

Closed Caption Log, Council Meeting, 12/11/08

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Mayor Wynn: Good morning. Good morning. Sorry for the delay in getting started. Appreciate everybody being here. I'm austin mayor will wynn. It's my privilege to welcome bishop sid johnson from the higher dimension church to lead us in our invocation. Please rise.

Father god, we first come now thanking you for another day, thanking you for being in our right mind. We pray now that god that you will bless this meeting, bless our mayor and the rest of the city councilmembers for you said in your word in the multitude of council plans are established. And so I pray now that you will give them the wisdom that they need to make the decisions that will better serve this city. I pray now for the peace of god will be in this setting, for understanding, for knowledge. I pray now that everyone that shall approach this bench and shall approach themselves to this city council, that every decision that is made in this place today will be a decision that will benefit the entire city of austin. For this is my prayer for this council and these councilmembers, that you will continue to be with them and shield them and protect them and give them the wisdom and the answers that they need that will serve this community. In jesus' name we pray, amen.

Mayor Wynn: Amen. Thank you, bishop johnson, bishop johnson joined us as a veterans day event last month and it was good to have the bishop back. So there being a quorum present, at this time I'll call to order this meeting of the austin city council. It is thursday, december 11, 2008. We're here in the city council chambers, 301 west second street. It's approximately 10:25 a.m. Before -- council, before i walk through the changes and corrections to this week's posted agenda, we try to take this opportunity when we're aware of them to announce any potential or likely items from council or other issues that will be coming before us in the foreseeable future. Hearing none, then I will for the record read our changes and corrections to this week's posted agenda. Let's see, they are to note that on item 33 has been withdrawn from the agenda. Item 34 and 35 are postponed ONE WEEK TO DECEMBER 18th, 2008. Item number 68 has been withdrawn. On item number 105, we should include the planning commission recommendation which is to grant central business district, central urban redevelopment or cbd cure combined district zoning. On item number 106, the planning commission recommended to grant family resident neighborhood plan combining district zoning. And likewise on item 111, the planning commission has recommended to grant neighborhood commercial mixed use, vertical mixed use building, conditional overlay, central urban redevelopment neighborhood plan or -- this might be the longest. In our schedule today council, we, of course, after consent agenda here in a few minutes we'll

take up a handful of items that I suspect will be pulled off the consent agenda. At noon as we do each thursday we'll break for general citizen communication to hear from citizens. or mid-afternoon we'll have two of our afternoon briefings, the first is on our zero waste strategic plan and then the recycle the bag project results. And also a barton springs master plan briefing in the afternoon. 00 we'll recess the city council meeting and take up the board of directors meeting for the austin housing finance corporation. We have a short agenda as that board to take care of. 00 we'll start up our zoning matters. 30 We break for live music and proclamations. Our musicians today are the girls rock camp, so stay tuned for them. 00 we start public hearings. We have a handful of items posted for public input this evening. So council, a number of items have been pulled off the consent agenda already. Let's see. Items 10 and 11, which relate to service extension requests, is pulled off the consent agenda and we have a number of folks who would like to give us testimony regardless so it would be taken off anyway. Item 25 regarding our central library, I have pulled that off the consent agenda as we need to choose a firm. Item 32 regarding a settlement of a lawsuit is pulled so staff can give us a brief presentation. And then the items from council, let's see, items 69 related to cite plan extension has been pulled by councilmember morrison. Item 70 regarding development agreements has been pulled by councilmember leffingwell. And on item 71, an item regarding essentially the biff landfill, a number of folks have signed up wish to go give us testimony so that will be off the consent agenda and i believe there's a request to take that up in closed session. Any additional items to be pulled?

I just wanted to add that item 70 I would like to have a discussion of the legal aspects in closed session.

Mayor Wynn: Thank you. smith, we're posted appropriately to take that into closed session, I trust.

Yes, we are.

Mayor Wynn: Thank you. Again, additional items to be pulled off the consent agenda? Then hearing none --

mayor, excuse me. There's one more time certain , that's the bond sales. Just wanted to note that for the record.

Mayor Wynn: Thank you very much. 00 we will take up our bond sale coming to us from our financial services department. Okay. So council, I'll now then propose a consent agenda numerically. So a proposed consent agenda will be to approve items 1, minutes from previous meetings, from austin energy to approve item 2, 3, 4, 5, 6, 7 and 8. From our austin water utility to approve item 9. From our community care services department approving item 12. From our contract and land management department approving items 13, 14, 15, 16, 17, 18, 19, 20. 21, 22, 23 And 24. From our economic growth and redevelopment services department, approving item 26, 27, and 28. From our government relations department approving item 29. Our legislative program for the upcoming legislative session. From our health and human services department, approving items 30 and 31. From our neighborhood planning and zoning department, we will be noting that item 33 has been withdrawn and items 34 and 35 to be postponed one week to december 18, 2008. From our public works department approving items 36, 37, 38 and 39. From our purchasing office approving item 40, 41, 42, 43, 44, 45, 46, 47, 48,

49, 50, 51, 52, 53, 54, 55, 56, 57, 58, and 59. From our small and minority businesses resources department, approving item 60, 61, 62, and 63. From our watershed protection and review department, approving item 64, item 65 are our nominations to our boards and commissions. And we have a number of them. To our 2006 bond oversight committee, I am nominating tyler anderson. Community development commission, I'm nominating sandy batise. To our federally qualified health center board, councilmember cole is nominating jesse cleveland. Councilmember martinez is nominating rose lancaster, and I am nominating karen fromberg and julia mitch all, all four of these proposed reappointments. To our housing authority, the city of austin, I'm nominating tyra duncan hall, henry flores and thelma pinell all as reappointments. To our human rights commission, councilmember leffingwell has nominated jay chung. small business procurement advisory committee councilmember cole has nominated anarisha brewer, sorry if I mispronounced that. And to our sustainable food policy board, councilmember shade has nominated brandi clark and councilmember leffingwell has nominated melanie McAfee. And nominations to an intergovernmental body include my nomination of susan pasco as a reappointment to the austin-travis county e.m.s. Advisory board, and then the council's nomination of elizabeth gonzalez for the employees retirement system as a renomination. Those are items number 65, nominations for our board and commissions appointments. As part of the consent agenda, we'll also be approving item 66 and 67. We will be noting that item 68 has been withdrawn. And we'll be approving item 72. And by approving -- we'll be setting the public hearings by approving items 73 and 74. So council, that's our proposed consent agenda. I'll entertain that motion. Motion made by councilmember morrison, seconded by councilmember cole to approve the consent agenda as read. If I could, council, before i ask for comments, we do have a couple of citizens to speak. If I have that list ready. Let's see, I believe on item number 12 related to health care item, gus pena would like to give us testimony. Welcome, mr. pena.

Mayor, councilmembers, good morning. Gus pena. I'm here on item number 12. As you know, when jobs are outsourced or disintegrating because of the downsizing of the economy, people tend to lose their jobs, they lose their income and health care. What happens next best recourse is emergency room. A lot of people have been visiting the emergency room on noncritical care issues at brack and seton where when i , I'm not a doctor, but they could have been seen at minor clinics. This new red river community health clinic is needed, well accepted by the community, and it's a good collaboration between the city and the travis county health district. It helps out the people who are otherwise didn't have a need to go to the emergency room and overburdening the emergency room services. You are going to see more people out there. The economy is hurting everybody. It is going to get worse next year. I told you all last year november, december, we were in a recession. I didn't bring the newspaper, but the newspaper does allude to the fact we are in a recession. I don't care what statistical data everybody brings about we have a low unemployment rate. We don't. People just give up. You have 250 at one time applying for a position, they don't even get to the interview process. I'll keep it short because that's all I came over here to do is thank you all for providing the funding for the first year, but it's going to be more needed next year also and it's going to be more problematic because a lot of people are losing their jobs. They just don't have health care and they don't have insurance. So anyway, keep up the good work. I didn't want to come today but this is a critical issue and people need to thank for whoever in the background did this, staff also, thank you very much and have a good afternoon.

Mayor Wynn: Thank you, mr. pena. Council, on item 19, a construction contract, bill bunch signed up wish to go give us testimony. bunch has signed newspaper opposition to item number 19. I don't see bill here. We'll note his opposition for the record. On item number 30, francis mcintyre would like to give us testimony. This is regarding a southeasterly service contract item -- a social service contract item. Bill, why don't you let francis go, then we'll come back to you. Welcome.

Thank you, good morning. I'm frances mcintyre, president of the austin league of women voters. And I'd like to address the increasing downturn in austin's economy and the ramifications for the city budget. As I'm sure you are aware, we are seeing a decline in sales tax revenues and seeing businesses file for bankruptcy and an increase in foreclosure of homes which will probably affect the property tax income. The city's budget will no doubt have to be amended. Altered. The austin league of women voters would like to suggest that when you look at the possible budget cuts, you consider our citizens who will be most affected by the economic downturn. Not all city departments address the needs of the vulnerable population. Perhaps instead of considering across the board cuts in the city departments' budgets, you could prioritize those programs and services which help the most needy in our town. There may be a need for those programs and services to be enhanced rather than cut. The league supports programs and policies to prevent and reduce poverty and to promote self-sufficiency for individuals and families. There will no doubt be an increase in the need for the city services in the near future. The programs that benefit the elderly, the mentally ill, the homeless, the near poor and others will need additional funding. Facilities like our public library system which provides a free place for children and families to spend productive time rather than roam the streets. Need to have expanded hours rather than reduced hours of availability. When times are tough, priorities must change. Austin is a caring city, and as we tighten our budget belt, the league asks that our city council find ways to lessen the effects of the economic downturn on those who will need our help the most. Your job is not an even seeable one. We do not know -- we know that you do care and trust that you will do the best you can for all the citizens of austin. We also know that this is not a permanent situation. And the city budget will be back in good shape hopefully in the not too far didn't future. Thank you.

Mayor Wynn: Thank you. Councilmember leffingwell.

Leffingwell: mcintyre, it's not a question. Basically I want to say i agree with what you said, but clarify, it's my understanding there's been no proposal by the city manager for across the board cuts. In fact, I'll let him speak for myself, but my understanding is he has asked for an evaluation of possible efficiencys that could be achieved and not a across the board cut.

That's correct, councilmember. We are simply just trying to be proactive in regard to asking all the department heads to consider a 2% reduction. They are actually developing options for us, if you will, creating a menu of things that in the worst says scenario we might find in conjunction with the members of council would have to select from. And of course council on behalf of all austinites, you are the ones that make determinations about priorities, and it would do that in the course of making final decisions should we need to do this to -- to make those choices about reductions. But I wanted to be clear because, you know, there has been that misunderstanding generally about what we're doing. I think everyone in the city knows that, you know, we're trying to be proactive and we've asked the

organization, particularly those general fund departments to go through this exercise. We are not talking about a across the board flat cut. Frankly, that would be irresponsible. That's not what we're doing. We are trying to be proactive. We are trying to identify things that would serve as options for this mayor and council should the need arise to reduce in areas in our organization.

Thank you so much for clarifying that. We appreciate your efforts.

Mayor Wynn: Thank you, ms. mcintyre. On number 19, the construction project, bill bunch would like to give testimony. Welcome, bill.

Thank you, mayor. Members of council, I'm bill bunch with save our springs alliance. Speaking against item 19, which is a further expenditure of over \$300,000 for water treatment plant 4. Which I'm sure all of know is -- we're moving forward to spend and probably about over \$400 million of additional bonded indebtedness for that water treatment plant. I sent to you this morning by e-mail a letter with some attachments from the following people. Christopher lehman and roy whaley of the sierra club, david foster from clean water action, connie ripley from the don't empty lake travis association, luke metzger of environment texas, ken cameer from the lone star chapter of the sierra club, norman johns of the national wildlife federation, and myself on behalf of save our springs alliance. Making the request to you that we stop spending on water treatment plant 4 for now. Not necessarily forever, but to put it on hold in favor of our comprehensive planning process. And in favor of investing more, although a fraction of what we would spend on water treatment plant 4, investing in conservation and reuse. The past summer was our very first significant effort at water conservation in this community. And your utility did a fine job and your community did an equally fine job. We saved a lot more water than your staff expected. In fact, our peak day demands in what has been -- what was an incredibly hot and dry summer, so these were extreme conditions with greatest demand, our peak day use was 219 million gallons per day. That's a full 20 million gallons below our all-time record peak, which was way back in 2001. The simple fact is that we are doing a lot better than what we expected. We have a lot more room to do a whole lot better. And in doing so we can save and postpone further this enormous expenditure on wheart treatment plant 4. We don't expect you to turn on a dime because this is a big issue, but you could take this item that's before you today and postpone it for a month while you look at this further. This is new information, you know, from this last summer and a new effort by the community at large to really embrace water conservation along with energy conservation, along with our commitment to protecting the climate. Because water use consumes an enormous amount of energy and also produ an enormous amount of greenhouse gases. [Buzzer sounding] these all fit together and we can do our ratepayers an enormous service by reexamining this and postponing it for a few more years. Thank you.

Mayor Wynn: Thank you, mr. bunch. And also, council, on item 27, which is an economic development loan agreement, we had one citizen sign up not wish to go speak but wanted to be shown in opposition, that's robert andrews. So council, I believe that's all of citizen comment on items on the proposed consent agenda. As a point of privilege, i would like to ask if we can withhold comments on item 26, which is our african-american firefighter statute here in front of me that will be at the george washington museum and library because we have a handful of folks, some family members so we'll have sort of a brief presentation as part of the consent agenda but at the end. Additional comments on consent

agenda? Councilmember martinez.

Martinez: Thanks, mayor. I just have a few comments on about four items. But I wanted to see if the makers of the motion and the second would allow me to make a friendly amendment to our legislative program under financial services, we have a bulleted item that says oppose legislation that would mandate increases to employee pen programs. I would like to change that to monitor. As we have discussed, there may be opportunities for us to help our current retirees who are obviously facing even more difficult times during this economic downturn. And if we can create some type of legislative relief for our retirees that I would want to support that as opposed to oppose it. I would ask if we could just oppose to monitor.

Mayor Wynn: So councilmember morrison and cole agree with that agreement.

Martinez: An additional bulleted item, could be just public safety in general, as you know, we've been working and discussing on bringing forward an ordinance that relates to texting while driving and maybe potentially hands-free devices while using your cell phone while driving. There have been five bills filed already, pre-filed for this legislative session. And so what I would hate to do is bring an ordinance forward, have staff spend more time crafting that ordinance and then the legislature coming out with something in may that there is completely changes or alters what we've done in a local ordinance. So what I would like to do is add a bullet that says monitor legislation as it relates to use of cell phones and texting while driving. And then not bring forward an ordinance until after we see what the legislature does because they may take care of the issue for us.

Mayor Wynn: Again, another proposed addition to our legislative program, item number 29, proposed as an amendment to our makers and accepted. Thank you all. Councilmember martinez brings us the program, council, any additional proposed amendments to that item number 29? Because I do have one. For the makers of the motion and my colleagues, I would like to propose, we currently have a section entitled energy and water conservation. I would like to add one bullet point underneath that, and frankly, you know, this is just internal for us, retitling the section air quality and energy, water conservation and the bullet point would simply read support legislation that would protect regional air quality through improvements to air permitting requirements for stationary sources and improve standards for mobile sources. I bring this forward and suggest that it very much is very consistent and alliance with the position that we took as a city and testimony that i delivered to the tceq, downpour the permits for pulverized coal burning power plants just outside our five-county region that clearly would have an impact on our air quality, and, of course, we saw yesterday the tceq commissioners recommend to the governor that travis county be designated as nonattainment, although that likely doesn't occur formally later in the spring of '09. So I think this will allow us to work -- encourage us to continue to work with our legislature to essentially expand the ability for the tceq commissioners to consider sources outside our control that will have a negative impact on air quality here in the city of austin and travis county. So I propose that as one additional bullet point. Thank you, and councilmember cole is the second. Thank you. So again, any additional proposed additions to item 29, our legislative program? Thank you all. And councilmember martinez, you had some additional

comments.

Martinez: Yes, item 60 through 63, these are changes program and I just wanted to thank staff and the advisory committee. Neal here earlier, chair of the advisory committee. Elkins, director of SMR and staff. This is simply improving our goals we have established for the city of Austin, but it also improves our stability in terms of folks that may have a potential challenge to our program that allows minorities and women and small businesses to participate in doing business with the city of Austin. And I just wanted to acknowledge and thank them for all the work that they did to bring these items forward. Item 67 is an item co-sponsored by councilmember Morrison and I. This is relating to specifically to South Congress. Our ordinance right now does not allow those merchants on South Congress Avenue to display their products on the sidewalk. You know, it's -- the way the ordinance is narrowly crafted, it prohibits that. This would allow them to put merchandise and not necessarily advertising but some signage that would direct them into the store and display their goods and services. While it's specific to South Congress, though, I believe in the future we'll be having -- what we found is that this needs a comprehensive review city-wide because there are other businesses including in downtown area and in the university area who would also like to be able to do the same thing. I think what you'll see is continued efforts to expand this particular provision where appropriate city-wide. So I don't want other folks out there to say why South Congress and not the rest of us. The reason is because South Congress merchants came to us and asked for this relief, but what we found out subsequent to putting this agenda on there are many businesses who could benefit from a provision like that so I believe we'll see something coming forward in the future. Lastly, item 70 relates to our interlocal agreement. What we found is in some instances we have been engaging in interlocal agreements that potentially contain zoning and development changes, if you will, or amendments to our current zoning and development code. In my estimation, this circumvents the zoning process and the public input process, so what we've asked staff to do is come forward with a proposal that if an interlocal agreement is presented to us that contains development and potential zoning changes, that it would also have a similar public input process as a normal zoning case would. And I want to thank councilmember Morrison's co-sponsorship and city legal is already working on drafting language and hopefully we can get that back fairly quickly because I think there's a little bit of urgency want to go get this on the books before any potential interlocal agreements come through with zoning items.

Mayor Wynn: Just for the record, item 70 has been pulled off the consent agenda so I think we'll have a lengthier discussion later. Again, further comments on our proposed consent agenda? Councilmember Shade. Yes.

Shade: Sorry, councilmember Morrison. A walk ward dance up here. I just wanted to make two comments. One was on 27, which is about an economic development loan program and just I know that we've had some people that have posed it, but I want to say that I did a lot of research into it and I'm very enthusiastic and excited about new developments along that end of Sixth Street. But in the process of researching this, I did find that we are at the end almost of the two-year pilot program when this was set up and I think it's real important that we look at ways to enhance that program and I'm looking forward to working on that so I wanted to make that comment. I think February will mark the two-year anniversary, the 24 months are up for that pilot. Secondly I wanted to call attention especially given

comments earlier about number 30, which is the social service contract, I want to compliment my colleagues and also recognize the staff for their effort on this as well as several community partners. You know, times are really tough and our basic needs providers are really feeling strapped more than ever. And so I'm -- I just am really happy that we are able to make this additional -- additional funding available for the basic single source program in particular as that will help with rent and utility help for people most in need in this community. So I just want to highlight that. Thank you.

Mayor Wynn: Thank you, councilmember. Councilmember morrison.

Morrison: Thank you, mayor. I just wanted to make a quick comment on item 72 which is the signature waiver for the austin marathon that's going to be coming on FEBRUARY 15th, I GUESS IT IS. I want to point out that is a signature waiver, but the promoters, as I understand it, will still be required to do notification. And we had a situation recently where there was a race that where we didn't achieve effective notification and it caused a lot of consternation on thanksgiving morning. So I just wanted to urge the promoters to be very diligent with their notification to make sure that we can keep a balance between making sure that we have great races continuing in the city but also respecting the folks that live and work near the area where the races are. So thank you.

Mayor Wynn: For the record she it wasn't all the aggies trying to get out of town after thanksgiving. [Laughter] we left early. Councilmember cole.

Cole: Mayor, I had a brief comment on item 67, which I am supporting. We had been working on trying to draft an ordinance to allow sidewalk signs city-wide in various business districts and I had received some calls to work on that. But the posting language for this item was not broad enough to add that so I will be bringing an item forward in the near future.

Mayor Wynn: Thank you. Again, further comments on our proposed consent agenda? Then if not, I would like for us to now take up or talk about item number 26, a fun item to have on a consent agenda brought to us ultimately through our arts and public place program which is in our economic growth and redevelopment services office. We have -- do a brief staff presentation and open it up for comments and I believe we have family members present so welcome.

And I have a power point, if you don't mind. Thank you, mayor, council, city council. I'm the art and public places administrator. And we're pleased to be able to share this item with you today. The art and public places program is the oldest municipal public art program in the state of texas. And we have over 150 works of art in our collection to date. Now being added to the city's collection is a memorial sculpture celebrating a significant moment in austin's history while preserving the memory and story of three unique individuals for future generations. This public art project will commemorate three men who served as the first african-american firefighters hired by the city of austin in 1952. Marking a significant moment in history during a difficult time that pre-dated the civil rights movement. Captain willie ray davis, roy green and mr. nathaniel kendread sr. Joined the during during this period of integration. Prior to 1952 no african-american had been hired to work as a firefighter in the state of texas. To sum vice briefly, the process for commission, in april of 2007, project stakeholders, fire department staff and

family representatives met to discuss and identify goals and objectives for the project. Their ongoing involvement was critical throughout project development entering the artist selection process. The call to artists which I have to screen was released statewide in March of this year to artists and arts organizations throughout Texas. And in October the selection committee reviewed proposals by three finalists. The proposal by artist team Injured Don Evans and David Newton were selected. It was then reviewed and recommended by the Art in Public Places panel and approved by the Austin Arts Commission on October 20th, 2008. The intent for this project is to acknowledge the tradition and history of firefighters. To recognize the significant event in history and to create an opportunity to tell the story of these three men, both their struggles and accomplishments and how their efforts paved the way for future African-American firefighters. They displayed commitment to their families and communities serving with a sense of duty to the city of Austin. As one family representative has expressed, these were three ordinary men doing something very extraordinary for their times. I have before you the mockup that has been selected. The artwork will depict these individuals involved in an act of rescue. And symbolizes the unit of spirit and camaraderie. Their uniforms are representative historically accurate. The final artwork will be a two-foot cast bronze figurative sculpture resting on a four-foot granite base with each firefighter's name, biography sketched into the surface. We will continue to work with project stakeholders and family representative to assure accurate representation throughout the material process. The completed artwork will reside on the exhibit at the George Washington Museum and Cultural Center and I want to thank you again to highlight this work at Council today and I would be happy to answer any questions you may have.

Mayor Wynn: Thank you, Megan. Questions of staff, Council? Councilmember Martinez.

Martinez: I don't have any questions. I want to thank you so much for finally bringing this forward. This is a project that we've been talking about and working on for quite some time, but certainly want to acknowledge the families of these three firefighters here today and thank them for being here and I look forth to see this artwork displayed at the Carver Museum. Thank you, Mayor.

Mayor Wynn: In fact, I do believe Richard Kindread, Rodney Green and I saw Cora Wright earlier. If they are still in the room, I would be honored to have them come forward. Perhaps even -- you are welcome to say a few words or -- [applause]

Thank you very much for acknowledging my father's accomplishment with his friends. Again, it was just three ordinary men who did something extraordinary for that time period. I also have to give credit to Astro Kerf, professor at Huston-Tillotson who applied the -- the civil service during that time so they took the test that allowed them to do this. So again, thank you very much.

Mayor Wynn: Thank you. [Applause]

Good afternoon, Mayor, City Manager and Council. Today is a great day. I just want to say thank you on behalf of the Kindread family. My mother, who is not here today, 84 years old and still aware of what's going on, has attended a couple of the meetings, has been involved with the process. Is very familiar with the process she but because of our current cable situation she can't watch this today. [Laughter]

one of these days we'll get that worked out. By the way, my wife is not here to tell me to sit down so you all may want to put the buzzer on. But I do want to say I could be very brief and I could walk away, but the stories, you know, they could go on and on and on. But we are -- the kindread family is thankful. We're thankful for the fact that we didn't pick up the telephone and we didn't solicit no one to ask for this to be done. It was people who thought it was right to be done. And they know who they are. But I do want to call three names that I'm -- that I saw work with this process. It was a fair process. There was concern about the amount of money that was funded for the project and what it was to represent, it didn't balance out. When you are talking about something at the state level in accomplishment at the state level, they felt the funding was somewhat low. So that is something I think we can use this as a stepping stone and build on where we probably would ultimately want to be. Now, I saw megan, who worked with this process, very easy to work with, very flexible. I saw her at all the meetings. Assistant chief keyes was there, bob gee johns was there, and that's -- that's a good thing. We had a representative from carver museum and other people involved. I hate to call names because i get in trouble. But anyway, but just so you know, we were pleased with the outcome. The family is pleased. We -- I have -- I'm number 7 out of 11 in the family. So we are all aware of what is going on. My dad was instrumental in me actually being a city employee. I actually worked for the city for 27 years before retiring. , is currently working with the water and wastewater utility. My wife yolanda is working with austin energy. My brother-in-law -- not ex brother-in-law.

Mayor Wynn: You are going to get in trouble.

My brother-in-law, some of you may recall floyd hargrove who worked with info systems who retired. He is also nathaniel's son-in-law. But anyway, that being said, we just can't thank you enough, and I could just go on and on, but, you know, to see something like this happen without asking for it. Someone thought it only be fair this be done and for my mother to see this, still be here to see this go on, it says a lot and it means a lot and I'll always remember because that was a time that i said I work for the city for 27 years, my daddy worked for the city for 24 years. He lost his life. I'm still living, but we got the same thing. So it's very timely that we saw this come to fruition. And I really appreciate it. If there's anything I can do for anyone, I don't live in this city, I enjoy this city, I worked for the city, but i just want to again say thank you for the austin firefighters association, the guys that are here, thank you to everybody. And if I missed someone and i called a name that I shouldn't have called or if I missed a name that I should have called, please, I'm sorry, but thank you again.

Mayor Wynn: Thank you, richard. [Applause]

Mayor Wynn: Our good friend cora davis wright i thought was here but represents with the ray davis family. Councilmember cole.

Cole: I would like to make a brief comment. I think it's very important that we take opportunities to look where we've been and if we didn't show this appreciation for where we've been we would never be able to if I can out where we're going. I applaud the willie ray davis, the daniel kindread and roy green for this memorial day and bringing it all to us for recognition. Thank you.

Mayor Wynn: Thank you, councilmember. Councilmember.

Martinez:.

Martinez: Briefly, I'd like to ask the president of the african-american firefighters, bobby johns, to say a few words.

Thank you, councilmember martinez. Good to be here. I would like to thank all of you for not only bringing forward something for considering, but also committing and also delivering on the funds and helping out. I would also like to thank the families and megan and chief keyes for being the instrument seifert from the carver museum. I think they did a great job. We were looking -- when we first brought this forward, we were looking for something to take a long time. I would like to say this has speeded up the springfield has been so giving that we would -- I would like to given a special thanks to councilmember martinez and councilmember sheryl cole. It doesn't take from all of you, but I pressure all of this. We appreciate it. We are members of the austin firefighters association which I am the president, a fire specialist in the city of austin, I work for the fire department tore 22 years. But it was a time to do this and it's just the beginning and I think we're going to be doing a lost great things in the future. Thank you.

Mayor Wynn: Thank you. [Applause]

mayor, I just wanted to see if we could ask our technical staff if they could burn a for each of the families so they can at least kindread can watch it on and other family members. And just to follow up, kindread not only gave an amazing service and amazing family to the city of austin, but he gave the ultimate sacrifice. For those of you that don't know, is he one of a very few firefighters in austin, texas that has ever died in the line of duty. And after fighting a fire in east austin right across the street in martin middle school IN THE MID 70s, HE PASSED Away from a heart attack after walking out of that fire. So he gave the ultimate sacrifice and it's only appropriate that we honor him and recognize that sacrifice that he made. So thank you all. Thanks, mayor.

Mayor Wynn: Thank you, councilmember. Again, council, we have a motion and a second approving the consent agenda including item number 26, this fabulous project from our arts in public places program. Further comments on the consent agenda? Hearing none, all those in favor please say aye. Opposed? Motion passes 7-0. Congratulations. [Applause]

Mayor Wynn: So we'll let the room clear briefly, council. We have a handful of discussion items that we can take up before citizens communications and/or our lunch executive session break. Let's see. Try and be respectful of citizens times, we have a handful of folks here on the combined item 10 and 11. That being the vaught ranch service extension request. Without objection, we'll call it the combined item 10 and 11. I don't guess we need a staff presentation per se. What weigh might do is go ahead and take citizen testimony and see if we have questions of citizens and/or staff and perhaps take action. Again, we'll call up combined items 10 and 11. I believe the same folks have signed up to speak or a subset of folks signed up to speak on these two items. Let's confirm that quickly. [One moment, please, for

change in captioners]

carol, you will have up to 12 minutes if you need it.

Good morning, mayor and city councilmembers. I promise not to take 12 minutes. I'm here today on behalf of 2222 condos, which I think you all know is a coalition of neighborhood associations and homeowners associations along the 2222 corridor. We're here today to ask for your denial of items 10 and 11, the service extension request for water and wastewater for 6720 vaught ranch road. 2222'S two main purposes are to promote safety on 2222 and to protect the environment along the 2222 corridor. The proposed development has been of deep concern to cona since the site plan was filed over a year ago. It has been our contention throughout the site plan approval prois and the cer process that the owners were attempting to overdevelop the property and that they were soliciting the support of the city to do so in the form of service extension requests for water and wastewater. I'm not going to bore you with a lengthy history of this. We've talked to you. You've heard from us and you've heard from I assume a few maibz have sense you e-mails so I'm not going to go over the whole history of the situation. As you know, this is an property and it can be developed under e.t.j. Rules. And after we started opposing the cer's, the owners have gone to the county and applied for a septic permit which they did in late october. As of yesterday afternoon they were issued a permit; however, that septic permit was not exactly the same as what they had applied to the city for the scr's and when the county approved their septic permit application, the reviewer's comments were as follows quoting from jim fulton's letter of december 5th. It appears that your client is overbuilding on this tract of land. I would suggest that the development be scaled back or that your client seek approval from the city of austin for a service extension for both a water line and a sewer connection. The county's conclusion in looking at these septic application is that it was an attempt to overdevelop. As a result of the reviewer's comments, the uses for on owe that have been proposed were scaled back in order to meet the county's requirements and a septic permit was let yesterday afternoon. However, to get that septic permit they had to remove the restaurant uses back to basically a fast food service kind of a restaurant use and substitute retail uses in order to meet the septic system requirements. And getting a septic system permit, however, there is not space on the property for a full service well. They can put in a well which is non-potable only. The well that can fit on the property with the development and the septic field can only be used for fire suppression and flushing of toilets, etcetera. Any water for drinking, for hand washing, dish washing, etcetera, has to be trucked in. So that is the proposal that the owners have made to the county in order to get all their approvals is that they will truck in water. It is our belief that this is not a very reasonable set of services that they've cobbled together. While it is humanly possible for them to go forward with this project under those circumstances, we don't believe that it is a desirable outcome for them, and what we are hoping is that the city council will deny the ser's and that will provide an incentive to the property owners to talk to the neighbors about alternate uses which they have said they would not do unless the council turned down their ser's. What we would like to see the owners do is talk to the neighborhood representatives about alternate uses for the property which would not create environmental risks to west bull creek, which would not create traffic safety issues on 2222, which are two main concerns with the proposed development. We do recognize the owner's right to develop their property under the county e.t.j. rules. We're not opposed to development of the property. In fact, we look forward to working with the owners to put together a responsible project which we could support and

which we could come to you and support. The current proposal is not a responsible development and we are hopeful that the city council will exercise its discretionary powers here and not be an active participant and facilitate overdevelopment of this property. Approval of the ser's stay will guarantee a gas station will be put on this property, and that will cause an environmental threat to west bull creek and increased traffic safety issues. It opens up the possibility of uses and does increase the possibility to talk to the neighbors. So we want to thank you for your time and your support and we hope that you will join with the neighbors and the and the environmental community in supporting us on this and deny these ser's today. Thank you.

Mayor Wynn: Thank you. Let's see. It looks like mike hart wanted to give us testimony. Welcome, mr. hart. You too will have three minutes. Brad rockwell has joined us and he will follow you. Welcome.

Thank you, mayor and councilmembers. My name is mike hart. I own the property across the street from this site. And I believe that the proposed development is basically a bad use of the land and creates a hazard for other people using vaught ranch road, particularly, and want to encourage you to deny their application for the public good and encourage the property owners to do a more responsible, appropriate development of the land. We support development, but not bad development. Thank you.

Mayor Wynn: Thank you, mr. hart. Let's see. Brad rockwell? We'll show you as opposition, brad. Thank you. And dow gillett signed up wishing to give testimony. A number of folks signed up not wish to go speak in opposition. Those would be dale bula, robert andrews, norm donor, mike (indiscernible), ryan anatawy and (indiscernible). Welcome mr. gillett.

Thank you. For the record I'm dow gillett. I represent the landowner of the property at issue and we're seeking the granting of the request of the two. Er's. I think you all are aware of the project that's involved. It's a 6600 square foot mixed use facility that contains a service station component. I think that creates the issue in front of you based on what I've heard from the neighborhood. We agree wholeheartedly with the statements contained in your backup of the staff support for these ser's. Yesterday my clients did obtain the on-site septic permit and that permit will allow us to go forward in conjunction with the well and yes, we would have to haul in potable water for that. This is a feasible project and will go forward under county rules and under a state permit for the wells. If the ser's are granted, this will not increase the density of this project. The project is constrained by impervious cover limitations and natural topography constraints on it. It will provide -- the granting of the ser's will provide in our opinion a better infrastructure solution in that the providing of city services provides a better solution for this project. It will also, as you know, we're required to seek annexation with ser's and in that regard there would be ultimate land use authority over this project, which the city does not currently have. And further, there would be no cost involved to the city in that my client would pay all the costs associated with that. I'm serm aware because of where property is located it is certainly in your discretion and we ask you to exercise your discretion and we'll abide by the wishes of the council in so doing. I'd be happy to answer any questions and happy to pass out the permit -- I've passed it out yesterday to many of the councilmembers. Happy to pass that out if anybody has any questions about that.

Mayor Wynn: Thank you, mr. gillett. gillett, council? Thank you, sir.

Thank you.

Mayor Wynn: So council, I believe that concludes all of the citizen testimony on this combined item 10 and 11. Comments, questions of staff? I'm not sure if staff needs to comment on anything that we have heard or not. No? Thanks. Councilmember martinez.

Martinez: Thank you, mayor. I just want to make a couple of comments. This is for the project that's proposed. I just don't believe that this is an appropriate request that we should enable a gas station, especially on this particular tract. I drove out there last week and the topography from the back to the front to at least the street level -- I'm only guessing. I don't know what it is, but it was an incredibly steep grade. It had to be 30, maybe 25 feet. It was a pretty steep grade from back to front. It's on a curve on 2222, which is already dangerous enough, but what's ironic is in order for the property owner to get a well, which would be environmentally inferior to a water and wastewater line, we had to deny a service extension request. So I'm not happy about that, but I still will not be supporting the request and so I'm going to make a motion to deny the service extension request. To deny items 10 and 11.

So motion by councilmember martinez to deny combined item 10 and 11. Seconded by councilmember leffingwell. Further comment? Hearing none, all those in favor please say aye. Opposed? Motion to deny passes on a vote of seven to zero. Thank you all. So council, a few minutes before -- council, we can take up item number 25, which I pulled off the consent agenda as it relates to us choosing an architectural design team for the new central library project. And I think we had a citizen or two signed up to give us testimony. So perhaps we'll take a citizen comment and then we'll open it up for discussion and/or presentation by staff if need be. Let's see, is adrian neely here? I thought I saw him earlier. You will have three minutes. Welcome mr. neely.

Good morning, mayor and councilmembers. I'm adrian neely, chair of the mbe, wbe and small business advisory committee. And I wanted to particularly address council on item number 25 because it relates to the new central library project that's coming up for consideration. And I just wanted to encourage council, especially on this date, to vote in favor of the highest ranking firm recommended for this project because that firm has demonstrated an exceptional job in reaching out into the minority community as far as the participation on this project. And especially on this day, in reference to item number 60 on council's agenda, voting to move forward the mwbe program. Your consideration for the highest ranking firm on this project would send a strong message to the community that the council is -- city and council is committed to minority participation on city owned projects, and that's all I wanted to say today. And I appreciate the opportunity to address you along these lines.

Mayor Wynn: Thank you, mr. neely, for your service. So council, that's all the citizen sign-up we have on item number 25. As a point of privilege, because I wanted to discuss the project at length, i would like to turn the gavel over to mayor pro tem because ultimately I would like to later make a motion. If we could recognize the mayor pro tem.

McCracken: So any comments from council?

Mayor Wynn: If I can, thank you. [Laughter] never have done that before.

McCracken: Did I do that right? [Laughter]

Mayor Wynn: First and foremost, I wanted to set the stage a little bit. This is a really exciting project for the community. It's been an exciting one for me personally. Some of y'all probably remember that we had a big bond election back in 1998. At the time probably the bond election we had ever had until 2006. And there was real debate at that time of the desperate need for a new central library. Based on just the scale and scope of the library itself and the city. And it was a painful exercise and forced trade-offs as those votes and concepts always are when you try to craft the needs and the resources of the community. Vis-a-vis, the library specifically -- [buzzer sounds] I'm getting buzzed. [Laughter]

McCracken: Live by the sword, die by the sword.

Mayor Wynn: Now it's mr. neely's time. Regarding the library discussion, it was-- you could characterize it as the recognition that we at the time wanted to continue to grow the branch system, so sort of sadly it was either/or sort of the debate we had as a community, and i was involved because of -- because I was chairman of the downtown austin alliance at the time and we were really advocate for a new central library. And so the ultimate decision was made in 1998 was to table discussions about a new central library with the thought being that one day some day when we had the sort of financial wherewithal to offer another large general obligation bond package, we could include that. So in 1998 it wasn't included, and ultimately i supported that decision and voters luckily approved those projects and a number of those projects we're enjoying today as citizens. So as we call for the next general obligation bond election, we sort of made that call in january of '05, ultimately forming the citizen review committee, bond committee to help us analyze again the needs versus the resources, ultimate exercise and forced trade-offs once again. There was significant support for a large sum of money for a new central library. And through a lengthy probably 14 month community and council format, ultimately we proposed to the voters a single line item, a 90-million-dollar line item for a new central library. I campaigned hard for the overall bond package, but specifically for the need for that new central library. And I was really, really pleased with the voter turnout and ultimately the approval of all of those line items, but specifically that single item for our central library. There's complete recognition for the need for the facility, but there's also recognition of how important this project is going to be for the continued sort of revitalization and improvement of our urban fabric and specifically now with downtown and our urban core and just as importantly what we're doing near and along sort of the edge here of this part of downtown, particularly as it relates to lady bird lake and our hike and bike trail system, our plans to upgrade shoal creek finally, certainly the lower portion of shoal creek, the thousands of residents who will be living in and around the facility. Really pleased with the discussion we had about the site itself. Back in the day there was talk of having the central library here across the street on block 21. Once we bought that site sort of back from csc. Ultimately the decision was made to not put it on block 21, but that land sale of significant capital gains of \$15 million approximately allowed us to do something very important, which was to set aside two-thirds of that or about \$10 million into an escrow account, into an

interest bearing endowment if you will. That in addition to likely some private funds by our library foundation folks, we believe will satisfy what would be the incremental additional o and m cost for a new central library because we are also having that same debate about needs and resources even within the library department itself. We didn't want to necessarily build a brand new larger central library, and recognizing that clearly the o and m costs of the larger, better central library would exceed what we're spending now at John Henry Faulk, so we didn't want cannibalize that in no way will this new facility sort of harm the budget or the operations of the branch system. In fact, the conventional wisdom is it's going to dramatically improve the overall system, the trunk if you will of what is a large 20-facility branch library system. I'm also pleased that ultimately as we talked about the green water treatment plant, we now have sort of officially decommissioned that plant. There's fabulous plans to redevelop that facility to both help with mobility downtown by spending Nueces Street and West Second Street. Also bringing more vibrancy, more tax base by having all of that put back on the tax roll. Because there was talk about the central library being a part of that project perhaps, but clearly it wouldn't be taxable property. Ultimately the decision was made then to designate the site for a new central library just across Shoal Creek from the green water treatment plant, there along Cesar Chavez and Shoal Creek. So taking existing public property, existing land that's not on the tax roll, improving it dramatically. -- Dramatically. Actually we'll scale back the footprint of the substation or the switch station adjacent to the Seaholm power plant to free up what will be the site, very prominent site for a central library. So I can't tell you how rewarding this has been really for 10 years to remind my kids of a lesson of delayed gratification and keeping after something and ultimately having, I think, a better site, better surrounding land uses, a better budget, good answer to not cannibalize any other part of the library system. And of course, ultimately voter and taxpayer approval of what's going to be a big, but important expenditure. So I just want to set the stage on just how important this is, how positive this is. Having said that, we now have the difficult decision of choosing a design team. Just like the 2000 decision on choosing the architecture design team for this building, it's a difficult choice. The really good news is that I think the architectural community recognizing much of what I just laid out as far as the prominence of this facility, the opportunity that this is, really a once in a generation opportunity, how remarkable is the site, that we were able to attract a remarkable pool of talent to propose their services and their joint venture services for this really important facility. Technically we have three I guess you would call them finalists here before us, but even prior to that the initial -- the initial list of architecture teams was dramatic and it was remarkably positive and very, very encouraging to see that kind of design and engineering talent step forward to want to help us deliver on this long-standing promise and opportunity. And some of you probably know my degree and background is in architecture. I have spoken frequently about Austin's urban fabric and frankly how at times it seems we have failed from an aesthetic standpoint, particularly here in the core of our city, but the improvements that have been made over the last decade are very, very encouraging. I'm really pleased with, I think, the vision. We fast forward 10, 15 years from now looking back at what all is being accomplished from an aesthetic standpoint, design standpoint, from the urban standpoint, the street scape, pieces of architecture, I think we will be very pleased with ourselves over this generation or so when we look at what ultimately we've accomplished. So having -- again, having said that, we have the difficult decision and technically we have three posted teams, the Barnes joint venture team, the Page Southerland Page JV team and the Flato joint venture team. All three remarkable officials, remarkable design talent. Great perspectives on things like material science to and through

sustainability. And it is with all due respect and admiration for frankly friends of mine on all teams, ladies and gentlemen, that I have admired my working career here in austin, I would like to move that we choose the lake flato joint venture team as the architect for the central library.

McCracken: So we have a motion from the mayor, and seconded from councilmember leffingwell. Any further comments? All in favor? I'm sorry, councilmember shade.

Shade: I just want to make a comment to echo something that was just said, which is all the improvements that have been made in recent years to this core part of our community especially. And note that the fingerprints of all three of the applicants are all over our central area. I mean, the work of all of these incredible firms. And I also just want to say this was for me personally being new on the council, i think so far we've had some hard issues, but this may mighthave been the toughest decision for me. I just want to say how I'm very excited about this project too, but it's bittersweet because we can't say yes to all three of the firms.

McCracken: Martinez.

Martinez: I do want to speak specifically to the minority participation within the project. When you look at the three firms, I think on par we're going to get a great project, regardless of which firm. Bgk obviously came in number one and with staff recommendation I think they would have done a fabulous job, but I would like to note that their minority participation was also the highest rated of all three submitted. So while I will support the motion, I think lake flato will also do a fine job, i would like to suggest to them that they do everything they can to improve their minority participation. And do as much outreach as possible to exceeding what bgk was able to present to us as a council. Because I do think it's critically important to city projects that we reach out to folks and that everyone have an opportunity to participate. So I'll be supporting the motion, but I do share concerns that the minority participation level of lake flato is not on par with the other two submittals. Thank you.

McCracken: Councilmember cole.

Cole: I'd like to echo what councilmember martinez has just mentioned about the concern with the minority participation, but I will be supporting the motion and i would like to encourage lake flato to reach out to minority community. And I also want to thank the many comments that we had on this very difficult decision. It really did make a difference to hear from the citizens and to contemplate what experience the various firms had with austin issues. And we continue to look to you for guidance. Thank you.

McCracken: Councilmember morrison.

Morrison: So I'll echo also that it has been a very difficult decision and somewhat of a long process I'm sure for a lot of people. I took the opportunity to read the public comments, listen to the pension prosecutes and also read all the proposals that the finalist had submitted. And as I read through those, it really reinforced for me a couple of things first that we're going to get a great project from all of the folks

in terms of design and sustainability. But also it reinforced for me the evaluation and results that the staff came up with because in order to have a successful project, i believe we need to have not only a terrific iconic building in the end that functions in a terrific way, but there are a lot of other issues that go along with it that I think I in the end agree with the way they ended up laying out in terms of how important public process is and flexibility and understanding the way the austin community works. Of course, as has already been mentioned, minority participation is extremely important in terms of building a strong community and a strong project. And really the icing on the cake for me, what really pulls it all together is a very strong record with the city of austin on other projects for on time and on budget performance. And considering all those things, I really ended up with a strong sense that the staff recommendation of barnes, etcetera, was the appropriate choice for the city of austin. So with all due respect i won't be supporting this motion.

McCracken: Any further -- yes, city manager.

Ott: If I might. Obviously to get to this point involved a lot of hard work by city staff. I see them standing out there, my assistant city manager was a leader in all of this. There are members of the procurement staff out there too. With your permission I would ask them to stand and just be recognized for what i think has been a tremendous effort on your part, simply one of publicly want to thank you for all of your efforts. [Applause]

Mayor Wynn: One last comment, mayor pro tem. So technically what we're doing, of course, is authorizing negotiation and execution of a professional services agreement, and I'd like to echo some comments from councilmember martinez and cole specifically that i think the prediction was that it might take several months to ultimately negotiate and execute this contract. I think I heard the months of april or may even suggested as likely execution. I think that would allow the team hopefully ample opportunity to work diligently towards the minority participation goals. Thank you.

McCracken: Yes, councilmember leffingwell.

Leffingwell: I just want to echo some previous comments. I also think that all of the firms in the final round were very well qualified. All could have done a very good job in designing our new library. And I also very much respect the staff's analysis, the process they went through to make their recommendation. In the end, though, it's our stition to make and unfortunately we couldn't pick all three, so we picked one. So I'm proud to support obviously I seconded the motion and I'll support it also.

McCracken: Further comments from council? Then all those in favor, say aye? Against say nay. The vote passes on a vote of six to one with councilmember morrison voting no.

Mayor Wynn: Thank you, mayor pro tem. Without objection, I'll take the gavel back. So council, we have 12 minutes before we go to our citizen communication. Our discussion items remaining are our items from council-- item number 32 we had taken off the consent agenda for a brief staff presentation. This regards the rocha lawsuit. We of course had lengthy -- we've had several, but we've had lengthy appropriate executive session at our last meeting to talk about all the legal issues regarding and we

have now posted for action a settlement. We would appreciate a brief staff presentation. Thank you.

Thank you, council. My name is fred hawkins. I'm with the law department. I'm here today to recommend a settlement in a lawsuit brought by daniela rocha mother and representative of the state of daniel rocha and gerardo rocha, his father versus the city of austin, julie schroeder and don doyle. We recommend the settlement of one million dollars. As you recall, this event occurred in june of 2005. Officer schroeder was part of an undercover street crimes unit investigating narcotic trafficking. A suspect vehicle was stopped and daniel rocha tried to flee out of the back seat. He struggled with sergeant doyle and officer schroeder. During the struggle officer schroeder's taser and other equipment ended up on the ground. Believing that daniel rocha had obtained her taser, officer schroeder drew her weapon and shot daniel rocha. rocha died from this injury. Daniel rocha did not have her taser or gun of any kind. Officer schroeder was terminated after an investigation of this incident. Later an arbitrator upheld her termination. Daniel rocha's family members filed suit in january of 2006. They are represented by bobby taylor. With the court's encouragement, the parties engaged in protracted settlement negotiations. We have discussed the lawsuit with you in executive session, the law and the facts of this case and we went over everything that was involved. Again, we recommend that we settle this case for one million dollars and I am happy to answer any questions.

Mayor Wynn: Thank you. Questions of staff? Comments? Chief, did you have anything to add?

The austin police department, mayor and council, we support the recommendation and concur with the recommendation as well.

Mayor Wynn: Questions or comments? Hearing none, I'll entertain a motion on this proposed settlement, item number 32. Motion by councilmember martinez, seconded by councilmember leffingwell to approve this item as presented by staff, item 32. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of seven to zero. Council, my recommendation now -- thank you, mr. hawkins and chief. My recommendation is we have a couple of items to take up in closed session, but they will be relatively lengthy. And our one discussion item regarding the site plan extension that I don't think we're going in closed session on I think will take longer than the 10 minutes we have here, so without objection why don't we recess this meeting of the austin city council for 10 minutes. We'll reconvene right at noon for our general citizen communication. Thank you. We're now in a 10-minute recess.

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 in recess for 10 minutes or so waiting for our noontime certain citizens communication. We'll take up those 10 speakers now. Our first speaker signed up is michael bruce shaw. Michael bruce shaw signed up wishing to speak to us. As did richard troxell. I saw richard earlier. Richard, welcome. Why don't you go ahead and start and we'll see if michael shows up. You will have three minutes to be followed by carol anne rose kennedy.

Thank you. Greetings, mr. mayor. I'm richard troxell, president of house the homeless. This is arnold here with me here today. I've got a picture here of the homeless memorial for those of you that weren't

able to attend on november the 16th. We met again in the auditorium shores and read the names of the homeless men and women who have died during the past year. If you look at the tree you can see that there are ribbons and the names on the tree. We planted that tree in 1993. It has since grown. It's beautiful. But on the tree are the names of the people we've lost. Last year we had 93 names. We thought we would never reach that level. This year we reached 135 people. These are our brothers and sisters. This is a cold weather story. We are working diligently to raise money now. With me today here is homey. If we can get homey up here in front -- get him right up there. This is homey. We're trying to put thermal wurnd wear on folks that are experiencing homelessness. Homey is wearing his thermal top and his bottom, and for a 10-dollar contribution you can go ahead and outfit homey or a homeless person. You can see the hat, the scarf, the gloves and socks. You can do that for \$25. We're asking every citizen in austin to contribute to help us save a life, protect the people that -- the least of us on the streets of austin. I just got an e-mail this morning. It's going down to 34 degrees, probably drop to freezing, but shelters are not having freeze night tonight because it's 34, not 32. What does that mean? That means that we have about 600 emergency shelter beds for every man, woman and child. And we by last year's count have about four thousand people experiencing homelessness in our city. This alone is a tragedy, something we're working on diligently. The community action network, the social service arm of the city council. But until we solve this problem, people are still out on the street of austin. We're asking you to get your pen and pencil out, write box 2312 right here, austin, texas, 78768. Go ahead and send it to house the homeless. Write a check. Please be generous. Realize that while homey here is just a man kin, he represents a man, woman, child, someone's sister, brother or son who is homeless experiencing this tough winter this year. Thank you very much.

Mayor Wynn: Thank you, mr. troxell. I would encourage folks to contribute. My kids and I do that each year. We take multiples of 10 or \$25 and my kids feel really good about that contribution each year. Thanks for reminding us.

Thank you, so much, mr. mayor, councilmembers.

Mayor Wynn: Carol anne rose kennedy signed up. Welcome back. You will be followed by howard kells.

Welcome back, council. I changed the name of a song, but the subject matter is the same as the first nohell. Black christmas. ?? I'm dreaming of a black christmas. Just like the ones you've never known ?? ?? Where the black girls glisten and the white boys listen while building a big man out of snow ?? ?? May your christmas be married and right and may all your snowflakes remain white ?? ?? I'm scheming of a brown christmas. Just like the ones you've never seen ?? ?? When we work together and play with whomever, we keep our homeland so serene ?? Ho ho ho ho. ?? May your christmas be merry and bright, and may all your snowflakes remain white ?? Thank you.

Mayor Wynn: Thank you. Let's see. Our next speaker, unless michael bruce shaw showed up, we called his name earlier. The next speaker then is howard kells. Welcome. You too will have three minutes to be followed by francoise luca.

Thank you, mayor. I appreciate the opportunity. I'm here to talk about the austin energy project, chilled

water line that's in front of our restaurant, dona emilias' latin cafe. Austin is a lot about compatible uses. And having a mining operation, essentially what this is is a 500-foot tunnel five feet from a restaurant is not really a compatible use. One of the things that would help is if we had received some notice. We had about four days' in the from when the original project was started, and it was delayed I guess two weeks for I'm not sure the reason. You know, one of the things we noticed we could get in the process and be involved, and I think that's something that, you know, is fair for people that are affected. Our livelihood and our 40 employers are probably going to be victims, and it happens when you have a quasi governmental entity like austin energy that teams up with a private interest. This project is to serve one utility user. And in the interest of small business and private individuals get quawshed under that team. I had hoped that I could receive the contracts. I asked under the public information act to receive the contracts. I was denied because of competitive reasons. They said they would have to send it to the attorney general. I wrote back the city attorney and said please, you know, strike out any mention of the rates that you're charging, but I would like to see the contracts because there were different dates proposed on when the contract had to be done by the developer and austin energy. The sound ordinance. The sound ordinance is a lot different than -- I've gotten to be a little bit of an expert on sound when somebody operates a business or a mining operation next to your restaurant. State law as has a performance standard that says 85 standards is unreasonable. Austin ordinance is 85-decibels unreasonable after 7:00 p.m. to 7:00 a.m. In the morning. And it prohibit certain things like digging and hauling dirt and basically that's what they're doing is they're taking a crane and lifting dirt up next to our restaurant. And it's really to protect the hotels, which are 300 feet away and my little radio shack decibel reader, I went and measured it and there's really no difference in the background noise 300 feet away. If the sound noise could be mod fight to when businesses aren't operating it would make life better for everybody. Green construction. You know, austin energy has done a great job of being green, but when you look at their construction site, it's not very green. [Buzzer sounds] when the texas commission on environmental equality tells them that they have to control the sand blowing off their site, and they tell me well, sand is blowing everywhere in austin and dust is blowing everywhere in austin, that's a fact of life. But I don't think that that's adequate answer. Signs. If you're going to -- my mom told me to make a -- try to make something good out of a bad situation, so I asked for some signage on the construction project. And austin energy went to the sign people and naturally they said no because off premise signs aren't allowed, but I think right-of-way can approve that and I would ask for some help there. I'd like to be proven wrong, but no business can stand five months of a mining operation next to them. It's just not possible. It's not conducive to what we're trying to provide in a good atmosphere, a pleasant dining experience is not next to a mining operation. So if you give people notice and take the macro view of green construction to the construction site, you might have a chance because we're not trying to stop process, we just don't want to be the victim of it. Is there any questions I can answer? My time is up?

Mayor Wynn: Your time is up. I wanted to make sure you had a chance to conclude. I had asked a series of question and staff has now presented me with a detailed coniology and time line that -- chronology and time line that I'll delve into and I'll certainly be as encouraging as I can be on all of the sort of peripheral, sort of marginal things that might can be done to improve the situation down there. Fundamentally the project is very important for us long-term on several fronts. This is our district chilled water system of we've invested about \$81 million with the two facilities, one at fifth and red river and one

over here at third and nueces. We've built about 40,000 lineal feet now of underground piping to carry the chilled water to and from projects. We probably have about eight million square feet tapped into that line. Our goal is to have 20 million. We have 20 million square feet full of capacity of cooling capacity. It's an every sort of other way, it's far and away the right thing to do, from an environmental standpoint, from managing utility, peak load demand for air conditioning in the middle of the afternoon, but it's really discouraging to hear sort of horror stories when you're doing everything else for a good reasons and doing the right project at the right time that's going to help the long-term tax base and viability of the city, both the utility and the city frankly. To hear the horror stories that occur. And I promise you, howard, I'll do what I can to help on the margins, but there is the fundamental issue of ultimately trying to figure out when and how to dig and haul and pour dirt and concrete and gravel and piping and that kind of stuff. I hope that we can somehow try to apiece the situation a little bit.

Well, I think giving people notice to let them know that there's a mining project going to happen in their front yard. Modifying the sound ordinance to make it a totally performance base and not sort of activity based, and make it 24 hours because anything 85-decibels -- and there are -- austin energy are a smart bunch of folks and they can come up with ways -- I have permanent experience of lifting things electrical. We used to lift tons in the erwin center electrically and other venues for concerts, generators. There's generators that can be right here that are quiet, that are made for film and television. So there are a lot of things you can do and you can help businesses out by providing signage. So those are some of the things that, you know, that y'all have the power on to try to help businesses that are affected like this.

Mayor Wynn: Thank you, howard. We will do that. Thank you, sir. Our next speaker is francoise luca. You will be followed by william facer.

Good afternoon, mayor and cowbsz. I'm with gracey woods neighborhood association. I'm here to talk about the health district's new north central clinic. This issue boils down to three basic questions. A moral decision on what to do for the indigent families of our city. A business decision, where to locate a major public health facility that will affect the quality of health care delivery and operations for the next 40 years. And a political decision on how to best represent the voices of the voters and taxpayers of this city. Let's focus on the business decision. There are usually three criteria that drive where to locate a business or a clinic, which are, one, locate it in an area where it will best serve your customers or patients. Or find a location that will serve the future needs of your customers or patients. Or that the location doesn't matter because your business is virtual or non-customer facing. The braker lane site does not meet any of these three criteria. It does not serve those who need it now. City growth studies show that this site will not serve the future needs of our indigent families either. And most importantly, the location of this clinic does matter since this is a critical patient basing operation. I'm asking you again to I am panel a citizen's taskforce on public health to review, steer and validate the locations of all of our clinics and to ensure that we achieve the highest level of public health service delivery possible in this city. Currently there are 80,000 patients enrolled in services through the map program. However, the community health clinics can only serve 50,000 of those patients. What we need to do now is to keep all of our clinics open, especially the northeast clinic. We need to add multiple neighborhood clinics and most importantly we need to hire more doctors and staff to deliver health care services.

Please allow the voice of the community to be heard through a citizen's taskforce on public health.
Thank you.

Mayor Wynn: Thank you. Our next speaker is William Frasier. Welcome. You too will have three minutes, to be followed by Walt Esquivel. Before I start I'd like to thank Donna Bowers, Mindy Marshall, Glen Coleman, Sarah Hielman. I'm here today to talk to you about Auditorium Shores. My name is Bill Frasier. I'm a resident of Austin. I'm a dog owner and I'm the guy who flagged Auditorium Shores for the dog waste. I'm here to call on the council to move forward on the Auditorium Shores makeover. It's my understanding it's a part of the Edau plan. I'm asking that you make this plan a priority in 2009, but I'm also requesting that this new plan include significant improvements as it relates to the use of dogs over there as a free roam and off leash park. At hand is the concept for making the park the model for how we blend pedestrian traffic, runners, cyclists, walkers and tourists with dogs at play. My goal is to develop a park where all the stakeholders can interact in a safe and healthy environment when dogs are at play. In addition, there are a growing number of stakeholders standing behind me that are willing to get involved to help us accomplish this plan. You all should have a handout that I've given you, and it will help kind of put together conceptually what I'm going to allude to here. The park has evolved to an off-leash area over the years and it's done so with the transition of urban living in and around downtown. From sunup to well past sundown, dogs and their owners make their trek to Auditorium Shores. The park has become the preferred location for folks to exercise their dogs. Yet as the park stands today, all 82 acres, dogs related elements necessary for a safe and healthy environment are either limited, illogical or absent. There are no posted free roam, off leash rules in the park for the public to observe. There are only three related dog signs in the park, and they're either not relevant or poorly positioned. And the facility stands and trash cans are too few and illogically positioned. And there are no signs informing the public on the trail that there are dogs running free. Mayor, I see you run regularly so I know you've got to have observed the safety issues over there. The park -- this park and all parks should have a clear message for what the rules are for when dogs are off leash and the park should have clear messages to the runners, cyclists, walkers and tourists that there are dogs loose on the trail. Auditorium Shores in its makeover presents a unique opportunity for us to create the model that we can use to roll out to the other city parks. From what we learn over here. I'm proposing we establish park messaging for both the dog owners and the general public. We equip the park adequately and we maintain the free roam off leash park. Thanks for your time. And I want to ask how can I get involved?

Mayor Wynn: Thank you, Mr. Frasier. Very impressive material up here as well. Our next speaker is Walt Esquivel. Welcome. You will have three minutes to be followed by Linda Messier.

Thank you, Mayor, Council. I agree and second Francoise's request for a public taskforce with regard to the Travis County Health Care District. I'm here representing North Park Estates Neighborhood Association in North Austin, specifically where the Travis County Health Care District is proposing to build an Inda Jept clinic at 1210 West Braker Lane in opposition to the community's needs from where I see it. I'd like to start with a quick overview of some information that I have been made aware of, and it's a call for nominations to the Travis County Health Care District Board of Managers. Travis County is seeking candidates to serve on the board of managers of the Travis County Health Care District. The Health Care District was created by an affirmative vote of Travis County voters on May 15th, 2004, which I also voted

and supported for its creation. Four positions are appointed by Travis County, four by the City of Austin, and a consensus candidate is jointly appointed by the Commissioners Court and Austin City Council. The district is intended to promote transparency and accountability to the public in the provision of health care. The reason that I'm here before you is that I don't believe there is enough transparency and accountability at the Travis County Health Care District unfortunately. I support the district's mission to provide health care for the community, particularly the indigent, something that is very much needed, but unfortunately I do not believe there is enough transparency and accountability there at the district. It says here in the call for nominations that the Travis County Commissioners Court seeks individuals to represent all the stakeholders of the county and that the court's goal is to achieve geographic, geographic and constituent diversity on the board in order to reflect the overall diversity of the county. Under nomination forms and guidelines, it further states that Travis County is seeking to name an appointee to serve one unexpired term, which is approximately two years, and that the term will conclude December 31st, 2010, AND That the county is also seeking a candidate who may serve as the consensus appointee for Travis County and the City of Austin. So from that information it appears that the city would be working with the county in appointing that co-appointee. And I look forward to hearing who those nominees may be at the appropriate time. Expertise in the following areas may be useful to the organization. Again, this is from the call for nominations. Experience working with neighborhood associations and/or community residents. I'd like to point out that the district did apologize to the neighborhoods in North Austin for not knowing that the neighborhood associations existed up there when they made the decision to put the clinic there. [Buzzer sounds] Mayor, I need about one more minute to wrap up.

Mayor Wynn: Fair enough.

Thank you. Further expertise, community needs. I don't believe that the community really has been approached by the health care district in terms of the community's needs. Closing the clinic in northeast Austin at the corner of 183 and Manor or Springdale Road is going to leave a gaping hole in the community's needs for health care in that area. I don't believe that northeast Austin has been well represented in this process. And again under qualifications, experience working with neighborhood associations and/or community residents. The other item under qualification I wanted to point out to the council is that it states capable of dedicating significant time to service on the board. I've attended several board of manager's meetings and I've noticed that unfortunately some of the board members are habitually absent. They are volunteers just like I am as president of my neighborhood association, but when you look at this co-appointee and future appointees to the board, I would hope that you ask whether or not they're willing and capable of dedicating the significant time that it requires. In closing, council, I hope that you will take item 70 seriously under consideration and that you vote for it. I know that it was moved from the agenda, the consent agenda, and I'm under the impression it's going to be under executive session, so I hope that you look at item 70 and approve it. Thank you very much.

Mayor Wynn: Thank you. Councilmember Morrison, yes.

Morrison: I'm not sure if we have staff here today to answer this question, but I wonder if we could talk about what our process is for identifying candidates either for the positions that we might have in the

future for appointments and for the consensus appointments, and just how that whole process works. I'm in the sure if it all works through your office or how that goes.

Mayor Wynn: Good question. I think this would only be our sort of second rotation -- first rotation of those board members. I believe last time as we created the initial board, it was just the -- sort of this ad hoc format for us to come up with some names. I do agree that I think we need to have a structured ability for input and analysis and public scrutiny before we make that appointment.

Mayor?

Leffingwell: I was involved in the last selection that council made and it was basically under the purview of our public health and humane society subcommittee that that nomination was made, just for information. I don't know if that has a history previous to that, but on the last one that we made that's the way it was done.

Mayor Wynn: Thank you, councilmember. I believe linda messier wanted to also give us -- am I pronouncing that right?

You are right on target. Thank you.

Mayor Wynn: You will be followed by robert thomas.

Mayor, councilmembers. I'm here again to speak to you in regard to the travis county health care district. And my opposition to the rezoning of 1210 west braker lane. Over the past six months the neighborhood associations of north austin have been in the discovery mode with focus on facts concerning this zoning case. Why in particular was this site chosen? We were told that this is a first project that tchd has attempted to build a clinic instead of rent space. We were told that tchd is inexperienced this this process. Does that mean we give them a free pass for their inexperience? As a neighborhood association, this is our first endeavor to pursue a zoning case in opposition like this. We don't get any free passes. Tchd hired consultants, a lobbying fur, zoning site specifics and a traffic consultant civil engineering, etcetera. The facts they presented last night at a board of managers meeting demonstrated that any building could be built on this site, not specifically a health clinic. The traffic study did not take into consideration staff trips. Its 200 trips per day. If you have 150 staff on site there, they're going in and coming out, that's an additional 300 trips that were not taken into consideration. Nor were any alternate routes other than entry points shown on the rendering taken into consideration. Personally it made me wonder and others about the expert's credibility and the answers he gave. It appeared that on some answers he was just pulling it out of the air. We learned about organizational structure, chain of command, management styles, internal relationships and the biggest question, who is protecting who. Identified who is an appointee and who is elected as far as tchd executive management, board of managers, and county commissioners. I tell you hire today and something you already know, but I'd like to remind, trust is the glue in any organization. Tch d's actions attitude has severely damaged their credibility with taxpayers and credit 17s. Citizens had to submit open records requests in order to obtain factual information. I ask you why is this so? Discovery has

shed light on how a zoning case by one governmental entity who is about to inherent more health care resources in early '09 boiled down to a taxation without representation issue. Tax paying voters demand transparency in government. Good old boys network that we've discovered here is not the political process. Tchd finds someone to make up the rules to help them get their way. Mayor, I just need a few more seconds. Accountability is something we ask for. We ask for containment of this entity until procedures can be in place in how this organization functions. Taxpayers are educating themselves on the inner workings of our state government in order to find a legislator who will represent the people. On the issues of taxation without representation. We'd like to see the current process of tchd ficialgz being appointed versus having them elected. I trust that the city councilmembers will demonstrate moral courage in requesting that the right process be adhered to as this project moves forward. Your moral courage is very important to tax paying voters and to our city. It's the right thing to do and it's good for this city. I thank you for your time. And I too would like to see item 70 approved.

Mayor Wynn: Thank you. Robert thomas also wanted to give us testimony. Welcome back, mr. thomas. You will be followed by colin clark.

Thank you, mayor wynn and mayor pro tem and honorable members of the council. I'm indeed honored to speak with you today in concern of la industrial relations at the rosewood park and recreation center as it is -- it has been a very, very expensive project and it took many years of consideration and labor leadership in order to bring forth the productivity that there is today. Now, I was -- I spent many years in the labor union before they declined and during the span of about 22 years I was given to be the advisory council for the international (indiscernible). And we had brought in developmental interests to minority business affairs and to minority contractors, and we had the contractors that brought on the millennium youth entertainment center and the east side football field for the international football league. It was many years ago. But what I'm concerned with now today, mayor and council, is about fair labor practices at rosewood. For many years there's been so much maltreatment against our coalition of athletes we had no position to have employment, and they promised to give us employment upon the experience we had in developing properties around there. Many years have passed and they've breached the agreements in the contracts and we've brought on two grievances and appeals for better labor management. Now, what I've -- in previous years I had met with chief mike mcdonald and I had spoken that it would be within the time when the bond would come productive that we would find seasonal labor. And that has not come about. The bonds have become very, very (indiscernible) and we all voted for. But nothing came before -- such as the millennium and the east side football field. All this enhanced the central unit at rosewood. What is before us now is an impasse that I can't settle without you. I need a meeting with your management at city hall about the parkland and we need a new constructive medina county at the park (indiscernible) because what was blighted as slum and mediation at rosewood we brought new administration on (indiscernible) from the national football league. It looks good, looks productive. Looks like the kids will have a new quality of life. There won't be so many games. It will give them better goals. [Buzzer sounds] we need you to work very, very closely with us now so we can organize and bring some type of productive, keep going progress there. So if I could get a meeting with perhaps the manager of the city hall about the parks, then we can go on with what we've got for next year.

Mayor Wynn: Thank you, mr. thomas. thomas, we would be happy to meet with you. My assistant is raising his hand back there. His name is rolando fernandez. If you spi with him, he will work with you to make the arrangements.

All right. Thank you.

Mayor Wynn: Our final speaker is colin clark. Welcome back, mr. clark.

Thank you, good afternoon, mayor, city manager, members of council. I'm colin clark with save our springs alliance. I would first like to invite the council and the public at large to join us at barton springs pool on new year's day for the annual polar bear plunge. I'm here to talk about water treatment plant four and conservation. This morning you should have received an e-mail from a number of groups, including the austin regional group of the sierra club, clean water action, don't empty lake travis association, environment texas, hill country alliance, the lone star chapter of the sierra club, national wide life federation and save our springs alliance. In this letter we're asking the city to take steps now to stop spending millions of dollars on design, plan, construction of water treatment plant four and its transmission mains until the city's new comprehensive plan update has taken place. And in fact, the city charter does speak to requiring that water planning go into comprehensive planning, which makes sense. So again, we're asking you to stop spending millions of dollars on planning, designing and building a hugely expensive and unnecessary piece of infrastructure that austin ratepayers would have to pay back. How could all of these leading conservation groups in austin come to the conclusion that we don't need to build this 400, 500-million-dollar treatment plant? It comes from the city's own numbers. The chart you have in front of you is something that's included in the city's billing that residents get. And this says that the biggest chunk of summer water use is water wasters water use. That's what you're telling the ratepayers through their bills, that this huge spike we have in summer water use is from wasting water. And that's accurate. Could you show the next chart? On this chart, which I will hand to you along with a copy of the letter, we took the city's data showing projected peak day water use, the days of the summer when we use the most water, and if -- going back to what I mentioned a couple of weeks ago, if you start from our very successful 2008 summer, which was very hot, very dry, and if you just trend out the projected annual increase, it shows we do not need more water treatment capacity for peak day use until about 2024. Not 2014 or 2016 as the utility has been maintaining. So we would ask that you slow down and not in debt the city to the tune of hundreds of millions of dollars because once you issue that debt, we become at cross purposes with conservation because to pay the debt back we have to sell water water. So let's conserve first and please save ratepayers money and we can focus on conservation. [Buzzer sounds] thank you for your time.

Mayor Wynn: Thank you, mr. clark. Council, that concludes --

point of order.

That concludes our citizen testimony for this session of citizen communication. Council, we have a request by a councilmember that i would like to try to help with. On item number -- one of our several discussion items that we still have, one of which is item number 71 regarding essentially the bfi landfill. I

believe we'll hear in a couple of minutes when i announce we'll go into executive session to take up that item, we have a bunch of folks that wanted to give us testimony about that. There's no way to predict when we will take that up in the afternoon, but apparently one of them have had to leave to go back to houston here shortly. So without objection, i thought what we could do is go ahead and take a brief amount of sit sin testimony, jim blackburn, so he can return to houston. We'll limit it to blackburn and we'll go into closed session and at some point in the afternoon come back and take up that item. So without objection, is mr. blackburn here? Would you like to come forward?

Thank you, mayor, council, managers, city attorney. I'm jim blackburn. I am from houston. I do appreciate you taking the matter up and allowing me to return. I'm an environmental lawyer and I represent the northeast neighbors coalition in opposition to the bfi landfill. And I'm here in support -- speaking in support of resolution number 71, which I believe you will take up later today. I would urge you that this is an important matter in several respects. It sets city of austin policy with regard to landfills, I think. I think that it's a question of who sets policy of the city of austin with regard to land use. And I think who has authority to settle litigation. All are embraced in this resolution number 71. I'm not here to talk about the merits, although I'll be happy to if anyone has questions. I'm here to talk about process. I think at best this was handled poorly. I think at worst it's not a legal agreement. And it should be overturned. Frankly in my career I've been involved in environmental law and involved in opposition like this for every 30 years. And I've never seen anything quite like this situation, which is something simply racial with regard to neighborhoods and their opposition to the bfi landfill if nothing else. A short history if I may. I think I have a little bit of time that's been given to me and I'll try to be very quick.

Mayor Wynn: How much time do you think you need?

I think six minutes would be total, would be fine. I'll try to be quicker.

Mayor Wynn: We would appreciate that. Thank you.

We are opposed to the landfill. We asked for help from the city of austin. A resolution was passed by the city in opposition to the landfill. The city got party status and they agreed in a june third meeting of the protesting parties that they would take the lead in the land use opposition and would provide expert testimony regarding the land use issues, which are among the most important issues in this case. On june 27th, the city filed with the hearing judge, administrative law judge newchurch an intention of supporting or providing expert testimony on land use. And as of october 13th when we had a strategy meeting, even though we had been informed that there were discussions that were going on, the city indicated again in a private strategy meeting that they would -- were still intended to submit land use expert testimony in opposition to the landfill. We found out the week of october 20th that there were negotiations that were getting more serious. We had members of nnc call city council members and to find out if there's any seriousness to the negotiations. We were informed that at least the councilmembers that were contacted had no knowledge of a negotiation or agreement being finalized. And now sort of the worst of it, ON OCTOBER 31st, 30 in the afternoon, our office in houston gets a fax from the attorney for bfi with the filing that has just been made with the administrative law judge that puts the agreement between the city into the record. It doesn't take a general just to figure -- genius to

figure out that it would have been nice to hear from the city of austin that they had in fact settled this case. To find out from b.f.i. 30 in the afternoon on friday -- by the way, this is on friday before prefile testimony is due the following weekend. Following -- following wednesday on all experts, on all testimony by protest ants. It's about as bad as it gets. The city then added insult to injure by agreeing in the rule 11 agreement to support the landfill. Not only did we not have testimony on behalf of the city, the city actually filed testimony in support of the rule 11 agreement, which essentially allows the landfill to go forward. Now, I'm here to ask you to do something about this situation. I think in my limited understanding of municipal law the city council has a role on policies like this. City council passed a resolution in opposition. City council did not agree to this settlement. It's a bad deal, but more importantly, it's bad doll in the way that it was handled. It was as bad as anything I've seen. I've been involved in this business for 30 years. I have settled a lot of cases. I have won my share and I've lost my share. I know when someone is trying to communicate with me, and the city of austin was not. So I ask you to do what you need to do to take control of this situation, which frankly I think has been poorly handled and is out of hand. You have the opportunity to set this situation right. There are ways that we can repair the damage and I'll be happy to work with the city of austin to try to repair the damage, but frankly, you need to act quickly in my opinion and you need to act to set the record straight, to set council's policy on this matter. And then to have that correctly put before the tceq's administrative hearing judge. Thank you for listening to me and for giving me a special consideration. I'd be happy to answer any questions that I could. I want to conclude my simply saying this is unlike anything I have run across in 30 years of practice. It's not a good deal. [Applause]

Mayor Wynn: Thank you, mr. blackburn. blackburn, council? If not, just recognize we do have a few dozen other folks who would like to give us testimony, so when -- we do need some executive session, legal advice on this issue, and we will take up the item sometime middle to late afternoon.

I will be leaving. I will be around for a short while if anyone has questions. I'll try to do my best. And I can be reached by phone on the way back to houston. Thank you very much for listening to me.

Mayor Wynn: Thank you, mr. back burn. So council, without objection, we will now go into closed session pursuant 071 of the open meetings act to take up potentially item number 70 regarding intergovernmental development agreements, item 71 regarding this b.f.i. Landfill issue. Item 76, legal issues regarding the consolidation of the public safety and emergency management law enforcement officers into the austin police department. We may also take up pursuant 076 of the open meetings act item 75, discuss matters related to austin energy's generation resource plan. We are now in executive session. I happy this executive session -- I anticipate this executive session lasting a couple of hours and likely not have action items until or so. Thank you. We're now in closed session.

Mayor Wynn: Item 71, we have two items from council that we will act on early this afternoon or early evening. We also took up item number 76, legal issues regarding the consolidation of our psem law enforcement officers into a.p.d. We also took up item 75 regarding austin energy's generation resource plan. No decisions were made. Now back in open session, obviously running well behind this afternoon. I think while staff prepares a couple of things for potential action here later, 00 bond sale. I see our team

is with us, so I would appreciate a brief staff presentation on our action today. Welcome.

Good afternoon, mayor, council, my name is chris allen, financial advisor to the city. We are here today to seek your approval on a parameters ordinance for the issuance of an amount not to exceed 175 million of the water and wastewater system revenue refunding bond series 2008-a. I would like to start off by saying congratulations to you and your team and your staff. These bonds received a rating upgrade from standard and poor's, and this represents a two notch upgrade, which is not a traditional thing. Went from a plus to double a. This is very important, particularly in times like these, tough economic times, because right now investors are certainly looking for higher rated credit. I'd like to thank david anders and perez. They did an excellent job in the rating presentations and it was due to their hard work in these presentations that led to this upgrade. The second slide there, i just wanted to talk to you a little bit about the market and what's going on right now. You may recall we came to you in october and give you a brief overview on market conditions. At that point in time, the market had virtually shut down. The muni bond market had the first graph on the left-hand side shows you the visible supply over that time period. You'll see now that investors have since come back into the market and are again buying municipal bonds, which is good for you at a time like this. The final page there, what we're seeking is a parameters ordinance. This is something that you've done in the past. Basically what this does is it delegates authority to the cfo and/or the city manager to act on your behalf so that we can move quickly. This is something that you really need to do during volatile times. It gives us the flexibility to move at a moment's notice, to enter the market and achieve optimum interest results. These -- these parameters fall inside the financial policies of the city, so we will be -- those will dictate what we issue at. These bonds are refunding bonds of the city's commercial paper program under the water and wastewater utility system. This will free up capacity for further issuance of commercial paper. With that I'd like to recommend approval and I'll be happy to answer any questions.

Thank you, mr. allen. Questions for chris, council? Comments? If not, then I doubt we have any citizens who have stepped up on this item. They have not. So I'd entertain a motion on this item 77 as presented by mr. allen.

Leffingwell: Mayor, i move approval of item 77.

Mayor Wynn: Motion by councilmember leffingwell, seconded by councilmember martinez to approve item 77 as presented. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of seven to zero.

Thank you.

Mayor Wynn: Thank you. So council I think staff is still -- council, sorry. rhodes, but if you remember earlier we did receive a little bit of testimony from an attorney on item number 71. This is generally known as the b.f.i. item. We've talked about it in closed session as appropriately, being some legal items. I know that folks wanted to give us some testimony and some of the folks have waited all this time, so without objection, we'll go ahead and just take up item number 71, get some testimony. I think the council is still prepared to act. And send some folks home before we hear our staff briefings. So

without objection, we'll go to folks who had signed up on item number 71. My instinct is a handful have left. We've already heard from mr. blackburn. We'll take them in the order the computer shows them here. Brad rockwell signed up wishing to give us testimony. Brad, welcome. And some folks wanted to donate time to you. Do you still need extra time?

Probably six minutes total, so one donation would be great?

I see robin schneider was one of the folks. So welcome. You will have six minutes.

Thank you, mayor and members of the city council. You've gotten a little bit of 84 view of the situation that the city is faced in and I'd like to go over some of the legal principles involved in this situation. For over 100 years it's been black letter law and municipal law that a city may contract only upon express authorization of the city council by vote of that body reflected in the minutes. Black letter law, absolutely clear. What the agreement -- this rule of law applies to the agreement at issue with the b.f.i. situation also. This was a rule 11 agreement for which this rule is absolutely valid. In order for a settlement agreement to be valid in an administrative hearing on a rule 11 agreement it had to have gone to city council for approval. It did not. And the case I'm citing for that is city of roanoke versus town of westlake. There appears to be no council approval of the agreement, and so it's null and void and is legally unenforceable. And that's the rule 11 agreement that's been presented to the administrative hearing and that the court has apparently acted on thinking it's a valid agreement. There was a may 17th, 2000 resolution that initiated the city's involvement in this administrative proceeding, and this basically authorized the city to oppose the land, enter the proceeding and oppose the landfill. This resolution did not authorize settlement. It was not something that gave the city staff authority to settle on any specific terms. And in fact, if the city were to treat this resolution of may 2007 to authorize in october 2008 settlement agreement certainly would be a violation of the open meetings act because there's nothing on the agenda item for this matter in may of 2007 that indicated that there was any kind of settlement being approved, let alone prospectively approved adds something that was going to occur in october of 2008. So the question then, what to do? What to do with the situation where there's an administrative hearing ongoing, where the city has taken a position that it has a settlement and in fact it not a settlement that the city council has approved and therefore not valid. Again, the city of roanoke versus town of westlake case says under those circumstances, one option is the city has is to go to the judge and say this is an unauthorized rule 11 agreement, unauthorized contract, and ask the court to undo some of the action that was taken in consequence. And the city of roanoke versus town of westlake, an actual judgment had been entered in court saying annex certain tracts based on an invalid, unauthorized rule 11 agreement and the court undid the annexation, vacated the judgment and allowed everything to proceed all over again. That's one option. Obviously -- apparently from what I hear third hand is that the legal department is still taking the position that there's no legal requirement for a settlement agreement to approve by city council to be valid, even though this is black letter law. It appears under these circumstances both because of the apparent disregard of the law by the legal department and the fact that there is a circumstance at the administrative hearing that's very confusing. This is an ideal situation for outside counsel to be brought in to investigate this situation. What's needed is an outside counsel who is independent, who has no regular ongoing financial relationship with the city or the legal department. That has expertise both in landfill administrative cases and in

municipal law, has municipal clients. There's no conflicts and that could be available to do much of the work this week before the next city council meeting in order that timely action could be taken if needed in the administrative proceeding to undo some of the previous actions. So then the question becomes who should pick this independent law firm. Whose role is it to decide who this independent counsel is going to be? Should the city council be the one or should the city law department who is actions are being reviewed and questioned by this outside counsel be the one to choose the outside counsel that's going to be looking and evaluating the situation and the conduct that's already occurred. It would appear to be kind of a conflict of interest for the legal department to choose the person doing the rule, and in fact the city council has clear authority to pick and choose the outside legal counsel that would be hired and directed to be hired under this circumstance. If you look at any city council agenda, the city council is always presented with law firms, particular law firms to be determined whether they should be hired as outside counsel for the city. The law firms goes on and on and the city council gets to decide whether these particular law firms will be retained. The city council has in fact got a monopoly on the decision to hire outside lawyers when the contract exceeds something like 43,000, 50,000 or so. City council is the only one that gets to decide. When you're retaining counsel for a lesser amount of money, the city charter does give the city manager discretionary authority without city council approval to higher outside counsel. And certainly the city manager could do so in this case, but that doesn't stop the city council from also authorizing so much. [Buzzer sounds] could I get another couple of minutes?

Yes. [Inaudible]

Mayor Wynn: Is colin young here perhaps? What's your name, ma'am?

[Inaudible - no mic].

Three more minute, mr. rockwell.

I'll just-- just a couple more points. One is we have a city manager form of government, but that does not mean -- that does not take away the city council's profit and obligation to make decisions regarding contracts, especially with outside counsel. Article 5 section 7 of the city charter says-- article 5 basically gives the city manager authority to hire officers or employees. Outside counsel is not an officer, not an employee. It is an independent contractor. IF YOU LOOK at McQuill less than's treatise on municipal law, an independent contractor is not an officer, is not an employee. There's nothing in the charter that prevent the council from making this kind of choice. And in fact, there's a provision of article 5 section 6 and 7 that say when there's situations when there's an apparent conflict of interest, an investigation is warranted, the charter actually creates express exceptions to the ordinary city manager process of government and grants the city council the express power to conduct investigations, subpoena witnesses and compel production of evidence. When conducting this or any kind of investigation of city staff, the council can give instructions or orders to city manager and subordinates like the city attorney. That's presley allowed under the charter. So there is no legal obstacle to the city passing the resolution that's before you today, the city council enacting it, and I would encourage you to do so. Thank you.

Thank you, mr. rockwell. Let's see. A number of other folks originally signed up wishing to speak. Let's

see if they still want to give us testimony. Is patricia seeinger, signed up to give testimony, as did mark McAfee.

[Inaudible - no mic].

Mayor Wynn: Great. Marissa, welcome. And so in addition to mark, is barbara winchel here? Do you still want to donate your time to marissa? Okay. So you will have up to nine minutes if you need it.

Thank you. I'll bet I can wrap it up in six minutes or less.

Good afternoon. I'm with the law firm of (indiscernible). And just to kind of make it clear up front, I don't have -- my firm doesn't have a dog in this fight. We don't represent any of the parties who are opposing the landfill. But I do get to do a little bit of consulting work on the county with the waste management landfill expansion, however on the on the b.f.i. one. I am however very interested in solid waste issues. I was formerly a staff attorney at tnrc, the predecessor agency to the tceq, and specifically I was in the environmental law division, solid waste landfill permitting section. In addition our firm, my law firm, has considerable experience in fighting lilz in texas and I've got lots of experience working with robin sthieder with tce and of course I'm a resident of austin and east austin. I've been following along on the bfi landfill expansion with great interest. And initially I was quite pleased to see that the city was picking up the land use compatibility issue. This is a really important issue and especially on a landfill expansion such as this one. There's no better party to take the lead on this type of issue than the city of austin. I was surprised to hear the rumors that the city was about to enter into a settlement agreement, so when I finally got a copy of that settlement agreement, I read through it with great interest to kind of see what was agreed to there. And I saw that the 2015 termination date was in the settlement agreement, and quite frankly 2015 was no big concession. That was a date that b.f.i. Had already agreed upon. That was something that they were always going to agree to. There was also no concession on the height limit. The height limit remained as it was in the draft permit. So that was obviously surprising to me. But I was even more surprised to discover that only I believe three business days after the settlement agreement, the rule 11 agreement was filed. The city filed prefiled testimony for all four of the expert witnesses that it had designated. Part of the reason I was surprised about this was because in my experience when a party settles in a land use or landfill case such as this, the most important document, the most important piece of evidence to get into the record is the settlement agreement. There really isn't any need any longer to have testimony by the witnesses that you had designated when you were planning to oppose the landfill. So it was really strange to me to see that there was prefiled testimony on behalf of all four of the city's expert witnesses. I understand also that the other protesting parties weren't given any notice that the city was going to prefile the testimony of these four expert witnesses, so it seems to me that the city could have eased the pain by giving them some notice and instead kind of twisted the knife and made it worse by submitting the prefile testimony for all of these witnesses. The consequences of filing prefiled testimony, and this is just kind of my professional speculation here, but it seems that by filing this prefiled testimony on behalf of these four expert witnesses, they've kind of set the city's land use policy, the city's land zoning policy. And equally important they've taken the land use compatibility issue pretty much completely off the table in this case. I mean, even if it were possible for the protesting parties at this point to be able to obtain another land use expert, they would have an

incredible uphill battle in trying to counter the testimony of the city's four expert witnesses at this point. It seems that this also impacts any future testimony and the credibility of these city experts should they be designated to testify, for instance, the waste management landfill expansion case. Obviously if these experts are used in that case, and whatever they say is going to -- must be contingent consistent with the testimony they give in the landfill expansion, otherwise it would affect their credibility. I'm sure they will be cross examined about the testimony they've given about b.f.i. Of course the landfill expansion case is going to be right on the heels of the landfill expansion hearing. So that's something to consider. And basically one wonders if this prefiled testimony that was offered on behalf of the city in effect makes the rule 11 agreement irreversible regardless of what council thinks of it. And it seems to me that at this point it is a good idea to hire outside counsel. Not only to examine the rule 11 agreement, but to also help the city strategize on what it can do now to salvage its position in the landfill expansion case in light of the prefile testimony. Those are all my comments. Thank you.

Mayor Wynn: Thank you. Jd porter it signed up wishing to give testimony. Welcome. Let's see. Is Janet here? Okay. So you will have up to three minutes. Welcome.

My name is Jd Porter, former chair of the solid waste advisory commission. I served for many years on the Capital Area Planning Council solid waste planning committee and have been involved with this expansion issue since its inception. On November 12th the solid waste advisory commission passed a resolution regarding this issue and I'd like to read into the record some of the pertinent points. Be it resolved that the city of Austin solid waste advisory commission opposes the rule 11 agreement as filed. Be it further resolved, that we reiterate expansion of the Sunset Farms landfill. Request that the city council review the process by which the rule 11 agreement was negotiated and filed. Request that the city council engage outside legal counsel to review the legal -- negotiation and the process that are resulted in the agreement. Recommends that the Austin city council immediately review all possible means by which to repudiate and resend the agreement. Recommends that the Austin city council hire outside counsel to represent the city of Austin in the contested case hearing in regard to MSW permit 1447 a. And finally request that this resolution be formally filed with the judge in regards to this contested permit application. Other concerns that we have regarding this involve the fact that this flawed process, if left standing, could become precedent. This is not a good way to implement policy. We feel that this is not something that is appropriate. The increased landfill capacity undermines the zero waste plan that the city is committed too and benefits the 33 counties that currently send garbage to our landfills. Not Austin. And actually this is not even in agreement. This is a flawed document that won't stand up to a court challenge. Why should b.f.i. comply? Also it leaves no advocate for land use compatibility in the hearing and this is one of the most important arguments against the expansion. Subsequently this opens the door for waste management to claim land use issues should not be considered for their ongoing expansion request. In summary, we recommend to hire outside legal advice to ensure an objective opinion. Request that you repudiate and resend the agreement and ask you to reaffirm opposition of the expansion of the Sunset Farms landfill. Thank you for your time.

Mayor Wynn: Thank you, Mr. Porter. And it looks like finally Melissa Perkins had signed up wishing to give us testimony as well. Council, I believe that's all the folks who have signed up to speak on item 71.

Nr a number of others who have signed up and we'll get those names into the record. So item 71?

First I want to thank all the folks that have come down to be part of this discussion and for the points that everybody made because I'm not going to go over them again because i think they're all very important solid points that the city and the city bureaucracy and all of us understand and take into account. Clearly it's a hugely challenging situation and we have certainly concerns about the process and how we got here, but also we need to be looking at what our options are in the future. And keeping in mind that we're here to serve the public and we have -- and in this particular situation, that's become very challenging because of the legalities involved. I had posted-- my coy sponsor and i, councilmember martinez and councilmember leffingwell and I had posted a resolution and I want to propose an amendment to that resolution before we move on. And that is to -- first of all,ic we were going to get copies of this to be available to the folks in the audience. The person that handed this to me said she would go make copies. Okay. Thanks. The first point is to remove the fourth whereas in the original draft and then under the be it resolved by the city council of the city of austin to replace what was there with the following language. And I apologize that we don't have the copies right now. The city manager is directed to assess and report to council on the legal aspects landfill expansion application and the rule 11 agreement with the city of austin with regard to the enforceability and legality of the agreement, and on options available to the city pertaining to supplementing, amending or rescinding the agreement and the city's participation in the tceq administrative hearing. Be it further resolved that the council recommends that the city manager seek third-party advice using outside independent counsel in making this assessment and be it further resolved that the city manager present preliminary findings to the council on DECEMBER 18th, 2008, AND So those are the changes I'm proposing. Before I release the microphone I just want to also thank not only all the folks that have been working on this and the public, but also the city manager who has spent a lot of time talking with me and others about this. I appreciate that. So that's my motion to amend the draft resolution.

Mayor Wynn: So we have an amended resolution as our main motion for item 71. Seconded by councilmember leffingwell. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on amended resolution vote of 7-0. Thank you very much. So council I think we can noak out a couple of quick of our action items before we then hear from our staff on some briefings. Let's see, item 68 i believe -- did we actually -- item number 68 was withdrawn as part of the consent agenda, so item 69 in a sense is a placement item, the same folks signed up to speak on both of those. We have two folks wishing to give us testimony on item 69. This is the item from council relating to the potential extension of site plan periods. And let's see. Our first speaker on item number 69 is brad rockwell. We're trying to be efficient with brad's time. Hope he didn't just step out. And roy whaley also signed up wish to go give us testimony on item 69. Well, then perhaps -- well, carol signed up wishing to speak if we had questions. Would you like to give us testimony?

[Inaudible - no mic].

Mayor Wynn: Okay. Come on down.

Sorry about that. I must have clicked the wrong button. I'm carol gibbs speaking on my own behalf. I just

would like to ask that y'all not rush into even recommending any looking into extending these site plans for two years. I realize there's the economic concerns in wanting to be supportive of those who have been hit by the downturn, but I'm afraid there's a lot of implications that maybe they've been considered, but maybe the consequences haven't totally been vetted. One is the amount of work that adding two years on to every site plan is going to put on what we all already know is a very overburdened review staff. People are already complaining about it taking so long to get their site plans through and now we're going to run several hundred more site plans back through the cycle to get them extended? I don't know -- I don't know. Also, I'm real concerned, and this kind of goes back to all the open government stuff, about this basically making site plan extensions an administrative process. Totally taking the public process -- taking the public out of that process. And I think it seems to me people have made it real clear that we really want more transparency in all this and this is an example of yet again going back and doing things without that opportunity for those who are going to be affected by these sites, projects, site plans, whatever, to have a say in it. All these site plans that would be affected, granted, this automatic extension, many, probably most of them would now not have to comply with the recent sidewalk regulations that ensure accessibility for the mobility impaired. A lot of them would not have to comply with environmental regulations, wouldn't have to comply with a lot of the commercial design standards. And also the floodplain maps. I think there's all kinds of implications where things are going to -- in a way fall through the cracks. But knowingly. So I just ask that y'all consider using tools that are already in place and as the reverend bishop johnson said in the invocation, make the right decision by all of austin. Consider all of austin in this decision. Thank you.

Mayor Wynn: Councilmember leffingwell.

Leffingwell: One of gibbs' points that she raised, I guess I'd like to get legal clarification, that they would be grandfathered from the revised floodplain maps. My understanding is that the floodplains, flood issues are health and safety and are not ever grandfatherable. Am I correct or incorrect?

Tom knuckles with the law department. It is clear that chapter 245 of the local government code, which is the grandfathering law, contains an exception for imminent destruction to life and property. And the city's long-standing position that that includes floodplain regulations and that you never grandfather from floodplain regulations. However, in the case of site plans, granting an automatic two-year extension would mean they don't have to come back in and be reviewed under the new floodplain regulations. They wouldn't be grandfathered, but because their site plan has been extended, there's no opportunity for the city to come in and apply those new regulations. So that is an issue. A technique the city has used in the past to deal with those sort of issues is a right into the code you can stand on your existing entitlements, in which someone with a site plan could say I'm fine as I am. I'll go with my existing extension date, but to provide them a different path and say we're willing to give you an extra two years, but the quid pro quo for doing that is you have to bring your site plan in and make whatever changes are necessary to comply with any regulations that may have changed. So it wouldn't be a full blown site plan review, but if they want the extra two years, they would have to come in and at least revise the site plan to reflect the new floodplain regulations.

Leffingwell: And that review could include other considerations as well, i assume?

Exactly. It would be up to the council to decide what that list of items is that they would have to come in for the limited review in order to receive the two years.

Leffingwell: And this may be outside your purview, but do you have any feel for what kind of administrative work load that would be? I understand there's a thousand or so permits that potentially -- permits that potentially might be affected by this.

That is definitely outside my purview.

Leffingwell: Definitely outside.

I'm looking for somebody from watershed to answer that. Here comes the director.

I'm victoria lee, department director for watershed protection and development review. I'm trying to get some of the statistics and numbers. Last year we had 685 plans submitted and approved. And seven percent of them, which is about 41 site plans, asked for extensions. And 12 were granted.

Leffingwell: Okay. So far short of a thousand.

That's correct.

Leffingwell: Okay. And also there was a comment gibbs that the administrative approvals would not be something we would want to do because it's not an open process. It's my understanding we do that right now, correct?

Right now for -- yeah. If people are asking for extensions, if the extension is approved, then the public does have an appeal right.

Leffingwell: An appeal right. Okay. Thank you very much.

Council, sue edwards, assistant city manager. I wanted to make one clarification. Victoria's -- if i understood your question correctly, victoria's information was based on one year. I think we have about 3300 active site plans.

Leffingwell: Okay.

Mayor Wynn: Thank you, ms. edwards. Let's see, earlier I had called brad rock well's name for testimony as I did roy whaley's. And lastly, paul linehappen like carol had checked the box wishing to speak if we had questions. I'm not sure if paul would like to give us testimony or not. I think he's gone. Okay. So council that concludes all of our testimony on this item 69 regarding site plan extensions.

Questions of staff? Comment? Councilmember morrison.

Morrison: Yes, I do have some questions of watershed protection staff. At the land use and transportation committee meeting when this was first raised, it was raised in a bigger realm of everybody -- of changing -- adding the two-year extension. For all time. This has been scaled back a little bit. It's a one-time two-year extension. But at that time watershed protection and development review had recommended against that, that change. I wonder if you would be able to provide just a quick summary of why the staff had recommended against the change of adding two years to the life of a site plan.

Staff was sent back in to try to figure out whether there would be impacts. I don't think staff provided any official recommendations. The impacts of granting the extensions basically is as ms. carol gibbs as stated. There will be a lot of council initiatives and rules and regulations that were passed in the past three years or so that not get to be reviewed since site plan permitting is a gate keeper for new site plans designs. And to see if they will meet all the rules appeared regulations and all the efforts that council has already passed in previous years.

Just to clarify, the last slide does say recommendation. Staff does not recommend the extension because the code already allows longer expiration dates if approved by council, and it's in the city's best interest to keep projects compliant with current code. That first recommendation saying that it already allows longer expiration if approved by council, i believe they were referring to managed growth agreements. Can you speak to those and how that works?

Yeah. There are some vehicles to extend the life of the state plan permit. And generally there are three. One is management growth agreement and also like a , the planning unit development. And also p.a.d. So those are the different vehicles that people can use if they believe that their project is too big or they have other difficulties completing the projects within three years.

And I understand with regard to the managed growth agreement, I think I was told we had only done one of those in the past? And basically what it does is it allows someone to come forward to council and ask for an extension of their site plan -- of the life of their site plan. But I also understand that we maybe don't have actually a process in place for managed growth agreements right now. Is that correct?

We do have the rules, but we do not have specifics.

Morrison: Okay. And one other question in terms of the number that we have 3300 active site plans right now. Can you describe a little bit what kind of bookkeeping would have to be done to like automatically give them two more years? I guess we have the amanda system and that might be pretty easy to just add two years to their expiration date in amanda, but is there any hand work that would need to be done on the site plans themselves?

From the top of my head, yeah, using amanda, the database, we should be able to generate a report of all the site plan permits we have issued. And add two years to it and then sent maybe a notification

letters to all the permit holders.

But then what about the site plans themselves because they have an expiration date on them?

Yes.

Actually, tammy williamson. I'm going to step in here if I can. Actually, there is a couple of things we could do. You could actually -- we probably have to send the notification prior to, but some of those applications we have to cull through first and make a notification and make notations to the site plan itself. It's probably better making the notations in amanda. We have to do that and pick through thite plans first mainly, swell the site plan itself so we have a double-check so that none of them would fall through the cracks is probably the easiest way.

Okay. And then I'm not sure who would be the best person to answer this. I wonder if -- this is the last question. Just briefly talk about maybe some of the main and important code -- land development code changes we have had over the past five years? Because those are the code changes that these site plans are then under this proposal wouldn't have to be brought up. Last three years. What about the --

[inaudible - no mic].

Morrison: Some of them might have five years, might be in their fifth year and they would go to seven.

Right off the top of my head I can think that some of them have been the -- i guess maybe the -- we've got a list here. Great. The commercial design standards, the vertical mixed use, the big box. We recently had with parkland dedication, transit oriented developments, erosion control improvements, the water quality and drainage and some of them from the austin (indiscernible) protection. So there have been several.

Yeah. And additionally we have also revised some criteria manual to reflect current technology or some changing needs. Such as like durable pond liners and new design requirements for sedimentation ponds.

Morrison: Okay. Thank you. Mayor, clearly I have some concerns which I've shared with my colleagues before. I wanted to propose a compromise that I think might help us balance the needs. I certainly understand that people are caught with the economy and all, but try to minimize what might be the pitfalls of this. So bear with me here and let me know what you think about this. And that was that instead of the resolution as it stands right now, that we would amend it to not make the extensions automatic, but instead that applicants could request a one-time two-year extension on the condition of compliance of certain necessary code amendments. That way they're not all automatically extended, but we could allow for some administrative additional extensions beyond what they're allowed to do now. And that the city manager work with various boards and commissions, including but not limited to the planning commission, zoning and platting commission, design commission and environmental board to identify those necessary code amendments required for extension. Those requirements should include

at a minimum compliance with the current floodplain map, environmental regulations and sidewalk requirements. And also that would direct the city manager to draft administrative guidelines for managed growth agreements that can assist what might otherwise be site plans that might otherwise expire due to the recent downturn in the economy. So I feel like this would be maybe a compromise. They're not all automatic, so we don't put the work load on watershed protection to automatically update-- extend all of them, but provide board minutes and an administrative extension process beyond what exists now, but still make sure that with some of the minimum upgrades are done that are particularly important to the sustainability. And improvement of our community.

Mayor Wynn: So we have an amended resolution as our main motion by councilmember morrison. I'm going to second for discussion purposes. Mayor pro tem.

McCracken: I'll say that I think that the second part sounds clearly fine to me. And I wanted to get a little more information about the first part of your proposal, councilmember, about the requesting -- if you could reread that part.

Morrison: So you may request a one-time two-year extension on condition of compliance with certain necessary code amendments.

McCracken: And here's I guess the question I have is that's something you can do anyway already. I don't know that that changed anything, but maybe tom and victoria could help us out there.

In the current code the only provision for an administrative extension is a one-time one-year extension. So that would require some sort of code amendment or some sort of ordinance action to take it anything beyond one year. And also the criteria are set out in the code, so making it contingent on some sort of upgrade to recently adopted ordinances would also require council code amendment or ordinance.

McCracken: I think one of the things that we would want to see is that just given the extraordinary things happening in the economy right now, which is impacted homes being built. This is not just commercial, it's a lot of homes as well. And one of the things I think we need to understand better is whether it should be something that, say, shall be granted administratively upon application, provided environmental criteria and ordinance standards and floodplain standards, which I think are non-wavable anyway and sidewalk standards. Of current code are met. What I'd want to understand is if we do it as an administrative shall be granted versus may be granted. Because I think one of the purposes behind this, let's get some certainty for folks given what's happening in the economy. And so I'm going to guess what happens if you have a maybe granted. What time issues are you looking at and what other administrative issues that arise that differentiate may be granted versus shall be granted the support?

I think that would depend on-- let me back up a little bit. If they've got a current site plan, but you're making the extension conditional on them changing that to reflect newly adopted code requirements, they will have to change the site plan at some point. So one option would be make them change their site plan up front and once they come in and show you that they get the extra time or they could -- another alternative would be that they say I intend to make those changes to my site plan before I begin

construction, and once they give you that certification or agreement or statement of willingness that they're going to do it, they qualify for the extension, but before they actually begin construction, they have to bring the site plan in. So it sort of depends on how much -- they will have to do a site plan revision at some point or another. It's the question of whether you make them do it up front before they get the extension or you give them the extension up front and handle those details later. But either way you could say the extension shall be granted if they do one or the other. It's just a matter of when they make the site plan revisions.

McCracken: Again, what I'd ask the maker of the motion if they'd accept as a friendly motion to say the review boards and commissions that review this proposal, whether a site plan shall be administratively extended for the one-time period or may be administratively granted, in either case contingent on the conditions outlined in this motion?

Morrison: If I understand you correctly, yes.

McCracken: We're not providing recommendation, we're asking the boards and commissions to give us their recommendation whether the language may be granted administratively versus shall be granted administratively. In either case contingent upon current criteria manual and sidewalk standards being met on criteria standards for environmental and water quality.

Morrison: Yes.

Mayor Wynn: So we have an amended motion and discussion and a second on the table.
Councilmember Leffingwell.

Leffingwell: This may be a question for the attorneys again. But the posting language -- the amended motion that's on the table right now, how much flexibility will the boards and commissions have to make changes, substantive changes? Are they pretty much bound by the general scope of the motion or could they go way outside and make a recommendation that says, okay, for example, we require a straight two-year extension without any conditions?

Councilmember, I think they have flexibility. They're not tied to the precise language of the potting or even the precise language of the amended motion. In particular planning commission. Planning commission has authority to initiate a code amendment on their own. They could conceivably in the course of doing this say we want to offer a completely different alternative.

Leffingwell: So we could see something back here that we couldn't even recognize.

Yes.

Leffingwell: What about site plans that are contingent on a variance granted by, say, the board of adjustment. How would that figure in?

Well, variances are generally good as long as the site plan is good. So without going and -- I'm answering this off the top of my head, but I believe the board variance -- if you give the additional two years, the board variance lasts the additional two years.

Leffingwell: And how about the -- currently if an administrative approval has the ability is there to make an appeal of that decision to council, does that necessarily have to be a part of this revised code?

That's a policy decision.

Leffingwell: There seems to be a layer that may not be necessary.

A policy decision for council to make where it tends up to be a decision whether it's appealable or not is up to you.

Leffingwell: Obviously I have serious concerns about this whole idea of an extension with regard to things like floodplain, environment. I answered my question that I was going to ask, what about changes to the criteria manual? Specifically we have some big changes coming up that had to do with construction phase, erosion controls and new pond regulations and so forth. And I would hate to see those things go by the way wayside. So those are major concerns of mine, but also at the same time I recognized that we are in serious and somewhat unique economy here, and that if it's possible we want to explore and make some recognition of that. And if there's no harm anywhere else, perhaps we can give some relief. So I'm going to support the motion with the caveat that I reserve judgment on what comes back to us here at the council and make sure that all of the necessary precautions and protections are in place to make this thing work.

Mayor Wynn: Understood. Councilmember shade.

Shade: I agree with the comments that were just made and the reason why I was interested in supporting this resolution and even putting my name on it was because I want to begin the process to explore these very many complicated matters. That's why the idea is that it will go through pc, it will go to sap, it will go to the environmental board and if we don't get the ball rolling we're not going to be able to provide the relief. So I support this resolution for that reason, and don't really think I followed fully what the substitute suggestion was, but some of the ideas that I have talked to my colleague about with respect to the (indiscernible) and some of the other things she raised I continue to be interested in looking at although I do not believe that these two things are mutually exclusive and I'm not sure it requires an additional -- a change in the existing resolution as it's stated here.

Mayor Wynn: Again, we have a motion -- amended motion and a second on the table, item number 69. Additional comments and direction. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of seven to zero. Thank you all very much. Okay. Moving right along. We have one more quick item we can take up. So item number 70, item from council that relates generally speaking to the concept of development agreements with other local governments and

jurisdictions. I'll just recognize one of the two sponsors. Councilmember morrison.

Morrison: Well, this -- councilmember martinez already spoke to this earlier when we thought it was going to be on the consent agenda and it wasn't. It's merely a matter of in the case where we might with a -- with another governmental entity be in a situation where we're negotiating changes in development regulations, so that would be heights or impervious cover, floor to area ratio because they're not actually subject to those limitations. When we're in the position where we're negotiating those, to institute a process whereby we can ensure that we get the public notified and we get public-- we get public input so that we can incorporate that into our decision-making process. So I move adoption of the resolution.

Mayor Wynn: So motion by councilmember morrison, seconded by councilmember martinez to adopt item number 70 as posted. And we did have appropriate discussion in closed session about the legal issues. Let me make sure i-- I may have some citizens signed up here. I believe roy whaley had signed up earlier wishing to give us testimony although i thought I saw roy leave earlier. Roy whaley would like to give us testimony on item number 70. And a bunch of folks have signed up not wish to go speak in favor. We will note those for the record. Further comments on our motion and second item number 70? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of seven to zero. Thank you all very much. So appreciate everybody's patience. Staff and citizens. We've been running well behind this afternoon. So now we finally get a chance to hear from city staff regarding two briefings. I believe our solid waste services department was going to go first with our zero waste strategic plan briefing and the recycle the bag pilot program results. And then we'll hear from likely our parks department regarding the barton springs pool master plan. Welcome mr. rhodes.

Good afternoon. My name is willie rhodes, director of the solid waste services. Today we're quite pleased to give you a report, a presentation on the zero waste strategic plan and the plastic bag recycling update. With me today to make the presentation on the first item would be jessica king, and we'll shorten our presentation mayor to give you back some time, except for the questions you may have. So with this I'll turn it over to jessica.

Mayor Wynn: Thank you.

Good afternoon, mayor and council. My name is jessica king. I'm the new sustainability administrator for solid waste services department. Before we begin it important to first clarify that zero waste is a very ambitious goal for the city of austin. We're really excited to take on that project and that challenge. But many people currently think that zero waste is really only about recycling. And we're here to speak to how much more it is than just recycling. We'll go over a quick outline of the zero waste strategic plan and background. What zero waste is, why it's important. And then we'll move after we go through the streandle and recommendations, staff recommendations, next steps and then question and answer for that session. Then I'll turn it over to rhodes to carry on the rest of the presentation. So zero waste is a paradigm shift. I think people need to understand that the way we think about trash right now is that the trash just goes in the trash bin. It's really a paradigm shift in thinking that trash is now a commodity. We have to look at our role as consumers and how we can reduce more so than just recycle because if you reduce up front the likelihood is that you don't have to recycle or reuse down the road. So as we move

through the presentation, keep in mind that zero waste -- the zero waste strategic plan is quite similar to the climate action plan. Since achieving zero waste requires numerous initiatives, interdependent and also independent programs, changes to rules, policies, procedures, ordinances, will be coming back to you very frequently to kind of update you on what's going on. But we'll also be seeking your support and representation and in addition to recommendation your actual action on moving certain initiatives forward because that's part of the requirements. But right now this plan is really geared towards setting up a policy framework from which the city can move forward with. So with that said let's discuss how we got here today. Quickly we went through a quick background, may 2005 mayor wynn signed the united nations environmental accord committing austin to achieving a 20% reduction of per capita solid waste disposal by 2012 and zero waste by 2040. In addition to that particular action, there were two additional resolutions passed. One in january 2006 and then another in february of 2007. The one in 2006 committed the solid waste service department to really look at zero waste as a way of as a way of achieving certain goals and providing solid waste services to the community. The second resolution in 2007 was adopting the climate protection plan to reduce grown house gases. These three resolutions moved us forward and in november of 2007 the city hired a consultant, gary list and associates, to desktop the zero waste plan. The council met with stakeholders to solicit input, open discussion and provide information about zero waste. During may the city received support from capcog's solid waste advisory committee as well as travis county commissioners court. In july 2008 through -- in july 2008 staff actually visited the city of san francisco, the city of alameda and various providers in the san francisco bay area to get a better grasp as to how services are provided out there in a zero waste format. The draft plan was released october 3rd and october 8 solid waste advisory commission began deliberations. That plan is also online currently for the community to review. So what is zero waste? Zero waste is a pragmatic and visionary approach that attempts to have sustainable cycles, conserve resources and recognize that one person's trash is another person's treasure. Basically that all materials have a value. They are a commodity and they can no longer be considered something that you put in a landfill or down a hole. Does zero waste really mean zero? Not necessarily. This plan considers success as diverting 20% of materials from disposal by 2012. 75% By 2020 and 90% by 2040. The ultimate goal is to remember to reduce, reuse and recycle as much as possible. So we have to rethink how we do things. Landfills in the region receive waste from nearly 33 surrounding counties and it could be growing. There will come a time when regional landfills will eventually reach capacity unless we can expand existing landfills. And we see how that's kind of going right now. Open new landfills or drastically divert waste from landfills. Even if we achieve zero waste, there will still generally be about a 10% residual waste and we will still have so many counties contributing to the waste stream. So the city of austin can't do this alone. This needs to be a regional effort. Owsb region may be losing over \$40 million of valuable materials to that could potentially be recycled or reused. It is a way of reinvesting in our local economy while making the lifelinger of existing landfills. It's estimated that zero waste policies and practices can attract and stimulate a greener economy. 10,000 Tons of solid waste can create one landfill job or four composting jobs or 10 recycling jobs or 74 to 250 reuse jobs. Speaking of reuse, we have our green building efforts. As our community continues to grow, now is the time to -- to set the standards to help lure green industries here to austin and develop a stronger green economy with opportunities for green collar jobs. We'll be working with austin independent school district and any other school district to help facilitate the education of our youth to developing jobs in the

community. And prepare them for that green collar economy.

You will see them look for communities that accept zero waste practices or green events practices. So the more we can get those implemented in the community in our buildings and everything that we do, then the more we can increase our dollar value down the road. So for zero waste to work in austin we need to first frame of discussion and really see how zero waste will work in austin, texas. Zero waste is all over the nation. A lot of people are talking about it now, but austin will probably be the first city in texas to really pursue zero waste and commit to that goal. Solid waste services is limited to the collection of residential customers and some small commercial customers. We provide coa departmental rec sporadically through certain departments and then commercial and institutional entities will have to contract for waste management and recycling services. While we have a permit -- while we have permit authority over haulers and city limits, we do not have regulatory authority over private landfills. Regionally counties have permit authority over haulers in their perspective region. State and federal laws govern the acceptance of waste from various areas. A zero waste plan has several strategies that can be categorized into key areas. To lead by example the city must evaluate how to make its existing facilities greener when you increase recycling. We need to certainly work into reducing more too. We'll need to conduct an inventory of departmental waste streams to set up a baseline data and refer back to when tracking our progress. We need to modify our purchasing departments to encourage greener practices. We're already working with city council offices and stakeholders to develop the green events ordinance to encourage green practices. We'll need to expand and improve programs. Our education and outreach efforts will be changed and we'll develop new campaigns to help consumers rethink the concept of the three r's. Really it's more rethink, reduce, reuse and recycle. So a quick example is when you go to the grocery store and you look at a bunch of mushrooms and you pick the mushrooms with the styrofoam contain are or do you buy the bulk? You will not have the styrofoam to throw away if you go with the bulk. Simple steps that make a big difference overtime. Our education and outreach methods they will work with aisd. We'll work with u.t. We'll work with anybody interested in adopting zero waste goals and we will reach out to them rather than have them come to us. But I will tell you right now we are getting inundated already by people who are interested. So of course we'll also need to look at our recycling and composting program to evaluate and improve participation and work to improve public-private partnerships to create new waste diversion programs. We'll need to develop an invest in zero waste infrastructure. That means evaluating various partnerships to increase waste diversion capacity, invest in zero waste markets and zero waste infrastructure and develop green campuses, what we used to call green districts and resource recovery parks. [One moment, please, for change in captioners]

encourages waste reduction and incent advises it. The texas project stewardship council is also forming and it will be led mainly by local governments. While the organization will encourage participation and input from manufacturers and environmental organizations, local governments are looking to unite in a common cause to shift the responsibility of waste, especially hazardous waste back to the producer. Currently producer responsibility legislation is groening more legislation. Local governments currently shoulder the cost of disposing of toxic products such as computers, televisions, keyboards, batteries, paint, and epr basically is a concept that places that responsibility back on the manufacturer and producer. And so the concept is that if you encourage them to have to take care of their own waste,

then hopefully they'll redesign their products so that there's not so much waste to begin with. We'll advocate and educate and promote zero waste across the region and nationally remembering that austin is a regional system of landfills and transfer facilities in nearly 33 counties dispose of their waste in capital area landfills. Our efforts alone will not solve the region's big issues. We'll work with capcog, williams county, west lake, cap metro, anyone interested in joining, and we'll need to work closely with businesses, community, schools and service providers, people who actually have -- on october 3 -- the advisory commission began their deliberations on october 8. The plan was released on october 3, and over the course of about four meetings, three of which included public input, both written and verbal, we've attached that as backup, they made a decision on november 25, and took action. Basically they recommended support of the zero waste action plan with concerns, with some comments, and those comments and staff analysis provided in the background. Top priorities were identified. There were 13 total top priorities, but there were four specific ones that they singled out like staff as to move forward with, amending the commercial and multi-family residential, promote businesses and encourage them to adopt and actually implement zero waste goals, from compostable materials from the waste stream and by example. Which is next week.

We have much to do, the zero waste plan we would like to release a community-wide on-line survey because while there are many people included in the process, there are a lot of people who weren't, so it's really important to help make sure they understand what zero waste is understand where they're coming from in terms of what they can contribute. So the idea is to based on that community input develop our messaging and branding and marketing and then develop a how can I go zero? It's really an issue of what can you do as a community member to support this cause. And we as staff, we as community and service providers need to provide that information, so we'll be revamping the web site and working together with the climate protection team to develop green teams in the city departments to improve, develop and build upon green efforts. Our implementation plan, each fiscal year, we plan to come back to plan for programs and initiatives, and we'll include that in the budget and process. As policies and programs develop, we will be back. We'll be briefing and obtaining recommendations from -- when necessary we'll seek council approval, especially changes to ordinances, fee schedules, anything that requires council action, we'll come back. For the remainder of fy 2008, we are working on developing the department of waste stream analysis, partnering with city departments to modify methods, waste -- reverse waste. We have a group of people really trying to move that council forward. We'll participate in the development of a green events ordinance, and evaluate new recycling initiatives, such as construction and demolition recycling which is what the solid waste advisory commission is doing, we'll partner with ut, we're already in conversation with them and get on the road. I'm available for any questions. thank you, any questions for staff, council? Council member morrison?

I want to make a quick comment. First of all, thank you for your enthusiasm for trash. It is exciting. There's a lot of people that get excited about trash and I appreciate how enthusiastic you are and how quick will you read.

It's going to be a long day.

One of the things you mentioned is correct and that's that it's a regional issue, and I sit on the executive committee for capcog and I want that I can work with you and others and bring you there to give a briefing on what we're doing here in the city of austin on this, because ten counties, a lot of people you might not ever run into otherwise, and I know cunen back is on the task force for solid waste and I'd be glad to work with you to try to make that happen.

Wonderful. We will try to work with you guys. further comments or questions of staff? Great. Thank you, jessica. rose has the follow-up presentation on the recycling bags.

Mayor wynn: great. Thank you. welcome, back, willie.

The same as jessica, i just don't speak as fast. [Laughter] you've been talking trash all your adult life, right?

Trash is my life.

I'm here to talk about the plastic bag initiative. That is more than the topic of plastic bags. It's the unique collaboration that the city of austin solid waste services did with the community. In april 2007 council passed a resolution directing staff to develop strategies to limit the use of plastic bags. From that point forward staff began hosting a series of stakeholders meetings in may -- may of 2007. We invited leading retailers and other stakeholders to join us in a series of discussions that led to the -- setting the goal of reaching the 50% reduction in plastic bags within the city of austin. The stakeholders was well attended and laid the groundwork for council to pass the 50% reduction resolution in april of 2008. Also in that resolution council requested solid waste services to begin a pilot program to recycle plastic bags at the curbside and report results of that program within 180 days. Solid waste services conducted a four-month pilot voluntary curbside collection pilot for the 5,000 homes. These areas are where the 5,000 homes were located within the city of austin. This map shows the areas that are represented there and these are the same areas where we conducted the pilot for single screen recycling. The pilot ran from may 12 of 2008 until august 22, 2008, and during the pilot residents were asked to place their materials in the city issued blue buckets. Council, we provide you a detailed report on our findings previously, and today I'd like to have the results of that report and our recommendation. The average plastic bag set out over the pilot period 1% in comparison to our current curbside collection of material for recycling is at 74%. We collected 7,793 pounds of plastic bags, which had a market value of \$1,170. And the cost of the pilot, which included the collection and the design of the pilot and the marketing of the pilot was \$34,835. With such a low participation as well as low volume plastic bag recycling, there was no cost benefit to the department. Therefore, solid waste services recommends to council that we do not continue curbside collection of plastic bags. However, it is important it will continue to promote community wide use of reusable bag and inform residents of plastic cycle bag options. At this time I'd like to talk about the stakeholders and the other initiative that we have concerning plastic bags. The other part of the resolution that council passed in -- had us promoting reusable bags, recycling citywide outreach campaigns, we also have the stakeholders agreement on a common metric to gauge the plastic bag reduction and initiative implemented without regulations. The solicitors, stakeholders and some of our friends who were working with us today on this program. The preliminary results from those

stakeholders, the number of pounds of plastic bag recycled increased by 22%, from 215,000 to the pounds pure surpassed the bags rched by retailers dropped almost 42%, and the first reporting period, which included june 2008, the diversion rate exceeded the 50% reduction that council requested in their resolution. The stakeholders are often competitive in their own industry came together and agreed upon the program and worked with us through this program. All the changes and results from the first fix months have been on a voluntary basis by the retailers and the results I think is in line with what council is wishing for. So therefore, even though the curbside collection of plastic bags may not have been a success, the initiative that council requested with the other stakeholders have been a success and has continued to move in the direction that council looks at, which also supports our zero waste efforts, and so at this time I would take any questions from council. thank you, mr. rhodes. Questions, council member leaf? I oh leffingwell. I just want to say, as you mentioned, this is a voluntary program, and we have a goal of a 50% reduction in the pounds of plastic bags going into the lil by july -- landfill by july 2009. Our interim report which is unaudited shows we've already reached that goal, slightly over 50% as a combination of bags not tut into the system in the first place, plus bags that are recycled, over 40% fewer plastic bags actually getting into the system, and that's largely a result of the other component of this program, which is the reusable bag. And it's kind of an astounding number, but since we started this program over 440,000 reusable bags have been put into the system. You see them all over the place. Everybody has got their own brand. I've got at least six of them in the back seat of my car right now. But actually that, with 800,000 people in the city of austin, that means there's one bag for every two people, men, women and children. That's a lot of bags out there, and that's a very important component of this program. And I want to especially recognize the participating retailer. As you mentioned, it's a voluntary program, I want to thank you target, wal-mart, , randall's who all participated in this, and we have already called for more people to join in, because just because we have 40% fewer plastic bags going into the system, that's just talking about these six major retailers. That's substantial, but that certainly does not imply that the entire city is putting in 40%. So we've got to get more people involved in this program. One local vendor that i didn't mention, whole foods, went above and beyond everybody else. They have -- they started in their austin stores completely discontinuing plastic bags at the check-out counter. You can't get them anymore, and they've extended that program worldwide in every store that they have in the world. So I really want to especially recognize them. And finally, the big tough problem that we haven't solved is recycling plastic bags curbside. It is -- I don't know of any automatic facility, material recovery facility, that is able to handle plastic bags at this point. And so we tried this pilot program, and I know your numbers are there, that it didn't really work out. But I do want to point out it's correct that you didn't integrate this plastic bag curbside pickup with the rest of the trash. That's in a separate route because it's in a pilot program. So the cost is a little bit -- you know, it's not reflective of what would happen if we did that citywide. So I understand the economics of the situation now, but I'm not going to forget about it. We're going to continue to look for ways because i think that's going to be the ultimate key, is curbside pickup of these plastic bags, so that a much greater percentage than what we're doing right now, which i think is single figures, 5 or 6% of plastic bags that people take home, actually take back to the store and go to that trouble to recycle and. Facilitate that we're going to need curbside. I don't know the answer but we got to think about it.

In response, I also think that the stakeholders and we're getting more stakeholders to come on board

with us. If you take a look, for example, if you leave the city of austin, the stores outside the city of austin are offering reusable bags now. Also, a lot of major stores, target has a reusable bag they're starting to offer, so I think they may be in the process of phasing out plastic bags, but -- they have not informed me of this but I do know when I went to the store they have a reusable bag that they are offering. They also have designer reusable bags. Stores are offering designer reusable bags where they can use stars to design a bag and have that for sale. So I think over time more stakeholders are doing it. Also there are more places to drop off plastic bags. Now you can take your clothes to the cleaners. You can leave your plastic bags that your clothes come in at the cleaners that you have, including the mix included in the mix in the recycle program is the plastic bags at the store -- the plastic bags that the garments come from from the cleaners and the plastic bag that the newspaper comes in. So there are more opportunities for citizens in austin to recycle plastic bags. We have it on our web site. We encourage them we're trying to promote those things. We're trying to encourage more places to drop off plastic bags and we're trying to get more businesses to offer reusable bags for their program. thank you, mr. rhodes. Further questions? Council members martinez?

Martinez: thanks, mayor. I wanted you to just rewind. Just a minute ago ump talk -- you were talking about the dry cleaning bags and the newspapers. Did I hear you correctly that all of those could be recycled at the grocery store in those recycling bins where you return the plastic bags as well?

That's correct.

Martinez: thank you. council member shade? I actually have a question for jessica. First of all I want to say thank you, guys, again, for really putting together a lot for us, but this is the first chance I've had to see some of the comments that were suggested by others, and I have, you know, these letters and things you've just provided us with and I'm looking through it and I'm just wondering, because next week is the 18th and i assume you're going to be asking us to -- we're going to be voting on this. And I'm just curious, how have these -- have these recommendations already been included or taken into consideration with respect to the plan that you provided us with?

Sure. Basically what's happened is several individuals spoke verbally and provided written comments to the commission during discussion as well as to staff, and we've seen all -- not only have we attended each of those meetings and documented their concerns, we've also looked at -- very in depth as each one of the written recommendations. Several members of the solid waste advisory commission went point by point on each of those but didn't speak necessarily in public forum about them. They read will you those documents and then made their decision based on their evaluation and analysis at that time. What I will tell you is that in redrafting and taking into consideration all of the comments and feedback that we received from the public, the redraft of the plan, I think one of the biggest concerns was that we need to talk about public-private partnerships more. Well, we softened the language just a little bit to explain that. The city of austin looks to all types of partnerships. We don't want to limit ourselves to public-private. We want to look at any type of partnership, public-public, federal, everything. We opened up that language a little more. And one of the other concerns specifically was that the city would basically leverage our authority, and to a certain degree I'll use the recycling ordinance as an example. The recycling ordinance took close to ten years to really implement and put into effect, and so to the

degree that we will work, certainly, and collaborate with everybody involved, especially service providers and stakeholders who have to receive those services, if eventually collaboration falls short, we've revised the language to state that we will pursue first and foremost collaborative efforts, but if collaboration falls short, the city of austin can also look at whatever regulatory authority is given down the road. And I don't think that that's something that we ever want to relinquish. We want to keep that at our hands, but at the same time we will first pursue collaboration before we pursue mandates, because we do agree that to a certain degree you've got to make sure that this is sustainable, that this works economically for everybody involved, because if it doesn't, then it can't be sustained over time. And so we recognize that. thanks, and I know when we had a conversation about this earlier when you briefed me on it and it was before I had seen everything, you know, I kept thinking of a framework meaning, you know, large, big-picture goals, and I do think that there are some things in this that are, you know -- they get pretty specific as well. And so, you know, I'm wondering, is this, you know, the opening in a change in our hauler process? We've had lots of emails, as you can imagine, on that topic and we talked about that. So I just want to make sure we're all defining framework in the same way.

And I'll start off an answer saying basically no. But I'll hand that over to rhodes to go into a little more detail.

Council, no, we're not planning on changing that at the moment. We are recommending some enhancements to the current ordinance and we'll be bringing that back to you. Jessica stated before, if we decide to change anything, it's going to have to be brought out -- it has to be publicly talked with stakeholders before we bring it forward, and that's something we've always done. When we first started talking about, for example, the plastic bag issues, i think a couple of council members were looking toward a ban. While we did not support a ban, we thought it was necessary to get the stakeholders together, see what we can work with them on and come together with some type of goals for the stakeholders with that, and it's part of the process. And we've done that before. We've done it with electronic recycling. We worked with goodwill and pulled that together that became a national model. So we've done that previously before, and we've always done that. We felt that that's the best way to go at the time, work with the stakeholders as much as possible, but always knowing in the back of our mind that we do have council to come back to and see if you want to make any significant changes. Changesshade.

But if there's too much direction in a recommendation, it gets used as, you know, evidence that this is the way we should be going. So that's why I just -- it's one thing, top level, but it's going to be what -- I'm just telling you that's what I'm going to be look for as I read through this. I've gotten a variety of comments. And the other question that I had was just how this fits into the larger master plan that you had talked about when we met.

Hopefully once council takes this and passes this document, then we can take some of the things that we are looking at for the priorities and put them in the master plan and start working that through the master plan. So what this master plan does and what you will hopefully -- when you approve it next week focus on, is for us to do more work than we're doing now. We've done work behind the scenes as we speak, but this gives us -- we are working towards a zero waste plan for the city of austin. It does not

change any policies, it does not change any procedures. Does not change any ordinances out there. It just directs staff to go forth and help the city of austin achieve the zero waste goal that you talked about, the 20% by -- I can't remember dates, and 90% by 2040.

Shade: thank you. council member martinez? I just have one cominl comment about waste issues that I'll be bringing forward as a recommendation to our advisory commission to look into but also swak, and that is the statistic that I was shown this week was that out of the 500 -- or 600 million tons of litter that we pick up each year and send to the landfill, 190 million tons of that is animal carcasses, maf which come from our town lake animal shelter. So not only improving policy that animal shelter, not only animals would be able to live and be adopted but also help achieve our zero waste goals as well, which is going to be very difficult to achieve. again, further questions for staff? Comments? Solid waste department? Thank you, mr. rhodes.

Thank you. and finally, council, we were to hear a presentation I presume from our parks department of the barton springs pool master plan l.i.m.b.o.c.k.e.r. Godfrey architects.

I'm stuart strong, assistant director for parks and recreation department. We're here to brief you on the barton springs pool master plan. We're here because in october of '06 you passed a resolution instructing us to hire a consultant to do the comprehensive master plan, to address the improvements to the facilities, the infrastructure, water quality and the salamander habitat, with the participation of the friends of barton springs pool and all other interested stakeholders. Limbbocer godfrey was hired and they completed this master plan. A year after you started this project you approved 2 million due to short-term improvements. These are under way. We're in the early stages of design. A for-instance, what we are doing is a tree assessment, topographic surveys, repair of the bypass tunnel, repairing the bathhouse roof, the mechanical system, and things like that. Him and these will of course be reviewed periodically in the public and follow the requirements. We're here to brief you on the master plan with the emphasis on the future projects. This proj has included numerous public meetings, positive recommendations at five boards and commissions, including the parks board, environmental board, the planning commission, historic landmark commission and the design commission. We will come back next we're, we're scheduled next week for you to consider a adoption of the plan. During the process a joint committee was formed between the parks and environmental board, that assisted us in doing all the recommendations and currently they're helping us review the short-term projects. Parred and watershed development have collaborated to balance the complex issue between protecting this iconic swimming pool and the endangered salamander habitat. The next step, as i mentioned, will be to come back next week for you to consider adopting the plan. I want to advise you at this point other than the 2 million, which we have the short-term funding, there is no funding for the future improvements. So that's a matter which will come back to you. You will have to deliberate on that and consider perhaps a future bond election. At this point I would like to bring ad godfrey up from limbbocer and godfrey to give you a brief summary of the master plan. thank you, mr. strong. Welcome, mr. godfrey.

Thank you very much, mayor. Thank you all for allowing us to be here. We are talking about this evening the barton springs pool master plan, and to briefly review, as stewart said, we began in february of 2007, so that makes us into this by about 22 months, I think, but the project did begin prior to our

involvement with paid staff collecting stakeholder input and developing a list for us to work from. We held over 80 public meetings, including four public forums, and as strong said, we made short-term recommendations to this body in September of '07, at which time those recommendations were funded with \$6.2 million. And we're here today making final recommendations -- or discussing final recommendations. The list of considerations was sprawling, and it covered most aspects of the buildings, the grounds and the pool itself, and from that process of public participation and analysis of the situation and the place's history, we arrived at a short-term -- a list of short-term goals that fell into these five categories. And I think it's worth mentioning that the top three, which were -- which is where most of the money was spent, have to do with water quality and swimmer satisfaction. I would describe grounds improvements in the short-term list as a secondary -- secondary category, and I would -- just by virtue of the small fraction of the money -- the 2 million that went to building repairs, that's really very much a tertiary category. But today we're here to talk mostly about the long-term project, and these are they. And there are six of them, and again, these are yet to be funded. These are not funded projects. And as I go through I'll describe where the tree court is and what its relation to Eliza Spring is, and I'll describe where Sunken Garden is. Some people don't know. We were asked to consider a new south changing facility, and I'll talk about that, and specifically the water quality improvements are highlighted in a different color to suggest that they are in a category of their own, and I'll help to describe that as well. The bathhouse renovation and improvements involves the existing bathhouse, and what we found was a building in -- under heavy stress from heavy demands and changes over time, not all of them sensitive, and deteriorated conditions. Both of these images are from the women's dressing area. And we also found that there were things to really give us hope, and this is the men's dressing area, which is open. It's lovely, it's beautiful, and we thought for dressing areas, the women's be more like this. And so we recommend that the women's be rehabilitated to make it more open while still providing privacy options for dressers. We also looked at the central part of the building, which is in yellow in these three images. At the top is the way the building was originally designed to be used. The middle is today, and the bottom is proposed. The dots represent people. There are the same number of dots in each of these three illustrations, and the red dots illustrate people coming to pay their money, mostly, and you can see that at the top the tickets were offered at the central glass rotunda. Today that's changed and has been for a generation, where those ticket takers come around the side of the building, and I will say that aquatic staff was interested in seeing these comparisons, recognizing that it's difficult to process incoming swimmers when they show up a thousand per hour on a hot summer afternoon. So there was some enthusiasm for returning to the original pattern of ticket sales where we can handle four or five at a time. So our proposal involves that, returning the ticket sales to the center. But in addition -- I'm going to go back for a second. In addition we noticed that there is a -- an exhibit there in the center of that building, which is commonly known as the splash exhibit but more probably known as the Beverly Sheffield Center, and it's ten years old and a popular center and it's very nice and educational, surrounded by a gallery, which is less well developed and then classrooms which are sometimes used and frequently empty. We thought those spaces ought to be enhanced to -- to support the mission of the Sheffield Education Center better than they do now, and so we thought that there should be a visitors center to tell the story about this place. There are fascinating things to learn both about its history and its ecology. So this space uses existing space and as you can see from this image, it would be a double height sun-filled building, which would be suitable for exhibit presentations, receptions, lectures and the like. It

could also, a redeveloped cheffield education center should also include computers where citizens can see realtime flow rates, water temperature, water chemistry, and also have the ability to call up historic data, like today barton springs is in a drought condition. One might be curious to know, well, when was the last time that happened. So all those things could happen in this kind of environment. The tree court is that space between the bathhouse and the -- and the concession stand. I lost for a moment the word " and it is -- we describe this together with eliza spring, which is, by the way, the oval shape on the diagonal in this image, because we think they should operate together, where today they operate really kind of separately. And let's start with he liz a spring. This is -- eliza spring. This is an image recently after it was built. This is an amphitheater built by andrew zilker himself in 1903. It's also eliza spring, the home of most of the salamanders. So there's a really important convergence between history and environment in this location, yet we find it housed behind the concession stand, sort of marooned from the life of the tree court, and not accorded the status we think it should have. We noticed, also, that aside from its deteriorating condition, that it has been added to, and you can see that in this image, with its -- it's taller than it was when zilker built it. The light-colored concrete was added, as were the two courses of stonework. We recommend removing those, going back to the lower zilker profile and creating a green swath around it, planting it with native texas plants and presenting it in a nor attractive - a more attractive way, so that people when they come here will find it more enjoyable to view. And also we recommend replacing the spring run at eliza spring. If you think about it, the one miracle of this place is water bubbling out of the ground, yet with eliza spring, no sooner did it bubble out of the ground than we put it right back into a 24-inch pipe, bury it under the ground and dispose of it. We recommend bringing it back to the surface and celebrating that water, and so that's suggested in this sketch here. Now, how that connects to the tree court and how we might knit those two things together goes like this. The tree court works -- really has two basic processes. -- We see people undertake here. One is moving from where the camera is in this image toward those three plaques, frequently stopping at the statue, as you see here. The other is activities associated with the concession stand, and those two activities are really dwifed by that low retaining wall -- divided by that low retaining wall in the left of this image. We see here the three plaques, and people -- really common to see people enjoying the view and enjoying learning about this place, and we felt like there was something about that that we were missing an opportunity to expand upon that moment. And so here we look at that in plan, and you can see the red dot marks those three plaques. We thought if we could give more opportunity -- pardon me -- more opportunity to move along the edge, all the while learning and enjoying the view, and almost effortlessly finding yourself at eliza spring, we would be well on our way to building -- building a sense of deepen joiment about this enjoyment about this place through education. So downstream improvements, we were asked to do those as well, look at the area below the dam, and most of us in austin know that the area below the dam is free, and we certainly recommend keeping that free. It's a place where people bring dogs, they bring their families. It's a wildly popular accidental park, accidental amenity. It's also not very attractive and it's not very comfortable, and here in this image you see a concrete embankment of the shore studded with boulders in what might be an attempt to make it as uncomfortable as possible. And so we thought that that could be redesigned in stonework so that the stonework would be designed to recall the natural shapes of the limestone outcroppings and in that way make steps and pathways down to the water's edge. In addition, we recommend adding two sets of stairs, one on each side, so that access is actually improved and the landscape will be relieved, because now it's just badly

trampled. Sunken garden is another of the principal springs of the Barton Springs complex, and it's there on your lower right. It's characterized by a series of concentric stone walls that were built in the 1930s, and they have fallen into disrepair over the years. Our recommendation is to repair them, to restore them, and also to improve the quality of the water in the vessel and improve the landscape and the spring run as it moves from the spring to Barton Creek itself, and along the way add interpretive materials. Interpretive materials are educational materials to help people understand the significance of what it is they're seeing, and it's interesting, if you go to Sunken Garden, there's really not much to tell you the fascinating story about this place. That was one thing we heard from the public early on and actually added to our scope, was to add an interpretive plan so that -- I think the sentiment was help us convey to the public the importance of this thing, this place, help us enlist the public in our interest in responsible stewardship. So throughout, element by element, we recommend including interpretive planning. We also have to consider a new south changing facility, and I'll offer to this group that that was, and no doubt remains, a controversial element in this plan. The -- I don't think we did anything scientific, but my informal analysis is the public was split on whether we should do this or not. As we came to the problem, we asked ourselves some questions. One is, how many people do we think come through this gate? And we think about 100,000. That's an estimate, really. And it turns out 100,000 is the number of people who use Deep Eddy on a busy year, so about as many as use the south gate. We asked ourselves, how far is it to the bathhouse? And measuring from about the word lawn to the bathhouse and back is about a mile. The other question we asked, is okay, we don't have a bathhouse there on the south side? Where do you go? And it turns out people go in a lot of places. [Laughter] and so all of that -- and then the final question was, do we think we could do this sensitively, recognizing that we wouldn't want to create the kind of urban carnival-esque atmosphere that's on the north at times, remain low-key and country-like, and we think we can. And so this is a facility, very much in master plan form, which is to say preliminary, but it's substantially smaller than what you see on the north side, probably about one-tenth the size, and we felt like -- and just a couple showers, couple toilets, a place to change. And we felt like if it was designed sensitively, it could fit nicely into the landscape, and this is an example of that kind of design that is from the Visitors Center at the West Cave Preserve. And I mentioned in the beginning that water quality improvements were kind of in a category of their own, and -- and they are. And I think when we first came on board, there was a hope that we would be able to in this process, in our process, in the length of time we were involved in the project, make recommendations to improve the water quality, but we learned early on that there really wasn't enough information to make responsible decisions. So we instead initiated a series of water quality studies, and the purpose of these is to learn what would happen if we made a change or a different change, and learned -- learned the hydrology of the place in detail and learned also about -- well, specifically the dams themselves, built in 1929, are they structurally sound? We have evidence to -- we have some preliminary indication to say they are, but we don't know. So that really is in a category of its own. I wanted you to know, it's very important that there be water quality improvements, but we didn't in this plan make specific recommendations. We respect the process we set in motion in September of 2007. And I will just say that we should expect that they might include, those improvements, new openings in the Dean Stream Dam. They might include allowing creek water to in during certain periods of the year from the upstream dam. They might include some efforts to recirculate the water, because waters in the pool are pond-like as compared to the condition prior to the pool, which is more stream-like. A question

you may be asking is what are the financial implications of all this? And some estimated project costs are listed here, and again, you'll notice that we put water quality improvements in its own category, highlighted with its own color and making very much an assessment into the unknown in that category. And those are the essential elements of the long-term projects for the Barton Springs pool master plan. Before I turn the microphone strong, I just wanted to go back to the -- go back for a moment to the point that we met and met and met with the public regarding this project. There is a lot of interest in this place, and there's concern, really, that this master plan may be a done deal in terms of the design and all the elements that are articulated within it, and as a result of that long conversation, this subtitle emerged, which seemed to capture -- it attempted to capture the anxiety -- much of the anxiety. And the term "concepts" for preservation and improvement are intended to really articulate, right on the cover of the document, that these are concepts, these are not finished plans. There is much to do. This is very much a beginning. Having said that, I'm going to give the microphone back strong, and I will be along with him available for questions. Thank you.

Mayor Wynn: thank you.

So that does conclude our briefing. I'll remind you we're scheduled to come back next week for your consideration of adoption and as I said, most of the funding for future improvements are not in place at this point. So staff and parks watershed and the consultants are here in case you have any questions. Thank you, Stewart. Questions for staff on our architects, council? Council member Morrison? Guthrie, I wanted to thank you for all your work and that your firm did and -- all the outreach to the public. I know there was a lot of conversation that went on, and in particular with regard to your closing point about concepts for improvements and preservation. If we adopt this then and save the controversial piece -- say the controversial piece of the south bathhouse is in there, what does that mean in your minute, that we've adopted the plan and it's in there, does that mean we may or may not do it or does that mean we're putting our stamp on it that we think if the funding is available we should do it? What in your mind does that mean?

Well, I think it -- I think it means that you appreciate the general framework. I don't think it means that we're counting shower heads on my drawings and saying, well, we have -- that's enough shower heads, nor does it mean that a visitors center can't be reconceived in some other way in five or ten years when that becomes an active project. I think there is flexibility to reconsider, and furthermore, I think there is flexibility to at a later time say, well, gee, that doesn't make sense anymore. We now know something that we didn't know then. And I think -- I think it means you're adopting a framework, and I think a framework is not an ordinance or anything of that sort. Does that help?

Morrison: yeah, it does. And I wanted to just also thank you for your recommendation on up grating the bath houses. I used to think that the women's side was really cool until on the clean Barton Springs day I got to go in the men's side, and it's a whole lot better.

Right. so I'll look forward to that.

It's not fair. no, it's not fair. further questions of our team? Comments? Well, thank you all very much.

Exciting project. Okay. So council, that takes us -- actually you know what? We still haven't done our ahfc meeting, have we? Well, good timing. So at this time without objection I'm going to recess this meeting of the austin city council, call to order this meeting of the board of directors of the austin housing and finance corporation. Welcome, ms. margaret shaw. We have a brief agenda. president, members of the board and general meeting. I'm margaret somehow shaw, the treasurer of the austin finance housing corporation. We have four items of business today for action. I'll offer all of them on consent. The first one is to improve the minutes from our november 20 meeting. The second one is to replace staff appointments on hfc nonprofit boards. The third one is to provide additional funding for habitat for humanities devinshire subdivision and last but not least is to execute a contract with the salvation army as part of our tenant based rental program, that provides emergency rental security deposit as well as rental subsidies for homeless families. With that I'm available to answer any questions you may have. Thank you. thank you, ms. shaw. Board, questions on our proposed consent agenda, that being all four items on this meeting's posted agenda. I'll move approval of the consent agenda, mayor. board member leffingwell proposed the four-part consent agenda as proposed by staff. Seconded by the vice president. Further comments? Hearing none, all those in favor please say aye.

Aye.

Mayor wynn: opposed? Motion passes on a vote of 7-0.

Thank you very much. thank you, ms. shaw. So there being no more business before the austin housing finance corporation board of directors meeting, we now stand adjourned. Let's see, before I call back to -- the meeting of the austin city council, we've got ten minutes before our break for live music and proclamations. guernsey, is it practical -- you have to actually read in all the case numbers and all that for consent agendas, correct?

Yes, I can read in the case numbers and be very brief about these things, and to zoom through we can just try and take all the consent ones. our consent agenda. At this time I'll call back to order this meeting of the austin city council. It's 5:20 p.m. And we'll now call up our zoning matters. Welcome, mr. greg guernsey.

Mayor and council, I'm greg gers, I neighborhood pps department. Covenant items. These public hearings have been closed. 80, case c14-2008-0156. Loablighted in the 900 block of east 11th street. This is to approve second and third reading of the action you took at first reading. 80, approve on second and third. 81 Is case c14-2008-0020 the sundberg tract at 8219 burleson road. We have an applicant postponement of this item to your december 18 meeting. 82, 83, 84, 85, 86, 87, 88, 89 -- well, 88, these items deal with the plaza saltillo or the lamar boulevard justin lane station area plans. These will be short discussion items. 89, 90, 91, 92, 93, 94, 95 deal with the east mlk jr. Boulevard station area plan. Staff would offer a postponement to your december 18 agenda. I know we have a property owner that would like to speak to a little bit longer period of time. If you wanted to hear from that one person we could do that. 96, 97 and 98 will be discussion items and we'll probably talk about some individual postponement on some of those tracts as it comes up. So that's all I could offer as consent at this time. I'm sorry, guernsey, you're suggesting that all of the numbers -- case numbers 89 all the way through 95

as your proposed postponement?

That's correct. Staff was offering a postponement of one week to the 18th. richard subtle is here on behalf of one of the property owners in this area and would like to ask for a longer period of time. council, without objection before i propose a consent agenda, why don't we hear from mr. subtle.

Mayor and members of council, I represent the property owners where the actual station is, and we've been asked to do some more homework on a spreadsheet because we've already done some stuff towards completion of it. Because of everybody's schedule in the next week, i don't think we're going to be ready in a week. So I would -- I would ask that it be put off until after the holiday so we can be prepared, get the information out and then have all the interested parties look at it rather than trying to rush it in a week. I just don't think we're going to be -- we won't be able to get our homework done in a week, I don't think, and we won't have time to vet it with everybody. one week does sound short knowing how complicated this case has already been and how many moving parts there are.

Mayor? council member.

I think the other thing to consider, I realize we have a council meeting next week but it's the last council meeting before the holiday break. Kids get out of school the next morning at 11:00 a.m. If we can try to avoid stacking the meeting so that we're not here till midnight next week, i think it would be helpful to all of us. I agree, and I don't have it off the top -- I guess it is on the back. So our first meeting back, january 15. So --

mayor, council, i understand the upper boggy creek had suggested the one-week postponement.

I understand, mr. guernsey. I just -- frankly, council, I tend -- in addition to council members martinez's point, I just don't think it's practical that the work can get done and it can get vetted for us to make a good decision -- series of decisions on next thursday. So then council, the proposed consent agenda on these cases we've already conducted a closed public hearing would be to approve 80 on second and third reading, to postpone item 81 one week to december 18, 2008, and to postpone cases 89 through 95 to our thursday, january 15, [00:28:00] 2009 meeting. I'll entertain a motion on that proposed consent agenda. Motion made by council member morrison, seconded by council member leffingwell to approve the consent agenda as proposed. Further comments? Hearing none, all those in favor please say aye.

Aye.

Mayor wynn: opposed? Motion passes on a vote of 7-0. thank you, mayor and council. Do you want me to go through the rest of these or wait till after break? I think we'll wait till after break. So at this time I'd like to recess this meeting of the austin city council. Stay tuned for live music and proclamations. Our musicians today are the girls rock camp, so stay tuned for that, and then we have a couple of proclamations after our music. So we're now in recess. I anticipate us coming back and taking up the rest of our zoning cases shortly after 6:00 p.m. Thank you. all right, folks, welcome back for our weekly thursday live music gig at the city council meeting. I got to tell you in advance my 10-year-old daughter

will be really mad at me because she's not here, because joining us today on behalf of girls rock camp austin are the velvet pretzels. [Cheering and applause] it's a summer day camp that offers musical instruction as well as a variety of workshops and performance opportunities in a positive all female environment. Girls rock camp austin is a member of the international girls rock camp alliance. This year camp attendance exceeded 100 girls from across the city. Recently they hosted a ladies eroc camp, a week long fundraiser for women who want to support camp and rock like the girls do. Please join me in welcoming on back of girls rock camp austin, the velvet pretzels. [Cheering and applause] [music playing] [?? singing ??] [applause] that was great. Okay. So before we hear about the rock camp, let's hear more about the velvet pretzels. Could you each of you girls introduce your self and tell us where you go to school.

I'm omega and and I go to fill more middle school.

I'm reilly and I go to lamar middle school.

I'm franky and I go to [inaudible]

I'm suzy, and I go to stevens episcopal school.

A lish yeah and I --

how abou velvet pretzels? [. [Applause] [. [Applause]

so let's hear about girls rock camp, how people can enroll their girls.

You can find all the information on our fantastic web site, girls rock camp, austin.org. We have a great after-party after this event across the street at joe's and we have a fundraiser coming up next week, and you can find everything else about enrolling in camp on our web site. and do some of the kids -- is this sort of -- I guess it's probably during the day in the summertime. Is it after school during the school year?

We are hoping -- austin has been so great in supporting our program. We've only been around for two years so we're keeping our fingers cross that more people learn about us and hopefully bring us to the point where we can start an after school program in the fall '09.

Mayor wynn: great. Well, before you-all get away I got the official proclamation that reads, the city of austin, texas is blessed with many creative musicians whose talent extends to every musical genre and our music scene thrives because austin audiences support good music, supported by legends, newcomers alike. We're pleased to showcase and support our local artists, so therefore i, will wynn, mayor of the live music capital of the world, do mirror byproduct claim today, december 11, 2008 as girls rock camp day in austin and please join me in congratulating this fine talent velvet pretzels. [Cheering and applause] thank you all.

Great job, girls. [Cheering and applause] so while the girls break down on that side of the room, we're going to use this podium to see our weekly proclamations. We try to take this opportunity each week to say congratulations to somebody, thank you, raise awareness about a important series of events or causes here in austin. We have a couple proclamations this week. The first one, though, is really, really special, especially for us here in the city of austin. I speak frequently about sort of the family of 12,000 employees that we all are, whether it's a council member, upper city management, but more likely, in far larger numbers, of course, folks out in the field delivering services to -- you know, to our citizens. So I'm about -- here in a couple minutes I'm going to issue distinguished service awards to employees for saving the life of a coworker, but I guess before I read the distinguished service award and get the gentlemen up here, perhaps if sarah or somebody would come up and put this into context and explain a little bit about a scary, scary event.

Well, thanks to all for spending a little time with us this evening. It's really a great honor for me as the public work director to introduce three of our associates, and one member of the city team from watershed protection and share an event that embodies the spirit of both celebrating success and emphasizing safety that we try to achieve in the department. The story that we're going to tell you occurred on the afternoon of november 5 of this past year when joseph samie went into cardiac arrest when he came into the office of his supervisor. Many people say they do that when they see their director. His supervisor called out for help and three other city employees, larry sales and brandon fernandez, all public works, came to his aid. hernandez called 911 using his phone call, one provided cpr and soles retrieved the defib later unit. They stayed with him and relayed instructions from paramedics until the paramedics could arrive. Their quick and calm actions helped to save the victim's life. Our four heroes are honored this evening for their duty above and -- service above and beyond the call of duty. Let's give them a round of applause for teamwork that resulted in a very positive outcome. [Cheers and applause] so it looks like in addition to distinguished service awards we also have plaques, right? Okay. Great. So what I might do, then, is read the distinguished service award. It's the same wording for all four of them. And then we will meet our heroes and present both the distinguished service award and our plaque. So these distinguished service awards read. This is a city of austin distinguished service award for his quick thinking and brave action on november 5, , , thomas hernandez, brandon gothering, hard font to read, is deserve -- are deserving of public acclaim and recognition. They and coworkers -- he and coworkers saved the life of a fellow city employee by implementing the training they had received regarding the, quote, sudden cardiac arrest chain of survival. These men responded to their coworkers collapsed quickly, with cpr and early defibrillation and the external defibrillator. Their actions exemplify character and commitment to service. Their dedication ensure that austin is one of the safe's cities. This certificate is presented with our admiration, this 11th year of december, 2008, signed by me, mayor will wynn, but acknowledged by the entire city council, distinguished service award, our first one, and the plaque to mr. john periles. [Applause] and mr. larry soles. Mr. thomas hernandez. [Applause] and -- I'm sorry, the font is just so hard to read, mr. brandon gating, I guess. [Applause] again, please join me in congratulating these fabulous city of austin employees and truly heroes out among us. [Applause] lurie dorinda

good afternoon. I am the person, sonie, I am the person with the heart attack. I'm just here and praise the lord to have these gentlemen present at that time on november 5 for being strong and dedicated

with the knowledge that they did have, and without stress and just went through with reviving me to bring me back. I'm standing here with the help of the lord and with the help of my fellow coworkers here, with the proper training that they had. And I just want to say that when we wake up in the morning, give our blessings, because we never know if we'll make it back that evening. And I'm just here to say thanks a lot, thank you-all, one again. I appreciate everything, everybody, merry christmas and happy new year. [Applause] well, that was -- it's a hard act to follow, but we're going to sort of change the pace a little bit here with an upbeat proclamation regarding home for the holidays. I'll read the proclamation and initially our -- david lurie will probably mention -- say a few words. We might hear from others as well. Okay. So the proclamation reads, staff and volunteers at town lake animal center and the austin humane society are devoting their time, resources and energy to placing orphan animals into loving lifelong homes in austin during the 10th annual iams home for the holidays campaign, and whereas these organizations have joined animal shelter and rescue groups from around the world to achieve an overall campaign goal of 1 million pet adoptions during the holiday season. And whereas the partnership with iams and home for the holidays founder, helen woodward, animal center, has resulted in adoptions of more than 2 million pets since the program began in 1999 and promises to save the lives of many orphan animals here in austin. So therefore, i, mayor will wynn, mayor of austin texas, hereby proclaim december 2008 as home for the holidays month, and as i ask david lurie to come up and say a few words please joining ejoining me in thanking some fine, fine city employees, david?

Thank you, mayor. I appreciate it and I want to introduce a couple folks with me. Dorinda pulliam, who is our assistant director for animal services and oversees all of the activities that we're engaged in in terms of animal welfare in our community, and francis jonan, who is the executive director for the austin humane society, who is a very important partner who has worked very closely with us for a long period of time, again, for the benefit of animals throughout our community. So we're really pleased to be partnering. As the mayor pointed out, there are 2500 animal service organizations throughout the world that are participating in this home for the holidays effort. It runs through january 3 of next year, so we want to encourage people over the holidays who have an interest in getting a new pet, a new family member, to take advantage of the adoption process we have here locally and adopt a homeless animal, through our shelters, both with the city of austin and the humane society, we adopt out over 4,000 animals per year, and we want to see that number continue to grow. And during this campaign our goal, again, in partnership with the humane society, is to adopt out over 600 animals, and we're reducing the adoption cost during this period as a special incentive. We have some very attractive animals out on the south plaza here at city hall. I want to encourage folks to go out and take a look at those fine financial pets out there, dogs and cats. And with that I'd like to ask francis to come forward on behalf of the humane society and comment as well. Francis, welcome.

I just want to quickly say thank you so much for all of your support. Your support gives hope to hundreds, thousands, even millions of animals that find themselves homeless at the holidays, and that hope is that they can go home for the holidays. So thank you so much from all of the people and the pets at the austin humane society. Happy holidays.

Mayor wynn: great. Thank you. [Applause]

mayor wynn: well done. My daughters are getting kittens for christmas. that concludes our proclamations. I anticipate the city council reconvening in just a few minutes. Thank you.

Mayor Wynn: There being a quorum present, at this time I'll call back to order this session of the austin it's approximately 6:15 p.m. We appreciate everybody's patience. Council, with everybody's agreement, before we roll into the zoning work that will have us here for most of the night, we have a couple of public hearings that we can conduct now that that have no citizens signed up so that we can send a number of staff folks home. Without objection and if staff is ready, we'd like to take up items 119 and 120, public hearings to consider ordinances on the downtown austin public improvement district, our pid, the 2009 assessment, as well as that for the east sixth street public improvement district.

Good evening, mayor and council. I'm michael knox from the redevelopment growth and economic services department. Item 119 is part of the funding process for the downtown austin improvement district. On november 20th of this year the council approved a 2009-2010 for the district. It also assessed a pid assessment for the valuation and a 2009 assessment roll. The roll you have tonight before you has been modified from that approval. There were some properties that were inadvertently included in that roll. Mainly having to do with homestead exemptions. The roll you have tonight has those removed. State law requires that a public hearing be held to consider proposed assessments, approval of the assessment rate and roll on the 20th and notices to be mailed to property owners within the pid area to review their assessments prior to this hearing. This hearing tonight will allow those property owners to challenge the proposed assessments of their properties. Following the public hearing council will approve the approval of an ordinance adopting an assessment roll and leveeing of assessments. Are there any questions?

Mayor Wynn: Questions of staff, council? It looks like we have a bunch of property owners down here protesting once again. There's nobody signed up to give us testimony. Charlie, would you like to concur that there's peace in the valley downtown?

Yes, mayor. I would like to say one thing, mayor. We appreciate the ongoing support that the city gives the downtown austin alliance. We certainly consider ourselves a partner with the city. And very much appreciate your letting the public hearing go on at 6:00. Thank you.

Fair enough. Thank you, mr. betts. Again, council, we have no citizens signed up on this public hearing, item 119. So technically we're not knox, we're just conducting -- offering a chance for property owners to give us feed pack and we have none. I'll sprain a motion to close the public hearing. Motion by mayor pro tem, seconded by councilmember morrison to close the public hearing, item 119. All in favor please say aye? Opposed? Motion to close the public hearing passes on a vote of five to zero with councilmembers cole and martinez off the dais. Item 120.

Item 120 is part of the annual funding process for the east sixth street public improvement district. Again on november 20th of this year the council approved the budget and service plan for the district for the coming year. Also approved an assessment rate of 10 cents per \$100 of valuation and a proposed assessment roll. Again, state law requires that we hold a public hearing and that letters were sent out to

property owners in the district after the november 20th meeting to allow them to come tonight to protest or challenge the proposed assessments. Again, following the public hearing council will consider approval of an ordinance adopting the 2009 assessment roll and leveeing of assessments.

Mayor Wynn: Thank you. Questions for staff, council? Comments? Again, we have no citizens signed up. Are there any citizens that would like to give us testimony on this public hearing, item 120 regarding the assessments on the east sixth street public improvement district or ? Then hearing none -- are we okay, mr. knox?

David reminded me that you have to approve the ordinance for both of these items.

Mayor Wynn: And consider -- okay. All right. So then I'll entertain a motion to close the public hearing and approve this ordinance, item 120. Motion by the mayor pro tem, seconded by commas to close the public hearing, item 120 and approve this ordinance. All in favor please say aye? Opposed? Motion passes on a vote of six to zero with councilmember martinez off the dais. So formally I think we need to reconsider our motion to close the public hearing -- I'll sprain a motion to reconsider our action on public hearing item 119. We have a motion to reconsider item and second to reconsider item 119, that is the action we took which was closing the public hearing. All in favor please say aye? Opposed? So now it open again. I'll entertain a motion to close the public hearing and approve the ordinance as proposed and presented by staff, item 119. Motion by councilmember shade, seconded by the mayor pro tem to close this public hearing and approve the ordinance, item 119. All in favor please say aye. Opposed? Motion passes on a vote of six to zero with councilmember martinez off the dais. Thank you, mr. knox. Sorry for the misstep. Okay. We have one other public hearing to conduct tonight. It's going to be a little more complicated. Austin energy staff is not quite here yet, so we'll go back to zoning work and greg guernsey.

Thank you, mayor and council. Greg guernsey, neighborhood planning and zoning department. 00 zoning and neighborhood plan amendments. These are where the public hearings are open and there is possible action this evening. Item number 99 is case np 2008-0025. I think we'll have a short discussion about this item. Item 100 is is first item for consent, c-14-2008-150 for the property at 808 nueces. This is to do with zoning change from jep office district zoning to downtown mixed use district zoning. The planning commission recommendation was to grant the dmu-co zoning and this is going to be offered by consent. Item tun 10, c-14-2008-210. We have a neighborhood request for postponement and this is their first request and this would be to january 15th. 10 2 we'll have a short discussion about that item. 10 3, the c-14-2008-0192, peerson place south on 14608 forth fm 620. This is a request to community commercial district zoning. The zoning and platting commission recommendation was to grant dpvment r-co, and this is ready for consent approval on all three readings. 10 4 is case c-14-2008-0053 known as the delister tract at 3,000 block of east state highway 71. This is zoning change request from interim irr or interim rural residence district zoning to commercial services district zoning. The zoning and platting commission recommendation was to grant cs-co combined district zoning. This is ready for consent approval on all three readings. 10 5 is case c-14--2008-0094 known as the eighth street triangle. This is adjacent to the stubs barbecue property at 700 east eighth street. This is a zoning request from p public district zone to go central business district central urban redevelopment cure zoning. This is a planning

commission recommendation was to grant the cure zoning. It was granted on consent on the ninth and this is ready for consent approval on first reading only. 10 6 is case c-14-2008-0225 for the property located at 2608 and 2610 east second street. Staff's requesting a postponement of this item to your december 18th agenda. 10 7 is case c-14-h-2008-0023, the bradford nohra house at 4213 avenue g. Staff understands that council may have a desire to postpone this item to your january 29th meeting. Yes? Okay. And I also understood there may be a request to hold a stakeholders meeting regarding that. Okay. And there's something about a meeting as well?

[Inaudible - no mic]. Okay. Very good. 10 8 and 109 are properties in east mlk area. These will be discussion items. That's 108 and 109. Ed next item I can offer is 112, c-14--2008-002 known as the minuteware property on clawson road. The applicant is ill and could not attend tonight's meeting. The neighborhood is agreeable to a postponement, has agreed to several postponements in the past, would be agreeable to one additional postponement to THE 18th, BUT PROBABLY NOT Beyond that. So the parties are going to agree to a postponement for ONE MORE WEEK TO THE 18th. Item number 113 and 114 are related items, case npa 03 for the precinct 1 new office building at 1811 springdale road and 4705 (indiscernible) lane. The related zoning case is for the same properties as case c-14-2008-0174. Staff is requesting a postponement of both of these items, 113 and 114 to your february 12th agenda. Item number 115 and 116 are related items. These are cases 02, project destiny. This is for a change to the upper boggy creek neighborhood plan. An amendment to the austin comprehensive plan to change the land use land to single-family to office mixed use for the property at 4315 airport boulevard. The planning commission recommendation was to approve the mixed use designation. The related item is c-14-2008-0171, project destiny, same address at 4315 airport boulevard. The zoning change request from family residence neighborhood plan combining district zoning to neighborhood office mixed use neighborhood plan combining district zoning. The planning commission recommendation was also to grant the request only with additional conditional overlays at no-mu-co-np. Staff understands that the letter that you have on the dais from dellwood 2 is withdrawn and that there's been a private agreement drafted between the property owners and the adjacent neighbors. Staff did not recommend this request. Principally because of previous resolutions that direct staff to not recommend commercial zoning categories where there are individual private deed restrictions that prohibit commercial uses. But since the parties have agreed, the affected parties have agreed, staff would offer this as a consent item. That's item 115 and 116. Case 116 is c-14-2008-0204, property at 6516 to 6520 south first street. We have an applicant's request for postponement to your january 15th meeting. That concludes the items that I can offer for consent postponement at this time.

Mayor Wynn: Thank you, mr. guernsey. So therefore, council, our proposed consent agenda on these cases where we have yet to conduct the public hearing -- before I do that, back here on the back left, our back left, troop 5 is here. They meet at the downtown methodist church. These young men are getting their communication merit badge. Please join me in welcoming troop 5. [Applause] here to see good government in action. Yes, councilmember leffingwell?

Leffingwell: Could i just add that I was once a member of troop 5. I'm actually an alumni of troop 5. [Applause]

Mayor Wynn: But don't let that scare you, guys. [Laughter] there's hope for you.

I want to add that my son is a eagle scout from troop 5. My son is not as old as councilmember leffingwell. I think they were in at different times, but welcome.

Leffingwell: I'm still working on my eagle. [Laughter]

Mayor Wynn: That's great. Welcome, gentlemen. So therefore our proposed consent agenda on these cases where we have yet to conduct the public hearing will be to close the public hearing and approve on all three readings case 100. To postpone item 110 to january 15th, 2009. To close the public hearings and approve on all three readings cases 102, 103, 104. To close the public hearing and approve on first reading only case 105. To postpone item 10 6 for ONE WEEK TO DECEMBER 18th, 2008. To post pen item 10 7 to january 29th, 2009. To postpone item 112 to DECEMBER 18th, 2008. To postpone items 113 and 114 to february 12th, 2009. To approve the flum designation as proposed on case 115. And to close the public hearing and approve on all three readings case 116. I guess we're closing public hearing on case 115 as well. And to postpone case 117 to january 15th, 2009.

Mayor, did you speak to 102? I think staff wanted to speak to that briefly on item tun 2. I don't know if you had that in your consent agenda when you read it all.

Mayor Wynn: I did read it as consent third reading.

It's only ready for first reading and staff wanted to point out a particular unique feature of that particular case.

Mayor Wynn: Then again, council, the proposed consent agenda includes on item 12 closing the public hearing and approving on first reading only. After getting a motion and a table we'll hear about that case from staff. I'll entertain a motion and a second on our proposed consent agenda. Motion made by the mayor pro tem. Seconded by councilmember cole to approve the consent agenda as proposed. Further council comments?

Mayor and council, I was not aware of any opposition that was to this. Right now it's on consent approval.

Mayor Wynn: It's shown here. Mayor pro tem and councilmember cole if you will consider an eamentd to remove items 115 and 116 from the consent agenda. Thank you all. And mr. guer item 10 2.

This is for the property at 1330 and 1332 lamar square drive for the willow apartments. This particular zoning case, the planning commission had a condition that was requested by the zilker neighborhood and it was that a no press tenlt cliews be added to the staff recommendation as agreed upon by the applicant and the neighbor. I don't believe there's anything that would prohibit the council from doing this. I kind of look at it as a clause that would be similar to the emporer has no clothes. You would see mf-6 on your map. It would suggest that staff would ignore it and I think it was an accommodation that

the neighborhood made saying because this is a unique situation for the merry lee community that thild not oppose it. Staff has a concern that you will receive similar requests in the future. I think this first came up with the zilker theater, the fly tower facility, which was a very unique facility. There's only one of its kind in austin, but I can see where we would have mf-6 cases that could appear in the north university area, south congress area, perhaps in east austin where you will have neighborhoods that may come back and say, it's a smart housing project, it's a unique project, and that you may have others that will say, please consider this one. Put this one condition in. And just to stel close your eyes and don't look at it. Staff does look at the cases at the situations where there's a co. If there's a co that might say may. F-6 to mf-4 standards, mf-4 density we do take that into consideration. We don't ignore those things, but we think this would set a precedent that you may hear over and over again, and if you really want to do this, we may look at -- talk with them about doing another way to do this. But we would suggest that you do not. Take this and make it part of the ordinance. In this particular case.

Mayor Wynn: Thank you, mr. guernsey. Regardless, it's first reading only, correct?

That's correct.

Mayor Wynn: So what is it that we have on the consent agenda? Is the --

it's the planning commission recommendation?

So the clause is in there on first reading only.

That's right. They had discussed it for awhile at the commission meeting. I think jeff jack from -- i don't know if he's here tonight -- from kill kerr came up. Was very supportive. I don't think anyone is necessarily against the rezoning request, it was just this additional condition that they asked. They and the owner had agreed to, that the two parties, the neighborhood and the property owner had agreed to that asked to memorialize in the form of an ordinance that would be placed in the record.

Mayor --

Mayor Wynn: Mayor pro tem.

McCracken: It sounds like there's a staff recommendation not to include this clause for some sort of height feature. Is that what it is, greg?

Well, it's not necessarily a height feature. It would actually ask staff to ignore this tract when considering other zoning or land uses in the area. That we would not look at it as setting a precedent. And I would say that we order do that because we look at -- if there's a zoning case next door we would look at the ordinance and look at the conditional overlays. I think it was to memorial memorialize the private agreement in the ordinance.

Mayor Wynn: You're the maker of the motion, so you can clarify what your intent was.

McCracken: I would like to clarify that my motion includes the staff recommendation on this clause on item 10 2.

Mayor Wynn: And councilmember cole, do you concur with that as a second? Again, this is first reading only, regardless. So again, we have a clarified motion and second for our consent agenda as proposed. Further comments? Okay. Councilmember morrison?

Morrison: guernsey, you mentioned that there might be with regard to this with the merilee case, that there might be some reason to explore other ways to maybe affect the same thing that they were looking for, that the planning commission recommended?

Right. We could talk with our law department prior to third reading and investigate. They offered some things that we need to talk about that may be a little bit more about these are maybe suggesting trying to do a finding of some kind rather than actually making it part of the ordinance where it would actually prohibit staff from looking at this specific property when looking at other zoning cases nearby.

Morrison: So I don't know if this becomes part of the motion, but I wonder if we could encourage staff to do that, to work with the department and the neighborhood.

Mayor Wynn: You are welcome to make that as an additional request. So again, we have he --

[inaudible - no mic].

Mayor Wynn: Maybe our system -- well then. It's so slow. Lorraine, right, you are here. Council, without objection we haven't voted. We could always reopen the public hearing if not, but without objection why don't we get testimony from atherton on -- lorraine, do you want to give us testimony -- on specifically this item 10 2 as proposed first reading only consent agenda. Welcome lorraine.

Thank you. I'm lorraine atherton, co-president of the zilker neighborhood association. We -- the neighborhood association supported this particular zoning change because the project itself is an mf-4 project. It was designed as -- it still is, if it's taken in context of the entire property rather than the small parcel within the merilee foundation's larger complex. It is an mf-4 project. The project itself is an mf-4 project, and that's why we want something in writing connected with the conditional overlay that makes it clear that this mf-6 -- having this mf-6 parcel on the zoning map will not be used as a precedent for, for instance, the ardent project a few feet away on the stone ridge tract, which y'all recently were forced to grant a section 8 waiver to. We really do not want to see that -- the ardent project come back and point to that mf-6 on the map and say that they should be considered for mf-6 zoning. The whole property is surrounded by other commercial properties that are bound to see that mf-6, and it's been our experience that staff is not careful about checking on the (indiscernible), and we just want something in writing to make it clear that this is an mf-4 project and that the mf-6, especially the mf-6 height

requirements should not be used as a precedent. [Buzzer sounds] thank you.

Mayor Wynn: Thank you, ms. atherton. So council that's all the folks that had signed up on item 10 2. Again, I'll just -- I think guernsey is very clear that my experience with staff is they do not simply look at the zoning map, they look into the depth of the ordinances and the co's and they recognize the difference between a zoning designation and what is ultimately approved and ultimately hopefully built on the ground.

Mayor and council, if it will help, the ordinance will actually have a conditional overlay that will clearly state is limited to 60 feet. If that was part of the concern. Also that it will speak to most of the site development standards if mf 4 is part of the ordinance. Jerry rusthoven also came up and indicated that the actual use is a con gre gat living use and so there will be another opportunity for the neighborhood to discuss this again when it comes back with a conditional use permit and that will be reviewed by the commission. So it will be out there approvals that the neighborhood will see before the project actually gets underway.

Mayor Wynn: Right. So again, again we have a motion and a second on the table -- amended motion and a second on the table to approve the consent agenda as proposed and amended. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of seven to zero. Thank you, mr. guernsey.

Thank you, mayor and council. Let me take you back then to the earlier part of the agenda and I'll introduce sonya lopez with the neighboring planning and zoning department to talk you through the station area plans.

Good evening, mayor and council, sonya lopez with the neighborhood planning and zoning department, offering for third reading the saltillo station area plan and associated area amendments and the lamar station area plan and associated plan amendments. I don't have a presentation for you tonight. If you have questions, staff is available and anticipate to answer them. I also have motion sheets available to you on the dais. You can ignore the third sheet. The third sheet relates to the mlk station area plan which has been postponed until january. The motion sheets are very similar to what you saw on november 6th. They've incorporated anything that you approved on second reading. And if you have any questions about those I'm happy to answer them.

Thank you, ms. lopez. Questions for staff, council? Sonya is correct. We do have motion sheet for the station area plan item 82 and the neighborhood plan amendment items 83 through 85. Here on the dais. Again, questions, comments? Councilmember martinez.

Martinez: Thank you, mayor. I did have a couple of comments because when I read through this, specifically as it relates to compatibility standards, the way I read this and the way I believe we intended it on second reading and then verifying with other councilmembers, I don't believe it came back to us the way we had interpreted it. So let me try to walk through what I believe we intended on second reading. Under the compatibility standards, we stated that compatibility would apply , but it would trigger

affordability. We would waive compatibility if you did the affordability components. But then we spoke specifically to the northern boundary of the t.o.d. There's obviously the t.o.d. Has to stop somewhere and it stops on the properties on the northern side of seventh street. And on the back side of those properties there are many sf uses. And so what I believed we did on second reading was that we created a provision where a property owner on seventh street, facing seventh street that wanted to do -- that wanted to take advantage of the t.o.d. Zoning could do to the adjacent properties behind and outside of the t.o.d. Line and if they got 66% of the owners affected that they could get that waiver of compatibility. And the way I read this now is that it says 66% of the affected sf properties have to approve any waiver of compatibility along with doing affordability, even , not on the perimeters. And my intention when I made this motion was only the 66% rule only applied to those particular areas at the that were adjacent to some sf properties.

So the distinction is really that the 66% of properties outside the can weigh in on whether or not compatibility can be waived within the f 100 feet of the t.o.d. District.

Martinez: Yes. I believe that was the understanding we all had on second reading. I just wanted to make sure we get that corrected.

Sure. Todd.

Mayor Wynn: So help me again on our motion sheet, where would that --

that would be on letter e. Are we talking about just plaza saltillo at this point and then we'll move on to lamar justin?

Mayor Wynn: Correct.

So it would be letter e around compatibility standards and it would be a pretty simple change that we would say in the second sentence, within this 100-foot zone, compatibility standards may be waived if the required percentage of affordable housing is provided as specified by development bonus and if owners of at least 66% of triggering properties outside of the t.o.d. District agree to the waiver.

Mayor Wynn: Councilmember martinez? Thank you all. Further comments, questions on -- councilmember morrison. Plaza saltillo motion sheet.

Morrison: Also, I want to check. I think that we were talking about compatibility height waivers only when I made the motion. Because there are also compatibility standards with regards to several other things like where you put dumpsters and things like that. I'm pretty sure my motion reflected just height, and that's why we're really just looking at high bonuses and things like that. I'd like to clarify that.

Can I follow up with a clarification question? There are instances where property owners, particularly those on the northside of seventh street, they would never be seeking a height bonus because the majority of those properties already have a base entitlement of 60 feet. But they may be seeking a

density bonus to have a release from compatibility that would enable them to maybe go a little bit higher. Technically it wouldn't be a height bonus. The way that it's worded here is that regardless of whether you're seeking a density or height bonus, if you're getting relief or asking for relief from compatibility standards, this would apply to you with respect to the 66% if you're within that first 100 feet.

Morrison: But the only part of the compatibility standards you can get relief from is the height limit.

And not the setback.

Morrison: Right. We were only talking about height.

Okay. So you want the setbacks, the 25-foot set back to remain in place?

Morrison: It would be 15 to 25 depending on --

depending on the size of the project.

Mayor Wynn: Further comments, questions on our motion sheet for items 82 through 85? If not, then I'll entertain these motions.

Martinez: Do we take this motion sheet and move approval of item 1 in the saltillo station area plan? Apologize for that.

Mayor Wynn: Councilmember martinez.

I'm sorry, I didn't hear that part.

Martinez: Do we take the motion sheet and we would move approval on third reading or item number 1 of the station area plan motion sheet, saltillo station area plan motion sheet with the corrections that we stated under compatibility?

Yes.

Mayor Wynn: So councilmember martinez, item 1 on our plaza saltillo station area plan motion sheet. Seconded by the mayor pro tem.

McCracken: I missed this part. We were dealing with another item coming up. Can you outline -- sonya, you probably already have done this and I apologize, but the park and open space acquisition plan?

Actually, is there anyone from the parks department available? I was looking for stewart hersh earlier. My information was that they had sent you a memo that outlined the acquisition plan, and I'm not sure that you all received that. I have not even seen a copy of that myself. I saw a draft of it and some of the

details that were listed were specific properties that they wanted to look at and a range of properties that they were going to look at within particularly the mlk and the 's for trails to be proactive about going in and working with those property owners who primarily acquire easements. Then to use a combination of methods for acquiring the parkland recommended in the station area plan. So particularly for trails to be proactive about acquiring easements and then relying on some parkland dedication for some of the open space, the actual park facilities that would include facilities appeared amenities for families and children as requested on second reading. But I'm sorry, I don't have specific information in front of me the draft that i saw contained those elements.

McCracken: I think we need to see this because this has been a persistent problem area. We had on two different occasions had to say no we really meant a parkland acquisition plan and now we don't have it in front of us. I think we kind of have to see that.

Councilmember, could i suggest that we could go ahead with the adoption of the station area plan since this is an implementation plan with regard to how pard implements particular items in the station area plan that we could ask pard to come back to outline that in detail. It really is a --

McCracken: My concern the parks department has been so recalcitrant on this deal that if we say to come back -- if we lose our lever to when we're going to have it, they were supposed to have it to us tonight, so I'm pretty frustrate that had they don't even seem to be here. And none of us I think have seen the memo. It sounds like it didn't come and it sounds like from your description that they are describing the same thing we told them not to do. So we need to have the department that actually follows our amendments instead of ignoring them. It sounds like based on what I'm hearing that we are still having that problem with the parks department that they are not following the council's policy and direction of the amendments. So I've got to see it myself. Very, very frustrated about this.

Mayor Wynn: Well, mayor pro tem, do you want to withdraw your second?

I'd like if we could just to hold on a vote for this while we get the parks department over here. They should have been here for this. And we can get -- I am hopeful we can still vote on it tonight. Probably here in the next 15, 20 minutes hopefully, but I don't know why they aren't here when this has been a big deal today. I'd ask, mayor, if we could just --

someone is coming, brewster.

McCracken: Okay. Thanks.

Mayor Wynn: Without objection, council, let's table this item for a few minutes. We're essentially tabling items 82 through 85. I have just been told that public hearing 118, there was going to be some contention, perhaps one of four pieces of the electric rate schedule exhibit. So while we table 82 through 85, wait for pard to come give us that presentation and explanation, let's quickly call up public hearing item 118, an ordinance amending the electric rate schedule and number of ways for austin

energy. I'd appreciate a brief staff presentation.

Good evening mayor and council. I'm michael McClusky with austin energy. This recommendation consists of three tariff changes that we would like for you to consider tonight. The first one is to establish a green choice batch 6 tariff charge. We recently signed a ppa for 165 megawatts of additional wind that is just now coming into our system. That will be fully supplied here beginning next year. As a result we're recommending two customer options. The first being a five-year fixed price option at a price of eight cents per kilo watt hour. That would give the customer the option to renew that two more times for additional five-year terms based on prices that would be set in the future by the city council in years five and in years 10. The second option is a 10-year option at a fixed price of nine and a half cents per kilo watt hour. These rates reflect increased wind contract costs and congestion coming out of west texas. We expect that transmission congestion to be reduced over the years, particularly in light of this transmission plan recently approved by the p.u.c. That plan is going to take five, six, seven years to be fully built out. So we really won't know what the results of that will be. That's why we're recommending the shorter term contracts with an opportunity to reprice that once that transmission is in place. The next item would allow our long-term contract customers to increase the amount of renewable generation that they can build on their site. Under their contract terms, they're presently limited to projects no bigger than 20 kilowatts in size. We're recommending increasing that to projects up to 500 kilowatts. And this is really in response to our customer's requests. Some of them have a desire to put large solar facilities at their plants and this would accommodate that. There is a potential revenue loss for austin energy, maximum would be a little bit under a million dollars. That would be if all of our customers were to take advantage of this and all those customers would build as much as 500-kilowatts of solar. We really expect one or two to do that and so we think that the true revenue loss on this is going to be negligible. The third item is the repeal of a low co-op tariff. That tariff was originally intended to encourage participation in one of austin energy's low programs. It turns out the tariffs are too strict. Many of the customers can't abide by the terms of the tariff and we don't have the opportunity to waive those terms. We want to repeal the tariff, but make a program with more flexibility in it as part of our incentive program. There is a considerable amount of direct load control that we can't take advantage of today. So with this change hopefully we can meet -- work out something with the customers to enable them to participate and enable us to increase our load control quantities. Mayor, that concludes my remarks. I'd be happy to answer any questions.

Mayor Wynn: Thank you, michael. Questions of staff? We had a handful of folks -- three people that signed up wishing to give us testimony on this item. I'm not sure if after michael's explanation that's still necessary, but they're welcome to come forward as well we've got a few written comments, mostly from some major employers in town. Is roger wood here?

McCracken: I think one of the deals with working with austin energy and the major employers is we would only take up items 1, 3 and 4 this evening. Is that the right numbers? Postpone item number 2 until the last meeting in january, which I think is the 29th. And then there by we would actually -- okay. And I think that would -- we would not need to have testimony on item 2 pause we will have the public hearing for item 2. The motion passes to do that on january 29th.

Mayor and council, that is fine with us. We can pass the other items and postpone the other item until the end of january. I believe that our attorney has an appropriate wording i think to accomplish that.

Mayor Wynn: So council, without objection, it's a little bit out of sequence. I'll entertain a motion, get a second, let the folks who are here to testify hear what the motion and second is and I think it's going to satisfy their need to even give us testimony as part of this public hearing. Any help with the wording we need?

Good evening, mayor and council. I would suggest that if you want to deal with the three items in the ordinance you just discussed, but pull item 2 dealing with the power factor, that what you would do is approve the ordinance subject to deletion of the language added at page 9, line 38, and ending at page 9, line 42 as well as delete all identical language where it appears in the ordinance. That would delete all of the language that deals with the power factor adjustment while leaving the rest of the ordinance intact.

Mayor Wynn: So motion to close the public hearing and approve ordinance as clarified by city attorneys. Seconded by councilmember martinez. Now so do we also then need to consider posting a public hearing at some later date for reconsidering some type of --

we could bring that back. We could bring that back as another rca to set the public hearing when we've got a better idea of when that time would be more appropriate.

Mayor Wynn: Okay. We have a motion and a second on the table. I'm looking into the audience to see if anybody needs to give us testimony based on the second part of this sequence being removed. So I see no need to testify, thank you. So again we have a motion and a second on the table. Closing the public hearing and approving this ordinance as amended and read into the record by city attorney. Further comments. All in favor? Opposed? Motion passes on a vote of seven to zero.

McCracken: We can bring the parks department in on a month-to-month basis starting with the january meeting and I expect the parks department to show up with a plan that is responsive to our amendment. With that said we can move forward tonight on that.

Mayor Wynn: So council without objection we will now take back up items 82 through 85. And in fact when we tabled it, we had a motion from councilmember martinez, a second by the mayor pro tem approving item 1 of this motion sheet as clarified and corrected by ms. lopez. Further comments on motion number 1? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of seven to zero on third reading. That leaves us with the neighborhood plan amendments. I'm not sure if -- our motions 2 through 4 are essentially items 83 through 85. Motion by councilmember martinez to approve motions 2 through 4, those being agenda items 83 through 85. Seconded by councilmember cole. Further comments? Hearing none, all those in please say aye. Opposed? Motion passes on third reading with a vote of seven to zero. lopez does that take us to the lamar justin?

Yes.

86?

Do you all have motion sheets in front of you now, I hope?

Mayor Wynn: Yes.

You will see it's the same structure, the first motion is eight doption of the station area plan and all the related items. And two and three are neighborhood plan amendments, item 87 and 88.

Questions of staff, council? Comments? Motions? Councilmember morrison.

Morrison: We would need the same changes to the compatibility section that we had -- that councilmember martinez' comments and my own. So I guess I'll go ahead and move that we approve item number 1 there with those changes to the compatibility standards.

Mayor Wynn: So motion by councilmember morrison, seconded by councilmember martinez to approve motion number 1 of our motion sheet here for lamar justin station area plan clarifying the compatibility language in the motion. Further comments? Motion and a second. Hearing none, all those in ? Opposed? Motion passes on third reading with a vote of 7 to 0. That takes us to our two neighborhood plan amendments, motions 2 and 3, which refer to agenda items 87 and 88. Motion by councilmember cole to approve item -- motions 2 and 3, essentially items 87 and 88 that I'll second. Further comments on our neighborhood plan amendment? Hearing none, all those in ? Opposed? Motion passes on a vote of seven to zero on third reading on a vote of seven to zero.

Mayor, if I may, I've just been handed the mm mows for the parks department that were supposed to have been before you before this time, and I've been informed that stewart strong from the parks department is on his way. So council, I guess that takes us to -- I guess we approximate postponed the mlk station area plan and neighborhood plan amendments, correct? guernsey, what do we have left?

Well, you finished the station area plan's. We can go happily to oak hill.

Mayor Wynn: I was afraid you were going to say that.

Mayor, let me go through and introduce the -- actually, there are three items where the public hearings have been closed and then we have one oak hill item where there's a public hearing still open. That's item number 99. Item number 96 basically is the neighborhood plan. 97 And 98 are neighborhood plan rezonings, both oak hill west and oak hill east. 00 item listed as item 99 we have tract v in the 6300 block and 6302 u.s. Highway 290 west and we have a postponement request i believe agreed to by both the neighborhood and ron thrower representing the property owner, but I think he may have one person signed up wanting to speak to that.

Mayor Wynn: On item 99?

On item 99.

Mayor Wynn: We do have four folks who signed up wishing to speak.

Okay. Let's go -- why don't we just go through -- the public hearings have been closed. We'll take 96, 97 and 98 and at this time I'll introduce maureen from our office to walk through those items. You will have motion sheets and I believe passing out the most up to date version to make sure on the dais i think you have an older version that came back. And she'll also speak to a couple of postponement requests that we've received this week. Some as of late as of today on some of these parcels. With that I'll turn it over to maureen.

Starting with motion 1 on your motion sheet, it is agenda item number 96 is a closed public hearing item. The proposed action is to approve on third reading the oak hill combined neighborhood plan and the uncontested tracts of the future land use map with the exception of the contested tracks a through u and w through z and tracts aa through as and au. I understand that property owners for tract h and i have requested a postponement. Motion number 2 is agenda items number 97 and 98. This is closed hearing. Proposed action is to approve third reading of zoning and rezonings of the uncontested tracts as recommended by staff and neighborhood planning contact team for the west oak hill planning area with the exception of the contested tracts 3, 4, 5, 7, 12, 12-a and save and except tract 6, which was indefinitely postponed on november 6, 2008. However, it is to be kept within the oak hill planning area. And to -- and within the east oak hill planning area. The exception of tracts tent 8-a, 209 a, 216 and 220. Save and except tract h -- save and except tract at, which was indefinitely postponed on november 6, 2008; however, it will be kept within the oak hill planning area. There is a request to postpone tract ag, which is 4808 william cannon to january 15th, 2008. And there is a request to postpone tract ae, which is bect estates. However, there is opposition to this request to postpone. No date was given for tract ae. The motion 4 is agenda item 97 and 98. It's a closed hearing. The proposed action is to approve second and third reading of the zonings and rezonings of the contested tracts as recommended by staff and neighborhood planning team for the west oak hill planning area, which are tracts 3, 4, 5, 7, 12 and 12-a, except tract 6 which was indefinitely postponed on november 6, but will be kept within the planning area and within the east oak hill planning area, which are tracts 208-a, 209-a, 216 and 220. We were just notified that the property owner of tract 12 has submitted to council an alternative motion to be considered tonight. Motion number 5 is an open public hearing item, number 99. The proposed action is to open and close the public hearing and approve on first, second and third reading the contested tract v of the future land use map. We want to note that the property owner representing the address 6300 and 6302 highway 290 west, they are requesting the commercial land use. The property owner is recommending mixed use. They are the property owner's agent is requesting to postpone this item until january 15th, but staff wants council to be aware that thrb two owb trationdz wlg trationd rmentd out -- within tract v and those 290 west and those are not being requested to be postponed to january 15th. Staff does want to note to council that we recommend approving tract 5 with item number 96, which is motion 3, so the trablght can be added to the main ordinance if in fact council decides to hear and take

action on the tract tonight.

Mayor Wynn: Questions of staff, council? Comments? So--

I want to make a note that the property owner of ae just stated it was january 15th as the date of postponement she's requesting.

Mayor Wynn: So as -- i want to confirm then. That would be postponing the public hearing that we've posted as item number 99. Or item number 99 that has the public hearing still open is motion number 5d on our sheet, that is what we were talking about postponing, correct?

That one and some other tracts that are imbedded in the closed hearings, they have also requested postponement of those tracts to be pulled out and heard on later dates. Jerry just informed me that motion 5, item number 99, the agent is prepared to -- on the flum to be heard tonight. They're not requesting a postponement on the flum.

Mayor Wynn: Then let's muscle through our motion sheet. Again, questions for staff, council? Comments? I wonder if we should conduct the public hearing first on item 99 and then just go back and walk through the five motions? Tom likes that idea. Okay. [Laughter] so without objection we'll take up our agenda posted item number 99 conducting the public hearing. This is the oak hill combined neighborhood plan. We have a couple of folks who want to give us testimony. Our first speaker signed up is richard suttler. I saw mr. suttler earlier. Welcome, richard. You will have three minutes to be followed by charles draper.

Mayor and members of the council, my name is richard suttler and I'm not even sure I signed up on the right item. These motions and -- they're all getting so confusing. But I'm down to the 93-acre tract, what we call the centex tract which is out 290 at the end there. It's outside the city. It's being proposed to be flum'd on a flum category that is not consistent with what it's platted. It's outside the city and it's actually platted for single-family homes that actually butt up against 290. And tonight we were asking -- so we can continue to work with the city and the neighborhood on the planning part of it, we'd like for it just to be taken out of the flum because it's outside the city and the flum at this point is -- doesn't carry a lot of weight other than the expression of intent. But the intent that it's expressing is inconsistent with the plat that's out there. So rather than trying to figure out -- it ought to probably be some sort of mixed use right there on the highway, but rather than try to figure out distances and rights of way and what would be appropriate and what would be buffers, we would respectfully ask that it be taken out of the flum and let us continue to work with what it ought to be in the future. It seemed appropriate that if some of the stuff that's going to be inside the city at major highways is going to be taken out of the flum it seemed like this would be an appropriate candidate on the fringe to be taken out as well. Thank you very much for your time.

Mayor Wynn: Thank you, mr. suttler. We have charles draper had signed up next. draper, you will be followed by robert cleanman.

Thank you, mayor and council. My name is Charles Draper. And I must confess I'm a little ill prepared to address you all this evening. It was on short notice. So I've just written a couple of comments in the margins if you would just give me a moment, please. My name is Charles Draper. I am past president of the Travis County Homeowners Association. I'm a member of OHAN, the Oak Hill Planning Contact Team and a member of Oak Hill Business Professional Association. I have been participating in this development of the neighborhood plan since the inception. And we've wrestled with a lot of issues and come together collectively on a lot of ideas I think that will only enhance the community's interest. But one of the things that I did have reservations with the neighborhood plan was that there are no core transit corridors really designated in Oak Hill. We have 11,000 acres and not one core transit corridor. 290 is not a core transit corridor. 71 is not a core transit corridor. Southwest Parkway is not a core transit corridor. Without a designation of core transit corridor we cannot do VMT and cluster and help protect the environment through density and design retail components with residential. The property I happen to own is contiguous to the Austin Pizza Garden, and it is really the pulse of Oak Hill. It is an historic location and its proximity to the Williamson Creek, potential hike and bike trails, the schools and the transportation corridor make it ideal for VMT development. There's no other place that would be more appropriate to see VMT than on my property. And that is constrained by the fact that we have no core transit corridors. Secondly I've been involved with the trails group, and what is really interesting and involving with the Oak Hill Trails Group is we've talked about how to dampen the effect of road noises on the trail system. Buildings dampen and reverberate the noise back in towards the freeway and protect neighborhoods. It protects encroachment from gray noise coming from the freeway systems and would make a nicer trail system if we could make a canyon effect more so to protect the neighborhoods and the trails. That's all that I have to say. Thank you so much for your time. Appreciate your consideration.

Mayor Wynn: Thank you, Mr. Draper. Welcome Mr. Clayman.

Good evening, mayor and council. I'm here on behalf of Mr. Draper as well. I've handed out what's going to be shown on the slides as well. To give you a location of the property, which is at Patton Ranch Road and U.S. 290 West there currently is a nursery there. This property is originally platted in the 1870's. It's been under constant development and redevelopment for well over 100 years and it is at an intersection. Through the Oak Hill planning process, we have secured support for the flume to be VMT on this from everybody. Our only disagreement really has been with staff recommending a neighborhood commercial. If you look at the motion sheet, the basis of the staff recommendation was the location of the property within the critical water quality zone and frontage on U.S. 290. And what you have in your packet and -- hopefully this thing will work. That's a closeup. The property currently has a nursery on it and is fully developed. We approached staff early this year to see about the eligibility of this property for the redevelopment ordinance. You have the letter in your packet that I just gave you for Victoria Light indicating that the property, a portion of the property is subject to the redevelopment ordinance, which in our opinion negates the argument that the critical water quality zone should be determining of down fluming this property to neighborhood commercial. As you know, it equates to LR. This property is currently zoned CS-CO. There is a zoning case underway to eliminate some of the CO's which impose caps for restaurant, retail sales and other services that the Oak Hill community has repeatedly stated that they want. That zoning case to remove those CO's have staff support. We've gotten a 9-0 support from planning commission, so everyone seems to be okay with the CS zoning and to allow this property to go

to redevelop and -- in fact, the planning commission was actually urged the redevelopment of this property so it could get water quality controls on it. And so we think that in light of the regulations that is eligible for redevelopment zone and the unique fact on the screen that I have up shows that the property is actually not in the williamson creek watershed. The water and runoff from this property does not go into williamson creek. It is within proximity of williamson creek, but because of the topography, the water doesn't flow that way and so technically it's in the critical water quality zone, but its water doesn't go there. And because of this unique circumstance and because of the eligibility for the redevelopment ordinance, we feel that the mu would want to recognize the cs zoning that exists today and an indication of flexibility in the future that if it made sense to add a housing component on the redevelopment -- [buzzer sounds] -- that the flum would reflect in a. And we respectfully request the council to support the landowners request for mu on the flum. I'll be happy to answer any questions.

Mayor Wynn: Thank you. Questions for robert, council? Thank you, sir. It looks like our final speaker on this public hearing, item 99, is dwayne rogers. I thought I saw him earlier. Welcome back, mr. rogers. You too will have three minutes.

Good evening, mayor and I'll need far less than that. Dwayne rogers of the oak hill neighborhood associations. I want to say we've had clay man and we don't object to what they're bringing forward tonight. Frankly as an organization we've had more discussions with him about zoning than we have about flum, but what he's asking for with respect to the flum is consistent with our discussions and with our stated position on his zoning. So we're okay with where he is. Thank you very much. Questions for dwayne, council? Thank you, sir. So council, I think that's all the -- that's all the folks who my screen shows signed up wishing to speak. A handful of folks gave us comments for the record, but not wishing to speak and we will dualy record those. Duly record those. So I guess I'll entertain a motion to close the public hearing, item 99. Motion by councilmember cole, seconded by councilmember martinez to close the public hearing. All in favor please say aye? Opposed? Motion passes on a vote of six to zero with the mayor pro tem off the dais. So now, council, I'll bet we can hopefully muscle through the motion sheet. Councilmember martinez?

Martinez: I wanted to make a clarification because we may have been confused. suttle is speaking about tract ai and item 99 was on tract v, right?

I think he wanted to speak on behalf of his client. It would be imbedded in the -- it would be second and third reading. I believe it would be motion 3. I think he was just wanting to -- even though it's a closed hearing, I think he just wanted to get some information this evening.

So it would be in motion 3 as we move through the motion sheet?

Yes, it's not associated with motion 5.

Mayor Wynn: Thank you. Further questions of staff? Comments? Motions? Start with number 1 here? Agenda item number 96, our first motion. We have -- our actions on october 23rd shown. And staff

comments and how that relates to the planning commission recommendation from last summer.

Leffingwell: Can I ask a couple of questions of staff? Is it tract ai that we were just talking about? Is that proposed for -- what is that proposed for on the flum right now?

Talking about richard suttles tract, ai?

Leffingwell: Yes.

We're recommending i believe it's large lot rural residential because it has an approved plat for large type lots subdivisions.

So would that be included in motion 1?

That would be in 3.

Leffingwell: 3. So how about the master planning area, the area in pink? Does that include in motion number 1?

That is in 3. Those are contested.

Mayor Wynn: Further questions, comments? Motion by councilmember martinez, seconded by councilmember leffingwell to approve motion number 1, technically agenda item number 96, approving our action on second reading, approving it on third and final reading. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on third reading on a vote of seven to zero. Motion 2, which is agenda items 97 and 98. [One moment, please, for change in captioners] motion by councilmember martinez, seconded by councilmember cole to approve our second motions, items 97 to 98 on third reading as we did on sec reading in october. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of seven to zero. [One moment, please, for change in captioners] even if you factor in the green space that they've got around it, it's still not the -- the -- the rural residential that the flum is being called on today. The flum that matches the plat is actually mixed residential. We had at one point talked about mixed use but could never figure out the -- the appropriate flum would be mixed residential.

Thank you. Marine on, the flum map, just to the -- I guess if you are looking at the colored map that you guys gave us, maybe to the east, is that mixed residential?

Mayor Wynn: Sort of the dark tan? Martinez yeah. Adjacent to that tract.

Yes, that's mixed residential. And when I said that we had recommended large lot rural residential on a-i, because it has a lot of open space and was approved under the cons vision subdivision ordinance that we felt it did fit more in the large lot, although he's correct, the lots aren't acres, one-acre sites, but we

felt it was more come patible.

Martinez: But if these platted for mixed residential type -- more of a mixed residential type development, wouldn't the owner still be able to develop under that plat?

Well, have you to remember this is actually in the county. So technically the flum really has no impact on him. And the mixed residential, at least half the tracts should be single-family. The rest should be a mixture of town homes, multi-family, et cetera. And his plat from what I could tell wasn't showing town homes or multi-family. It appeared to be showing only single-family lots, which again was more consistent with the land use that we had recommended.

Martinez: So under mixed residential we're talking single-family mixed with -- explain to me --

mixed residential, at least half the lots have to be single-family, but it is a mixed residential, you should have a mix of town homes, multi-family, duplexes. It would be a true mix. Hart and so right across the highway we have neighborhood mixed use. Yes.

Martinez: Is that similar to mixed residential? Seems like we're create ing this you ever about zone along 290.

I'm sorry, creating a buffer zone what?

At least across the street to the north of it.

Yes, to the north, many of those tracts are already zoned commercial, lr, gr, lo. So we were looking at a land use category that was compatible with those mix zonings along the north part of the 290. On the south part, it was -- other than seton, it was either undeveloped or it was single-family. So you didn't have that existing pattern of a mix of commercial lots. So that's why we recommended neighborhood -- I'm sorry, mixed residential on that tract. To the east of a-i because mixed residential does allow limited neighborhood serving commercial, and we thought that tract was big enough that it could accommodate such types of mixed residential and limited commercial.

Martinez: Have we taken action on this on first and second reading as well? so it's second and third reading today.

Martinez: What did we do on first reading? We left it as rural residential?

Yes. It was large lot rural residential, yes.

Mayor, first reading we were asked to -- had actually said mixed use would be okay on a certain amount of frontage along 290 and then residential in the back. We just couldn't figure out what depth. I mean, if you picked a depth that's in the county wouldn't matter. Rather than trying to do a depth of mixed use, which is what ohann said would be appropriate so you didn't have to jump the highway to go to services

and residential in the back, a flum consistent with the plat would be the mixed residential because this is smaller lots, they are not big lots. It has nothing to do with big lots.

Mayor Wynn: settle, thank you. Further questions, comments, council? Motion number 3, which is our agenda item 96.

Leffingwell: I want to try a motion on 3.

Mayor Wynn: Thank you, councilmember.

Leffingwell: To approve on second and third the previous action with the one, tract a-i would be mixed residential on the flum. And the second, the area currently known as the y with the future land use map designation, the area in pink right now, mpa, would be do not assign that area. It would be excluded from the neighborhood plan. With a note, the second condition include a note on the flum that refers to the neighborhood's desire for the area to be planned cohesively and developed as a town center as referenced in chapter 6 of the neighborhood plan. And the third item would be to place language in chapter 6, the neighborhood plan, for the desire to create a stakeholder group to further the development of oak hill town center. And with direction to staff that prior to any rezoning proposal in this area, the city will facilitate a community meeting. And to reiterate what was understood in our previous action also with regard to the entire neighborhood plan, the restrictions, overlays that were imposed with regard to density, height and so forth, zoning categories, would not be -- would not be applicable to this area which is outside the neighborhood plan. I think that's -- I think that's all.

Mayor Wynn: Thank you. Motion by councilmember leffingwell, seconded by councilmember. Councilmembermartinez, motion 93, case 96, approving on second and third reading actions we took on first reading with the exception of the tract a-1 being showed mixed residential on the flum and excluding the area at the y we have been designating as major plan development or mpa with additional direction.

May I make a correction?

Mayor Wynn: Yes, please do.

You referred to it as a-1, but it's a-i.

Mayor Wynn: Thank you. Can't read my own writing.

We wanted to follow up on the postponement request for council to not forget.

Leffingwell: I'll amend it to indefinitely postpone a.t. Is that what you are saying. to to JANUARY 15th, ALTHOUGH A.E. Postponement had opposition to that request. was the beckett estates along william cannon.

Leffingwell: And the a.e. Is consent postponement until JANUARY 15th.

The a.g.

Leffingwell: That's beckett.

No. is the william cannon and a.e. is the beckett estates. The william cannon is quick january 15th when the zoning case is proposed to be heard. ON JANUARY 15th.

Leffingwell: Well, and there's opposition to one of those. , the beckett estates.

Leffingwell: Can we from the motion and hear comment on the p?

I believe so. Yes.

Mayor Wynn: Well, what we can do is we can hold our conversation now and go ahead and request some testimony from folks who either would like to see or would like to , the beckett estates tract. I guess if perhaps a representative from both sides of that perspective, somebody who would like to have us postpone to january 15th and opposition. Welcome. Please state your name for the record.

Council, mayor, judith grimes. The six landowners that front william cannon have requested a postponement until the 15th. We have done -- we have filed a zoning request. Our actions are in line with everything and every plan the city has in place. The gentleman here talked about a buffer to the residential area. We are being left hundreds of feet from william cannon, which is a six-lane divided arterial highway. We filed the zoning request, and I did send every one of you an apology because the delay was on me because we had thought a person was going to simmons bought her property in 1994 and it wasn't platted so we were waiting for a gentleman to do the plat for us and then ron thrower said you've got to get it done now. And he had to call a friend to get it done immediately for her. We would like to go through the process. I feel there is a way that the stakeholders that are right on william cannon, the ones so severely affected by this plan, should be able to have a say and a stronger say than someone that is thousands of feet or miles away. We took our petition to people and when they found out what we were really trying to do, which was not increase the , the 15% impervious cover, that we did not want large commercial, we had people that were first opposed to this situation, then say no, I'm not opposed to it at all. We would like that in our neighborhood. We're not trying to change or hurt anyone. We are asking for relief of the three -- especially the three older homeowners that have had their property the longest that are less than 100 feet from the highway. And this is a six-lane divided arterial highway. There's not one other rural residential being forced to endure the pollution on the north side, we're on the downwind side of it, the noise and the air pollution that we're being forced to endure. We're not asking for anything to hurt our neighbors. We would like to extend this OUT TO THE 15th, SEE WHAT The zoning commission says, give us time to be able to work with people. My mouth gets so dry when i try to talk because I'm so scared. To try to work things out and make a reasonable request. And I think what our request is is reasonable. We're not asking for anything, variances or anything. But there are six homeowners that, no fault of their own, the houses are 50-something years

old, they don't have the double windows, they don't have the soundproofing, they don't have any of that. [Buzzer sounding] so I'm asking for a p of a.e. UNTIL THE 15th. Thank y'all.

Mayor Wynn: Yes, ma'am. Thank you. Councilmember. Ma'am. Ma'am.

McCracken: I can't remember -- what is the zoning request?

We're rural residential and we have been since we were annexed. And I don't think it's ever been changed or you annexed that. And what we're asking -- and i would be up for anything -- is something to put small medical offices, and we have real deep lots.

Martinez: What's the zoning request you have pending? but I'm not sure because what we had said we will take off all the overlays that are aggressive and get it down to what the people want around us. And I don't understand, when y'all are talking about that, you are way over my head. I just realized that on every other corridor neighborhood mixed use is what was appropriate. You know, and your corridor planning, it says that, you know, the first part should be neighborhood mixed use. And it mentions the noise abatement for families.

Martinez: Thank you, ma'am. Thank you.

I would be willing to work with anybody on what we should do to be able to get relief. And so if that is not the right zoning, then help us figure out what is. Thank you.

Mayor Wynn: Thank you, ma'am.

Martinez: Mayor, can i see if jerry or greg knows the answer to that question?

Mayor Wynn: What has been filed?

Martinez: What's the zoning request that's been filed on tract a.e.

Councilmember, it's tract a.e. that you are looking at?

Martinez: Yes, on william cannon between beckett and escarpment. There's a pending zoning case and I was just trying to figure out what the zoning request was.

The zoning change request for that right now it's currently zoned rural residence and -- Ir-mu, that would allow a variety of retail uses. You could have restaurants, service stations. Mixed use would allow apartments, townhouses, single-family.

Mayor Wynn: guernsey, can you confirm the zoning case is moving forward and it is possible to be here in front of us in mid-january?

I don't know the exact time frame. Mid-january?

[Inaudible].

January 13th for plan commission. We could have a week or two delayed minimum. My guess it would come up normally in february.

Mayor Wynn: So if we could hear from some representative holiday like us or beckett estates. Yes, ma'am. State your name for the record, please.

I'm laura lancaster faulk and I live in the beckett estates neighborhood. And basically we just feel like this has been going on for three years and how many times is it going to be postponed and pulled out. Why pull this little one area out of the whole flum. It's already been voted on once. You've heard all the arguments, pro and con. You know, we want to keep our unique neighborhood. I wasn't prepared to talk on the specifics of this, I was just prepared to talk on the postponement, but if you want to get into the specifics, there's a lot of reasons why we don't want to change the zoning.

Mayor Wynn: We want to try to debate whether or not we should postpone or not, frankly.

The issue about not enough time for the planning commission, this, according to city staff, was scheduled for the agenda for the planning commission meeting on NOVEMBER 25th. Then it was asked by mr. thrower to be pulled. It was also ready and scheduled for the planning commission meeting last TUESDAY, DECEMBER 9th. Again, it was asked to be pulled. So I don't feel like the argument about not enough time or needing a postponement for that reason is very viable. Basically we -- we don't feel like it's in the best interest of oak hill. We need to get on with this process. It's been a long one, as you well know, and we just need to get on with it. Thank you.

Mayor Wynn: Thank you. So further questions or --.

[Inaudible]

Mayor Wynn: Yes, ma'am. Thank you. I think we did know about thrower's --

excuse me, mr. mayor. I'm patricia and I'm in opposition to the postponement as well. Basically because that grimes was making is an argument that she's made all along throughout every planning meeting, every city council meeting, the argument that there's a lot of noise, that et cetera a six-lane highway. A postponement, I don't believe, this is about the fourth time I've heard that argument. I haven't heard anything new. And I really don't believe there is anything new that she can add to the argument. I also believe that it is a case of arguing in favor for one select person. She is -- she is one of six homeowners, but she owns three of those properties. And everything I've read in the city information about planning, that is not what planning is about. It's for the citizens, the total community and not the select few. That's all have I to say. Thank you.

Mayor Wynn: Thank you, ma'am. And again, this is the -- we're talking about the flum designations, item number 3, the contested tract.

Mayor? I guess the question is can we take this up separately about whether to postpone it or not?

Mayor Wynn: We are, i think -- the maker of the motion, councilmember leffingwell, is trying to figure out whether he wants to propose postponement on -- include a postponement on a.e. Or the beckett tract estates TO JANUARY 15th. I think he's going to here in a minute or two propose a.g. -- I don't know that.

Leffingwell: That's correct. I was waiting for everybody to get through speaking, but what I am going to propose is that be postponed until JANUARY 15th. And the rest of it as previously stated. The changes at the y and tract a.i. are the other two?

Mayor Wynn: Mayor pro tem.

McCracken: To beckett estates it is not postponed in that motion. Is that correct?

Leffingwell: Not at this point.

McCracken: I'm in favor of that. I do understand that there is something that I think would be an agreed postponement which is for tract h and i, and that would be I guess until, let's say, january 15th as well.

Leffingwell: I don't know if there was a second, but as the maker, I would accept that.

Mayor Wynn: Councilmember martinez was the second. So we have an amended motion and a second on the table. This is our motion number 3 regarding agenda item number 96, approving on second and third reading the same action we took on first reading except that we are changing the a-1 designation -- a-i.

Mayor Wynn: So mixed residential on the flum. We're excluding the entire master plan development, , tracts shown as pink at the oak hill y. to january 15th as we are tract h and i. Councilmember shade. Excuse me.

Shade: Regarding tract 7 and r, I want to recommend that we change the flum from office commercial and change it to -- let's see. with a conditional overlay and this has been something the neighbors as well as the contact team has come to agreement on as well.

Mayor Wynn: So councilmember leffingwell and martinez, do you consider that a friendly amendment, changing the designation of 7 and r on our map here from the --

Shade: From office to commercial.

Mayor Wynn: Office to commercial.

Leffingwell: I consider that friendly.

Mayor Wynn: Councilmember martinez? We have an amended motion, second and third reading, item 96.

May I point something out here? Just real quick, the first thing is the zoning for tract 7, that should be under motion for. Is that --.

[Inaudible].

Okay.

Shade: The flum is first and we'll do the zoning on the next one.

Okay. And the second thing is to remember if you wanted to approve the action on tract b with this motion 3 so we can have one ordinance, so it can be combined.

Leffingwell: Yes, add tract b, the mixed use on tract v. For some reason I thought we were going to get to that in motion number 99, but --

tom, is that --

I was going to ask the maker of the motion for one clarification which I think will avoid a legal issue down the road. It has to do with wouldn't the fact the neighborhood plan is amended there are a lot of restrictions -- once it's adopted, there are lots of restrictions how often it can be amended. You've adopted the man plan but you are postponing flum action on several tracts. What I discussed with guernsey was for purposes of the clock starting to run on plan amendments, it will start to run tonight. But these tracts you've delayed will basically be considered tying up loose ends on the plan. They are not plan amendments themselves, that can be done later, but for purposes of the time clock running on plat amendments, it will start running tonight for everything.

Leffingwell: Right. So you are saying postponed tracts potentially could be amend understand 11 months or 10 months. Understood.

Thank you.

Mayor Wynn: Thank you for that clarification. And so -- so action on the -- the mixed use designation on v is included?

Tom, is it included now or wait until motion 5 is addressed?

I believe we decided tract v needed to be taken up with this motion so that it did not need a separate ordinance.

Okay.

That was the purpose.

Leffingwell: I amend my motion to include tract v as mixed use in the flum.

Mayor Wynn: Councilmember martinez agrees with that as the second. We have an amended motion and second on the table, our motion number 3 regarding agenda item 96, second and third reading, a number of changes. Councilmember.

Leffingwell: Could I just ask that all the provisions we attach to the end zone y area to the area that will not be designated, do you have all those or do I need to reiterate those?

Do we have those? I'm sorry, that's yes?

Yes. They have it. Yes.

Leffingwell: Okay.

Mayor Wynn: Again, motion and second on the table. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on second and third reading on a vote of 7-0. Motion number 4. Agenda items 97 and 98. Questions for staff? Comments? Perhaps we can get a base motion and see if there's any requested amendments. Councilmember morrison. We've closed the public hearing but only had the first reading on these two items.

Morrison: Can I just check with staff just to confirm? Did you have any specific comments on -- or adjustments to the motion as it's written here?

Motion for -- yes. Tract 12 had an alternate recommendation that the property owners and surrounding property owner had agreed upon today and did you all get a copy of that? You did? Okay. So that would -- should be included into the motion if y'all were to consider that.

Morrison: Okay. I would like to go ahead and make that motion.

Could I ask the maker of the motion for clarification on that one as well to avoid future legal problems? The intent of the language is to say that tract 12 can have easement access to hot springs, rotund drive through lot 10, block b, amended plat of shadow ridge crossing section 9, as long as there's only one

single-family residential use and accessory uses on tract 12.

Morrison: Is that what it actually says?

That's my understanding of what it says. If anybody out there thinks differently, speak up now. Okay. Thank you.

Mayor Wynn: So we have a motion by councilmember morrison, seconded by councilmember martinez that includes the new language for tract 12 as verified mr. knuckles.

Are you okay with that language is this.

I'm okay if tom is.

As long as everybody is clear about the intent, which I think we just did, so yes.

Mayor Wynn: Councilmember shade.

Shade: This is the time i want to do the other part of what itself trying to do before which is to changing to with restrictions agreed upon by all interested parties.

Morrison: What were those restriction? I don't think I'm familiar with them.

Shade: I'm sorry. The prohibited uses under the overlay would be automotive rentals, washing of any type, bail bond, commercial off street recycling, dropoff facility, exterminating facilities, indoor entertainment, outdoor entertainment, outdoor sports and recreation, pawn shop services, pet services and theater.

Morrison: I remember now. [Laughter] I'll go ahead and express a little bit of concern about this because it puts retail in the middle of office, but so with a little bit of hesitation, I'll accept your amendment.

Shade: Thank you.

Mayor Wynn: Councilmember martinez. Yes. We have an amended motion and second on the table, second and third reading. Agenda numbers 97 and 98. Further comments? Councilmember cole.

Cole: I would like to make a motion on the waters tract for sf 1 with 20 units maximum with access to waters way with a limit on hot springs access except for emergency, existing houses and pedestrians. And this is on second reading only.

Mayor Wynn: Just a second. The main motion -- yes, so -- this is a motion to amend, but she's suggesting second reading only. And so I guess my question --.

And that would have to be for the whole ordinance. One ordinance pending.

Mayor Wynn: Our main motion is pending, the ordinance is pending second and third reading. It's gone amended a little bit. So we have the amended main motion, second and third reading. And so --

Cole: I guess I need to first make a motion to exclude the waters tract to make a separate motion.

You could do that.

Mayor Wynn: Okay. So -- well actually I guess it would be proposed as a friendly amendment first to excludist waters tract. After we vote on this main motion, we could take up the waters tract, I suspect.

Morrison: Well, for purposes of discussion I guess I'll go ahead and accept that.

Mayor Wynn: And councilmember martinez.

Martinez: Well, I mean it's obvious that the waters tract is the issue here and we're going to vote on it one way or the other. I'm not supportive of creating more density and more entitlements on the waters tract, but if we want to pull it out and vote on it next, that's fine. Let's just get this motion out of the way and then bring tract 12-a and I back.

Mayor Wynn: Agreed. We have an accepted friendly amendment excluding what we know as the waters tract or 12-a. Further comments on our main amended motion? Second and third reading. Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of 7-0, second and third reading. So now let's go back while we're still focused on this motion, go back to -- I'll entertain a motion now on tract 12-a.

Cole: Mayor, I would like to mission a motion on 12-a, the waters tract for sf-1 with 20 units max, access to waters way and a limit on hot springs access to just emergency vehicles, the existing houses and pedestrian on second reading only.

Mayor Wynn: So motion by councilmember cole that I'll second. Second reading only. Sf-1 designation, limit to 20 units with a number of other restriction. Second reading only. Further comments? Yes, councilmember martinez.

Martinez: Clarification on the easement language. When you say emergency access only and existing houses, you mean the one house that jackie waters owns on that property?

Cole: Yes.

Martinez: So if future development occurs, then access would be denied to any of those other residences or it would still be granted to that entire development to cut through that easement? I'm just -
- I'm wanting clarification because I think that's a huge concern for that -- a huge concern for adjacent

neighbors if that tract is redeveloped, that multiple families, up to 20 now if this passes, would be able to cut through these residential properties unless we added similar language.

Cole: It would only apply to jackie waters.

Martinez: Okay. So once it's redeveloped, and it's only emergency access only.

Cole: Right.

Martinez: Okay.

Mayor Wynn: Again, motion and second on the table, tract 12-a, second reading only. Further comment? Councilmember morrison.

Morrison: I just want to be reminded what our previous motion was, the one that we're sitting with right now before we --

Mayor Wynn: Maureen, on first reading? On tract 12-a?

Morrison: Yes.

That was councilwoman cole?

Mayor Wynn: No, action council took on first reading.

First reading. I'm sorry. Let's see. Where do I have that? Okay. Here it is. On october 23, november 6, the land use recommendation was single-family land use, sf-1, conditional overlay, limiting the development to minimum half acre lots with the maximum of 15 units. Primary vehicular access from twilight mesa drive and restricting vehicular access to hot springs drive to emergency access only and no vehicular from waters way.

Morrison: Essentially we're changing it from 15 to 20 and removing the lot size limitation.

And changing --

Mayor Wynn: I would characterize that as a measurable change in access in increase units from 15 to 20.

Modest.

Mayor Wynn: Again, motion and second on the table, second reading only, tract 12-a. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on second reading only on a vote of 6-1 with councilmember martinez voting no. Council, that takes us to motion 5

on our sheet, which is -- was to be agenda item 98, the public hearing that we closed earlier. Correct, maureen?

I'm sorry, motion number 5?

Mayor Wynn: Yes.

Item 99. I believe we took care of that with -- under motion 3.

Mayor Wynn: Thank you. So what's next? [Inaudible].

It's too early to be finished.

Mayor Wynn: We're not finished with oak hill, are we? The greg guernsey memorial oak hill neighborhood plan.

Mayor, are we done with oak hill except third reading on the waters tract?

And those one or two tracts.

Mayor Wynn: We postponed a handful, remember?

Oh, shoot.

Mayor Wynn: or whatever it is. Let me see if I can find my place again.

Mayor and council that is correct concluding oak hill for this evening.

Mayor Wynn: Yes.

Let me continue on. I believe we're at item number 108 and 109.

Mayor Wynn: Correct.

Item 108, npa-2008-009-03 located on east martin luther king jr. boulevard. This is an amendment to the austin comprehensive plan to amend east mlk neighborhood plan, change the future land use map from mixed use/office and single-family to mixed use for these properties. The planning commission's recommendation was to grant the mixed use designation. The related zoning item is item 109, case c-14-2008, 0172, again mlk project at 1705 and 1707 east martin luther king and 1701 and 1703. This is to change zoning on the property from limited office mixed use, conditional overlay neighborhood plan to -- and single-family residence to community commercial mixed use, vertical mixed use or gr-mu-npo. Planning commission's recommendation was to grant gr-mu-vco combined district zoning. 6 of an acre or about 25,500 square feet. The applicant is coming in and proposing to redevelop the property which

is currently used for single-family uses and an office for proposed four-story building and that would attain a height of approximately 48 feet with an additional 5 feet of room for the atrium area. The planning commission recommendation did approve the staff's recommendation for mixed use; however, it differed from the staff recommendation with respect to the zoning itself. The staff recommended Ir-mr-dco-mp. Lr would be a limiting factor in height and impervious cover on this property. The planning commission's recommendation recommended the applicant's request of gr-mu-vco with a trip limitation of 2,000 trips limiting height to maximum height of 55 feet. Requirement for affordable housing level 60% of the median family income for 10% of residential units in a vmu building. Require that the property be subject to parking reductions in the dimensional and parking requirements of the zone standards, and to prohibit specifically the following automotive rentals, automotive repair services, sales, washing, commercial off-street parking, dropoff recycling, hospital services general, hospital services limited, indoor entertainment, indoor sports and recreation, outdoor sports and recreation, pawn shop services, residential treatment, service station and urban farm. Surrounding the property in this general area to the north is multi-family. Zoned mf-3 with a mixture of multi-family and single-family residences. To the south is sf-3 which allows duplexes but the property is developed with single-family residences and offices of the further east is mixed use on the flum and zoned I -- mu-np and to the west is the oak wood cemetery which is zoned public historic zoning. I think at this time, mayor, I'll pause, see if you have any questions. I think we noted earlier in the evening that there was one gentleman or a lady that had signed up in opposition to this request that wished to speak regarding this item. Let me also note that the ocean -- the organization of central east austin neighborhoods is in support of this request with those same conditions that I read into the record. If you have any questions, I'll be happy to answer them at this time. I believe the owner's agent is here to speak to this request, mr. jim bennett. I saw him earlier. He's right behind me.

Mayor Wynn: Questions for mr. guernsey? Council, we had just a couple of folks signed up on this public hearing, item 108. Let's see. Jim bennett had signed -- jim, welcome, come forward. Looks like john moorehead signed up also wish to go speak.

Mayor, council, I'm jim bennett and I'm here on behalf of the owners of the property, brooks calavan and danny peoples. My client secured this property and immediately in may started working with the organization of central east austin neighborhoods or ocean, if you will. We have met with the ocean neighborhood association and we have the agreement which you have in your backup material where they supported this request by a unanimous vote of 15 to zero to support the request with the guernsey had indicated to you. Those conditions are also mirrored in the planning commission's recommendation to you to recommend the gr-vmu-conp. And that's what we would wish council to do is to consider an all thee readings to grant the planning commission's recommendation to you with full support of the neighborhood association. This is a little over a half-ager tract and one of those conditions is the height limit of 55 feet as recommended by the commission in conjunction with the ocean plan as well as the affordable housing stipulation as well. guernsey indicated, is between lee own in a and selena on the south side of mlk. There's a cemetery to the southeast -- I'm sorry, southwest to us and commercial properties more or less along mlk. The owners are here to address any questions that the council has any and I'll be available for any questions if you have any.

Mayor Wynn: Thank you, mr. bennett. bennett, council, or owners? Thank you, gentlemen. Let's see, we had one other citizen signed up, john moorehead. Welcome, mr. moorehead. You too will have three minutes.

Mayor and members of the council, I live at what's kno 1801 leona, the corner of east 18th and leona street. One of the interesting parts about our particular plat is john subdivision is found volume 1, page 3 of the plat records of austin, texas. We are been there quite a while and my neighbors just to the east have lived there for 120 years. What is proposed by calavan to start with and one of the things I would like to see happen before the council really considers this, and I apologize for not being at the planning commission meeting, but my wife first had a hip replacement and then a hernia operation just laid on top of that and I had other duties I had to attend to. But what he's done out there on the property is he's got his property, his south property line, fences off half of a public alley. So that you cannot use the alley between leona and selena. In this is a huge nest of farrell cats. I think we would have a lot better view of this property if we lined it up with this property line because the city when we built our property made us get american telephone and telegraph and relocate all the telephone poles. Sack west at the city wherever he is made us build a concrete alleyway that would withstand an 18-wheeler truck and i think the city can make a much better evaluation what can happen on this property after you see it opened up like it belongs. Number 2, they propose 7,000 square feet of retail and three stories of apartments. On this -- there's four, 65-foot lots with 90% impervious cover. They propose renting this to baseball players and to students, and there's no bigger baseball fan in our city than me of the university of texas. But they all sleep in apartments with two of them and that means we're about to pump 20 to 50 cars out on the street, and this is not counting agenda items number 110 and 111, which are little on your agenda tonight. And so what I think is is when you've got 90% impervious cover, you got 7,000 square feet of retail, you got 36 apartments on top of it, and you don't have enough parking is that that defeats the idea of what we want to have along mlk, which was which way it's presently zoned. I know we need mixed retail -- [buzzer sounding] there went my three minutes. I apologize. I think you got the drift of what I had to say.

Mayor Wynn: Thank you. Council, that's all the speakers we have signed up on this public hearing, item 108. Questions of staff or anybody else? Comments? Mayor pro tem.

McCracken: Is this ready for all three readings?

Mayor Wynn: Mr. guernsey?

Councilmember, I have an ordinance for this one so we could do three readings this evening on items 108 and 109.

McCracken: And it's recommended by both staff and by the planning commission?

It was recommended by staff and planning commission with respect to the neighborhood plan. Staff and the commission differed on the recommendation for the zoning; however, the zoning was also supported by ocean with their recommendation. Staff felt that gr was too intense and thought the lower

heights of Ir, more neighborhood related retail would be more appropriate, but the applicant did work with ocean to come up with the uses being prohibited and some other slight restriction on the property, so commission supported that recommendation.

McCracken: Okay. So are we on just 108 or are we also on 109 as well?

We are prepared for 108 and 19 action and I understand -- we opened the hearing for both of them.

McCracken: Okay. I'm ready to make a motion then.

Mayor Wynn: Let me just confirm that all the speakers -- yes, we're good. Mayor pro tem.

McCracken: Okay, so I'll move to close the public hearing on items 10 # and 109 and to approve the planning commission recommendation on each.

Second.

Mayor Wynn: Motion by mayor pro tem, seconded by councilmember cole approving combined case 108 and 109, planning commission recommendation on all three readings. Further comments? Councilmember morrison.

Morrison: I have a question of staff. Can you tell me with ocean what kind of -- well, what kind of parking for those 36 apartments will occur? Is that going to be just standard parking which is 80% of --

the requirement? It would depend on the size of the units themselves on what would be triggered. Typically if they are a efficiency they have one space. If it's a one bedroom, I think it's one and a half. If it's a two bedroom or more, it would be two stays. For each additional bedroom you would add a half space. Then you would take the reduction off of that.

Morrison: Okay. And since this is v if they build a vertical mixed use, what is ocean's -- what are the parking requirements for ocean? Have they accepted the parking reduction?

Yes.

Morrison: So it really would only be 60%.

If you look, there's a letter in your backup which they speak to that very thing. It says vmu 60%, parking 40% reduction. And so there's actually a letter dated august 11th addressed to the planning commission and city council and it's about halfway through your backup just before the ordinance and it goes through all the different items. The vote was 15 to zero for unanimous support regarding what was proposed.

Morrison: and then one other question, can you speak to the alley issue that the gentleman was

speaking about? I'm not sure I really understood the situation.

Well, the alley issue, and I recall a case now that actually got up and started talking about the telephone poles, it was an unimproved alley, not very well maintained. At the time the property is developed, it will have to be maintained or improved to the point behind this if it is not already. Obviously I think the gentleman that came forward earlier, he actually spoke to making some improvements. So it may have to be extended to accommodate the additional lots that are further east of his property. And in this case it sounded like it would be an extension of that all weather surface we would take out to leona towards the cemetery property.

Morrison: Thank you.

Mayor Wynn: Motion and second on the table. Planning commission recommendation, case 108, 109, all three reading. Further comments? Hearing none, all those in favor please say aye. Oppose understand motion passes on all three readings on a vote of 7-0. Councilmember martinez.

Martinez: I apologize. I want to make a motion to reconsider item 96 but only one small specific portion of item 96.

Mayor Wynn: Councilmember martinez hasn't had enough of oak hill yet a motion to reconsider item 96, seconded by councilmember leffingwell. All in favor of the reconsideration please say aye. Opposed? Thought about it. Motion to reconsider passes on a vote of 7-0. Councilmember.

Martinez: Thank you, mayor and councilmembers. On -- specifically on tract ad we have a contested future land map designation. Current staff recommendation is sf up to 5 and I wanted to make a motion on tract ad to be sf up to 6. And that's the only difference I would want to make in that entire motion that we adopted earlier.

Mayor Wynn: And so again, that's -- that's just the land use designation.

Are you recommending high density single-family? Is that what your motion --

Martinez: Yes.

Mayor Wynn: Bless you. So motion by councilmember martinez on tract ad, item 96 on our third motion, contested cases. Designation going single-family up to six. I'll second that.

Leffingwell: Just clarification. The rest of the motion remains the same. Right?

[Inaudible].

I'm already missing -- [inaudible]

Leffingwell: Well, you reconsidered the whole motion, right?

I did.

Leffingwell: And you made one change, but -- one change.

Mayor Wynn: Everything else remains the same.

Martinez: That's correct.

Mayor Wynn: So motion and second on the table on the table. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on tract ad, now the new main motion, with a vote of 7-0.

For high density single-family. Okay.

Mayor Wynn: Yes. Thank you all very much. That takes us to, I think, item 110. 1600 Block of east mlk.

Yes, mayor and council. Item 110 and 111, item 110 being the neighborhood plan amendment, 111 being the related zoning case. 02, 1600 block of east mlk for properties located at 1600, 1602, 1604 east martin luther king boulevard. This is diagonally from the property we just kids. It's on the north side and just to the west, closer to disch-falk field and north of the cemetery. This is a change to the austin comprehensive plan to -- austin comprehensive plan to change the future land use map from single-family to neighborhood mixed use. Planning commission recommendation was grand neighborhood mixed use t related zoning case for those same properties under case c 14-2008-0099, this is to rezone the property. Currently zoned family residence, neighborhood plan or sf-3 combined district zone to go neighborhood commercial mixed use, vertical mixed use, conditional overlay, central redevelopment neighborhood plan. And the planning commission this past tuesday did recommend the lr-mu-vco zoning t property is approximately one achier in size and as i mentioned, this is located diagonally from the property we just discussed. That would be to the north and west. It does have frontage on, again, martin luther king boulevard. Eastern boundaries leona. This property has vacant land to the north zoned sf-3, to the south the oak wood cemetery zoned public historic to, the east single-family homes and to the west is sf-3 zoning with vacant -- some parking lots used heavily during ball games and single-family homes. The conditional overlay that was requested with this included three star green building, maximum of 3,000 vehicle trips, residential parking garage access be off mlk boulevard. Retail access would be off of leona. Commercial retail space would be limited to 2500 or 2,499 square feet. And residential units would be limited to maximum of 59. With a written agreement with the neighborhood association allowing additional constraints on parking may be limited no more than 66 units. Additionally that the applicant is requesting as part of cure a reduction to no minimum site requirements, no minimum floor to area requirements, maximum building coverage allowed, setbacks that would be comparable to those on the vertical mixed use overlay, increased in impervious cover to 95%, and then for height for the mixed use redevelopment portion would be three stories or 40 feet, comprised of 38-foot buildings and two additional feet for rooftop solar energy mechanical equipment.

Also that for the residential use there would be no more than four stories with an average height not to exceed 50 feet. A 48-foot average plus two feet for solar energy and mechanical equipment. There is a valid petition, although staff has been contacted verbally by some of the petitioners indicating they would remove their signatures. That has not occurred. We've had other property owners that are on the petition have indicated there are others that might be willing to remove their names and we did have one petitioner that was going to remove their name, but we still stand at a valid petition against this case. It's only ready for first reading this evening so there's not the force of petition that would take effect. So most likely prior to second and third reading consideration those names would probably fall off if the people that called staff are true to their word and they would remove their names. With that I think we'll pause. Staff had recommended, again, Ir-mr, but with the cure modification, it accommodates I think most of their project. The reason why this discussion is simply really because we have the petition case that's before us, and if there are petitioners here this evening that would like to remove their name, we're more than happy to accommodate them. I think with that I'll pause and if you have any questions regarding this property, I'll be more than happy to answer them at this time. The blackland neighborhood is in support of this project and the main reason probably why not going to the vmu building is they have a separate agreement that deals with affordable housing on this property that would provide, i believe unthis private agreement, 10% at 60% mfi, and I might let ryan come up and speak to that more and if there is someone here from blackland, maybe they could also address that as part of this private agreement.

Mayor Wynn: Thank you, mr. guernsey. Questions of staff in councilmember morrison, then leffingwell.

Morrison: guernsey, the letter that we received from the blackland community development corporation addresses the valid petition situation and do you have that in front of you, the letter?

I believe -- the letter itself indicates that they would be willing to withdraw their name and there may be someone else willing to withdraw, but we actually need them to withdraw their name by themselves and not just have someone say they are going to.

Morrison: The letter i have says there is still one person that has 21% of the property that is not indicating.

I don't believe I've got that in front of me, but if --

Morrison: gooden maintains his opposition. That would still be a valid petition.

That's right. As I said before, we're only ready for first reading this evening so the force of the petition would not take effect until final reading. A simple vote of four votes would be affirmative to keep this case moving.

Leffingwell: So I have a question if you are done.

McCracken: Councilmember Leffingwell.

Leffingwell: The difference between your recommendation and staff's recommendation and the planning commission's was the cure?

Well, when it came in it wasn't originally filed with the cure, staff didn't have that as their recommendation. When the applicant came back in, they refiled, added the cure, worked with the neighborhood, came up with some of these different conditions and that's what's being brought back to you.

Leffingwell: What's the difference between the zoning with the cure and without?

The cure would then modify some of the restrictions that , impervious cover, building coverage, a lot of those things that would be very similar under the vertical mixed use building designation. As I understand it, they have a private agreement that regards to the housing component. And so I think that's the reason why they are asking to modify and use cure to get to the same things you might find in a vertical mixed use building but not be obligated to file the affordable housing piece that's part of the city component because they have an agreement they have already work out with the neighborhood.

Leffingwell: But the valid petition is against the planning commission recommendation.

The valid petition would still be in opposition to that request, yes.

Leffingwell: Okay.

Mayor Wynn: Further questions for mr. guernsey? Comments? It's a valid petition case but there's nobody here in opposition, or at least signed up. I'll certainly give folks a chance to speak if they would like to. Without objection we'll go to the public hearing hearing. The first person signed up is carter shankland. A number of folks want to donate time to you. Is jerry and/or ryan deifenbrach. And will winkler. Carter, you have up to 12 minutes if you need it.

Hopefully I won't need i good evening, I represent the east mlk properties, the applicant in this case. Before I get to the main points of my case, I want to thank you for your time and patience on this case. I know it's been on your agenda before, postponed several times. Indeed we've been working with the neighborhood association and interested parties for over a year to get to this point today. On this junky we've had more than one occasion, the opportunity to meet with several of you directly or members of your staff. In addition to numerous meetings with the city's planning and zoning staff as we worked towards a solution. I just want to let you know we very much appreciate your feedback and suggestions in those meetings and your consideration of our request today. We're very pleased to be here today with a signed agreement in hand with the blackland neighborhood association backed by unanimous vote of the land use committee and by unanimous vote of their general membership. We're equally pleased to have received a unanimous vote by the planning commission in favor of the zoning request before you tonight. I'll acknowledge that there is a valid petition before out this matter. We were hoping

some of the book keeping would have been taken care of today and both McCARVE AND JUNE BREWER'S Name would be off. gooden has declined to remove his name from the petition. He is the property directly to west where he owns roughly seven lots. He -- his petition is actually against any change whatsoever from sf-3. We believe that's a position that defies the reality of this location and it's inherent suitability for redevelopment. This is an area that is clearly in transition on a busy core transportation corridor. It's not where we should be building single-family homes, nor could one given the market price of this land build anything that would sell for less than \$800,000 today. This is a classic situation where greater density allows for land development and land purchase costs to be spread over many units making the location affordable for a broad range of new residents. With that in mind, I want to give you a quick review of the location and the issues involved that shaped our request, then highlight our design and zoning solution and points from the agreement with the neighborhood solution a copy of which you should have received. Let me quick correct something that staff mentioned. We are looking for conditional overlay to limit it to 66 units. That is our agreement with the neighborhood association. So a little bit of confusion on that aspect. This is the area here, just to remind you what we're talking about. As you can see, much of this area is the university of texas. It's an area very definitely in transition. The transition began in the 1980s WHEN THE UNIVERSITY Acquired property to build the baseball stadium, then the softball stadium, then the student parking lots to the north of this. The whole tract, in fact, all the way down to martin luther king in this area is part of 's master acquisition plan. They have continued to try to purchase properties over there, but have been stymied by the rapidly increasing market values of these properties. In fact, in this area, this four-block tract that we're talking about between comal and leona and martin luther king with 20th street on the north, there is not a single owner occupier in this tract, it is all investors who own these properties, if not u.t. Likewise, to the north most immediately of the property we're talking about it's all vacant lots. lots in this four-block area are vacant with exception of a temporary structure they use for construction on the addition of disch-falk field. Directly to the west of us are three of the properties owned by mr. gooden. The two closest to us have nonconforming uses on them. Six single-family structures, three of which have been boarded up for many years. His last lot, number 9, is vacant and has been for many years. So apparently he doesn't want to utilize his properties effectively, but he does want to block the rest of us from utilizing our properties effectively to the benefit of the city. But there's no doubt that 30 years after your spread investors put the cure designation on these properties that change is coming, witness your vote just on the last case. A couple of issues that came up in our conversations with the neighborhood I thought i would just remind you of those and some of our issues too. Traffic is a huge issue in this neighborhood. They suffer given their proximity to the erwin center, the baseball stadium, the softball stadium, the football stadium, the student parking, the employee parking, on and on and on they get hit excessively by traffic and on-street parking. Affordable housing is also a big issue for them over here as the property values of this very close to downtown land have continued to skyrocket. It's becoming increasingly difficult for folks to find affordable housing here. Height is also another important issue for the neighborhood association. They would like to see a buffer between our project and those affordable house structures that are on the east side of leona. And, of course, a number of other issues, micked use design, pedestrian and friendly community oriented is another issue that was important to them. From our perspective as developers, the high cost of land, the cost of the water quality and retention issues on this nearly undeveloped property, the high cost for underground parking which is something

we've agreed to do as part of our plan for this site, our need to utilize that mlk frontage, and the need to right produce podly price understand the raifng 200,000 to 260,000 -- excuse me, 200 to \$260 per square foot sell through price so we have a shot at making this project successful in today's climate. Also we do have a desire as applicants to include affordable housing in here voluntarily. We think it's the right thing to do and we're happy to do that. In our agreement with the neighborhood association calls for a minimum of six units at a 60% mfi, irrespective of any funding from any public sources. It also calls for to us make a minimum of \$100,000 donation to the blackland community development corporation so that they can spend that money for more effectively in other locations, essentially get more bang for the buck and providing affordable housing in other areas. City. So that's a commitment we have made to them through a contract with them that has been signed. We're also quite aware and quite desirous of green building. We think it's the right thing to do and part of our height request is accommodate use of solar power generation on the roof. And we are also quite interested in making this a pedestrian friendly layout and so we're asking for some modification from commercial design standard for residential, but certainly not the wide sidewalks, the landscaping and things of that nature that we think make for a pedestrian friendly and attractive city. This is the basic site layout that we have here that we think drove our specific zoning request. I would just point out, again, traffic was the major issue here. So we are asking to skew this project largely towards residential and limit the amount of retail to about 2500 square feet, inexclusive of exterior seating. That does a significant thing. It drops the calculated trips per day to this site to about 1,000. And so we have been willing to concede to the conditional overlay limiting the development to 2,000 cars a day. We think we can do well underneath that. So parking at a significant cost to ourselves, we have agreed to do underground parking. It's really the only way to make this work, but that brings the cars primarily off the street and out of view. We've agreed to make the access to the garage off of mlk to reduce car trips on leona. We do have some moderate parking on the surface designed to serve the retail component, but that's limited to short-term parking and that does have some access -- has access off of leona. We're also going to apply and ask the transportation group to allow us to build some parallel parking in the right-of-way here. This will remove cars that normally when they park along leona today really choke down the street and cause a lot of congestion. This street is simply not wide enough for cars to park on both side. The other aspects of this design, we are not asking for the retail area to have any allowances in terms of height other than what the base zoning requires. So that's three stories or 40 feet. That combined with the surface parking here effectively creates a transitional height buffer with those structures on the east side of leona, so we're stepping the development up. The design is also quite skewed here to the residential. The important thing is that we do need the cure in order to make this happen. The cure is already in place on this property. So we don't feel like we're asking for anything special to carry it over to this revised zoning. But the cure is important in that it allows us to get four stories or 50 feet for the residential portions of this. It also addresses some issues of impervious cover, building footprint, things of that nature. These are critical components in our request because they allow us to do the number of units necessary to fund things like the underground parking and the affordable housing commitment. Without these special exemptions allowed by cure, the project simply cannot support that type of development financially. We do understand for those that are wondering that a height variance would be required to work with the zoning in order to allow us to take advantage of that height and we'll be pursuing that with the support also of the neighborhood association. Who has already agreed to support us in that. So

other than answering questions, I'm willing to yield the balance of my time to the representatives from the neighborhood association who can speak to their desire for the site and the agreement that we have. I would just ask you for your approval of our carefully considered and worked out zoning request and thank you again for your time and consideration.

Mayor Wynn: Thank you, mr. shankland. Questions? Councilmember leffingwell.

Leffingwell: The height variance, is that compatibility?

Yes, with the sf-3 zoning to the north of this, all of which is vacant lots, investor , and gooden's lots to the direct west of us.

Leffingwell: You have to get that from board of adjustment.

Yes, we do.

Leffingwell: If you don't get that height variance, you spoke of having to have all of these other feet tours make the affordable housing work, to make the underground parking work, what happens then?

We'll have a different project. We'll have to really put pencil to paper.

Leffingwell: You won't have the affordable housing and underground parking in.

We as a group are committed to affordable housing component. The arrangement we have with them obviously we can do more if we have the height variance than we can if we're building a restricted number of structures.

Leffingwell: Well, i guess I'm confused about is the affordable housing component and the underground parking component a part of the of your plan and the -- what you are requesting right now is not dependent on the board of adjustment variance or sit dependent on the board of adjustment variance?

The site plan I just laid out to you with 66 or 59, we haven't made a firm commitment, but we need obviously the upper boundary nod to make that adjustment, is dependent on that height variance from the board of adjustment. If not, we're probably looking at something more on the order of 45 units and we'll have to rethink some of the parking aspects for certain.

Leffingwell: And the affordable housing.

We'll have to renegotiate the affordable housing, yes.

Mayor Wynn: Further shankland before we hear a little more testimony? Thank you, carter.

Thank you.

Mayor Wynn: Let's see, our next speaker signed up is johnny overton. Welcome. You too will have three minutes.

Good evening, honorable mayor wynn and councilmembers. I'm johnny overton, member of the blackland neighborhood and immediate past president n awfg 2008 you did receive from us a letter in which we were stating opposition when there was a request for gr-mu, crp. Since that time we have had many discussions with the developers and members of the association and through our land use committee. And so as a result of those negotiations and conversations, the blackland neighborhood association in its meeting on december 9th voted to be in favor of the plan as presented. Thank you.

Mayor Wynn: Thank you, over ton, for your patience tonight. Council, I believe that's all of the folks signed up to give us testimony on this combined case 110, 111. Questions of staff? Comments? Councilmember leffingwell. Councilmember martinez.

Martinez: Thanks, mayor. Since we're only ready for first reading I'm going to move approval on first reading.

The commission's recommendation. And that includes up to 66 units.

Martinez: I move to close the public hearing, adopt item 110 and then -- and 111. First reading only.

Mayor Wynn: Motion by councilmember mart to close the public hearing and approve the planning commission recommendation, combined case 110 and 111. Seconded by councilmember cole. Further comments, questions, first reading only. Councilmember morrison.

Morrison: I have concerns about the fact that this agreement becomes void if the variance doesn't go through. Which means if we go ahead and zone it and the variance don't go through, they still have their zoning but no requirement to provide any affordable housing. This isn't something that i can support the way it is. I'm also concerned about the valid petition. Even if it gets down to 21%, it's still a valid petition and the concern -- I mean the bottom line is the flum shows single-family here so it shouldn't be considered a no brainer that this is going to turn over into multi-family and mixed use. So I won't be able to support this motion and I understand it's only on first reading so I hope some corrections could be made in the interim.

Mayor Wynn: Thank you, councilmember. Councilmember leffingwell.

Leffingwell: Likewise, I'm not going to be able to support the motion. I realize it's only on first reading and perhaps there's a time to address some of the concerns, but with the dependent on getting a variance to make all these happen from the board of adjustment, which is always a super majority and has very strict guidelines for how they grant variances, including hardship, you notice, there's serious question as to whether this is all going to work. I may be able to change my mind, but tonight I'm going

to vote no.

Mayor Wynn: Motion and second on the table. First reading only. Planning commission recommendation. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on first reading with a vote of 5-2 with councilmembers leffingwell and morrison voting no. Thank you all. Let's see.

Mayor and council, i believe that leaves us just 115 and 116.

Mayor Wynn: Correct.

These are related items for the property known as project destiny. Item number 115, npa-2008-0012.02. And this is an amendment to the upper boggy creek neighborhood plan. This is an element of the austin tomorrow comprehensive plan to change the future land use map from single-family to office mixed use. And this is for the property located at 4315 airport boulevard. The planning commission's recommendation was to recommend the office mixed use designation for this property. Item number 116, the related zoning case, c 14-2008-0171 for the same property to change the zoning from family residence, neighborhood plan or sf-3 combined to neighborhood office mixed use, neighborhood plan. The planning commission's recommendation was to grant the zoning no-mu-np with a conditional overlay. And the planning commission's recommendation had conditions that only administrative business offices, professional offices, single-family, duplex, two-family residential, and two-familiar residential is a garage or granny flat are the only uses permitted. The property is approximately .2 of an acre other or about 8,775 square feet. This is large enough to support a duplex structure on the property. Sf-3 would under current zoning accommodate a duplex structure. It is currently developed with a single-family use and it uses a home occupation for i believe an attorney on the property. They are prohibited in home occupation ordinance although you can operate a business, you can even have an outside employee, your number of trips are limited and also signs are prohibited on the property. And that is the case on this particular property as well. So that the home occupation cannot advertise their use on the property. There is I understand a letter, although I don't know if we have a copy of this letter, with the neighbors that provided that there's a scale drawing for the proposed sign on the south side of the property and that the neighborhood can review the lighting and aesthetics. Also that there is a provision under this private agreement they would not object to a rollback after 90 days if the change of ownership ceases. That's not something we typically regulate, we regulate the use of the property, that they would agree to the conveyance or the zoning of n.o. The zoning in the area to the north, south, east, west as well as all the adjacent lots uses to the north, south, east-west, single-family and sf-3. The property is designated for single-family in the surrounding areas. It's about two or three -- about four lots down from the mueller development along airport boulevard on the north side not that far east of the interstate i-35. It is located through the intersection of rowwood road and is-"i guess you could say surrounded by right-of-way on three of its four sides. I think at this time I'll pause, if you have any questions and you may have questions for the applicant. I believe we had one citizen that signed up earlier this evening in opposition that we weren't aware of and i apologize to that citizen. We thought we had checked just before we went to offer the consent items.

Mayor Wynn: So remind me again the staff and planning commission recommendation.

Staff, we typically would not recommend this and we still would not. There was a council resolution that dates back almost 20 years in the era of Sally Shipman council and there was basically a resolution that was passed that we followed that basically says where there is a private deed restriction against a nonresidential use that we would be supportive of that. Given the land uses in this area, the zoning in this area, this resolution that exists, we are still supportive of that position.

And planning commission recommendation was to --

was to deny the staff's recommendation to designate it office mixed use and zone with very narrowed limitations on the type of office that's allowed in residential to no-mu-co. I think they were sympathetic to being on airport boulevard and having right-of-way on three sides of the property.

Mayor Wynn: Questions of council, staff? We have a handful of folks who would like to give us testimony. Five or six in favor and one in opposition. Without further ado, we'll go to those speaker signups. Our first speaker is John Lay. [One moment, please, for change in captioners]

from the letter that I received yesterday or today, the neighborhood association does have some serious questions about this, about this zoning change. I would also say that the planning commission voted five-four. I kind of feel like Mack Brown, I missed it by one vote. They voted five-four in favor of this. Four folks were opposed to it. Since there is so much confusion about this and since this neighborhood is I think a very valuable neighborhood to Austin, it's modest homes, mostly two bedroom, one bath, thousand square feet, 1200 square feet. It's survived and it's done well for 60 years. I threw papers in this neighborhood when I was 12 years old, and I'm familiar with every alley and every driveway. It's been a great place to raise a family. Most of the folks in the neighborhood have families and small children, and it just makes me very, very nervous to have some one change for the convenience of one individual to change a house to an office. Because the history is it starts dominoing. And we talked a lot about the traffic, high traffic levels on airport boulevard. And normally you wouldn't think that something -- [buzzer sounds] -- that busy would support houses, but in this case it's done very well for 65 years and the entrances to those properties are in an alley behind the property, so you can't get to those houses off of airport boulevard, have you to come on to Rollwood and that's a concern of mine also. I just want to go back to the neighborhood and go back to the neighborhood association and get these things clearly spelled out and then come back through the process, and if it with them after that, then I'm fine with it. The first I heard of this was back in October when I went to a neighborhood MEETING ON OCTOBER 21st. It was on the planning commission agenda seven days later, so there really wasn't a time for me to deal with this. And I know it gone on for three years, but it was the first I had heard of it and the neighborhood association had some time, some issues with that three-year period transpiring too. I know I went over my time, I'm sorry. I talked as fast as I could.

Thank you.

Mayor Wynn: Yes, sir. Bryan, I'm not even going to pronounce your last name. I usually give it a shot

and embarrass myself. You will be followed by mary anne McKale.

It's easier to say than it is to read. You should avert your eyes if you're trying to pronounce it. Actually, just to be clear on the map there, the house that's across the street on rollwood is a church and has been a church for decades. The other corner house there on airport and rollwood, it's not sf-3 zoned either. It is a church and has been as far as I know from the time it was built. And the property most adjacent to me would be my next-door neighbor that i share a property line with. This guy had been robbed five times before I moved in. I've got his key. I'm his alarm contact guy. He would always get robbed during the day. He hasn't been robbed since. He's really happy about that. I have a house in the neighborhood a block away from here. I employ people in the neighborhood. I represent people in the neighborhood. I walk or skateboard to work if it's good weather and i don't have to be in court. I know may some of you are proponents of kind of new urban design and that sort of thing and I believe that this meets all the stated goals of that. I moved to austin back in 1993 to go to undergraduate school. I went to law school here as well. And my wife and I actually met in that church. It used to be a bahai center way back when. We met there and lived in french place for a long time and then I started -- i clerked for a couple of years in the court of criminal appeals after I got out of law school and then decided to start my own practice. And had an office over off of shoal creek. Knew that we wanted to live here and knew I wanted to get an office in the mueller development plan. It's taken them awhile. This property came on the market and sat on the market for about six months, so i called city staff, I asked them what would you think about this? Do you think that would be a good thing for rezoning? They're like this would be great. Airport has 40,000 cars going on it a day. Everything about it sounds good. I had no idea how long the process was going to take. I purchased it and started meeting with the neighborhood associations. For about six months it would be like over and over again. It would be like 15 to one. Ms. delay was never there. delay doesn't live in the neighborhood. He doesn't own the property in the neighborhood. It's mom's property. They told me, well, he's rented this place to some questionable people and we don't really know them that well either. He may have thrown papers there 50 years ago, but i believe my usage of this property is in keeping with the stated goals of a lot of people in the city. I'm a consumer protection attorney, so I actually help individuals. I do almost all plaintiff's work. [Buzzer sounds] and I'd like to continue to do that. It's not going to change. What I've been doing for four years and what I will be doing hasn't changed, won't change. The only difference will be I don't have to explain to people it looks like a house, but it's an office. You can come in. I just need to put in a sign with an address. I still don't know. Make depositions a little less awkward. But that's really kind of my deal in a nutshell. I thank you for your time.

Mayor Wynn: Thank you.

One more thing, I'm sorry. What happened was I was trying to get this piggybacked on to the ubc amendment at the time when this initially got started. And then it went past the time for that. My father got sick, he was in a coma. We spent about a year dealing with that before i retabled this and that was the delay. Before I got this going again. I'm sorry.

That's all right.

Mayor Wynn: Next speaker is mary anne McHAIL. She signed up wishing to speak as did vlad marine. Welcome. I hope I pronounced that right. You will have three minutes to be followed by jubilee guequierre.

Wow. This is my first time being here?

Mayor Wynn: What do you think?

I live in the neighborhood. I own several properties too. I moved in in 2000. It's a beautiful place to live. Small. Small pocket. About 150 houses. I love that bryan has his business there. I have used him. Every time he go into the neighborhood community and ask for permission, we always (indiscernible) to him. Has never been a problem. I wish that is granted the permission to put a sign and to continue to do his job where he is right now. My girls live in there. They're going to grow up over there. They're going to get old and retire in that neighborhood. And I would love to -- bryan to continue there as much as he can. That's what I have to say.

Mayor Wynn: Thank you, vlad. Let's see, jubilee, welcome, ma'am. You will have three minutes to be followed by zoresh (indiscernible).

It's guequierre. I know it's impossible. I'm brian's wife, so i obviously also live in the neighborhood and I also support the sign. I just wanted to say that we've lived in this neighborhood for five years. We're not going anywhere. We made the decision to live in a teeny-tiny house in the middle of austin so that we would have the opportunity to -- we're close to our daughters' school. We have the community feel with the small neighborhood. My husband with walk to work. It's really a big part of why we chose to live in this area. It's really wonderful to have him be able to walk home for lunch and just -- sorry, I'm nervous. Just be a part of our day-to-day. A lot of attorneys don't have a lot of time to spend with their families, and that's kind of why we've made the decisions that we've made. Thank you.

Mayor Wynn: THANK YOU, MA'AM. AND MR. OZARTI?

THANK YOU, SIR. GOOD EVENING, EVERYONE. I'LL BE VERY BRIEF. I LIVE IN THE NEIGHBORHOOD, ABOUT TWO BLOCKS AWAY, 1311 FAIRWOOD. THE APPEAL OF THIS NEIGHBORHOOD AND THE REASON I MOVED IN WAS NOT ONLY BECAUSE OF THE SINGLE FAMILY HOMES, BUT THE OPPORTUNITY THAT SOME OF THE BUSINESSES WOULD ESSENTIALLY BE ABLE TO MOVE INTO THIS AREA. I'VE USED BRIAN'S SERVICES BEFORE, LEGAL SERVICES, AND I THINK ONE OF THE REASONS I LIKE TO TELL YOU THAT I MOVED INTO THIS NEIGHBORHOOD WAS BECAUSE OF BRYAN'S ENTHUSIASM FOR THE TYPE OF NEIGHBORHOOD THAT THIS IS. HE WANTS TO RAISE HIS KIDS THERE, HIS FAMILY THERE AND HAVE HIS BUSINESS. I REFER MY FRIENDS TO HIM. AND HIS BUSINESS IS SOMETHING I THINK THAT WOULD HELP OUR NEIGHBORHOOD IN ITS GROWTH PROCESS. RIGHT DOWN THE LINE WE HAVE THE MUELLER DEVELOPMENT WITH THIS MIXED USE PROPERTIES. SO I THINK I'M IN FAVOR OF BRIAN PUTTING HIS SIGN UP AND BEING ABLE TO CONDUCT HIS

BUSINESS IN THE NEIGHBORHOOD. THANK YOU.

Mayor Wynn: THANK YOU, SIR. I THINK OUR FINAL SPEAKER IS JOANNA OZARTI. WELCOME. YOU TOO WILL HAVE THREE MINUTES.

THANK YOU. GOOD EVENING. I'M ACTUALLY NEW TO THE AUSTIN AREA AND I'M NEW TO THIS FABULOUS DELLWOOD COMMUNITY. I RECENTLY MARRIED AND MY HUSBAND BOUGHT THE HOUSE ABOUT A YEAR AGO OR SO AND I MOVED HERE IN JUNE. IT'S A PHENOMENAL NEIGHBORHOOD AND A PROGRESSIVELY FORWARD MOVING AREA. YOU KNOW MUELLER DEVELOPMENT, THE EAST SIDE HAS SEEN INTEREST EXPANSION JUST BEGINNING. I ACTUALLY TOOK EMPLOYMENT WITH BRIAN. HE'S A PHENOMENAL ATTORNEY AND I THINK ALL AGREED TO THAT. TO CONCUR WITH MR. LAY, IT IS A WONDERFUL COMMUNITY THAT WE LIVE IN. BRIAN IS SORT OF LIKE OUR RESIDENT ATTORNEY. THE NEIGHBORHOOD IS VERY CLOSE AND INTIMATELY CONNECTED. HE'S WELL KNOWN AND WELL LOVED. HIS BUSINESS IS FOR THE PEOPLE. HE'S EMPLOYING PEOPLE IN THE NEIGHBORHOOD. AND IF YOU LOOK JUST LOGISTICALLY THE LOCATION OF THE HOUSE IS A STONE'S THROW FROM A NEW COMMERCIAL AREA, WHICH IS THE MUELLER DEVELOPMENT. I THINK WERE HE PROPOSING TO PUT A BIG SIGN UP LIKE INSIDE WHERE EVERYBODY SORT OF PROTECTIVELY LIVES IT WOULD BE MAYBE DIFFERENT, BUT BECAUSE HE'S ON A MAIN THOROUGHFARE AND RIGHT ACROSS THE STREET FROM A CHURCH THAT HAS A SIGN, IT ONLY SEEMS FAIR THAT HE WOULD BE ALLOWED TO PUT SOMETHING UP REPRESENTING HIS BUSINESS. SO AS A RESIDENT I FULLY SUPPORT IT. THANK YOU.

Mayor Wynn: THANK YOU, MA'AM. SO COUNCIL, I BELIEVE THAT CONCLUDES ALL OF OUR CITIZEN'S TESTIMONY IN THIS COMBINED CASE 115 AND 116. MR. GUERNSEY?

MAYOR AND COUNCIL, I JUST WANTED TO ADD, THAT JURY MAY HAVE PUT THIS UP ON THE OVERHEAD. THE DELLWOOD TWO NEIGHBORHOOD ASSOCIATION GAVE A LETTER TODAY, ABOUT 3:04 TODAY, DEAR CITY COUNCIL, THIS LETTER IS IN REFERENCE TO THIS ZONING CASE, PROJECT DESTINY, AND IT IS TO RESCIND OUR INITIAL LETTER REQUESTING A DELAY. THE OFFICER OF THE DELLWOOD NEIGHBORHOOD ASSOCIATION, BRIAN GUEQUIERRE HAVE REACHED A PRIVATE AGREEMENT CONCERNING THIS PROPERTY. THE PRIVATE AGREEMENT WILL COVER TWO ITEMS OF CONCERN INITIALLY BROUGHT BEFORE COUNCIL AND THESE ARE THE TWO ITEMS THAT I EXPRESSED EARLIER. ONE BEING THAT THERE'S A SCALE DRAWING FOR SIGNAGE FOR THE SOUTHSIDE OF THE PROPERTY ABUTTING AIRPORT BOULEVARD. THE NEIGHBORHOOD WILL HAVE INPUT REGARDING THE SIZE, The amount of lighting and e overall aesthetics. And two, that it be provided a roll back provision as a private restrictive covenant for this property that outlines if the use ceases for more than 90 days or a change of ownership occurs that a zoning case will be initiated, evaluating if the no-lo or mu zoning should be changed back to sf 3 at the current owner's expense. It's signed by carol ek he will camp, president of dellwood two neighborhood association. This was received by my staff this afternoon.

Mayor Wynn: Thank you, mr. guernsey.

That was the letter I was referring to earlier.

Mayor Wynn: Thank you. So again, questions for staff? Comments? Councilmember morrison.

Morrison: guernsey, I had a couple of questions for you. First of all, it was suggested that your staff was giving advice over the telephone over what kind of zoning might be appropriate for this. The applicant said that he called the staff and they said oh, yeah, office zoning would be great.

It very well could be. When we have citizen contact our development sit sense center, if we don't know a lot about the case and they're giving a verbal description -- and I don't know how the details of the conversation we want into. If it's going into there's deed restrictions that prohibit this use, I'm surrounded by single-family, I'm not sure what the comment would be with regard to that. I would think that we would probably say, if there's a deed restriction against it, there's a very good chance that, one, if the deed restrictions are still enforce and still in effect that there may be a civil matter in addition to the seeing change issue -- the zoning change issue. I know that we do have in our training manual, all the zoning planners have a copy of this resolution that dates back to the late '80's that states that we would not recommend contrary to that restrictive covenant.

Morrison: Do you think those folks that are giving advice would take the opportunity to -- have access to the neighborhood plan that would have the flum that would show that this was all single-family and not office?

They would. And showing it and indicating that everything around it is single-family, you know, that's a pretty indication it might be difficult to change. But we also indicate that you should talk to your neighbors about this proposal and talk to the contact team. And in this particular case it sounds like he did do his homework and did talk to his neighbors and did have a lot of support. So maybe -- and I can only speculate. He seems to be well acquainted with the covenant as well.

Morrison: Well, I guess I'm confused as to whether he ever lived there or not. I thought maybe you can clarify that. Did you buy it to use as an office?

Mayor Wynn: guequierre if you could come and speak into the microphone for the record. And for our large viewing audience back home.

You never know. I tried to tell one of the neighbors what went on last time. He was like I know, I saw. I was watching. I didn't even know it was being broadcast.

Morrison: Did you live in the house?

I did. My primary residence has been the home that's a block away, but I've had family members, my brother. We use it as a guest house. I've had family members live there as well. There's a room at the

back that is a room that some of us will stay in from time to time. And family members have stayed in permanently.

Morrison: I'm wondering about -- this doesn't sound like a home office. guernsey, is this a home office use or this is just a non-compliant use?

If the soul purpose is just an office, then it would not be a compliant use. The office operator or the person who uses the home occupation as the office doesn't necessarily have to live there. Someone else could live there. So if he had a family member residing in the property, he could run an office out of there as a home occupation and not actually be the resident as long as somebody else lived there.

Morrison: Is living there.

Somebody else.

Morrison: I wanted to say that I have concerns about zoning something in order to comply with -- it was known that it wasn't zoned for office when it was purchased. I also have concern about the agreement that we got from the neighborhood because it sounds a little bit like they -- I think they think the current use, the way it's going right now, seems to be fine. And it depends. I think they know that it depends on the people that live there and the way it's being treated. And the agreement says, but if it changes ownership or changes use they want to initiate a zoning change. To me that's bad land planning because the zoning really needs to be the right zoning for the land. And that along with the restrictive covenant, which is supported in part by the resolution from the sally shipman days, I'm really concerned about going against that resolution because it put a private citizen in the position of, well, if they want to enforce their deed restrictions, which we now would have gone forward to to sort of ignore, then they're in the position of having to be in that position. So with that being said, my motion is to deny the zoning change.

Mayor Wynn: We have a motion by councilmember morrison in this combined case 115, one 16 to close the public hearing and to deny. Seconded by councilmember leffingwell. Mayor pro tem?

McCracken: I'm going to offer a substitute motion to approve the zoning on first reading only. To approve the planning commission recommendation.

Mayor Wynn: So we have a substitute motion by mayor pro tem. Do I hear a second? Seconded by councilmember cole to again close the public hearing, but approve on first reading only the planning commission recommendation, this combined case 115, 116. Councilmember leffingwell.

Leffingwell: I can't really add much to what councilmember morrison has already said, but clearly it is spot zoning, completely surrounded by sf-3 zoning. I think the closest is an apartment down towards airport boulevard, airport complex. Both sides of airport. And I know airport is a busy road. A couple of cases ago tonight we just zoned some stuff, some property rr, which was also on a six-lane road because that was appropriate zoning, compatible with the existing neighborhood. So here we have what

I think is clearly a case of spot zoning. Also you have the problem with the deed restriction, the restrictive covenant that calls for reversion, which is, as councilmember morrison said, appears to be directed at a good resident at this property that they like, but zoning traditionally goes with the dirt. It doesn't go with who's using it right now. It's a land use tool. And so I it's inappropriate in this area to zone it anything else but sf-3. So I will pose oppose the substitute.

McCracken: Mayor, i think a key difference about the two cases from where we are is this property is on a core transit corridor. Airport boulevard is a core transit corridor. It is in the vertical mixed use overlay. This property is across the street from the mueller development. It is -- this street has many of the characteristics of koenig that has single-family homes that have become offices. It has the neighborhood support. You have planning commission support on a core transit corridor across from mueller development. I think the totality of circumstances led me to conclude that the planning commission got it right to support the neighborhood and so that's why I've made the recommendation to support the planning commission recommendation.

Mayor Wynn: Again, we have a motion and a second as a substitute motion on the table approving planning commission recommendation on first reading only. Councilmember shade.

Shade: I don't think i really understood what you were talking about, greg, when you said the conditional -- was it some kind of a conditional option that the neighborhood suggested? I'm not sure. If you could repeat -- I'm having a hard time figuring out is this an all or nothing -- is there any middle ground is I guess what I'm asking on this?

Well, the neighborhood is in support of the request. And that would be of the planning commission's recommendation. And there's an additional -- an agreement that I believe is yet to be executed, but it sounds like all parties are willing to agree that in addition to the city's planning commission's recommendation to limit the uses to only be office, whether it's a professional office, which would include his use, or administrative office, like an insurance office or something along that line. Single-family home or duplex or a granny flat type of us there are additional conditions that they had agreed to put in a private restrictive covenant, and those would be one would be limits on the size, the lighting of it, its aesthetics, its size and this private agreement to do a roll back that should the property be sold or they use change that the owner brian would come back and pay for that expense. And I don't have the details on that because it hasn't been executed and staff just was made aware of that today. So in the sense that it's all or nothing, I guess it's either residential or -- it's mixed use in this case. And so --

it seems like so much trouble for a sign.

If it were to be used as an office, there would not be a requirement for someone to reside on the property. Because in order to be a home occupation, somebody has got to live there. So it could remain just solely as an office use all by itself. And I think that's probably what brian is attempting to do with the property. Since he lives two doors away or a couple of doors away.

Mayor Wynn: Councilmember leffingwell.

Leffingwell: But he can continue to operate his office out of that house as long as somebody lives in it, right? That's correct. He wouldn't be able to advertise. The home occupation has restrictions on the number of trips, so he can't have, you know, people coming in and out all day long because it limits the number of trips going in and out of the property. It sounds like it's the advertising. He would like to have a sign as you heard testimony this evening.

Leffingwell: So an earlier speaker was concerned about some kind of domino effect, that we would start to see this -- once you have that one spot of zoning, we would start to get justification for all down airport boulevard. And my colleague, councilmember mccracken just suggested that, well, this is a place for vmu. This is a core transit corridor. Again, indicating that this particular stretch of airport is slated for some other kind of development, vmu development. I have -- I lived in that area for a long time. I know it very well. The houses -- it was also pointed out on airport boulevard, even though they are on airport, really they use the back alleyways as the access to their homes. In reality, their back door is on airport. So we're headed down the road here towards taking out small housing units, small single-family housing units that are affordable, that are energy efficient, in that at the very least they're minimum square footage, the kind of housing we would like to keep at least in some parts of urban austin.

Mayor Wynn: Again, we have -- councilmember cole.

Cole: A question for greg. Yo mentioned that he could still use that as an office even if he did not reside there, is that correct?

Someone would have to reside on the property, but our home office ordinance allows someone to reside in the residence.

So we're just talking about the time the neighborhood association has agreed to. That's the essence of what we're debating this evening?

Not be able to place signage on the property, place a sign on the property. It sounds like that is probably the main reasons his clients can't find him. So he wants a sign on the property and he can't display a sign because then it would be in violation of home occupation ordinance.

Cole: Okay.

Mayor Wynn: We have a substitute motion and a second on the table, planning commission reco re only. I'll just say this is a troubling case in that it seems like there should be an easier fix when you have neighbors that like the use and like the owner, like the business, so I'm going to be supportive of the substitute motion knowing that it's first reading only and perhaps there's -- there's opportunity or movement before we have to make a final decision. Councilmember morrison.

Morrison: Just one thing to clarify. I believe that airport boulevard is a core transit corridor from lamar to

i-35. And this is east of i-35, so we're into the world perhaps of future core transit corridors. I would also like to comment that I don't believe that when we were creating core transit corridors, at least it certainly wasn't my understanding that we were envisioning that we would -- that we would be running out all the single-family use that might be there. I thought it was understood that some might remain.

McCracken: I've heard this from two of my colleagues. I'm not suggesting -- Laura is accurate that we're not -- that single-family is not eligible for mixed use. We did make as a judgment that certain corridors, and which for instance 71 and Oak Hill was not one of those corridors, but if the entirety of airport, actually the neighborhood wanted -- there's some cutoff right in that very area where -- but the neighborhood actually wanted it and the development community did not want it. That was the weird history there. But what it did reflect from a planning perspective, a judgment, that this was a corridor that had the characteristics where it would be appropriate if there were neighborhood support for it. Here there is neighborhood support for it, so it meets the criteria that we came up together with. So I'm not suggesting wholesale change in that. What I'm saying is that we had made judgment in advance that if a neighborhood did make a judgment for it to be commercial, that would be appropriate. As they have here.

Mayor Wynn: Councilmember, you bet.

Morrison: Okay. My take on all of that was not that core transit corridors were going to be for usurping neighborhood plans, and that is what we have here is the neighborhood plan, it was not meant to override that. So I have to disagree. [Laughter]

Mayor Wynn: We have a substitute motion and a second on the table.

Leffingwell: One more. This will be quick. It is not on a core transit corridor, correct? It's not on one now. Okay.

Mayor Wynn: We have a substitute motion and a second on the table, planning commission recommendation, first reading only. All in favor of the substitute motion, please say aye.

Aye.

Mayor Wynn: Opposed?

No.

Mayor Wynn: Motion passes on first reading only on a vote of five to two with councilmembers Leffingwell and Morrison voting no. There being no more business before the Austin City Council, we stand adjourned. It is 9:30 p.m.

End of Council Session Closed Caption Log

