, but we -- and we did prepare a traffic impact analysis on this property to look at all those issues. So -- but right now based off of campo plan, 290 in this location is planned on being a toll road with frontage road. So we are looking at alternate connectivity through the project without extending streets through the neighborhood.

And with that traffic impact analysis, do you have a sense for how many trips per day this development would create? Do you remember that number?

I don't remember it.

I can get it. I have the document here. I'd be happy to provide it to your staff and give you a copy of the -

yeah, I'd be interested, because that gives us sort of a sense of --

but you are creating a town center, a node where people will come to, so instead of having large parking fields, we have parking garages that are connected to the buildings that create very walkable -- very walkable area that's compressed. As I mentioned, it's very urban in nature, a quarter of a mile probably from end to end, a five-minute walk. and then can you -- do you have off the top of your head what the the setbacks from the windmill neighborhood are, how many feet?

We range from 50 to 300 feet, depending on where you're taking that measurement. In some areas we have 52 acres where we don't encroach on them at all.

Morrison: right. Because as I understand it that's one of the issues in terms of looking for something that's a minimum of a hundred feet.

And we can work with that, and one of the things you need to know is that they are up high and the tract falls down from their homes. And so we be stepping down with the terrain in that location. So the height of the townhomes that we have in that area go from 2 feet -- I mean, two stories, three-story, four-story, but they would maintain the same basic level. So we are very aware of their views toward the downtown area and we're not trying to block those and we will setback.

I think the setback is not only -- scale, but activity and all, so that's another consideration. And what's

the chance for a pedestrian bridge over 290?

We'll have to work with txdot on that one.

Pardon me?

We'll try to work with txdot on that, but it has been mentioned and we would like to --

that's a terrific idea to be able to connect the neighborhoods --

hospital. And that's why we do have two medical towers associated with project.

Councilwoman, are you referring to a letter dated August 19?

Morrison: yeah.

It's from a variety of neighborhoods. Right, from Granada.

Right. Yeah, and I appreciate you being willing to continue to work with them to try and address some of those issues. And -- as well as continuing to work on the environmental variances to minimize those. I have a couple of other questions and I'm not sure if it will be you-all or Guernsey to answer the questions. One is, as I understand it, and this is a staff comment, that the PUD proposes to waive parkland dedication -- waive parkland dedication in exchange for open space, and the staff comment was, well, both are actually required in the park ordinance, so that might be a technical detail.

Yeah, we -- going to ask me --

Let me flip over to that comment.

You know, the part of the tract was subdivided -- we had parkland dedication requirements, but they would have to come in and provide at the site plan stage, so that would have to be mitigated. If they have open space that would be used also to help offset some of that, but that review would probably be done at the time they actually submit their site plan.

But the -- let me ask you this. The PUD requires a certain amount of open space, and if they wanted to do open space for parkland, it would be on top of that open space requirement? and we would look at that. There are some trails that they propose through that open space, so some of that would actually be more structured than open space. The amount of open space they have proposed, though, does exceed the PUD requirements of the code.

Morrison: okay. And then this is sort of a -- more of a theoretical question, but I know from some folks' point of view, the town center concept was to be located at the Y as opposed to west of the Y, and so with this PUD we're sort of leapfrogging over and starting a town center, what is it -- is it a mile to the

west of the actual v of the y?

It's about a half mile. about a half a mile west? So the question for me is, if we envision a town center there filling in from the v of the y, from the corner there of the y, all the way through to the pud, is that larger than what a town center -- larger than a town center that could be supported appropriately by that area? I don't know if I'm being very explicit here, but I'm trying to ask if we're going to end up with a town center that's larger than we should have in that area. well, if we also have a stationary plan that would probably be done once capital metro identifies where they would have a stop for the rapid bus, if that all goes through, and so at that time we would probably review this pud, if it gets approved, and whenever the location would be selected by capital metro through a stationary plan, and so all that would be in play. Certainly if a project got built first, I think there would be a certain attraction, amount of retail and development that would go into the oak hill area that may actually detract from something that could actually occur in the future. But until capital metro actually identifies a property to the city, so we have some indication where we could do our stationary plan, it would be hard to say that this town center would move the transit center one way or another. It could actually be the site, but I know in two weeks when we have the oak hill plan come back before you and we start discussing some of the contested properties, you're going to hear from many citizens that will probably say it should be right at the y. I can't give you a definitive answer on that. We have been working with capital metro the last two years to try to identify the station location, and I know that capital metro has worked for this property owner and some adjoining property owners to the east to try to come up with a location that they could work with the developer or the property owners, and that's where we probably center our tod and do our stationary plan. and I think it's always prudent not to go down a path if it's going to take you somewhere where you regret having gone, and do you have any idea -- i suspect the answer is know -- when cap metro -- when that decision can be made?

No. I think right now they're even looking for a site to relocate their park and ride and I don't think they've landed on a location either for that at this time. well, even separate from the full question of where the dod or the station area are going to be, my concern would be that if we get full town center dense development from this area all the way including the way to the west -- east, that that's a lot more density than this area can support because of its environmental, you know -- environmental sensitivity. and given that you have sos in place, and i think some of the partials that are further to the east may still be subject to some sos requirements, it will be a challenge to have a continuous commercial development, I think, that would go from the y all the way to this property, just given our watershed requirements. There is still a great deal of retail opportunity right at the y, but I think until that discussion of the station location by capital metro is, I guess, complete, that question might be left open-ended. and all the area you're referencing, the sos -- is under sos, it's all 25% impervious cover?

Well, this area is in williamson creek, so it would be 25%. As you go -- depending on which side of -- well, actually the recharge zone is east of the y, so this would all be contributing. So it most likely would be 25% in its entirety.

Morrison: thank you. other questions of the team? Council member leffingwell? a couple of quick ones. First with reference to the park and ride. I don't know what capital metro has in mind, but it seems to me

that perhaps this would be a good item for the city to weigh in from a planning perspective. It seems that the park and ride ought to definitely be west of the y to -- to get the most utilization out of it. we've suggested to them, just in casual conversation, that perhaps using -- and this is a temporary location -- use the old albertson's site in the past, but there needs to be some negotiation with the property owners. I think they've contacted existing churches. They've looked at some other tracts even east of the y in the past several, like four or five years ago, where the old big wheel truck stop. Was. At one time they thought that might be the park and ride location, but I don't think they've actually landed on a location yet for the relocated park and ride. well, if you accept the premise that it should be, ideally, located west of the y, then I don't see any other properties in that general area that would -- would fill that need. So I really like the idea of locating the park and ride facility in this pud. So that's just a comment. Couple other quick ones. Are we talking -- you said we were going to do non-degradation water quality for the entire pud. Are we including the runoff from the roadways or just on-site? I'm going to let paul address that, I'm not sure if pat murphy had an opportunity to review that, but I'll let paul answer that question. I'm not sure.

As of right now, because of the 290 toll road project, not knowing exactly when that's going to be funded and how, we've been basically looking at the runoff from the inside of our tract. including the roadways inside the tract?

Yes, sir. It's required by ordinance to. We haven't addressed the 290 issue because as I mentioned we don't know if it's going to be sunken or above the ground or how they're going to deal with it. could possibly talk about the frontage road, though.

There's very minimal frontage roads, but we do have frontage roads, but again, that was parts of the 290 project so we did not address txdot right-of-way.

I know, council member, they also in part of their assessment indicated they were going to receive water from the adjacent subdivisions that they would offer to treat. That would be offset off off-site mitigation.

I would consider these pluses. We're looking for environmental advantage or improvement as a condition for the pud, and I think all these things that I'm talking about would be those kinds of pluses. And the last thing -- i thought I heard right at the beginning of your presentation, that this would be a gated community. Did I hear that incorrectly?

No, one of the criteria that it would not be a gated community.

Leffingwell: all right.

And they agree that it would not be a gated community.

Just kind of went by me real fast. that's one of the tier 1 requirements that it not. further questions of the team or comments? So again, greg, you may have said this earlier in the introduction, remind me, what is being our first new format when it comes to Which side of -- well, actually the recharge zone is east of

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I think their next step would be actually to file the pud application and address some of the questions that you've brought up about water quality, the transit location, setbacks for the adjacent neighborhoods. I think those are some of the things that they would sit down and need to consider, and we'll go over that with them before they submit their formal application. Once they submit that format application, again, there's a notice that's sent out to adjacent property owners, and utility customers within 500 feet. So that dialogue is going to continue. And from the city's part, we need to go back and probably sit down with capital metro and have a little bit more of a chat with them to encourage them to try to come up with some decisions about a transit location, or at least get a little additional input. We can also ask about txdot, about their frontage road situation, although I don't think they're going to get any more information than we could receive on that issue at this time. greg, further questions of staff, for the team? Comments? Thank you all very much.

Thank you for your time. Appreciate it. our zoning cases, mr. guernsey? yes, mayor and council. 00 zoning ordinances, restrictive cfs. Let covenants. Let me first look at the items that are closed. 21 and 22. These are related items that deal with govalle johnston tears combined neighborhood planning. 01 and this would be to approve second and third readings for the johnston go -- or govalle-johnston terrace combined neighborhood planning area vertical mixed use building. That's the pa, the planning, the element of it and the 22 is case c14-2007-0259. This is the zoning for the opt-in/opt-out. Staff would recommend a postponement of both these items to your november 6 meeting. We do have petitions. I note that there are two council members absent from the dais, so we also have other additional items on the govalle-johnston terrace on your november 6 agenda, and so staff would recommend a postponement of those two items to november 6 item no. 23, Case c14-2008-0060. The zilker faibd planning area vertical mixed use building, zoning opt-in/opt-out process. We only have one petition on this tract, but noting that there are only five council members and we do have a valid petition on this, we would suggest you postpone this for two weeks. To bring back on your october 16 agenda. This is for item no. 23. so council, our proposed consent agenda then on these zoning cases where we have yet to conduct a public hearing, would be to postpone items 21 and 22 to our november 6, 2008 meeting, and to postpone item 23 to our october 16, 2008. I'll entertain that motion. Motion made by council member leffingwell, seconded by council member morrison, to approve the consent agenda as proposed. Further comments? Hearing none, all those in favor please say aye.

Aye.

Opposed? Motion to postpone passes on a vote of 5-0 with council member shade and the mayor pro tem off the dais. let me continue 00 zoning and neighborhood plan amendment items. These where the public hearings are open and there's possible action this evening. The first item I'd like to 24, this is

case npa-2008-0013.01. This is for the property located at 706 west iltorf street, and this is an amendment to the bouldin creek neighborhood plan, an element of the austin tomorrow comprehensive plan. The applicant has requested an indefinite postponement of this item and staff would merely suggest that we bring this item back in six months. Currently your ordinance does not have an expiration date for neighborhood plan amendment, although the planning commission has initiated an amendment to -- I believe to correct that, so they would have an expiration date similar to other applications. So we do not object to the indefinite postponement, but we would tell you that in six months, probably in april of '09, unless there is some agreement that's reached between the applicant and the neighborhood associations and the contact team and in the bouldin creek area and it comes back earlier, we would probably bring this back in october of '09. Because this is offered as an indefinite postponement request, we would provide notice to adjacent property owners and utility -- city of austin utility customers within 500 feet of the hearing when this would come back. So it would be an indefinite postponement of that item. 25 c14-2008-0164, this is for 456-acre tract adjacent to slaughter lane substation. This is a zoning change for the property at 1021 to 1111 west slaughter lane to rezone from development reserve to public zoning. It was recommended by the planning commission to grant the p public zoning. This is an application by the city of austin on one of the automatic energy properties and this is rents for consent approval on all three readings. 26, this is case c14-2008-0044.001. This is the windsor park neighborhood planning area, vertical mixed use building, opt-in/opt-out process for the property located at 5701 cameron road and 1200 ridgehaven drive. This is to zone the property from limited office mixed use neighborhood plan or lo-mu-np combining district zoning to vertical mixed use building neighborhood plan or lo-mu vnp combining district zoning. The planning commission's recommendation was to exclude the property at 5701 cameron road and 1200 ridge view drive from vertical mixed use overlay district. The windsor park neighborhood association and the responsible growth for windsor park. Both are in agreement to this exclusion and we would offer the planning commission's recommendation for approval on first reading only. thank you, mr. guernsey. So council, our proposed consent agenda on these cases where we have yet to conduct a public hearing. We have characterized the earlier three cases, would be to postpone item 24 indefinitely, to close the public hearing and approve on all three readings case 25 and to close the public hearing and approve on first reading only item 26. All entertain that motion.

So moved.

Motion made by council member cole, seconded by council member morrison, to approve the consent agenda as proposed. Further comments? Council member leffingwell? I think this came up recently, but on the indefinite postponement, that requires a renotification is one is required so -- that's correct, council member. Prior to bringing this back we'll notify the adjacent property owners and utility customers within 500 feet. Also those registered neighborhood organizations within that area. and who's responsible for the renotification? the fee would be borne by the applicant.

Leffingwell: okay. a motion and a second on the table approving the consent agenda as proposed. Further comments? Hearing none, all in favor please say aye.

Aye.

Opposed? Motion passes on a vote of 5-0 with mayor pro tem and council member shade off the dais. that concludes the zoning items I'm going to offer you this evening. thank you, mr. guernsey. So council, that actually then concludes any business we can take up prior to beginning public hearings and possible actions as soon after 6:00 p.m. as possible. 30 we will come back for live music. Stay tuned for the greyhounds and then a handful of proclamations. So technically the council will be in recess until approximately 6:00 p.m.

Hey, hey, hey.

Mayor wynn: ready? All right. Okay. Folks, welcome back to our weekly thursday live music gig here at the austin city council. We're in for a big treat. Joining us are the greyhounds. I have seen these guys at south by southwest, at acl fest. They're played at the 2002 winter olympics games in salt lake city. Old soul texas blues and mixes it with a modern jiewk joint sound. Their current release, no mas will be taking them out on a national tour later this year. Please join me in welcoing the greyhounds. [Applause]

do you think maybe we can play a song now? Okay. Cool. [Music playing] [?? singing ??]

are you-all doing all right? Everybody in city hall today, say hey, yeah. All the cops say what's up? [Music playing] [?? singing ??]

thank you-all. Thank you. [Applause]

mayor wynn: all right. So before the national tour starts where can we hear you?

Well, we play at the continental a lot. We're actually going to be playing next tuesday, the 7th, for ham day, obviously.

October 7.

October 7. Which is a very important day to help support local musicians. You all know hopefully about ham. org to find out more. It's a real big cause for us, for sure. We're way into that. But then let's see what else are we doing? We're leaving to go out of town tour as well, but usually you can catch us at the continental. and web site, I guess we can figure out where you're going to be --

oh, yeah, greyhounds com, com, or or myspace as well, or we'll be in dallas for the ou red river shootout, texas au game, if you aren't doing anything afterwards, there you go. where are you be playing in dallas?

A place ca the long branch. lakewood --

like wood bar and grill. Sorry. Close. Sorry. and so no mas has been released?

Reporter:

Yes. can you get it at waterloo?

You can get it at waterloo as soon as I take some copies of it there. But you can get it on-line right now and we'd love for all of you-all to have one. This is our pr guy right here, obviously. well, before I read the official proclamation, do know that the greyhounds are playing at the continental club on tuesday, october 7, ham day, ham is the health alliance for austin musicians, a fabulous partnership between david's who's liferg dental care, seat ons, medical care, simms foundation delivers meant al care to over 1200 member musicians. This is are local musicians, the vast majority working hard, low income, all uninsured and our whole goal with haam is to keep these guys gainfully employed, happy, healthy and a good part of the piece of austin that we call live music. So that day all over town, about 250 businesses, everything from whole foods to joe's coffee shop, even hotels and retail establishments throughout town will donate at least 5% of the day's proceeds back to haam. Last year we probably raised, oh, 200,000 bucks or so, on haam day. We expect more this year. So find out which businesses are contributing part of the sales back to haam and help this partnership help our musicians, just like the greyhounds, because this proclamation, which reads, the local music community makes many contributions towards the development of austin's social, economic and cultural diversity and whereas the dedicated efforts of artists further our status as the live music capital of the world, now therefore, i, will wynn, mayor of the great city of austin, texas, do hereby proclaim today, october 2, 2008 as the greyhounds day in austin and call on all citizens to join me congratulating this great talent. [Applause] (cheering).

Thank you, mayor, we appreciate it. I hope you're the mayor forever. [Laughter] hey, chief, how are you. So while the greyhounds break down on that side of the room I'll use this podium to begin our proclamations this evening. We take this chance each city council meeting to try to raise awareness about an issue, say thank you to people or good-bye, congratulations, that sort of thing. Our first proclamation is about the 25th anniversary of the national night out celebration, happens to also be haam day, tuesday, october 7. I'm joined by a bunch of good-looking uniforms up here but more importantly rosie salinas who will say a few words about national night out after I read the proclamation. Just know that it's been -- my eight or nine years up here on this dais has been remarkable success and fun to go around the community. The police department usually helps us choose a handful of important neighborhoods or neighborhood stops around town, we hop on a van and try to make five or six stops throughout national night out. It's a way to get neighbors more familiar with themselves so they can help themselves with sort of neighborhood policing and outreach formats but also of course to meet the men and women of the austin police department and other city services and resources for folks to try to keep their neighborhood safe and clean. And so I'll read the proclamation and then we'll hear from rosie about the activities that we'll be handling here next tuesday. The proclamation reads, national night out celebrated its silver anniversary this year, celebrating its silver anniversary this year as a nationwide program focuses on fighting crime and drug prevention and getting to know neighborhoods better. , and austin policemen, firefighters, are attending neighborhood parties to generate support for and participation in crime prevention efforts that try to keep our community a safe pleasant place to live, and

whereas we encourage all citizens to participate in their national night out parties because strong neighborhoods with caring are the greatest deterrent against crime. I will wynn, to hereby proclaim next tuesday, october 7, as the 25th anniversary of national night out here, and as rosie comes up to the mic please join me in thanking her and all the men and women of our austin police department. Rosie?
[Applause]

thank you, mayor, for the proclamation. I am rosie salinas, the national night out coordinator for the city of austin police department. This program would not be possible if not for the continued support of our many sponsors, both public and private. Also, I would like to thank the austin and travis county residents who have signed up to host the block party this year. The fact that national night out was moved to october has yielded more block parties this year than in past years when the event was held in august. This program has been successful year after year because of your participation. So come out and join us for the kickoff celebration on tuesday, october 7 at the turner roberts recreation to and that's located at 7201 colony loop drive. And I'm glad that I haven't been doing this program for 25 years. I've only been doing it for six years, but it's a lot of fun and I really enjoy it. Thank you. [Applause] actually, for my last proclamation before I turn the podium over to council member leffingwell, this is the second year that matthew and I have done home movie day, so I'll read a proclamation about the event and what it is we're trying to promote and have matthew say a few more words about it, matthew darby. So the proclamation reads: Home movie day is a nationally celebrated by locally sponsored than organized event promoting the preservation of amateur films that are of interest to both local and national communities, and whereas the event raises awareness of the importance of home movies and their historical, social and cultural functions in society, highlights current local preservation efforts, and provides a free civic forum to discuss film preservation issues, and whereas we encourage all citizens to participate in celebrating home movies as a central component of protecting all of our cultural heritage. So now therefore i, will wynn, mayor of austin, do hereby proclaim october 18, 2008 as home movie day in austin and ask matthew darby to come say a few words about the event and why we continue to promote it. Matthew, welcome.

Thank you, mayor wynn, for helping us make sunday, october 19, austin's official home movie day. With this event austin joins over 60 cities worldwide in ten countries in celebrating our audio-visual heritage. Home movies are an important part of the historic heritage of the 20th century but this will be lost if we do not take steps to preserve it. Our community is working together to accomplish this. Among the many local institutions and organizations who invest in our movie image heritage are the harry ransom center, the texas archive of the moving image, the austin history center, the center for american history, and the killgarlynn center for preservation of the cultural record and of course many austinites will contribute by bringing their own family films to share in home movie day. Home movies and amateur films from austin help show that history just doesn't happen to famous people, it happens here and happens to all of us, so thank you and happy home movie day.

Mayor wynn: all right. [Applause] and with that I'll turn the podium over to council member lee leffingwell. so I'm kind of pitch hitting for the mayor here tonight. He's got a little bit of an inner ear problem so it's very difficult for him to hear and conduct the meetings and so forth. So he's taking a break right now to get ready for the rest of it. This is a proclamation for the arts and humanities month, and I just want to

say before I read the proclamation that we have such a strong program here, in large part due to both of Vincent Kitch and our long-time chair of the arts commission, Gloria Mata Pennington, and thank you for your long years of service on that board, and also welcome to Kathleen Carmen for all your work on this too. So I'll read the proclamation. Be it known that whereas October has been recognized conference of mayors, the White House and Congress for more than two decades as a month to celebrate and promote the arts in our communities, and whereas Austin arts and cultural organizations, film and music industry generate 2 billion, with a b, economic impact annually, and whereas the city of Austin is creating a vision for cultural development through initiatives such as Create Austin, cultural master plan and the live music task force, and whereas the cultural arts division and Austin Arts Commission work to encourage development of creative industries in Austin, contributing to our city's identity, our economy, our unique character and our quality of life. Now therefore, I, Will Wynn, mayor of the city of Austin, Texas, do hereby proclaim October 2008 as National Arts and Humanities Month. Congratulations. [Applause] So Pennington, want to say a few words? Never pass it up, huh?

Thank you so very much. You know, the arts are very important to Austin, but Austin is also important to the arts, because we are such a caring and nurturing community, efforts that I hope will be continued to create Austin. That partnership between Austin and the arts has enriched this community and made it an even more special place to live. Thank you for the recognition. [Applause] Vincent, do you want -- Kathleen? Okay. Well, thanks a lot. Take a picture? Do you want to take -- so if this was the Academy Awards you'd be back for another award, nominated for another award.

Were you we got everybody. We're ready. So yet another recognition in a series of recognitions, not only two tonight, but we had a big one this afternoon for our pedestrian safety effort, and our police department continues to advance new initiatives to improve safety for the citizens of our city, of course that's what we're all about. Our number one concern as a city government is public safety. So without any more words, I'll go ahead and read the proclamation. Be it known that whereas, nationally more than 5,000 people die in large truck crashes each year, with 4,000 resulting from passenger vehicles and trucks colliding, and whereas the city of Austin is the first city in the nation to be awarded a year-long ticketing aggressive cars and trucks, that's the t-a-c-t, for at that particular time, program grant from the federal motor carrier safety administration, and whereas at that particular time program combines education, outreach and -- with target enforcement activities to raise awareness among Paige and motor vehicle drivers about safe driving behaviors and whereas APD's highway enforcement commands will be targeting aggressive drivers and urges all motorists to keep a safe distance from long trucks -- large trucks, and long trucks, and other commercial vehicles that may need extra stopping distance. You don't have to tell me twice. Now therefore, I, Will Wynn, mayor of the city of Austin, Texas, do call upon all citizens to support APD's efforts to make Austin roads and highways safe and do hereby proclaim October 12, 2008 as the TACT campaign kickoff day. Congratulations, guys, and thanks a lot. [Applause] Should I give --

Council member, first of all I want to say thank you for your support and your leadership, you and your colleagues on the council. We have been talking about traffic safety for over a year now. It's starting to work. We're starting to see that we are saving lives and that's what this is about. So we are fortunate that we were able to be the first city to obtain the Mix Out grant funding in Texas. It never happened

before. We always talk about going after those federal dollars and we were able to find the matching funds from our own budget through the savings we're achieving at an organization. So austinites, we're doing our share and now we're hoping that -- and the council I'm sure is hoping, that they will do their share to keep us moving, keep our traffic moving, our goods and our people so we can maintain our economic vibrancy. Thanks again and as always thanks for your leadership and support. Thank you. [Applause] it's my pleasure to read a proclamation for these three gentleman who are involved in the film industry, and heavily involved. Chris eska, a writer, director, editor, raise your hand, chris, grew up in a little town near gonzales called atin, is that right? Atin? Population 98. I assume that was back then. It's probably over a hundred by now, don't you think?

96.

Leffingwell: 96? Oh, it's going down. Graduated from rice and has made a number of films, traveled the world, of course, with a backpack, and his film "august evening" i think garnered about 14 national international awards. So that's quite an achievement. I'm sure you're very proud of that and congratulations on on that. So I'll read the proclamation. Be it known that whereas august evening is a film directed and produced by austinites chris eska and jason wehling, excuse me, which won the best film award in the 2007 los angeles film festival, and whereas august evening falls an aging undocumented worker and his young widowed daughter-in-law as their lives are thrown into upheaval. That sounds like a good plot to me. The director calls it a love letter to san antonio and his home town of gonzales, and whereas we're pleased to announce the movie's theatrical release here in our city and congratulate chris eska and jason wehling on its success so far. Austin evening is a tribute to the creative independent spirit of austin's film scene. So with that, therefore, i, will wynn, mayor of the city of austin, texas, do hereby proclaim october 10, 2008 as august evening day. Thank you very much, gentlemen. Congratulations.

Thank you, council member. Austin is the undisputed filmmaking capital of texas, and so I think it's wonderful that the city is recognizing not only studio films but also tiny little independent films like ours. We played this film all over the world with tremendous success and it's great to come back home and to open up here next friday on october 10. And I want to recognize rush rivera who has been working tirelessly for the august evening campaign. It's really important to get the crowd out on the first weekend so that these little films can survive. Also -- also the support august evening campaign would like to thank mayor pro tem brewster mccracken and his staff, the austin film society, mexican-american cultural center, arts and labor, folk life, center for american studies at ut austin, senator kirk watson and his staff, south by southwest, manuel's great hills, gonzales, danny ramos, jennifer salazar, and carl web. Thank you so much. [Applause]

thank you, chris. That kind of did sound like an award, an academy award acceptance speech, didn't it? [Laughter] yard. It didn't matter how big, didn't matter how small, \$15 to come mow your grass. That's how aaron got started 10 years ago. He's been awarded the austin chronicle's best of for his small business and the way he runs his business. He has a complement of five full-time employees now. His business has grown and he's achieved his goal of being independent, running his own business and being successful at it. And so it's with honor and pleasure that I present aaron with this certificate of

congratulations that we are pleased to congratulate aaron scneidman 10 years of success with his business crazy aaron's. It began with a borrowed borrowedlawn mower and signs around the neighborhood. It currently boasts six employees and has won two austin chronicle awards. This certificate is present understand acknowledgment of this austin success story and with best wishes for continued growth. Presented the second day of october in the year 2008, the city council of austin, texas, mayor wynn and the councilmembers. And that's his daughter bella out there congratulating her daddy. [Applause]

thank you, mike and thank, andy, for presenting this certificate. And thanks to austin, texas. It's be great place to own a small business. They're very supportive people, and I feel very lucky. Very much. [Applause]

Mayor Wynn: There being a quorum present, at this time I'll call back to order this meeting of the austin city council. It is about 6:05 p.m. We have been in recess now for almost an hour. We can now go to our posted time certain issues. Those tonight are public hearings and possible actions. I know of at least one staff requested postponement we'll take up at some point, but perhaps we can just walk through these in sequence. Welcome ms. collier.

Good evening, mayor and council. My name is virginia collier from the neighborhood planning and zoning department. This is the second of two public hearings for the following set of six full purpose annexation areas and one limited purpose annexation area, items 27 through 33. Council will not be taking action on these items this evening. An ordinance readings are tentatively scheduled for OCTOBER 23rd. The first area, item number 27, is the las cimas purption area. This includes 83 ache and is locate understand travis county southwest of the intersection of loop 360 and this area is currently in the city's limited purpose jurisdiction and is adjacent to lost creek mud on the sow. Commercial properties located in the mud and adjacent to this area will be brought into the city's full purpose annexation in accordance with the strategic partnership agreement and this annexation will bring the remaining office tracts along loop 360 into the city limits at the same time. Copies of the service plan are available this evening and I'd be happy to answer any questions you might have on this item number 27.

Mayor Wynn: Thank you. Questions for staff, council? We have no citizens signed up wish to go give us testimony, but just to make sure, would anybody like to give us testimony on item number 27, the public hearing to consider comments regarding annexation, full purpose neighborhood association of the las cimas area? Hearing none, I'll here a motion to close public hearing. All in favor opposed? Motion to close the public hearing passes on a vote of four to zero with the mayor pro tem and councilmembers cole and shade off the dais.

> Item number 28 is the rm 620 commercial full purpose annexation area. This includes approximately 48 acres locate understand williamson and travis counties southside of anderson mill road on both the east and west sides of 620. The portions of this area east of 620 are currently in the city limits limited purpose jurisdiction and the remainder is in the city's e.t.j. This area is adjacent to and water and wastewater from the austin water utility. This is one of several areas that are located adjacent to the mu

and available for full purpose annexation this year. Copies of the service plan are available this evening and at this time I'd be happy to answer any questions you might have on item number 28.

Mayor Wynn: Questions? Are there any citizens that would like give us tomorrow this public hearing, item number 28, the full purpose annexation public hearing for the rm 620 commercial annexation area? If not I'll entertain a motion to close the public hearing. Motion made by councilmember martinez, seconded by councilmember leffingwell to close this public hearing, item 28. Favor fifer? All in favor? Opposed? Motion to close the public hearing passes on a vote of five to zero with mayor pro tem and councilmember shade off the dais.

Item number 29 is the anderson mill road and rm 620 right-of-ways full purpose annexation area. This includes approximately 35 acres and is locate understand williamson and travis counties. This area includes portions of anderson mill right-of-way between 620 and 183 and portions of 620 right-of-way between anderson mill road and 183. This annexation will bring these roads into the full purpose city limits at the same time that the adjacent properties are annexed and be copies of the plan are also available this item. That concludes item number 29.

Are there any citizens that would like to give testimony regarding the full purpose annexation of the anderson mill road and 620 annexation areas? Hearing none, I'll entertain a motion to close the public hearing. Motion made by councilmember morrison, seconded by councilmember cole to close the public hearing. All in favor? Opposed? Motion to close the public hearing passes on a vote of five to zero with the mayor pro tem and councilmember shade off the dais.

Item number 30 is the McCARTY TRACT. This is a limited purpose annexation area. It includes approximately 14 acres in both and travis counties east of fm 1325 approximately 960 feet north of the intersection of 1325 and shoreline drive and is in the city's e.t.j. This area is currently undeveloped and the property owner has requested annexation. The developer is planning to build a 220 unit multi-family project and annexation will extend the full range of city regulatory authority to this area. Future full purpose annexation will take place at the city's discretion and copies of the limited purpose planning study and regulatory plan are available this evening. This concludes my presentation on item number 30.

Mayor Wynn: Any citizens like to give public hearing at this -- to give testimony at this public HEARING OF the McCarty tract annexation area? Hearing none, I'll entertain a motion to close the public hearing? So moved by councilmember leffingwell, seconded by councilmember martinez to close this public hearing, item 30. All in favor please say aye? Oppose snd motion to close the public hearing passes again on a vote of five to zero with the mayor pro tem and councilmember shade off the dais.

Item number 31 is the sandy loam trail full purpose annexation area. This includes approximately two acres and is located in travis county north of anderson mill road along sandy loam trail. This is in the city's e.t.j. And is along anderson mill m.u.d. to the north. This includes portions of 11 single-family lots that are partially annexed with the in terms with the partnership agreement and this area will be completely surrounded by the city limits if not ANNEXED DECEMBER 31st. Copies of the service plan

are available this evening and I would be happy to answer any questions you have item number 31.

Mayor Wynn: Any citizens like give us testimony on this public hearing, item number 31, receiving comments regarding the full purpose annexation of the sandy loam trail annexation area? Hearing none, all those in , councilmember cole moves to close the public hearing, seconded by councilmember morrison. All in favor please say aye. Opposed? Motion to close the public hearing passes again on a five to zero vote with the mayor pro tem and councilmember shade off the dais.

Item number 32 is the tm ventures full purpose annexation area. This includes approximately 23 acres and is locate understand travis county southwest of the intersection of parmer lane and state highway 130. This area is currently in and is adjacent to the full purpose jurisdiction on the southwest side. This area is currently undeveloped and the prone arer has requested annexation -- the property owner has requested annexation. Copies of the service plan are available this evening and I could answer any questions you have on item number 32.

Mayor Wynn: Thank you. Any citizens that would like to give us testimony on public hearing item number 32 receiving comments for the full purpose annexation of the tsm ventures annexation area? Hearing none, I'll entertain a motion. Motion to close the public hearing by councilmember leffingwell, seconded by councilmember martinez. All in favor please say aye? Opposed? Motion to close the public hearing passes on a vote of five to zero again with the mayor pro tem and councilmember shade off the dais.

Item number 33 is the bunny run full purpose annexation area and this includes approximately six acres and is locate understand travis county south of the intersection of bunny run and live oak drive. This is in the city's e.t.j. And is adjacent to city limits to the east. The city will provide services described in the service plan, copy of which are available this evening. That concludes my staff presentation for item 33.

Mayor Wynn: Any citizens that would like to give us testimony on this public hearing item number 33 receiving comments on the full purpose annexation of the bunny run annexation area? Hearing none, I'll entertain a motion. Motion by councilmember martinez, seconded by councilmember leffingwell to close this public hearing, item 33, all in favor please say aye? Aye. Opposed? Motion to close the public hearing passes on a vote of five to zero with councilmember shade and the mayor pro tem off the dais. Ms. collier?

Item number 34 is the anderson mill road and u.s. 183 Full purpose area and staff is requesting postponement of this item to october 23rd at 6:00 p.m.

Council, I'll entertain this motion to postpone 34, motion made by councilmember cole, second bed by councilmember morrison to postpone item 34 to the OCTOBER 23rd, 2008 CITY Council meeting. All in favor of the postponement, please say aye. Opposed? Motion passes on a vote of five to zero with the mayor pro tem and councilmember shade off the dais. Thank you, ms. collier. spence, I believe that's all of our items. So council, there being no more business before this meeting of the austin city council, we

stand adjourned. It is 6:14 p.m.

End of Council Session Closed Caption Log