

## Closed Caption Log, Council Meeting, 12/18/08

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Mayor Wynn: Good morning. Good morning, if I can have your attention, please. Appreciate the big crowd. Sorry for our delay in getting started. I'm austin mayor will wynn, it's my privilege to welcome chaplain doots dufour, apd chaplaincy program who will lead us in our invocation, please rise. mayor, members, gathered folks, let us recall always that the god who made us is with us always, in us and around us. Recall this is the day the lord has made, let us rejoice and be glad in it. We thank you, lord, for the service of these selected servants of yours, grant this wisdom to this body. May they consider well their decisions and may they have the courage to do the right thing and discount the difficulty. Encourage stability and prosperity and be the voice of the voiceless and take care to be principled and forth right to help us live as a free people open to the guidance of god. May we all rejoice at the advent of the celebration of the coming of one who set us free from sin and despair. May god the father give you long life and grace. May god the son free you from every evil. May god the holy spirit guide your life always, amen.

Amen. Thank you, chaplain, for your service with a.p.d. There being a quorum present, at this time I will call to order this meeting of the austin city council. It is thursday, december 18th, 2008. We're in the city council chambers of the city hall building, 301 west second street. Folks, if you don't mind, as a point of privilege, before we sort of formally get started, I go through the changes and corrections of this week's posted agenda, i do want to make a quick comment. It's been widely reported, many of us know that jennifer gale passed away this past wednesday morning. She was scheduled to address us at citizens communication at noon, which she frequently did. And so at that time, at that appointed time when she was to speak, I think we're going to have a nice little remembrance of jennifer and her service to us. Advance of that, I did want to take the opportunity while we have the crowd here to to owe remind folks there's sort of a remarkable giving opportunity here just the week before christmas and as we start our month-long holiday break as a council and as a -- as a city management and so just outside the door here, on the table, I have placed a bowl and for donations to house the homeless. It's the remarkable little program they have during the holiday season where for every multiple of a 10-dollar donation, a pair of thermal long underwear will be purchased and delivered to someone sleeping on the streets. For every multiple of \$25, not only will they get the thermal underwear, they are also get socks, gloves and a hat. And my kids and I have been involved in this program for the last two or three christmases. And so in that bowl there I've tried to prime the pump with \$100 donation, I will let them decide whether to get 10 thermals or four sets of the whole thing. In a remembrance of jennifer, if you want to feel good

about the christmas or holiday season, remarkable and effective giving opportunity, perhaps on your way out you could consider dropping any donation, but certainly multiples of 10 or \$25 into the bowl, richard troxell's organization house the homeless will put that to very, very good use. Jennifer, of course, as you all know, most nights slept outdoors and was found wednesday morning after i think tuesday night, wednesday morning, probably got down to about 30 degrees, know that this community strives to have as many emergency shelter beds open as possible. There's about 600 formal emergency cold weather beds available for folks who find themselves sleeping on the streets. We've heard estimates of as many as 4,000 people homeless in this -- in this vibrant, remarkable city. Jennifer, we believe, is the 136th person who has died sleeping on the streets over the last 12 months. So -- so as we take our break for christmas and our holidays, I think that it's an opportunity for us to -- to think about those far, far less fortunate than all of us in this room. And we could do it in remembrance of jennifer, again at noon we'll have a -- I think an appropriate little tribute to her in lieu of her absence from our citizens communication. So thank you all very much. Okay. Council, we also take this opportunity before we start the formal agenda process of -- of announcing any potential or anticipated items from council or issues that might be coming before the dais here over the next meeting or two. Of course knowing that we're not going to meet -- our next meeting won't be until THURSDAY, JANUARY 15th. At this time I will ask if there's any issues. Councilmember morrison?

Thank you, mayor, later today under item 74, we're going to be looking and considering a resolution on economic city of san -- economicincentives, that resolution going to take us from a previous resolution on economic incentives and retail to an ordinance that councilmember leffingwell has sponsored. That is step one, as i mentioned. Step two, I will be working with councilmember leffingwell and shade on work -- on developing a stronger economic incentives program with regard to retail and others, we would like to enhance and strengthen the analyses of the proposals that we are looking at. And we would also like to strengthen the public input process on that. So -- so as councilmember leffingwell mentioned, we might have been able to get that going this time around, but we probably wouldn't have had enough time for public input on the resolution. So -- so hopefully we'll be doing that in the very near future, thank you.

Thank you again. Further daniel r additional potential future items for council that folks should be aware of? Thank you all. Hearing nub, what I will now do is read the changes for the agenda notice that the calendar year for the last month or so is usually a full agenda, because of that there's a bunch of changes and corrections on this week's agenda. one, our meetings from the -- minutes from the last meeting have been withdrawn so we can make some corrections on that formally. 2 from austin energy comes recommended to us by the electric utility commission and the resource management commission. Items number 4 and 8, we'll note that they come recommended by the water and wastewater commission as do items 16 and 17. 15, a professional service agreement, we should note /fb participation is 24.3%. And we should strike the phrase through the achievements of good faith efforts and insert actual procurement participation of 11.6 m.b.e. and 17.9 w.b.e. 20 we should strike the reference to our law department and know that it's -- instead our economic growth and redevelopment services. -- 25 comes recommended to us by the public health and human services subcommittee. 29 technically is us adjusting our schedule for calendar for city council meetings in the near future. We will be canceling as part of this item canceling the january 22nd and the february 19th previously scheduled

council meeting and we will be adding a council meeting on thursday, FEBRUARY 26th. So note that -- that what we have noted as our posted cat calendar '09 schedule will be adjusted modestly based on today's consent agenda. We should note for the record that items 30 and 83 are related, as our items 36 and 37. 38, regarding the barton springs pool master plan will be postponed as parts of our consent agenda TO JANUARY 15th, '09, OUR Next meeting. We should note that item 41 is related to item 40 and 47. This is regarding the consolidation of our public safety -- officers into the austin police department. 53, we should strike the phrase to be reviewed by the austin airport advisory commission and note that it comes recommended by that commission. We should also include that nec unified solutions has been utilizing dar communications, a -- a firm as a subcontractor in the following amounts, 101,891 fiscal year '04, \$111,985 fiscal year '05, \$199,275 for fiscal year '06, \$116,841 fiscal year '07. And \$76,180 fiscal year 2008. Dar communications is also m.b.e., w.b.e., h.u.b. Certified with the state of texas, item no. 53. 54, we should note that it's also recommended by the airport advisory commission. 55 has been withdrawn. 72 we should correct the address to read 906 east saint john avenue. And note that councilmember lee leffingwell is an additional co-sponsor and we'll have a couple of speakers who will speak to that item once we get a motion and a second on the consent agenda. 73, has also been withdrawn. 74 we should insert the words and existing, compliance review and economizing future economic development agreements. 78 has been withdrawn. 108, the item will be pulled from this agenda, the item was previously continued to FEBRUARY 12th, '09. And as was item 109. So those two items we had already previously postponed TO FEBRUARY 12th, 2009. By mistake they showed up on this week's agenda so they will be pulled off the agenda. 113 regarding the we should insert phrase zoning site plan and amend a restrictive covenant as part of this potential action. So our schedule today here once we get through our consent agenda, sorry, correction to -- to my -- corrections to the agenda. On items number 16 and 17, they were reviewed but not recommended by the water and wastewater commission. Item 16 and 17. Sorry if I misspoke. So our schedule today after we get through our consent agenda, we may not have but one or two discussion items following our consent agenda. We go to our noon general citizens communication, we might go into closed session prior to that, but at noon we will be here for citizens communication, again we will include the time that jennifer gale was to address us for a brief tribute. , we will take up our staff afternoon briefings. Three scheduled today. The first is the report from the downtown street event closure task force. With no action posted. The second is a presentation of the waterfront overlay task force recommendations. Again with no action posted. And the final is the presentation of report on the lady bird lake trail enhancements prepared in cooperation with the town lake trail foundation. Again no action is posted for those presentations. 00 we take up our zoning matters. 30, like usual, we break for live music and proclamations. Our musician today is ben danaher, stay tuned for ben. Beginning sometime after 00 we take up our public hearings. So -- far, council, just a couple of items have been pulled off the consent agenda because they relate to executive session items. So items 30, 36 and 37 and 87 are off the consent agenda as we need to get advice in closed session prior to taking those discussion items up. 30, 36, 37 And 87 are pulled off the consent agenda. So, council, other items to be pulled by councilmembers before I propose a consent agenda? Hearing none, I will propose a consent agenda numerically. So bear with me. 1 withdrawn. From austin energy approving 2 per changes and correction, from austin water utility we will be 4 per changes and correction, but also 5, 6, and 7. Contract and land management, approving item 8, also 9, 10, 11, 12, 13, 14, 15 per changes and

correction. 16 Per changes and correction and 17 per changes and correction. From our fire department we will be approving item 18. From our government relations department we will be approving items 19, and 20. From our health and human services department approving items 21, 22, 23, 24, and 25 per changes and correction. As well as items 26 and 27. From our law department we'll be approving item 28, from our management services department we will be approving item 29, that being the changes to calendar year '09's scheduled city council meetings. From our neighborhood housing and community development department, excuse me, we won't -- item 30 will not be on the consent agenda as it relates to an executive session item. So we'll take that up later today. From our neighborhood planning and zoning department, we will be approving items 31, 32, 33, 34, and 35. For our parks and recreation department, we will be postponing item 38 to our next meeting, january 15th, 2009. We will be approving item 39. From our police department, we will be approving item 40, 41, noting that's related to items 40 and 47, we will also be approving item 42, 43, 44, 45, and 46. From our public safety and emergency management department, approving item 47. Again relates back to items 40 and 41 with a.p.d. From our purchasing office, approving item 48, 49, 50, 51, 52, 53 per changes and correction. 54 Per changes and correction. We'll note that item 55 has been withdrawn. We will be approving item 56,, 58, 59, 60, and 61. From our solid waste services department, we will be approving item -- sorry, we will be postponing item 62 and councilmember do we have a date in mind for that -- we are postponing item 62 regarding our 0 waste strategic plan until our next meeting, which is JANUARY 15th, 2009. Thank you, councilmember. From our transportation department, approving items 63, 64, 65, 66, 67, and 78. And -- 68. From our watershed protection and development review department we will be approving item 69. Item 70, or our board and commission appointments that I will read into the record. They are to our building and standards commission, ricardo trevino nominated by councilmember morrison. To our federally qualified health center board, hal katz is nominated by me for reappointment as escort kirkendol nominated by the mayor pro tem mccracken. To our planning commission i have nominated dave anderson. To our sustainably food policy board marla camp is councilmember morrison's nomination. Then regarding our nominations to an intergovernmental body, specifically the austin-city of san antonio intermunicipal commuter rail district, we have a resolution as part of this item reappointing -- renominating sid covington to that rail district board. 70 on the consent agenda. We will also be approving item 71, 72 per changes and correction, we will note that item 73 has been withdrawn, we will be approving item 74 per changes and correction, also approving items 75, 76, and 77. We will be withdrawing item 78. And approving item 79. We will be setting the public hearings by approving item 80, and 81. So I will entertain a motion on that proposed consent agenda. Motion made by councilmember leffingwell, seconded by councilmember martinez to approve the consent agenda as read as of -- as a formality make sure that i 3, which i may not have. So -- so councilmembers, as a correction to make sure 3 is considered as part of our consent agenda. Thank you all. So councilmembers, before i ask for council comments on our consent agenda, we do have a number of citizens who would like to give us some brief comments or testimony on items that are on our consent agenda. We will start with folks who wanted to give us testimony on item 31. This is regarding the plaza or transit oriented development. Gavino fernandez would like to give us testimony. fernandez, you will have three minutes to be followed by paul hernandez.

Good morning, council, my name is gavino fernandez, as my tradition and culture, before I begin my

comments, I would like to wish you and your families a safe and enjoyable -- I'm a catholic, christmas, season. On this issue begin pretty much solidifies the fact of why we need single member districts. All that we were asking is to have this item to be pulled to be heard with 90 because they are related this is basically a tags increase to an -- tax increase to an area already realizing gentrification at a big, big magnitude. There is no safety net in this proposal. To address the increase in taxes. And the displacement of people. Who eventually will end up homeless. We have many renters that live in and around third and fourth street area. With this adoption which is going to happen, all that we wanted was at least for this government to provide us the opportunity for those of us who are blue collar and do not have the luxury of being here at this time to -- to listen to our testimonies and our concerns. My comments are not to any specific councilmember, but all elected officials, man, we all are out there in the campaign trail, you promised a key to the city and everything else. Once that incarnation begins, it's like we move into another age, another era that we don't remember when we went and spoke to people in communities and neighborhoods seeking our support. In a capitalist society again in the 1800s the railroad displaced our people and took their lands, in the year 2000 the 21st century the commuter rail again is taking the same folks, the same -- the same descendants of the same people that their land is being taken away with no protection. I have said many, many times we can -- we can endure growth. It's a reality. But we can be creative and have a balanced growth. If this government went to the legislature to save birds and bees, why is it that it cannot go to the legislature to draft laws so that there will be a law that will address the increase in property taxes for all those many senior citizens that live in that community. So many of you will be hitting the campaign trail again. You will be reminded. Because today on your agenda you have two tax increases for this particular community, the east preservation district and then this one. And there are -- it's so vague, they talk about certain areas -- [buzzer sounding] that's why we wanted to get more clarification. Again there's someone more powerful than us, he will take care and make sure that things are right for our people, thank you. The other people had to leave, mayor, they couldn't stay. Thank you.

Mayor Wynn: Thank you, mr. fernandez. For the record we will note that paul hernandez, eliza rondon and [indiscernible] all signed up in opposition, item no. 31. Also on item -- sorry item 38 has been postponed, note that mr. bunch and mr. Cravey will have the opportunity on january 13th to give us testimony about the barton springs pool master plan. 39 is on the consent agenda relates to -- to our working agreement with the zach scott theater board regarding that exciting project, a couple of folks signed up here in favor and are here to answer questions if we have them. If they would like to give us any unsolicited testimony they are welcome to -- to do that at this point. For the record elizabeth [indiscernible] diane centerfit and susan bends signed up in favor of item no. 39. 70 -- sorry, -- 52 on our consent agenda regarding the city hiring parsons for our analysis on the south texas paul robins signed up wishing to give us testimony. Welcome back, mr. robbins.

Mayor, council, citizens of austin. I'm paul robbins. I'm an environmental activist and consumer advocate. And I'm speaking to the item hiring a consultant to study the proposed expansion of the south texas nuclear project. I am not offended by this. But it does bring up once again the larger issue of voter approval of debt as specified in the charter. Article 7, chapter 11 states all revenue bonds issued by the city shall first be authorized by a majority of qualified electors voting in an election for this purpose. Austinites who have lived here for a while will remember that the south texas nuclear project rose from

an original cost of 161 million in 1973 to \$1 billion in the late 1980's. That was a lot of money then. And I am trusting that the sanity that's -- I am trusting that sanity will prevail with four members of council and you will not enter into an multi-billion dollar fiasco. But under business as usual that the council currently has, four people could commit us to another grand mistake with one week of notice. The charter provision i cited provides a kind of firewall, a kind of safety mechanism against precipitous action. Now, you can continue to ignore the warnings that i give you. But none of you are going to be here forever. And if you do not reinstate this charter provision, sooner or later a majority of your successors will commit another grand expensive error in judgment. And I would rather not be there then to say that i told you so. Thank you.

Thank you, mr. robbins. Councilmember leffingwell?

Just a quick comment, paul. You may recall that a few months ago this council passed a resolution saying that no nuclear facility or conventional coal facility would be undertaken without a vote of the people and approval of that.

And I am grateful. But that -- none of us are immortal.

Thank you, mr. robbins.

Leffingwell: I understand.

Mayor Wynn: Let's see. Also, council on -- on our consent agenda is approving 72, the -- the naming of the austin police department northeast substation in honor of captain louie white. I think a couple of folks wanted to speak in favor of that open on our consent agenda. I will state that -- say that some of us know that captain white remains hopped. He's very ill. I will encourage folks to include captain louie white in our prayers particularly during this holiday season, hospitalized. Bessie mayfield would like to give us brief testimony as nelson linder, welcome, folks. Three minutes each, welcome.

Good morning, I first want to say thank you and on behalf of captain white who is my uncle, for his wife lois white for your consideration of naming the building after him for his service for this city that he loves and for the department, the austin that he loves and he genuinely loves the service of people. So thank you for doing that. And for the family that's why I'm here is to -- to say thank you since he's unable to be here. And again, mayor wynn, thank you for your prayers and please continue to keep him in your prayers and the family.

Thank you, ms. mayfield. Welcome, nelson.

Good morning, mayor, city council. Also for the family of mr. White. He was more than just a police officer. He was also an ambassador. In his final work to the city of austin he had a -- he worked with black police officers beginning in 1871 to -- to 1982. Given the fact that they say that the -- that the actions of men are the best interpreters of our thought, I'm going to read his motivation of this project to you as -- as city council people and as -- as folks who make laws. It's called his motivation for this

project. This project was inspired by the realization that black police officers have played an important role in the austin police department since its inception. Yet, they were practically invisible and non-existent from a public policy perspective. This project will not only provide a needed visualization, but hopefully also inspire all austinites of the importance and critical sacrifice that black police officers made in the -- in the area of public safety. As a final thought, I also hope that this journal will be used as a vehicle to promote positive race relations and provide insight and awareness as to how to create an environment where all austinites regardless of race, creed and religion are afforded the opportunities and protection provided by the 14th amendment. Captain white was really the original nature of true community policing. Even in his struggles and his challenges he thought about the city of austin as a whole entity and about the need for justice, equality and equal opportunity. I can't th of a more meaningful figure in the city in terms of who to honor because what he gave us was so much. It can't really be described by words but only through his actions, so I want to thank you for number one having the integrity to propose this. Also at some point to embrace it and perhaps make this a part of your own legacy and see what you thought about austin, texas. He did this on his own through his own work over the years, took notes, read books, compiled facts. This is now the legacy of what he actually did. Thank you for the opportunity and thank you for considering him and his great work. Which by the way lives on through folks like chief McDONALD MYSELF HERE AND Others, a great man who thought a lot about this city. Thank you very much.

Thank you, nelson. Let's see. Councilmember cole do you have a comment?

I want to thank nelson linder of the naacp for coming down and making the comments. It is a rare occasion that we have to recognize an individual of such character and nobility as captain white and it's unfortunate that he is not able to be with us today because of sickness. But I know that all of the members of this council are familiar with the service that he's provided to this community and that he was the first african-american police officer and he received numerous awards, as many of the police officers here know and recognize from the police department, including the medal of honor and the life saving award. He was also a deacon in the david chapel church. So he made the character rounds not only in his work but also in his family and in his community. So it is with great pride that I'm bringing this item forward.

Mayor Wynn: Thank you, councilmember. 76 which relates to ultimate prohibition on intentional feeding of deer. We have a couple of folks signed up really not wishing to speak but here to answer questions if needed. Both in favor, joe [indiscernible] and ross smith. That item will remain on the consent agenda. A couple of folks want to give us testimony on item no. 87, that's the b.f.i. Issue that we will be taking up after the closed session. I believe that's all of the citizens that wanted to give us testimony on our consent agenda. Again, we have a motion and a second on the table to approve it as proposed.

Do we have any speakers on 62? The 0 waste strategic plan.

Thank you, we do. I apologize, folks. We have a handful of folks who wanted to give us testimony. Item 62 is the -- ultimately our zero waste strategic plan. Technically we are postponing this to our next meeting. Folks are here, without objection, council, we might want to take up their brief testimony. Is

kerry getter or jetter here? Kerry signed up wishing to give us testimony. As did mark macafee. And melanie macafee. robin schnieder. Welcome. Is that hi, I'm here to speak in favor of item 62, the zero waste plan. I sent an e-mail to you folks, but in case you didn't have a chance to read it, here is the text of it. I wanted to give a little history. This plan was developed because the city council was considering a proposal to combine its old landfill out near the airport with adjoining landfill. We thought it was a very unwise proposal. It was eventually defeated unanimously. But many of the councilmember who's currently serve were not on the couple at the time. When that proposal was being floated, we noted that there was no long-range plan for how to deal with the solid waste. Former councilmember dunkerly kind of took this under her wing and appointed a long range solid waste planning task force which i served on with a number of stakeholders. Really across the board. People that I don't sit in a lot of rooms with except in a very adversarial way, i would say, were on that task force. Not that necessarily they endorse everything that was in it. But after a lot of fits and starts, southwest services finally hired a competent really internationally renowned zero waste consultant to draft this plan. He had experience at the head of the solid waste services department, gary list, and has advised many communities on their zero waste plans how to implement that, not just draft but how to implement that. I really encourage you to invite gary out here before you vote on this. He was not invited to come and be a part of this session in the last few weeks. I think he should be invited. You have him at your disposal, I encourage you to take advantage of his expertise. I want to speak in favor of the swak recommendations, item 13, landfill gas management. It's been somewhat of a compromise that the city's green choice program does include landfill gas. I just spoke with roger duncan out in the hallway he is fine with changing city's program so that no more landfill gas is purchased as green choice power. He just doesn't want to remove the -- the small amount that they already have in the program. I see this as kind of like the plug in hybrid program where austin takes the lead to take out landfill gas from the current definition in state and federal rules of what is renewable or green power. It should not have been put there in the first place, i think we can take the lead because we can define green power for our own program the way we want, but in undoing that unfortunate inclusion, this is an issue of climate change and of keeping organics out of landfills, you can take a positive step by endorsing austin zero waste plan as proposed and the 13 recommendations if swac, i will be happy to take any questions. Questions for robin, council? Councilmember leffingwell?

Leffingwell: I just want to say that I generally have always supported the zero waste plan, I know it's been a long time in the works. I'm very supportive of the solid waste commission has done. This has been a work in progress as recently as yesterday. Numerous changes were made. We had a request for a one time postponement for a major stakeholder, it's our normal policy to grant those kinds of requests one time only. So we will look forward to taking your advice and hearing from gary list and others in between now and january 15th and thanks for all of your hard work on this.

I would just encourage members that since you do have a little bit more time that you take the opportunity to read at least the executive summary of the study that was released in june called stop trashing the climate, it's at [www.stoptrashingthecolimate.c](http://www.stoptrashingthecolimate.c) [www.stoptrashingthecolimate.c](http://www.stoptrashingthecolimate.c) om IT FEATURES THIS ISSUE Of landfill gas and other destructive technologies and why they need to be kind of put to the side in favor of zero waste policies and programs.

Mayor Wynn: Thank you, porter did want to give us some testimony. Mr. porter, welcome. You, too, will



have three minutes.

Good morning, mayor, councilmembers, I'm j.d. Porter with solid waste advisory commission. There are a few points that I would ask you to consider when you make the decision on the 15th considering the solid waste in central texas. None of these recommendations are binding. Everything in that plan will be enacted and implemented but first only after review and approval by both swac and council. There's plenty of opportunity for further input and modification as the final plan is developed. This process has been going on since may of 2005. Input has been received from numerous public forums, swac meetings, local businesses, meetings with city staff, stakeholder meetings and subcommittee meetings. There has been ample input and comment. January is when landfill expansion actions by both and waste management 's contested case hearing kick into high gear. Delaying adoption of this plan means there will be no credible alternative on the table while these occurs are occurring. In -- these actions are occurring. In 2005 world environment day urban environment act cords calling for zero waste .. by at least 50% in 7 years and a reduction by 20% per capita of solid waste disposal in seven years, that clock is ticking. This plan is the only instrument that we currently have to achieve those goals. Finally, failure to adopt or delay adoption -- delaying adoption of this plan serves no purpose. The development and implementation plan is going to be dynamic, iterative and ongoing, but that process must first be initiated. You have got to put the train on the track. Special interests to allow them more time to lobby against the public good is counter productive. Thank you for your time. porter for your service. Councilmember cole?

Cole: I just want to thank the various stakeholders for coming forward and continuing to encourage us to learn more about this time. I know that I needed more time, I appreciate the fact that the council voted to postpone until january the 15th so that we may move forward with an action hopefully at that time in a prudent manner.

Thank you. Again, council, I believe now that concludes all of the citizens who are here to give us testimony on items that are on our proposed consent agenda. At this time I will gladly welcome council comments. Councilmember morrison?

A quick comment again related to the zero waste plan. I'm glad to say that one of the priorities that swac had identified was leading by example. I'm glad to say that today is the first time that i have been up here on the dais with a recycling bin by my chair. So I think that we are headed in the right direction.

Thank you, councilmember. Councilmember leffingwell?

I will say a few words about items 40, 41 and 47, which relate to the consolidation of our approximately 113 man, woman strong public safety emergency management group, which is our parks police, airport police and city marshals into the approximately 1500 man and woman strong austin police department. Sponsored some -- some time ago, we have actually been working on this for over two years by mayor wynn and councilmember martinez and myself. If adopted this will result in uniform standards for hiring, training and promotion of all police officers, everyone who carry as gun wears a badge in the name of the city of austin. Also result in a unified command structure which is essential in -- in my mind for

effective policing. Also it will be more efficient and the citizens of austin will enjoy safer public -- safer public safety. Ultimately as this process is completed I believe because of these efficiency and reduction of liabilities it will result in cost savings to all of us here in austin and so obviously I'm very proud of this day when we are able to finally take action towards completing this process.

Mayor Wynn: Thank you, councilmember, further council comments? Councilmember martinez?

Martinez: Thanks, mayor, actually I have a couple of questions on two items, then I will just make general comments. Actually three items. Item 28 is an item from austin energy. I just have general questions because in the current economic times, no matter what's on the agenda, if it's an expense, it's going to come under scrutiny. And so we have an expenditure of an additional \$40,000 for an information system go, but there's no details as to -- as to why the increase in -- in this particular agreement. It just says unforeseen complexities and I would like a little more specificities on what the complexities are.

Andy [indiscernible] with the austin energy legal services. We entered into this contract over a year ago in anticipation of the r.f.p. Going out for the new customer information system, which is system that handles the billing, all of the customer information system for the utility and other city departments. It's a very left arm, very complex -- very large, very complex and a very significant investment. What's happened essentially is when we undershot the initial estimate at 35,000, the vendor that we have been dealing with who has the contract has not been awarded and it will probably be coming to council january or february, but essentially the negotiations have just turned out to be tougher, more complicated than we thought they were. And we have just been having to go over and over some issues that really should be easier to deal with, but that's -- that just simply haven't been. That's basically it in a nutshell. The other -- other concern is as you mentioned the economic circumstances. That's putting pressure on a number of vendors and we felt it's been necessary to -- to spend a bit more time looking at provisions of the contract that would deal with a -- with a vendor default since this is a large term project and we wanted to make sure that the city is protected in that circumstance.

Okay. Thanks. Just I guess moving forward, I would hope that staff recognizes the scrutiny that we're all under and putting vague language like that in the backup only raises more suspicion and questions especially in these times when we are asking everyone to look through and trim their budget so we can stay on budget for the year because we know sales tax revenue is declining, but i appreciate that. [One moment please for change in captioners]

Martinez: I'm sorry. Item 49.

Mayor Wynn: 49, Excuse me.

Martinez: Yes. I just can't read. Item 49 is 170,000-dollar expenditure to tear down and then erect a new fence. On cardinal lane, nut substation, another austin energy item? Again, we don't need to belabor this. The issue is there needs to be more justification in the backup as to why these expenditures are taking place. And what comes to mind when I read this backup is we have a fence there and there's no

information as to what's wrong with it, but we're making a 170,000-dollar expenditure to tear it down and put up a new fence. I would simply like more information as to how we justify the expenditure.

I don't have the exact information that you need. I do know that it is a plain, existing chain-link fence and they want to put a screening fence in that would then try and enhance the image of the area. What we can do is we can send you some information back from austin energy that's more detailed.

Martinez: Great. Thanks, byron. The last one I have questions on is item 20, which relates to our lobby team. Last week we adopted the legislative agenda for the next legislative session. This week we are actually adopting an item that would name the specific lobby team. And about a year ago actually, this council asked city management to develop some type of process that would create some transparency and some public input for that matter into how our lobby team is selected. And unfortunately that didn't happen. We are back here again a session later, and the reason I brought this forward a year ago is because I knew that at some point we would get here to where we named our lobby team. I certainly am not questioning staff's recommendation. I know that they work with these folks on a daily basis during the legislative session, but it's very difficult for me to answer questions to constituents when they say why is this firm on your team or what did they bring to the table for the city of austin? And it's very difficult for me to answer because I don't work with them and I don't walk alongside with them in the capitol during the legislative session. In fact, none of us do up here on the dais. So again, it's one of those items where first of all i hope that we eventually can come to a process where people can see this is the selection process. If you want to become a lobbyist for the city of austin or if you just want to scrutinize the lobbyists that we hire for the city that we have some way of looking at how that decision unfolds and how the process is laid out. I had some concerns raised this week that I just -- there's nothing in the backup other than folks named and the amounts that we're going to pay them. And I think that from that perspective, I think they make a valid point in that there's no justification in the backup for the decision. So I hope that in the coming years we can figure out a way to create a little more transparency. And I don't know if you can comment on that. I realize that some of this information would be sensitive in terms of tipping our hand before we go into the ledge.

I'd be glad to make comments and can go in more specific detail if you wish. The decision was made -- there's been a change in senior management at the city. We talked about an outside -- bringing someone from the outside to evaluate the lobby team, the situation that we're in and with facing this upcoming session. Instead, it was decided to do an interim decision process. We evaluated what we've been through, what we have faced, our successes, our weaknesses, and then we set up among the staff, including the city manager's office and my office, to come up with criteria. And in thinking through this, cities in many ways are regulated industries. Everything that we do is authorized by the state. The state can regulate. All our funding can be impacted by the state and by the legislature except for a tiny amount that comes in grants from the federal government, and some of those grants even are funneled through the state. So the state is very important to us for virtually everything in your budget and all your revenues. Just a couple of examples. Every session since I've been doing this for the city, annexation, both in general that would apply to all cities, and specifically authority of the city of austin, has been under attack by specific legislation. We've been successful in fending off those attacks. In the last 10 years since 1997, according to the annexation office, the current value of the lands that we have

annexed is approximately \$11 billion. Another big item in your agenda -- in your budget process are the fees that we get for the use of right-of-way. Our right-of-way is a very precious resource. We charge rent for it to telecommunications companies. We see it as rent. They see it as a, quote, franchise tax and have established that term in state law. Once you call your rent franchise tax, it's a tax that can be attacked legislatively. And that has occurred both at the federal level and at the state level and we have been involved in both places. But to give you an idea of how important this is, in the last 10 years our total 9 million from that one revenue source alone. I give that as a bit of background as to why this is so important. What we did, the staff went through and established a number of criteria. We looked at contractor's understanding of the city's legislative goals and how the contractor would accomplish those goals. And we looked at the contractor's apparent interest in representing the city. The contractor's experience in communicating with the leadership and all segments of both the house and the senate. We looked at the contractor's other clients and their conflicts, and inevitably there will be conflicts, but we want to make sure that throughout the team, looking at them as an aggregate that all of our issues can be addressed by at least some of the members of the team and not be blocked by conflict. When you have so many departments and so many operations, inevitably there will be some conflicts, but it is real important for us to take that into account when we're putting the team together. We look at the contractor's reputation among members of the leadership. That reputation for trustworthiness, reliable information, that reputation is real important. We look at contractor's willingness to assume risk in advocating for unpopular ideas at the legislature anyway. What may be popular here is often not popular with the state as a whole.

Mayor Wynn: Oh, come on, john. [ Laughter ]

so we expect our contractors to be willing to use those chits for us and in some ways that may hurt their reputation to advocate for what is unpopular at the state level.

Martinez: John, are you trying to say they're not going to put solar panels on the capitol?

I won't go that far, but they haven't put them yet. We expect the contractors to report to us regularly and provide us with information and to follow management's direction. We also expect some of the contractors to work with key state agencies. State agencies interact and permit a lot of the city's operations, so we use the contractors to help us with state agencies. Contractors also help us in communicating other cities and with tml. And another factor that we of course look at is the makeup of the legislature for diversity, of race, gender, political affiliation. All of these factors are taken into account as we evaluated the lobby team. We did not make huge changes. We made cuts in the current team. At the state level. We're spending more at the federal level and that's an overview of how the process worked and what we did to get to this particular recommendation.

Martinez: I appreciate it, john. I just had a lot of questions raised this week and I think that it's a fair point that there's not much in the backup that speaks to all of the things you just said and that people can look to for themselves to did he receiver whether or not this is the best team for the values and issues of the city. And I just wanted a little more information for those folks who raise those questions. Thank you.

I would also like to add that you do accompany me, all of you have done various -- played various parts at both the state and federal level and I really appreciate council's involvement in this very important process.

Thanks, john.

Martinez: Mayor, just a couple more final items. On item number 18, this is battalion chief john butts. And I just want to acknowledge what's taking place here is that we're extending his medical leave. Apparently john -- for those of you who don't know was captain john butts in 2000 and he suffered severe second and third degree burns over 40% of his body. I was actually at this fire and arrived on the scene just seconds after he was thrown out of the second floor window. And it's been a long recovery for john. Apparently he's going through additional complications due to his recovery process. Some years later. This item, though, is also -- I will mention is on our agenda partly because we don't have an agreement with the firefighters association for them to allow the firefighters to donate catastrophic leave to butts should he ever request that. That was a provision, and i believe a very worthy provision, in previous agreements that in instances like this allowed the firefighters to take care of their own. In this case it's not able to be done right now because we are without a contract, but I appreciate council's support of this item and i wish captain butts or chief butts now all the best and hope that he recovers well. On item 81, it is that we set a public hearing for an appeal to a site plan denial. And what I'd like to do is make a friendly amendment to the consent agenda. This particular item also has a floodplain variance attached to it, and it just seems to me that if we're going together through a public hearing of an appeal to a denial of a site plan that we couple the floodplain variance on the same agenda when it's brought back to council so that we don't have to go through this multiple times.

Mayor Wynn: Councilmember leffingwell you consider that a friendly amendment? Thank you.

Martinez: Thanks, mayor.

Mayor Wynn: Great. Council, if you don't mind before we take additional council comments on the consent agenda, we did have another citizen sign up wishing to give us testimony on item 76 regarding what will be proposed prohibition on intentional feeding of deer in austin. I'm trying to get my system to call it up here. Nick classon still with us. You will have three minutes. Welcome.

Mayor wynn, ladies and gentlemen of the council, I'm nick classon, and I'm on the board of the northwest austin civic association, and also chairman of our wildlife committee. And I arrived late, so i missed anything that transpired on this item, but I'm here to answer questions if you all have any, on the resolution that we hope will be developed into an ordinance banning the feeding of deer in the city limits. And I want to thank the councilmembers who we have talked to, councilmember shade, mayor pro tem mccracken, and those are the ones that I'm aware of that we've had contact with. I believe councilmember leffingwell. If there are any questions that you all might have, i would certainly be glad to try to answer them.

Mayor Wynn: Great. Thank you. Questions? Again, this is set to be approved. It's on our consent

agenda and we've had no negative comments this morning regarding the item. Thank you, nick.

Thank you.

Mayor Wynn: Council, i believe that concludes all of our citizen communication -- citizen testimony on items that are on our consent agenda. I would like to propose a friendly amendment to the maker and second of our consent is our -- relates to our public improvement districts or p.i.d.es. This is the format whereby we will be enabling public improvement districts to be formed in the city. I would just like to propose that essentially under bullet 2 in the resolution i would like to add that all developments supported by a must comply with the or planned unit development green building program, regardless of whether the development zoning or not. That is, have our p.i.d. Format follow and mirror 's when it comes to requiring green building as part of developments in those districts. I'd like to propose that as a friendly amendment to councilmember leffingwells and martinez. Thank you, gentlemen. And then lastly, before i ask for further comments, while I have the mic, item number 2 is an austin energy item. Technically it says over a million dollars, but a million of this is an increase in the rebates that ultimately are regarding our energy efficiency upgrades programs. Remember we spent this last year sort of debating the process whereby we can encourage folks to upgrade the energy efficiency of their existing homes or buildings in austin. I'm very pleased with the ordinance that we ended up with, working with the board of realtors and contractors and others. What this will enable us to do is essentially grow that rebate program. If you remember the map from the energy efficiency upgrade dialogue is it's estimated, I think very conservatively, by austin energy based on our existing weatherization and upgrade programs that we've had for several years, that based on the percentage of folks we think will take advantage of the information and the rebates and just the net cost benefit analysis and pay back periods that we will reduce the peak demand for electricity in austin by about 225 megawatts. To put that into perspective, by adding another-million-dollars to our rebate program, we think we can reduce the peak load by 225 megawatts. For austin energy to go purchase or build additional generation to generate 225 megawatts of electricity is estimated would cost about \$340 million. So we're spending a million dollars not to spend \$340 million. Maybe more impressively, this million dollars of additional rebates in energy efficiency, if tapped into appropriately by homeowners in austin, will reduce their electricity bills over a 10-year period as estimated \$555 million. So the homeowners doand spend half a billion dollars for electricity over 10 years, they keep their money in their pocket, at a time when we all need more money in our pocket. Austin energy keeps its money in its pocket by not having to buy or build more generation for a very modest, remarkably cost effective investment in energy efficiency upgrades. And I'm really pleased with this item. Somewhat related, item number 51 is a low interest loan program that we have as part of our energy efficiency upgrade dialogue this past year, velocity credit union stepped up and agreed to be sort of the lender of choice in part because they lowered their rates specifically for energy efficiency upgrade loans to homes. So what this program does, austin energy buys down even a little bit further the rate by which velocity credit union will loan money to homeowners. What that does then of course is dramatically buy-down the period from solar panels to programmable thermostats to weatherization around doors and windows, so it just builds on itself. And I think we're going to see the remarkable efficacy of dollars very well spent on conservation, reducing the demand for electricity in austin, saving people a lot of money in their homes and their businesses, and allowing austin energy to continue to be this very remarkably run electric utility from a financial management

standpoint. Then lastly, item number 50, this is a solar system that we're putting on the roof of the twin oaks library. We have a goal to ultimately put solar panels on all city facilities. This is a 25 and a half kilowatt system, so that's about 10 times the size of a typical single-family home rooftop solar installation. So this is actually a relatively big one for us, 25 and a half kilowatts has remarkable pay back, carbon reduction and ultimately continues to hopefully spearhead the solar panel industry cluster here in austin. So I'm really pleased about this energy efficiency, renewable energy, conservation demand side management work that austin energy absolutely positively is leading the nation on. So very pleased to make comments on those additional consent agenda items. Additional council comments on our consent agenda? Again, we have a motion and a second on the table, approving the consent agenda, which essentially includes all items that weren't either postponed or withdrawn with the exception of if you remember items 30, 36, 37 and 87 have been pulled off the consent agenda as they relate to executive session discussion. Further comments on our consent agenda? Hearing none, all those in favor please say aye.

Aye.

Mayor Wynn: Opposed? Motion passes on a vote of seven to zero. And as folks leave the room, again I encourage you to consider a simple donation to house the homeless thermal underwear fund in the bowl just outside our doors. Thank you very much. So council, I don't think we have any discussion items we can take up prior to our noon engine citizen communication -- noon general citizen communication, so without objection, we'll go into closed session pursuant to section 551.071. In closed session for the next 20 minutes we'll take up item number 82, legal issues regarding archer western contractors limited versus the city of austin. We are now in closed session. I anticipate us coming back out right at noon to open up our general citizen communication. Thank you.

Mayor Wynn: We are out of closing session. In executive session we took up a single item, item number 82, I believe it was, related to the legal issues lawsuit archer western versus the city of austin. No decisions were made. That was the only item we took up in that part of our closed session agenda. We're now back out in open session for our general citizen communication. A few minutes late. I apologize for that. We have a number of folks who are -- seven, in fact, we are going to address us regarding a single topic, that being the pure castings facility, so we'll take those in sequence, but to keep from sort of splitting up that format, what I thought we would do is go to carol anne rose kennedy had signed up wishing to give us testimony, so we'll see if carol anne rose kennedy is ready. If not, we'll ask to see if ray nadler olenick -- sorry if I mispronounced that, ray, if he is prepared to speak. Then we will take folks from pure casting --

I'm sorry. Were you talking to me?

If you're prepared to speak.

I didn't hear you.

Please, you now have three minutes. Welcome. You will be followed by ray nadler olenick.

Oh. Oh. That was good. I'm not in my right mine. Pardon me today. I am waiting on the music, please. Okay. A little louder, please. ???? what is that? Oh. Welcome back, council. I know I just have three minutes, so I don't know -- I've got questions. I've got a broken heart. I've got thank you's to give. And I have a request. I don't know which is more important. With three minutes. I don't know where I should start. Okay. I'll start where -- last thursday. Jennifer gale was not on the ballot -- the what you call it, agenda. And he shows up at the last minute after it's almost over. I had already done my thing. And I was on the thing, the ballot, whatever it is. And he came up to y'all, he came up to the podium acting like a two-year-old. He said hello to me first and went up to the podium acting like a two-year-old, begging to sing. And I want to tell you and sheryl cole and thank you both. You were so kind to him. You were so kind and i appreciate it. So after he walked back to me, I was in the back, and he wouldn't let it go. I said come on! You weren't even on the schedule. How much time do I have left? .. So I said I want to sing silent night with you. And I said I was here, where the hell were you? and he kept on telling me -- what did he say, point of order or something goofy like that. He expected you to let him. And I told him, no, man, the timing's not right here. Relax. I'll do it with you next week, which is today. Silent night is number 6, me, and I was going to sing with jennifer. And she ain't here. So my request is please to give me her spot. She promised me. Just consider it. Think about it. And one more thing I'd like to request is how can I -- how can I claim next of kinship? I don't know who to talk to, but time is of the essence. White people have to get in the ground pretty fast, and I don't even know where she is.

Mayor Wynn: I'm sorry, I don't know that answer, but perhaps somebody in the city legal or even austin police department might know what that format might be. My I think sting is it's -- my instinct is it's probably county government related.

Where is she?

Mayor Wynn: I do not know.

Nobody knows? God only knows.

Mayor Wynn: Actually, kennedy, note that jennifer had signed up to address us today and so at the end of this general citizen communication, we are going to have a tribute to jennifer, including some video testimony of her. So thank you for your time.

So I can't sing silent night today?

Mayor Wynn: She's going to be singing it herself.

Then can I sing with her?

Mayor Wynn: You're welcome to sing along when she sings.



Can I come up here and do it?

Mayor Wynn: You may do that.

It will look like she's still alive to the general public.

Mayor Wynn: Thank you. The next speaker is ray nadler olenick. You too will have three minute. I believe there's a clock probably on your screen. Welcome.

Yes. Last time I mentioned lewissier chemical industries limited, the jacksonville beach florida based company from which austin purchases its acid for water fluor addition. Lewissier is a reseller. It produces nothing, it refines nothing. It's strictly a distributor of pharmaceutical grade fluoride by product it purchases from such producers as cargill and mosaic. Lousier's website, com is very spare and even cryptic. No pictures, no boasts of being green or being a great place to work. It's all business, the list of products and prices. Lewissier bills itself as the fluoride specialist. A look at the website, which you can do, is instructive. Under the header products, start with fluoro acid which is the product we use in austin's water. There are two subcategories, msdc and product data sheets. It gives information about the toxicity of chemicals. Notice the extreme precautions when working with the substance and the emergency first aid procedures outlined. Note too the chronic effects they warn of that can result from prolonged exposure, especially what they call bone changes, meaning cancer and/or osteoporosis and the condition termed flower row sis, a maldevelopment of the teeth. The product data sheet provides additional information. It lets us know that -- it lets us know that the acid has no uses outside of water fluoride addition and exiebz the additive as a colorless to straw yellow transparent fuming corrosive liquid with a pungent odor and irritating reaction on the skin. It also tells us that their product typically contains .02% lead and other toxic contaminants, heavy metals as lead is their way of putting it. So there you have it. We're paying over half a million a dollars a year for fluoride, but we get the lead for free. You might say but it's diluted. Yes, it's diluted, but do we really want to put it into our drinking supply in the first place? We're talking about a lifetime ingestion of a cumulative poison that builds up in the body where it gradually replaces calcium. In 2006 the american dental association issued a guideline recommending that infant formula for babies up to 12 months be mixed with non-fluoridated water. That's right, the same group that supports community water fluor addition as a wonderful public health measure declares it unfit for infants. Instead they help fly recommend breast milk, ignoring the fact that its mother is drinking fluoridated water and her milk will be fluoridated too. [ Buzzer sounds ] alternative they advise parents to buy filtered water at the grocery store. Does this make any sense? I don't think so. More on the subject another time. Read my blog and thank you.

Mayor Wynn: Thank you, ray. Let's see, council, we have seven folks who were here to -- as they have signed up at least to give us comments about the pure casting facility as we know it. And they've asked to go in a certain sequence, which I'll gladly allow. And then we're going to save our last spot again for a tribute to jennifer gale. almanza, I'll be happy to set the clock for 21 minutes and let you take it in sequence.

[Inaudible - no mic].

Mayor Wynn: I'll help you with your discipline. Okay. Then our first speaker is erika gonzalez. I apologize for the sirens out back. Welcome. You have five minutes, to be followed by carmen llanes.

I have a powerpoint. Good afternoon, mayor and city councilmembers. I'm erika gonzalez with poder. I'm here to talk to you and the rest of the austin community about a facility called pure casting industries located on 2110 east fourth street. This facility is located right across the street from zavalala elementary school and the pan am rec center and hundreds of homes, many whom agree that this facility should be relocated. Poder first heard complaints from the community during a healthy community workshop at zavalala elementary school. Poder's workshop to the parents of zavalala school students talked about the industrial zoning in east austin due to the 1928 city of austin master plan. The parents talked about the pure casting facility and said that they didn't like its presence. They said that they could smell it inside the school and that they did not like their children walking and playing by it everyday. In the fall of 2007, university of texas graduate students started a project with poder and zavalala elementary teachers using gps mapping. Students were able to document on the map the scariest, smelliest and most pleasant smelling areas of their neighborhood. Many cited pure casting as a smelly and scary place to walk we each day. During that summer of 2007, poder's young scholars for justice launched the start of our pure casting community questionnaire and followed it up the following summer of 2008. 95 Households were surveyed. A large number of residents said that pure casting puts out a bad odor, yet 84% of those surveyed did not know what type of facility it was. 78% Of those surveyed did not know that pure casting is chemicals and 65% did not know that pure casting produced hazardous waste. 220 Pounds per month. 97% Of the homes we surveyed felt that pure casting should not be located near zavalala elementary. 95% Felt that pure casting should not be located near homes. And 87% felt that if pure casting was removed, the city of austin should build affordable housing in its place. Poder's young scholars for justice also researched the health effects from breathing industrial fumes of the chemicals found to be used in the pure casting facility. We found that breathing in these chemicals or particle matter for a long period of time can cause health effects such as asthma, lung cancer, infertility, miscarriages, nose bleeds and bronchitis. This is not what we want for our community. We want this facility relocated. It is now time to take the next step and act on this issue now. We need to ensure that the families and the future generations of east austin enjoy the right to clean air and affordable housing homes. We need affordable housing, not facilities that contaminate our communities. Thank you.

Mayor Wynn: Thank you, erika. [ Applause ] our next speaker is carmen llanes. To be followed by paige deshong. Welcome.

Good afternoon, mayor wynn and city councilmembers. Thank you for this opportunity to speak. I just want to -- I'm carmen with poder also, people organized in defense of earth and her resources. I would like to elaborate a little bit on the healthy communities program that erika mentioned in which we've discussed pure casting with some of the residents in the area. Pure casting was not the initial subject of the healthy communities workshop, but we do do a segment on air quality and we talk about the industrial -- the presence of industrial facilities in east austin, what happens on ozone action day that affect the entire city, etcetera, and this subject immediately comes up with the parents, especially at

zavala elementary. And so there are several accounts of irritation, of respiratory irritation. We had several parents say their children come home from school with runny noses, but excessively. We've heard parents complain of irritation in the throat as if something was stuck in their throat all the times when the air is dry and the wind is very high and you can smell a lot of it. That stuff is gathering in their throat. I'm speaking in place of the diana perez, who is a lifetime resident of this area. She was not able to come together. She's caring for her grandson. But she has memories, she was born around the time that pure casting moved in, and her recollections of walking to school everyday are that her mother used to make her and her brother hold a hanger chef over their faces as they walked to school. She talked about how this was very embarrassing because she would say if you're at recess I want you to keep that handkerchief over your face all day honk. But she said service the dust and they continued to experience this over her lifetime. She saw their vegetable garden get coated with a white dust and wither and die and she was a crossing guard at zavala elementary when her children were in school and she would experience the same kind of respiratory irritation and she started wearing masks like you see on construction sites just to cross the kids out of the elementary school. I'm bringing these points up because we hear people say, well, how do you know that this industry is really causing illnesses. We have not yet done a series of community health surveys as we did with the toxic tank farm, which actually surveyed people to see what kind of health problems there are specifically and whether or not they're being directly caused. But we can tell you that if you are outside of pure casting, if you are to tour the area during their business times, you will notice an extremely strong odor and you will notice smells in the air that are not natural, they're industrial. And we've asked substitute teachers if they've ever noticed any odors. They say yeah, sometimes it smells like somebody has been speeding down a street at 100 miles per hour and then slammed on their brakes. You know that metallic smell? There's that metallic smell -- [ buzzer sounds ] there are plastic and sulphuric smells. I'm just saying this so you realize the community is experiencing this on a regular basis, and I just also want to thank laura morrison for getting us in touch with the health department. We hope something good comes from the air quality monitoring. It's time to take action to buy this property and build affordable housing in east austin where it's needed. Thank you.

Mayor Wynn: Thank you, carmen. [ Applause ] so page deshong, welcome. Either podium will work, to be followed by noel bell.

Hello, mayor wynn and city council. I'm so happy to be here and to have y'all's attention. I moved across the street from pure castings a year ago october. And it's a long story and i wrote a long letter and sent - great, thank you. The tceq report to y'all on december 5th. If you've not read that, please do. I also moved in with my four-year-old, so I've been trying to protect him from this dust. Sorry, I didn't realize it was up there. So this is the view from my front yard, my living room and my kitchen window, so unfortunately I see what's going on and it is very, very disturbing. This is the -- that's the dumpster where they dump all the dust, which I'll talk about the contents later. Back behind the doors they do a lot of finishing work which creates that dust. That is also -- it's a short driveway, but it's their loading and receiving dock. Trucks create hazardous situations all the time and noel bell will talk about that I also want you to notice that the men are wearing masks and the children -- zavala is just to the left, not far at all. No one anymore wears masks except diana because she knew, wears masks on the zavala playground and they should be. My son is outside for five minutes, he comes inside, mommy, it hurts to

breathe. Okay, that is -- when i first realized it was a problem, I didn't know what the black dust was everyday when I moved in black dust was settling into my fresh cat bowl, water, black, everyday the table. I swept. The first time I swept my legs and arms burned, my throat burned, my lungs burned. One sweeping. I just want to show thaw when they sweep right across from me they're fully clothed and they wear masks for good reason. That is three days' worth of dust. That just happened this weekend. Noel took that picture. This is when I found out the source of the dust. It's hard to see what the picture is. Think get a big forklift and they have these giant metal vats, they lift it up on the forklift, it all very loud, dump it into the dumpster and plumes of smoke head over to zavalala if the wind is blowing that way, santa rosa, fuvment elementary just depending on the wind. They do it day and night and my neighbor says they've been doing it for years and years. So on -- right when I saw them dumping that dust i knew it was a problem. I called the tceq and they sent someone out, jean miller, on december 12th of last year. That's a picture that was taken within the dumpster, just the black dust. I have seen that black dust filled with dust since then, the black dumpster. Let's see, they found -- what they did, they took two samples on -- 12 seconds -- on my back patio. They found that 50% of that, 50% was the molding sand, which causes sill co-sis, which causes death. [ Buzzer sounds ] it's not up there. Oh, well. Okay. That's it, right? Please read the report and my letter. Thank you. [ Applause ]

Mayor Wynn: Noel bell, to be followed by neal carmen. Welcome, sir.

Thank you for the opportunity to speak today. My name is noel bell. I HAVE A Ph.D IN CHEMICAL Engineering and my concern is partly that my son lives right across the street from this plant, but also general concerns about the neighborhood. Here we see in this picture one of the main unloading docks and we sools see school children walking in front of the trucks. One of the issues is idling trucks in the neighborhood, which creates a nuisance and also may affect the ozone exceedance rules, so there are lots of trucks in this area and they idle constantly. There's also i picture -- here we see a truck parked on santa rosa right within clear view of a no truck sign. Y'all may be familiar with the city ordinance, but as i read it, that truck shouldn't be there. And the truck drivers don't like it because it's very difficult for them to work there. So I'll mention in a little bit about the possibilities for moving the loading dock. So the dust with metals in it has already been mentioned and will be mentioned in the future, but that's another concern of mine. One of my main concerns, though, is essentially the open nature of this plant. I spent a lot of time in chemical plants, and no one would be allowed without training to get chose to such a facility. This truck right here has sodium hydroxide, which is being unloaded without any berming, so if there were a leak -- and leaks are most likely to occur when you're doing some event like a transfer. So if it were to leak sodium hydroxide, it could easily run down into the street. If there were children or adults walking there, there could easily be an exposure incident, which would not be a good thing. And so in any regular chemical plant, this would strictly be a very limited access kind of operation. You would go through training before you were there. You would have safety glasses, proper clothing, but here what we have is essentially open to the entire community chemical plant with dangers and without any real -- the community doesn't really have knowledge of what the dangers are here. So that's my -- one of my main concerns. So to address that in the short-term, there are other locations at this facility where they would be able to relocate the loading dock to keep it off of this busy street and also to sort of solve the traffic problem, for example, on fifth street, on the back side of the plant. And in closing, I'd like to read a list of things that we believe should be done now. Pure casting should update its equipment to

contain the dust and to handle properly all of this material transfer that occurs. The garage doors at pure casting should be kept closed because that's one place where the dust escapes. [ Buzzer sounds ] if I may continue for three more items here.

Mayor Wynn: You may conclude your comments with those.

Okay. These improvements should be overseen by a panel of outside experts so that we know it's being done in a responsible manner. The parents at zavala should be fully informed of what is involved with the operations at this plant. And finally, this loading dock should be moved somewhere like fifth street, which is -- has less traffic on it, less pedestrian traffic from children and adults because it's not a direct path to school and there's a limited amount of housing there and there's kind of a buffer of the railroad tracks there. So thank you very much.

Mayor Wynn: Thank you, mr. bell. [ Applause ] our next speaker is neal carmen. Welcome. You will be followed by sylvia herrera.

Thank you, mayor wynn and council. My name is neal carmen, I'm the clean program director for the sierra club and I'm here to support concerns of the community about this industrial iron foundry that pure castings has been operating for nearly 40 years. What we know about some of its toxic air releases have been reported for the last 20 years through the toxic release inventory that the has required since 1986. In '88 the company did not report any emissions, but in 1989 they began to report -- these are toxic air emissions of chromium, 2 fist pounds. And 250 pounds of copper. I'm not going to go through all those. Basically every year they've been reporting fugitive toxic release, especially of two toxic metals, nickel and chromium. Over the last 17 years, 18 years, they've reported 2708-pounds of these toxic releases, 100% of it or toxic metals. It's the number one source in travis county of fugitive toxic metals according to the tri release. It ranks second in travis county in total metals that are reported under the tri. About 53% is chromium, 23% nickel, and about 24% are copper and copper compounds. What are the human health hazards of nickel? Nickel is known as a human carcinogen. as a hazardous air pollutant under the federal clean air act under title three. So it's a recognized human carcinogen. It's a suspected blood toxin. It has significant inhalation hazards. I won't go through all those, but there are many human health issues with exposure to nickel. Chromium, they released 1428-pounds over the last 18 years. It's also a hazardous air pollutant under the clean air act. And these are some of the health hazards associated with chromium. So these are two highly toxic metals that this company has been releasing into the air every year and of course the school is next door, so some of it is going to be wafting into the school. I work for the state air agency for 12 years and i inspected similar industrial iron foundries, I dealt with some citizen complaints, in fact, because of the stack and fugitive emissions which consist of toxic chemical vapors and foundry dust escaping. In the case of pure castings, I think a lot of it are -- they are fugitives because that's what they reported in the tri emissions. The emissions can come from developing of their molds from pouring molten metal, melting the metal in their hot ovens for casting, pouring the molten metal into the molted castings. This may be the worst part of it because there's sand and you've got the chemical binders -- [ buzzer sounds ] -- which I wanted to briefly mention. The chemical binders, typically used in this type of industrial manufacturing process, the problem with the binders is that when they're partially burned they create compounds that are called

polycyclic aromatic hydrocarbons or PAHs and they're highly toxic. This has five benzene rings linked together. It's very, very highly potent carcinogenic agent that's found in a great deal of smoke. There's been no measurements so far around pure castings, but I suspect it's possibly probably there.

Mayor Wynn: Carmen, please, sir conclude your comments if you can, please, sir.

Okay. Anyway, this facility emits a lot of very toxic chemicals. But we don't really have a complete inventory of what they are emitting at this point. Because of the fact that there are children there who are very sensitive to toxic chemical insults, I think the facility should really be relocated as soon as possible away from east Austin schools and the neighborhoods. Thank you.

Mayor Wynn: Thank you.

Mayor Wynn: Welcome back. You will have three minutes to be followed by Susana Almanza.

Good afternoon. My name is Sylvia Herrera. I'm here to speak about pure casting and some of the health effects on the children in the area. And how vulnerable they are to these chemicals or metal that have been discussed before me. I HAVE MY Ph.D IN HEALTH Education, so I was part of the founding member of Poder and also looking at the healthy communities component at Zavala. Children in the area and at the school play outdoors and so that's a concern. Children are still growing and they're more vulnerable to these type of exposures. The children in East have -- and the parents have complained about the problem. Zavala has a long history in the community. It was actually built in the 1930s, so it has a long history of community participation. Along with the school there was public housing that was in the area. So there are a lot of families in the area. There are a lot of families that have been there generations, and so we're concerned that these children are being exposed to these chemicals when they're still growing and they're really at risk at this point of their lives. The school -- the school, the city and the neighborhood all have a responsibility to look exactly at what is going on in the neighborhood and have the opportunity to make the new deal that was previously done at FDR generation to build the school and to build public housing and now build affordable housing in the area. Because that's sorely needed in the area. There's not any reason why AISD should allow this facility to be there along with the city needs to step up. The health department sent a letter, the Austin Travis County health department sent a letter also requesting that they be involved. So it's time for everybody to step up to the plate and get organized along with the families and address this issue in our community because we can no longer -- [ buzzer sounds ] -- afford to be exposing children that are very vulnerable to these type of environments. Thank you.

Mayor Wynn: Thank you, Ms. Herrera. [ Applause ] and Susana Almanza, welcome. Tiew will have three minutes. You too will have three minutes.

Good morning, Mayor and City Councilmembers. I'm Susana Almanza with Poder. And I'd like to state at this time when a lot -- in this particular season when people's hearts and minds are open to really think about what you've heard here today because I have to be Neal Carmen and all the other people here today that say that this is unacceptable, unethical and immoral for school children to have to breathe

these emissions. There's a word I haven't said in a long time, but it's environmental racism. I have to call it as it is. When we allow hazardous industries to be located adjacent to communities and across the street from schools and not do anything about it, there's no other term that I can say about it. I think that we have the power and it was important for all of the city of austin to know how the community is living and how children are being exposed because a lot of times people don't come to east austin. But we have the power and the ability and the funds to use the affordable housing bond money, which has been over 10 million appropriated for 2009, to purchase this facility. The other fact is this facility backs up to the brown building, which is the city of austin's building, the taxpayer's building. So you're talking about a whole square block that could possibly be rebuilt for affordable housing using mixed and housing and all different types of abilities to do reconstruction there. Something that would alleviate and something that also for the burden that the community has taken on for decades to bring something that's so needed. We have over 8,000 people on the waiting list for affordable housing. Wouldn't that be great to finally build something there in the community that is positive and to give our children a healthy learning chance, a chance to really develop to their full potential without having their health impacted? I think that this is what we're asking today is that we've had several meetings thanks to councilmember martinez. We've had the stakeholders meeting with the owner. And he's willing to sell. And I think it's up to the city council to put the appropriate departments together to look at that there is money there and how do we begin that process in getting this hazardous facility out of our community, protecting the health of the most vulnerable population, and especially that residential area in the neighborhood. It's time to step forward. And I really am going to be waiting for you all, the community is going to be waiting, with all of this information, with all the testing that's going on, something has to be done. Let's not continue to expose our children for another decade while we wait to see what the air testing model -- the bottom line, it's an industrial facility and it does not belong in a residential area. Thank you. [ Applause ]

Mayor Wynn: Thank you, ms. almanza. So council, that concludes all the folks who wanted to give us testimony regarding this pure casting facility and we appreciate everybody's patience. Yes, councilmember martinez.

Martinez: I wanted to update the folks who are speaking on pure casting. On december 4th and 5th the tceq was finally able to send their mobile unit out there. They tested for the release of gases and for theory lease of metals. The gas test results are here in austin. They should be back next week. I don't know if that meant next week as in after the new year or actually next week, but the metals test had to be sent to houston, and that's going to take a little bit more time for that test to come back. But tceq did go out there and spend a couple of days doing the testing and we're waiting on the results of those and we'll turn those over to you guys as soon as we have them. Thank you. [ Applause ]

Mayor Wynn: Councilmember morrison.

Morrison: I think that it's a bit of a struggle for me anyways to identify some explicit steps that we can take so that we really can move forward on this issue. And a couple of things with regard to the testing. I think that's a great first step and I appreciate our health and human services department for taking the initiative to ask tceq to do additional testing. What I would really like to see is whether or not a couple of

things about the testing, whether we feel that they're doing -- that they're testing adequately because as I understand it, there might be concerns that there are really additional tests that should be done that tceq isn't going to do. And then another issue that's come up in some of our letters are that I guess it's sort of a standard thing that when tceq shows up, all of a sudden it's a clean air week. And so they close the doors and the testing in that regard is -- may also not be adequate. So I'd like to look at ways that we might be able to be more proactive. I happen to have -- on capcog recently I saw a grant that they're going to be putting together to do their own testing of some particular sites that might come up, and I wonder if we might even look into -- I saw the testing -- the price list. They're not like outrageous. I wonder if we might even look into if we feel the testing is inadequate, that tceq is willing to do -- if we can just go out and arrange to have the testing done that we think really needs to be done. I don't know if we have the funds for that. I don't know if cdbg funds can be used for that, but it seems to be something to talk about anyway. I hope that we can. I also would like to maybe follow up on the discussion, the gentleman that pointed out that some reconfiguration, like -- actually especially forcing and closing the doors and changing the loading dock if in the short-term we could talk to pure casting about whether or not they would be willing to affect some of those shorter term reconfigurations. And then thirdly, as has been suggested, that should we look at actually purchasing that site, I'm not quite sure how that investigation or conversation ought to get started, but I appreciate maybe from the city manager a suggestion sometime in the future about how we could really start to have that conversation. Thank you. [ Applause ]

Mayor Wynn: Further comments on the pure casting issue? Thank you very much. So council, as I mentioned earlier, and as many folks have noted, jennifer gale had signed up to give us testimony today at our general citizen communication as she did frequently. We said a few words this morning in anticipation of that and continue to suggest that folks consider a donation to the house the homeless thermal underwear drive, particularly during this christmas week. Without objection, I'd like richard troxell just to come step forward and just say a few words, and then I believe our folks at channel 6 have helped us with a tribute for jennifer. Welcome, richard. mayor and thank you for the tribute you're about to provide. Councilmember cole and councilmember shade and councilmember morrison, thank you all for having stepped up on behalf of jennifer gale, who was a very active, compassionate, cheerful homeless advocate and relentless. Beautiful, beautiful person. I thanked councilmember cole because she was the keynote speaker at this year's homeless memorial. Each year in november we read the names of the people that lived and died on the streets of austin. She was the keynote speaker at that event. This year we read the names of 135 people from october to october. And tuesday night was a freeze night. Jennifer gale slept outside of a church, finding that to be sanctuary, and we don't know if the cold killed her. We know that it added to the fact that people living on the streets are autoimmune deficient. There is no such thing as being able to understand what that's like unless it's happened to you. She was vulnerable, all of our people are vulnerable. Last year we counted 4,000 people living on our streets. And right now we're only able to provide a little more than 600 emergency shelter beds. It's a wholly inadequate response to a problem that we are all -- I say all. I mean the council, the community action network, the homeless advocates, we are all striving to do better. We invite the business community to pay living wages. We are liefg no stone unturned, but in the meantime you have to understand there are people living and dying on our street, and jennifer gale was the most recent



person. We thank you for this time and thank you for your tribute. Thank you, council.

Mayor Wynn: Thank you, richard, and for your ongoing advocacy. [ Applause ] so council, I know that a number of us would takelike to say a few words about jennifer. I thought it would be best for channel 6 to help us with a video tribute to jennifer, then we'll open it up for any comment. Folks are welcome to -- from their seats to sing along with jennifer.

Hi, austin, councilmembers. Randi shade, mayor lee leffingwell and future possible mayor mike martinez. Merry christmas, happy hanakkuh. Hanakkuh starts on the 21st. ?? Silent night. ?? Holy night. ????

the bible tells us that abortion is wrong and if mary had an abortion, we wouldn't have him. The exercise that took the woman up in dallas, the white rock. She lived only 29 years, but how -- and exercise is extremely important. I'd like to initiate is program where everyone gets ready to compete in an iron man triathlon. Part of my health care initiative. I'm suggesting that people exercise and prepare for an iron man triathlon, the 2 miles running, the 112 miles biking and the 2.4 miles swimming. Our obituaries of full of very young people. In yesterday's paper we had five people 60 years of age and younger. Those are our failures. We're not giving them the health care. We need proactive health care so they don't die up in white rock lake. Homeless help, let's give the homeless a place to exercise. Give them a mace to get their strength back, to get back on their feet literally. We learned today in the "austin american-statesman" the "new york times" said colonoscopies don't get lesions or polyps that are indented. So we need better colonoscopies or doctors. We need to withdraw from iraq. That's very good for our health and well-being. Let's not build that clinic in north austin where the neighborhood can't take it. Let's do what we can to help the country of mexico and other countries that need jobs and need help creating those jobs. I'm wearin pedometer now that my friend gave me. What it does is it gets you counting your steps. And everyday you want to put on more steps. So it gets you out walking, breathing the fresh air. [One moment, please, for change in captioners] I want to thank our technicians here at channel 6 for presenting that to us. [ Applause ]

council, thoughts? Councilmember leffingwell?

Leffingwell: Well, mayor, I have been around this place for going on four years now. Of course, have seen jennifer gale around here numerous times. I have never seen her angry. I have never seen her being kind to anyone. She's basically a good soul. I appreciate her life. I feel privileged that I had the opportunity to -- at that committee meeting to hear her sing silent night to us. I also feel privileged that I had the opportunity and took that opportunity, we took the citizens communications at the end of that meeting to go up to her and say hello to her. Say some kind words and -- and tell her merry christmas. There's sort of a lesson there I guess. Always be kind to people because he never know when something like this is going to happen and -- and believe me, I felt good that I had been kind to her. I can't imagine how awful i would have felt if I had not. So -- so again, jennifer gale, a good soul. I wish her god's speed on her final trip west.

Councilmember martinez.

Martinez: I just think that it's so appropriate how much jennifer has brought to us this week and also time as well, it couldn't be more fitting. Jennifer struggled with -- with, you know, several issues, one of them being homeless. One of the things that i said this week that i actually regret saying because I don't think it was wholly true is that she chose, you know, to live her life in the manner that she did. But in reality, she didn't have a lot of choices. Jennifer was a transgendered female and so -- she couldn't go to a man's shelter, she didn't feel like she was a man. She couldn't get admitted to a woman's shelter because anatomically she was a male. That is our responsibility. To find ways of dealing with those specific issues. If we would have moved forward last year and built the mobile loaves and fishes we all worked on, no one person's failure, not all of ours, maybe she would have had a place to stay independently on her own. I'm going to ask in the name of jennifer that we keep working on that project and make it happen. It's just those little specific projects like that the council really I think could mean life or death for some folks. It does mean life or death for folks. Over 130 people died on the streets of austin last year. And we didn't say a word about them here at city council. Doesn't mean we don't care. But I think this is our opportunity to -- to -- to pay tribute to jennifer. Not in name, not in silence, but in action. She would want us to do something about it. So -- so I just ask that we consider that forward.

Mayor Wynn: Understood. Councilmember shade? I again want to first say that I feel extremely lucky as my colleagues on the public health and human services subcommittee know, we got to see jennifer's final performance. Live and in person and it was amazing. I remembered of course her singing silent night and i remember her signing the paperwork after doing citizens communication because it was out of order and I really am thankful that we made it work. But until just replaying the -- the recording just now, I hadn't remembered all that jennifer talked about that day because she raises -- she would raise so many issues each time that she came to speak that i actually didn't remember her focus on those comments that day being about health and particularly health for those who are homeless. I remembered her talking about abortion, I remembered her talking about the iraq war and I forgot about her comments about -- about, you know, having just gotten her pedometer, so I will definitely -- I'm glad to have gotten to see that again, I will definitely keep that foremost in my mind as we move forward to always try to increase resources that we have available. I want to say a especial appreciation to councilmember martinez for recognizing that there are many more lessons to learn beyond just issues of -- of failure to fund and failure to support services for homeless people. There is so much more to jennifer gale's story including the fact as a transgender, as a trans woman that her options were significantly limited. Finally I just would like to say that, you know, there will be -- this campaign season will certainly not be the same without her, nor will our city will be the same without her. I just am very thankful that I have the opportunity to know her. I recognize that many in our community are sad and i think that -- that we should focus on the better memories and the ways that jennifer gale challenged us. Thank you.

Thank you.

Councilmember morrison? I warranted to remind people -- wanted to remind people that jennifer was one of six people that ran in this very seat that i was privileged to be chosen to sit in. Jennifer came in

fourth in that race and I have to say that it was sort of the quintessential austin experience to be running in an election against jennifer gale and I think the pinnacle of that experience I wanted to remind people because it brought so much warmth to this community was at the real estate council of austin candidate forum, when she led about 500 suits and their guests at the four seasons ballroom and reason addition of you've lost that loving feeling. [Laughter] and these folks down there were all there. I know even councilmember martinez as a non-candidate was in the front table swaying back and forth and singing and clapping to the music. She was an impressive candidate. She was experienced. She was able when we had these candidate forums, maybe 90 seconds to introduce herself, she could get all 29 points of her platform expressed in those 90 seconds. Really as a tribute to her, she should all keep in mind she was a housing advocate. The other pieces of her platform which I think she was going to be presenting and challenging some folks this time around in the mayoral race were of course health care, the whole issue of children's health and, you know, so poignant that [indiscernible] was here today because -- the clear casting was up today because I know that would have been immensely important to her. Environmental issues, mobility issues, of course housing issues. And she always had a plan as a -- if she had been elected to office to stay connected to the community and as i recall she was going to have jackie goodman, she said, be her executive assistant. So anyways, I think that in tribute to her, we can all keep in mind okay there were some pieces of her platform I didn't agree with, but we can all keep in mind all of the passion that she had for this community. Thank you.

Mayor Wynn: Mayor pro tem? [ Applause ]

well, my final opportunity to speak with jennifer was actually last thursday when she came up and visited with me, I said I can't wait to see you next thursday singing your annual holiday christmas song for us. So -- so I'm very glad she did have the opportunity to actually sing it here in city hall. But some folks may not realize that when the mayor and I were on the council the time that we were still over at the lcra she i believe sang, gave final citizens communication ever -- gave the final citizens communication ever there when she sang let it snow. It's one of those things that you can remember. She's been doing this, six years now. I wanted to have the chance to hear her sing a christmas carroll. In 2006 she and I ended up getting to sit together for about half an hour at a high school room visiting and i asked her her life story. Some of the things that i learned is she spent a lot of time in the carolinas, at north carolina and was in the military, served our country. And worked at a stuck key's restaurant in north carolina as well. And that she had always considered herself to be a woman. Which I think as we understand more about -- about, you know, the -- the life progression for folks who are transgendered that was fundamental to her identity. And as my colleagues have said, she's always been an incredibly sweet person. Even if we didn't agree with some of the things that she might espouse in her politics, others we did. But I will say that -- that her life, the way that our city of austin embraced jennifer gale is a reminder of the better angels of all of us as austinites. The fact that she died alone on a park bench on a cold winter night is a reminder that we have not lived up to our own better angels and to our own vision of who we are as a community. So we have work to do. I think that her life was a blessing and hopefully the blessing -- her death will be a -- a blessing in creating a better future for a lot of other folks who were left behind in our community.

Mayor Wynn: Councilmember cole?

Cole: Jennifer, we talk a lot about iconic businesses but she was a person that was iconic. I first came upon her on the campaign trail she immediately would call me sherri crow. And then finally I guess about a couple of weeks ago, I saw her down on second street, and she -- she said sheryl cole. I said oh, you are finally going to call me by name.

She said I always knew your name I just thought it might help you. [Laughter] and -- and so she was really funny like that. And even though she would maybe disagree with our particular positions on issues, she was just such a very personable person. Even if you didn't know her on a personal level, you felt like you did just because she was in such constant contact, as she expressed herself so well and she was so kind in doing that. So she will truly be missed and we should -- of course i agree with my colleagues have a call to do better about our homeless population.

Mayor Wynn: Thank you, councilmember. I will just say briefly in closing I had the distinct privilege of running for mayor twice with jennifer. You never ran against jennifer, you sort of ran with her. It was a remarkable experience. My two daughters and I last night talked at length about jennifer, it was interesting for me to watch and listen to a fifth and seventh grader have so much knowledge and perspective on a homeless person. Sort of a remarkable experience for me last night. I will just say earlier i mentioned that as a point of personal privilege because i have been aware and involved for the last few years, the house of homeless thermal underwear campaign is ongoing. It's a great opportunity to feel good about the christmas season or holiday giving for every 10-dollar increment, another person can get a new fresh warm pair of thermal underwear and for a \$20 increment they also get gloves, socks and a warm cap. So we have put a little bowl out and many folks have stopped by and offered small donations and in jennifer's honor. I would encourage you to check out [www.housethehomeless.org](http://www.housethehomeless.org) IN Regard to the thermal underwear drive, they do a number of other important things for folks who find themselves homeless in this community. Perhaps this is an opportunity for us to redouble our efforts when it comes to trying to deliver services to the folks who desperately need them. Jennifer will be sorely missed, semper fi. [ Applause ] thank you all very much. So, council, again that concludes our general citizens communication segment of today's council meeting. We have a number of issues still to take up in closed session. Without objection we will now go back into closed session pursuant to section 071 of the open meetings act to take up potentially legal items issues regarding items 36 and 37, both related to the peninsula annexation. Item 83 which relates to the austin revitalization authority. Item 84 which relates to the -- to the b.f.i. Landfill issues. And item 85, which relates to the lions municipal golf course. We may also take up discussions about the lions municipal golf course as a real estate matter, we have 86 pursuant to section 551.072. We are now in closed session. I anticipate this taking us several hours, we likely won't be able to get back to our afternoon staff briefings until perhaps, you know, well after 3:00 p.m. Or so. We are now in closed session. Thank you. Test test. This is a test of the captioning system. Test test. This is a test of the captioning system.

We are out of closed session temporarily. In closed session we took up agenda item 84, legal issues regarding the bfi landfill, as a summary. We did not and will not today take up items 83 -- excuse me, 83

regarding the austin rerevitalization authority, nor 85, legal issues regarding the golf course, nor 86, real estate matters regarding the lions municipal golf course. We anticipate those being back ON OUR AGENDA JANUARY 15th, 2009. Let's see. Earlier today we had taken up and discussed item 82, legal issues archer western versus city of austin. We are now back in open session to go over -- I think we have three posted afternoon briefings. We'll take them sequentially as they are posted. First we'll do the downtown street closure task force report. Then we'll go to our waterfront overlay recommendations, followed by lady bird lake trail enhance little. For our downtown street event closure task force, I would like to introduce and welcome assistant city manager you'dy garza. He will say a few words about the task force, the involvement and welcome.

Good afternoon. Today we are here prepared to present, in fact our co-chair will be presenting the recommendations from the task force '. As you know, council passed a resolution in june directing staff to work closely with the task force to provide these recommendations. I do want to take the opportunity to thank a couple of key staff members, and there are several staff that were present at all the meetings. However, the two of the staff that really worked very, very hard throughout every meeting, my assistant tajia, did a phenominal job of keeping the meetings in check and putting all the information together. And also larry schooler from councilmember leffingwell's office was instrumental in facilitating all of our discussions and without their participation, it would have been very difficult for the task force to move forward. I also want to recognize the other staff who participated from all of our public safety departments, water wastewater management. I'm going to be turning it over to paul, who has been a tremendous partner for the city of austin when it comes to our mayor's task force, for program and did a great job of leading us where we are today. With that and I just want to reiterate to the people watching at home and also to some of the members of the public that for staff, this is actually a starting point. We will now take this -- the recommendations, working closely with the mayor and council, as we actually implement or recommend for actual implementation any changes to ordinance, policies or procedures. So there will certainly be additional public participation as we move forward with final recommendations. And with that I'll turn it over to our co-chair, paul.

Mayor Wynn: Thank you, mr. garza. coroza and thank you for all your work.

Hello, everybody. I'm assuming everybody got exercise today or do we need to take a break for that? Are we ready? Before we get started on the power point presentation, i wanted to thank you all personally for the opportunity to be involved with this process. Thank you for having austin be a place where we can be so prolific in leading the nation in how a community can motivate its citizens to become fit and active and healthy. We have an incredible journey with our task force. It was made up of absolutely the perfect folks. We met I think 19 meetings so it was our own version of monday night football. It was -- we got to know some great people and I think the biggest benefit for that group was getting to know each other and have them understand not only the benefits of the events but how they can affect people who aren't participating. So the goal of the task force was to create balance between our events and the citizens who are living here who aren't involved but need to continue to live their daily life as well. So we were a great team and it's hard for me to come up and present alone because we're such a team. So I'm hoping they will chime in if I miss things, but i want to have all the task force members stand up. As I -- if you will all stand up. Come on, guys. Everybody. We have got ramona

tomas, paul matthew, john, anybody else here from the force, the task force? Anyway. Thank you very much for being such team players and I think we have a true understanding of not only each other but who we're representing at the meeting. We also had -- we opened up every meeting with citizens communication, and very early on we had a lot of communication not only from people that benefited from the events as nonprofits, but people that participated. And more importantly, people that were negatively affected by the events and think that's where we're very excited because I think we came up with recommendations that can help us move forward with confidence. The community can maintain vibrancy in this area but also maintain access. And as we go through, as we know that because of the abundance of events that had become apparent in the community that we were affecting churches, businesses, neighborhoods with access issues and communication issues on these events and the approval process. So we took that head on. Our task force is made up of representatives from each of those areas. A couple from each area. It was very well balanced. If we go through to our purpose was to review and recommend revisions to the current ordinances for street closures and events. And our purpose is to give you some recommendations that allow these things to go forward in a way that allows balance, and most importantly is to promote -- have our promoters be able to work with the city and way ahead of the curve come up with approval that they can promote with confidence and they have already communicated to the stakeholders that will be impacted. As you look over major issues, the number of special events in our study area -- and our study area being from mlk to the north to the south oltorf, to the east was red river and to the west was lamar. That was our area of focus initially. We going to make some recommendations that are city-wide, but most of the our recommendations are based on this area. You can see the number of events increased steadily. The number of downtown residents also has increased. And with the future growth with seaholm and the roma study, we all know we need to plan for the future as well how events are going to going functiondowntown. We have to balance as these events continue. And our focus, we focused on the event frequency, the application process and time lines, whether we were going to set race routes, have a process that allows building access, avoid entrapment, maintain public safety. Look at the financial impact and event fee structure, and how this all interacts with political events who have their own set of rules and parades who have a different impact than the moving athletic events. We were able to separate those out and focus mostly on the moving athletic events that have the most impact, talk about the stationary events. We agreed parades were a different animal as well. Some of our definitions, we talked about affected parties and defined who we felt were affected parties. We defined street closures, the different types of street closures. And you can see there that, you know, sometimes you are unable to cross a ride, sometimes you are unable to go down a road, sometimes you can't go into a specific lane, sometime it's a long closure for a period of time, sometimes it's officer controlled intersection that can pull state or close as late as possible or open as early as possible. After quite a few meetings and quite a few motions, we've come up with some specific high level recommendations n the packet you will also have a lot of detailed recommendations that as we call god into the weeds, but first we want to let you know of our high level recommendations that we think will help the process as a whole. And the first thing we think is that there should be an office of special events created that would operate out of the city manager's office. And the purpose of this would be to have a one stop shop for event promoters. That office would be intimately in contact with the stakeholders, the businesses and the neighborhoods. The suspected item would be we would create a special events advisory commission similar to the makeup of the task force that would an

ongoing body that would help us manage this process through time. Each event was so unique and had its own story that to have one document that covered everything was going to be difficult. We thought it was important to set guardrails and then allow the combination of the special events, city manager's office, this commission and the city council to manage it through time. We felt that street and building access was critical. If you look at the downtown sector that you have a high density of people that are now living there, officing there, going to church downtown, and one simple solution was to designate fifth and sixth straight as sacred passage, and I think we have a visual that shows the equator. That most events that want to be downtown and have the capitol shot, the picture, can function either be north of fifth and sixth street or south and accommodate the needs of the event and allow downtown to continue to flow.

Mayor Wynn: Or what the administrators refer to as the red sea. [Laughter] sorry.

So that's one recommendation that we have is we really keep fifth and sixth street open. We did lay out a few exceptions that we felt were possible. We recommend there be two events on Saturdays, Sundays, Mondays per year that could cross the equator or the dead sea. And that would be determined -- the recommendation would be through the office of special events on which events, which leads to us a tiering, which is a later flyer -- I'm sorry, power point page that talks about tiering of events. But it will be very helpful to keep fifth and sixth street open. Another major impact on downtown events is when the course, as we call entrapped or I think Tomas calls entraps. That entraps areas, if you keep the course as much as possible linear on Congress, that you avoid creating circles that keep buildings from being accessed or churches from being accessed. If you are having a walk, there's a type of police control called a bubble that is done sort of like when the Olympic torch came through town where the officers are surrounding the group that's walking as a group and they are able to leap frog and open up intersection and move through as a bubble and it doesn't have the closures that a normal 5-k would have. It's difficult to do that when you have people walking and running, but it's very easy when you have walks. Another item is to cap the current number of events at or below the -- I'm sorry, cap the number of events at or below our current level within the touchdown I area to allow -- study area to allow -- we feel that through attrition that events will drop off naturally. That will give time for the office to study and have a good inventory of current events. A lot of events that want to start up can move to other parts of town to happen and it will help spread the load to other parts of the city that are -- haven't been exposed to races. And we would also look at creating, having the office of special events recommend some caps in those other areas of town as well. As stationary events are scheduled, they need to be well coordinated with moving events so we don't have the interaction of them creating undue access problems. The last item on the recommendation was that as the traffic control devices are put out, that the timing that they are put out and removed, there's more attention to positioning them late and picking them up immediately after so that the length of time something is closed is much less than sometimes happens at this point. When I spoke earlier to what we call promote with confidence, the event promoters would have the ability -- would need to put in their applications 210 days prior to their event or earlier, and the office of special events would have 30 days to respond to the application. The committee -- or the community stakeholders that we spoke to, the churches and the businesses and the neighborhoods in the area that would be affected would have time to -- they would be informed of the application, would have time to give feedback prior to approval so that there would be early and -- early

input from the stakeholders. The next piece is critical. If there are more than 20% objections to the route, that it would have to come before the special events advisory commission for further study. And we set out -- you'll see in the detail we set out a few ifs and thens to lead the event promoter through a process that would allow them to either come to you at the end for approval or denial, but there's a lot of ways to resolve that ahead of this. The event organizers will need an approved application prior to promoting and marketing the event. And we would like to have finalized traffic control plans at an earlier date than currently so that the amount of detours can be communicated sooner to people that would be affected by the event. And the last item there that we take into consideration the tiered events in town. There are some that are like the austin marathon that have a high impact but they also have a high value to the city and the race for the cure and capitol 10,000, things that we know that a majority of the community is involved with and that those were built into some of the exceptions we created early, especially in the crossing of fifth and sixth. Another recommendation would be that on an annual basis there would be a matrix formed around waivers and costs incurred for public safety from the city. That would be part of the office of special events ability to manage what the cost to the city and the benefits to the city on an annual basis. Currently there is a parade permit and a road closure process and we recommend that the city staff review and align both of those into one ordinance. Did I miss anything? Hi, kathy. Kathy came in late. She was part of our task force.

Mayor Wynn: Well, kathy. Thank you, paul. Questions, council, comments? Councilmember leffingwell.

Leffingwell: Well, I just want to thank you, paul, and your staff that you mentioned and also again my aide larry schooler who went to all these meetings and I understand provided music at a few of them. [Laughter] with his three piece suit trio or whatever. And you know, it really addresses a very important and identified need that we found out just a few months ago. Of course, it's been coming on a long time, as you pointed out in your briefing, more and more people are coming downtown so more and more people are going to be impacted. But I do remember when three downtown ministers came down to the council meeting and they told us that when an event, stationary event or race was held downtown on sunday mornings, their attendance dropped off 40%. So we felt like we had to begin to address the situation and address it in a way that respected certainly the high value that we put on events and fitness events that I know you are very much interested in, and at the same time try to address the issue of street closures as it affects people's mobility in the downtown area. And their need and ability to get where they need to go. So I really don't have any questions, I just want to thank you for your work. It's an incredible amount of volunteer effort to put in and I trust that you will be volunteering for the permanent advisory commission as well.

I'm ready to roll.

Thanks for your continuing efforts, all the things you do for the city of austin.

Appreciate that. Thank you very much.

Mayor Wynn: Thank you, councilmember. Further comments, questions? And so maybe a question for



rudy. Paul, thank you so much.

Thank you.

Mayor Wynn: For all your work. Rudy, I think I heard you mention earlier this is sort of a starting point for staff. What do you see as the next sort of series of steps for staff?

I think the next steps for us now is to go back and take all of the recommendations -- fortunately for us we were at all the meetings and staff was -- affected staff was at all the meetings. Now we come up with an implementation plan, look carefully at the ordinances and any other specific policies and procedures that will be impacted, and then come back to the council with a recommendation. But we certainly would like to have -- once we come up with the implementation plan, have the public an opportunity to speak and get their input on final recommendation.

Mayor Wynn: Thank you. Councilmember, yes.

Leffingwell: Could you describe in detail -- a little more detail the process. Some things might require ordinances, some things could just be done administratively. If it's an ordinance, for example, what would be the path for that?

If it's an ordinance change at that point we would work closely -- obviously with the law department and just make -- the biggest challenge is because we have two ordinance that at times the parade ordinance and then the special events ordinance that sometimes conflict with each other. So part of our challenge will be to try to come forward with a combined ordinance and work closely with the legal department and our right-of-way staff and public safety to fix those conflicts and then incorporate any of the additional changes that the task force the recommending. One of the things that we'll be looking at is as much as possible codify all of the changes. Just to make sure that there's consistency going from here forward. I feel confident that with staff that's been part of this process for the next several months, years, that we can meet the spirit of the task force recommendations and the stakeholders we heard. The challenge will be long term and so to the extent that we can codify this through an ordinance or specific policies and procedures, so that will be our approach. Again, working closely with right-of-way management and our legal department.

Leffingwell: So would this go through any board and commission process or just straight back to council?

No, it will not go through any further board or commission.

Leffingwell: Well, i would like to suggest since this is a big project that will affect a lot of people that when it does come back to council, we first schedule a public hearing and a briefing on the staff's final recommendation and the task force final recommendation. Get public input and then schedule action on a subsequent date.

Absolutely, and that's clearly our.

Leffingwell: And thanks again for the wonderful work.

Mayor Wynn: Councilmember martinez.

Martinez: Can you explain the thought process behind not sending it to a board or commission? I could see where additional public input and some additional recommendations from some of our citizen advisory boards might be helpful in something that can be somewhat controversial to some of these groups.

Well, I suppose I could work closely with staff and try to determine which would be the most appropriate board or commission to come back to. The task force, the downtown street closure task force, in fact, their term has expired. And the thing to remember in the recommendation, the task force is recommending a new commission, and I'm not sure what it would be called, but the commission of special events as part of the recommendation. That will be the oversight after the recommendations, but prior to then I just can't think right off which would be the most appropriate commission to take it back to.

Martinez: And I can't either. That's why I asked you that question. So what time line are we looking at trying to get this back to council and in effect -- I guess what I'm trying to project for those folks who are paying attention is what races are going to be affected by this and what kind of time line are we looking at and should they be preparing for this.

I know there's a lot of work that goes into not only the races but all of the events that are already scheduled. My expectation would be anything that's already permitted or something that already has a traffic control plan and has moved forward, it would be very difficult, and probably in a sense unfair for us to try to retroactively implement something that would change their event. But to the extent that we could ask them to comply with some of the basic premises of the recommendations, my sense is that all the promoters would be welcome to do. That I can't see us making a recommendation to go retroactive and maybe somebody fit an event that would be difficult or costly for them to do.

Martinez: Thank you for all your hard work and thanks to the task force as well.

Mayor Wynn: Further questions of staff? Comment? Again, thank you all very much. All of our task force members and staff. Council, that takes us to our second briefing which is our waterfront overlay task force. I'll let staff set up that power point presentation. And welcome.

Thank you. Mayor, councilmembers, may night is mandy dealy and it was my pleasure to chair the water front overlay task force. The members of the task force are grateful to the city council for recognizing the need to revisit the waterfront overlay ordinance, for giving us the opportunity to review, the ability to analyzes the changes that are have been made to the waterfront overlay ordinance and to make the recommendations we bring to you today. The shores of lady bird lake on very fragile and can quickly be overwhelmed if development along its shores is not carefully planned and regulated. There's

got to be a balance between accommodating growth in the urban core and preserving the characters the river corridor and the lake front. The 1985 town lake corridor study and the 1986 waterfront overlay ordinance that grew out of that were necessary planning guidelines and land development tools that have provided harmonious development along the lake front. Recent development pressure, though, has really raised questions about whether everything we need is in place to protect and enhance the lake front. Having reviewed numerous documents, primarily the town lake corridor study, the 1986 ordinance and the 1999 rewrite and other pieces of current code, the essential findings from the task force in our eight-month review is that there really has been some significant changes made to the '86 ordinance. Some of these were supposed to have been nonsubstantive but in fact there have been some significant changes made. We have five priority issues which I'll go over in a minute. But we also have additional concerns that we've included and have detailed in the findings of the report. Your charge to us was to review the current code, determine the ambiguities in that and the '86 code and to make recommendations. That's been our objective. The strong recommendation that we forward is that the codes should be revised to remedy the issues that we've identified in the report. There were 15 members of the task force representing a variety, a real diversity of points of view, opinions, constituents, and we worked really diligently to come to an agreement and for the most part we did. The vote to approve the report we've sent to you was 9 votes for, 2 against, 2 abstaining and 2 members were absent. The sticking point was height and how difficult it should be to get. However, there's absolutely no disagreement that any additional height over the base zoning should be granted only in exchange for significant community benefit. And everything else we are solid and unanimous in our recommendations. The task force asks that the recommendation that we are sending forward today be translated into draft ordinances by the city staff. And while the charge of this committee is fulfilled with completion of our report, we respectfully request that the city council extend our term and return the draft ordinances to our work group for review and comment before forwarding them to appropriate boards and commissions for public input. So we'll go through the power point which explains in greater detail the recommendations that we're bringing forward today. These are the components of the report and the presentation. As I said, we had terrific members, terrific members who worked very hard. We started meeting every other week, and then in september started meeting every week, and by the end we had extended the time of our meetings from an hour and a half to three hours. So it really does represent hundreds and hundreds of hours of volunteer time. The boundary of the district we studied was from tom miller dam past the longhorn dam to the montopolis bridge. This area is divided into 16 separate distinct subdistricts. Here's the map that shows where those subdistricts are and how they are identified. Here they are listed. The purpose of the waterfront overlay was supposed to reflect the goals and policies that were established and set forth in the town lake corridor study, to provide a more harmonious interaction and transition between urban development and the park land and town lake and -- which is, sorry, lady bird lake. We should have changed that. And that there should be permitted uses, site development standards, design landscaping and other issues that were addressed in the town lake corridor study. The task force identified a number of major changes that have weakened the original intent of the ordinance, of the '86 ordinance. First was the dissolution of the waterfront planning advisory board, the removal of the building heights from the subdistrict. Removal of bonus provisions as they related to building height,. We identified a number of substantive wording changes. And removal of code provisions. These are the five recommendations -- well, let me flip over these so we can go really

to these and review them in a little detail. Our first recommendation is that the town lake corridor study policies be reinstated as the basis for any development along lady bird lake and further on down the colorado river. The goals are no longer referenced as the basis for assessment and we hope that you all will reinstate these goals as policies. Next. We hope that you will appoint a new waterfront planning advisory board. The waterfront board was created to make sure that a comprehensive approach was taken to any development along the waterfront. That responsibility has been abandoned and really there is not a single body who is responsible for overseeing and making sure that development is cohesive and complimentary along the waterfront. So we hope you all will consider reinstating -- reappointing a new board. The subdistrict maximum building heights were removed from the '99 -- were removed in the '99 recodification. The maximum building heights in the '86 code were really an essential part of the overlay and were modified -- and they modified existing development rights including entitlements that would have led to greater building heights. So we hope you will reinstate the building heights into the subdistricts. Next. Wait. Go back one. Sorry. And this shows what the heights were allowed in the '86 ordinance. By subdistrict. Next. The bonus provisions in the '86 ordinance were removed. The one real flaw we found in the '86 ordinance was that there was not a clear methodology for awarding bonus provisions. It was clear what the public benefits sought were, but there was no clear definition of how those were to be granted. The -- and extra entitlements. With the community benefits that are provided. And the last is we think the waterfront overlay district ordinance should govern the -- the waterfront is really a unique part of austin and has special considerations. So we think that the waterfront overlay ordinance should trump other design regulations because in the case of a conflict really the importance is to protect waterfront. I mentioned what I hope our next -- your next steps will be to consider these recommendations. Ask staff to draft revisions to the waterfront overlay code. Send those back to our task force for review and comment before sending them out to their appropriate city boards and commissions. And we hope then that you will adopt the new regulations governing the development on the waterfront. So are there any questions? You have a long report, as you all know, that details specific findings in each of the subdistricts. More detailed recommendations that we made. But those -- but really, those are the main findings that we ask you all to consider adopting.

Leffingwell: Thank you, mandy.

Thank you.

Leffingwell: I'm just realizing here that by default we have no presiding officer and councilmember martinez pointed out that I'm the senior member here so I will try to fill in until we get somebody back. And I'll start off by saying thank you very much. Again, a lot of hard volunteer work. And did I understand you to say the task force needs to have its term extended?

Right. The term is over with the completion of our task, which is the presentation of this report. So we're asking that once the recommendations have been codified, that they be sent back to our group and give us the opportunity to review them and make sure that they really do represent the recommendations that we've brought.

Leffingwell: So the idea would be a council item, presumably at our next meeting WOULD BE

JANUARY 15th, TO Tend the term indefinitely -- we can't do it -- we could do it for five years. Would that five years --

oh, I'm sure it could be done in less time than five years. And we all really did enjoy working together. It was a terrific group of people. And given the broad range of interests, constituencies, and even personalities, the fact that we came to consensus on this with only that one tiny sticking point, I think shows how hard everybody worked.

Leffingwell: Well, i think we can probably among us we can arrange to have that item on the agenda to extend the term so that you can complete your work. And again, I think this is another one of these items before we attempt to take any action on council, I know that this will go through several boards and commissions.

Right, and that's our recommendation.

Leffingwell: But even when it comes back to he council again we should plan to follow that format of a public hearing without action followed by another meeting with the item on the agenda for council action. So any other members have questions? Councilmember martinez.

Martinez: Mandy, thank you so much.

Thank you very much. It was an honor to be able to do this.

Martinez: Eight, nine months of work. There's many task force members who are here in the audience present. But there are also stakeholders and groups that really were the impetus for this coming forward and that equally participated, and specifically I'm talking about wcs and the particular project that sparked this whole revisit of the waterfront overlay, but then again save town lake as a major stakeholder. Also state involving connected. But I also want to point out and give special thank you to my aide, andy moore.

He was terrific.

Martinez: Who attended almost all of the meetings if not all of them. [Applause]

he was great. He even brought us coffee at our first meeting. It was terrific.

Martinez: But this really is significant work. Not just to those of us who may live near or who may run on the trails or who may reside in the urban core. We went on a visit to vancouver a while back and, you know, we were supposed to learn a lot of things about vancouver. I enjoyed it, thought it was a pretty city, the one thing i took away from it that was really significant is that those of you that know vancouver, it's almost like an island. It's connected by land, but only on a small portion. There are 14 miles of waterfront surrounding the core of vancouver. 11 Of those are public open space. It can be done. It can be done in a major urban city and it can be done correctly. And that was the one thing that was pointed

out to me actually before I went to vancouver, someone on your task force said take notice of this when you go there. They've done this right. And I did take notice and i actually tried to tour as much of the open space that existed while we were there. And it was true that it significantly impacts the vitality and the culture of the community. And so I know this document moving forward is going to help us achieve that here in austin even more so than we already have. So I just wanted to thank you all so much for the hard work.

Thank you. We all are in agreement that the waterfront, both lady bird lake and the colorado river beyond, really are one of our most significant community assets that need to be protected. So we hope we will have been able to assist in diagnose that. Thank you -- doing that.

Mayor Wynn: Thank you.

Cole: May I ask a question. Again, I also appreciate your work and the work of the task force, but I really wanted to focus on second on your height recommendations. You said to reestablish the subdistrict maximum heights and that the height was actually taken out in the 1999 recodification. I just want to get some sense from you of what you think about heights along the subdistricts. I know that has been a point of contention in the lawsuits and what the consensus was of the committee.

The height, as I mentioned, were taken out in the '99 rewrite. Each sub duct had maximum heights, and it was allowed within the subdistricts that additional height from the base height could be achieved or received as an entitlement if certain community benefits were offered. The height maximum was 96 feet that was in the original ordinance. This was the one sticking point, as I mentioned, in our deliberations about how difficult it should be to get to 96 feet and if it should even be possible to exceed it some degree. I don't think anybody is in favor of unlimited height, but there were three members who have attached a statement that supports everything that we've put forward except they would like to see a little flexibility there on height. Coal cole and when you talk about community benefits, give me an idea what you -- do you mean like improvements tore the trail or --

there were a number of community benefits outlined in the -- let me see if I can find really quickly the page that --. There were things like open space, view sheds, public access, pedestrian uses.

Cole: So just the standard. Okay.

Some residential. The point was to make the shoreline rich, vibrant and open to everybody. So that it would really be our waterfront. Our waterfront.

Cole: Okay. Thank you, handledy.

Thanks.

Mayor Wynn: Councilmember morrison.

Morrison: Briefly I just want to thank you and all the task force members and I especially appreciate the recommendation to keep yourselves alive to be available to review the changes that are proposed at the next level of detail because clearly with something like this it's very complicated, that the task force members are now the experts in the city, I'm sure, on all of this code and the changes. So I think that's a terrific recommendation. And I guess my question then is for staff, I guess, does it -- is this going to come back to us for moving it along to approve going forward or directing the city manager to go forward or -- is that the next --

that will be the next step.

> I think the most sort of orthodox way to proceed would be in a resolution extending the task force, initiating code amendments and that the law department would then work with zoning and watershed. Then the one sort of novel piece would be returning to it the task force for review and comment. So I think that could all be done efficiently with one action.

Morrison: Okay. Thank you.

Mayor Wynn: Again, further questions, comments? Again, as with before, we very much appreciate the task force members, the staff and all the hard work that got these recommendations to us. Thank you all. And then finally our last presentation this afternoon is a report on the lady bird lake trail enhancements as prepared I think technically by staff but with cooperation with the town lake trail foundation. I think now just known as the trail foundation. Welcome, Mr. Stuart Strong.

Good afternoon, Mayor and Council, City Manager. We are here because you charged us with working with the trail foundation to develop a hike and bike trail enhancement plan for Lady Bird Lake, to identify future trail projects, to refer this to the Parks Board for their review and comment, and then finally return it to you for your approval. In fact, we have done that. We went to the Parks Board in September. We will return at a later date for you to consider adopting the plan. We've worked with the trail foundation for a number of months to provide a coordinated, integrated plan and that's what we'll show to you. We -- we have this presentation in two parts. The first, which I will give on behalf of the Parks Department, and the second will be presented by the trail foundation. They are going to show you what is a gift of professional work by the RVI planning firm showing some futuristic designs for the trail. Of course, Susan Rankin is here representing the trail foundation as executive director. Barbara Austin is here for RVI. Reverend Smith has joined us who is the foundation chair as well. The first part of this presentation prepared by the Parks Department examines the existing standards for basic trail amenities. We therefore identified the gaps in our service. So our emphasis will be on identifying which amenities should be replaced or supplemented. And I'll present that information to you in the second part which Barbara will present will be a vision plan, which presents more long-term ideal improvements which would bring specific location to a much higher standard of service than we have today. I'll begin with the park presentation. This map represents, of course, the 10-mile circuit from end to end. It's the envy of many cities. We have between a million and a million and a half runners and users of all sorts every year. It's been out there since the EARLY '70s. What we find is it's aging and it doesn't have all the amenities which should have been put in some years ago. Of course, it is also not continuous

around the entire shoreline. We have over a mile gap on the south side on either side of i-35. There's a second gap going around the holly plant. Both of these are planned to be bridged. The design for the boardwalk is underway. We that design to be completed by this coming june and we would expect to install a trail along the trail at holly plant when the plant is removed. Our approach is to identify the trail standards which we would like to meet. Where we fall short and to project a level of funding we would need to bring this service up to those standards. I would point out to you that pard does have some financial resources currently. Though future funding will be needed. As you probably know in the 2006 bond election, a million dollars was provided to begin the enhancement of the basic trail renovations on lady bird lake. We are out there today resurfacing the trail, correcting erosion and drainage problems and other site improvements. The work began on the north side down by longhorn dam and it's progressing westward. So if you want to go see it, it's out there today. Also there are a few improvements for which funding is included in other projects such as in the last phases of the butler park, auditorium shores project there will be a new restroom so funding is placed for that piece. Waller creek tunnel will bring us a restroom as well. Those are the funded elements we have. From here on out, what I'll point out to you are unfunded pieces. Our approach has been to look at, well, what do we have out there and what do we need. This is simply a listing of all these features you normally expect to trail. We went through and -- listed all these. We did an inventory, gis mapping so we know where everything so, we can identify what we have and whether the existing compares well with preferred samples. What I'm going to do is show you a few examples of our analysis. For example, our trail service. It seems -- surface. We look at the surfacing of the trail. People want a primarily granite trail, we have that, but we need to have proper drainage, it needs to be fully accessible, it needs to have stable banks and retaining walls and it needs to be smooth and accessible by the public. When we looked at that, beyond the funding we have today, we project a requirement of \$1.6 million in the future. Next we looked at the trail head standards. How do you get on to the trail. Can I get on to the trail. What we propose is a system of major and minor trailheads. Major trailhead would have a more rich compliment of facilities, it would have parking, restrooms, information kiosks, fitness equipment, shower, drinking fountain sites, furniture. So it would be a welcoming place, it would be easily identified when you get on and off you have the amenities you need. Minor trailheads are what we see as a neighborhood entry. It's a place where you slip in in your nearby neighborhood. You didn't necessarily bring your call so you don't need the full compliment of facilities. So when we looked at what we have out there today, we find that there are approximately 16 places where we have what we identified as major trailheads. All those places are the major trailheads or should be, but, of course, none of these has the full compliment of amenities which we would recommend. So when we look at the needs going place by place and adding on those elements that we should have, we project a future cost of \$3.4 million. Also, from the map you see you can't get on from every neighborhood. So what we propose is to supplement with what we're calling the minor trailhead. Those are the places where you come in from your neighborhood or nearby area. So on this map the yellow dots are the major trailheads which we've already talked about. The blue dots are the supplement and we would add so to provide somewhat lesser level of amenities but it would be the more informal neighborhood based trailhead. That we think we can accomplish in the future for another \$5 million. When you look at all that, wrote it all back together, we will be looking at a total of \$3.9 million in the future. The next element we looked at, okay, restrooms. We get a lot of questions, where's the next one down the trail. Our standard is we should have them spaced at no more than



a mile distance from each other. They should meet all a.d.a. Requirements, durable, maintainable. We have some that are still out there from 1972. It's time to move on. We looked at what we have. We have 11 restrooms around the lake. Eight of those need to be renovated or replaced. There are three that are new and so those are in good shape. We could do that for a cost of \$2.2 million. In addition, to fill in those gaps that you find on your trail, we would need seven additional new restrooms. So that would take to us the one-mile interval. We could accomplish that in the future for \$2.4 million. So wrapping all that up together, those components 6 million budget we would require. I showed you the long list of the inventory elements. I'm not going to go through the analysis for each one of those. I'll give you a roll-up. These are all those elements again with our projected cost. We had the backup and if you have questions about how these are broken down, we'll do that. But what we want to show you was there is a -- there is quite a way to go to bring all of our amenities up to where we would like to be. We understand from the citizen comments this is the sort of quality they want on their lake. So that -- that is a projected future cost of \$25 million. Except for those things i mentioned, this is not funded at this time. What we would recommend to you is that we break this down into a couple of segments. Our first priority would be to look at those renovations and amenities to fill those critical service gaps like the restrooms and drinking fountains and drainage which substantially affect your experience on the trail. And so that would be what we would recommend is the first attack. Followed by the additional \$15 million for those things which would create replacement of trail facilities. As to the funding, of course, this is a potential item that could be considered in a future bond election. We could also look at park dedication fees. As development occurs around the lake there will be some fees that accrue to the city and that could be dedicated for this purpose. And, of course, finally there are partnerships. In part you will see that as we proceed. At this point, I would like to ask barbara austin to give us her presentation to show the way they envision a higher level of service at a few selected places. So barbara, if you could please --

Mayor Wynn: Thank you, mr. strong. Welcome, ms. austin.

Hi. Thank you very much for having me. I'm barbara austin with rbi planning and landscape architecture and I'm real pleased today to share with you a summary of our vision plan for the trail at lady bird lake that we created for the trail foundation. We began this project over a year ago. And it's some what some incidental that the parks department began their enhancement plan about the same time. We worked very closely with them. We also, of course, worked closely with the trail foundation and with a lot of other community stakeholders. Today I'll share with you our -- the purpose, the process, the goals and then just a few highlights for recommendations. The vision plan was a process -- the process was an opportunity to study the trail, and then really to imagine its possibilities for the future. Over the past three decade, the trail has become one of austin's most loved places. And with all of the growth in the downtown population, we've all seen how used and crowded the trail has become so we wanted to ask these questions about how could it accommodate future growth and what were all of the possibilities for that. The vision plan is not a master plan for the trail, it is -- what it is meant to do is to inspire. And its main use will be to help guide the trail foundation in their future work. I'm going to briefly explain our process, which was divided into these five categories beginning with site analysis. Our entire office got involved in this project. 25 people so we spent a lot of time on the trail taking pictures, observing how people use the trail. We looked for where it worked well, where we thought there were missed opportunities. What this slide shows is an illustration of our impressions and observations of the

different activities and the moods that are on the trail. And one of the things that it showed is we called this word mapping and is that there were disparities on the trail. The far western evenly of the trail is very, very used, heavily used, and the middle part of the trail is very influenced by the downtown corridor, the civic uses on the south side of the trail. And then the far eastern side of the trail is less used. And in someplace more remote and it has major disconnects. That's what this slide is mostly about. During the site analysis, we looked really closely at how people use the trail. Of course, it's used very much for running, walking and biking, but there are about a million other things going on out there at all times. And so we wanted to be sure that anything that we did took those things into account because we wanted it to be very multipurpose like it is now. We didn't want to do anything that would prevent people from enjoying the trail in all the ways that they do. We did look to the community really as the experts and we held a community workshop in April. We had more than three dozen people there from a real long list of organizations. We also met with representatives from the East Cesar Chavez neighborhood and with the mayor's office. At the workshop we divided the participants into three groups to study what we had deemed as these three different zones. We asked them each questions about how can the trail meet the expected growth of the community and what needs to change. And their input was incredibly valuable. From this workshop we arrived at three major goals for the trail's future. One, to enhance the trail. Two, to expand it. And then three, to support it. And these are things what the trail foundation is already doing and has been doing for the entire time they've been in existence. Particularly maintaining and enhancing the natural environment. This is a big charge of theirs. Their healthy trees for the trail program has been very successful and they have other programs that enhance the natural qualities of the trail. What the vision plan does is it provides imaginative ideas about how to take some of these ideas a step farther. I'm going to show you just a few examples from the vision plan. And kind of -- and how we illustrated how these things could be done. One of our goals was to support multipurpose destinations where a lot of things could go on at one time and another was to improve gathering spaces. What this slide shows is what we deemed a missed opportunity. This is the ramp that comes down off the flyinger bridge and makes this round beautiful space and all that's inside it right is a bit of grass and the trail goes through and a drinking fountain. What we saw is with just a relatively small investment, we could make this into a much more lively space, planting, seating area shade and a mobile concession. This was an idea we thought could be accomplished with really a relatively low cost. Finishes we had several others of these that we illustrated in the plan. This is an existing rotunda that's right across from Seaholm on the other side of Cesar Chavez. This too with very little investment could become an inviting place again. This is really a prime location. It's going to be right across from the new library. And we saw it as having opportunity for a lot of flexible uses like an outdoor reading room or children's area, things like that. Okay. Another I think really important concept that we came up with was to develop a more cohesive trail signage system. The signs that are on the trail have developed over the 25 years of the trail and they look like it. They've but put in by different entities, worn, vandalized, and the trail really does need a thorough graphic makeover and it needs to be comprehensive, it needs to be coordinated and functional. There need to be signs that are directional signs and rule signs. And I think there needs to be a complete interpretive program that really would help trail users appreciate the wildlife, the history, the ecology of the trail. The system should embrace technology and it should provide -- it could provide information that's accessible by mobile phones when people have more questions, they would be able to find out more. I think because this -- because the trail really is the heart

of austin that this new signage system needs to really break the mold and support the reputation of a first class metropolitan trail system. The signage system could really help us with our next goal. If you see that one that says johnson creek trail, we're promoting better trailhead signage to the spoke trail. And we looked at a lot of ways to expand the trail and I do think that there is one of the best ways to expand the trail is to provide those better connections to the spoke trail, like to johnson creek to, shoal creek, to waller creek. And I mean we have such an incredible trail system but in some ways it's kind of hidden in those connections to the trail. We look at other ways for -- of increasing trail mileage. There are opportunities to go east and west, but mostly what we did in the vision plan were look at opportunities within the 10-mile loop. And we saw a lot of opportunities. One very similar to what you have going on in front of city wh the esplanade and we identified other areas where something similar could be done and would take some of the pressure off the trail as it is now. One of our main focuses was create more trailheads, and this illustration is one we looked at on the -- this is on the south side of the lake underneath the mopac bridge. It's a very busy place right now and has great potential for upgrade. Currently there is informal parking underneath the bridge and the area to the west is used for mulch and debris storage. What we see here is a fully developed trailhead that would include one mile of trail extension and would really become a destination point for group fitness and high intensity training. There are so many groups right now on the trail doing that and it would be great to give them a place to be. The -- the trail extension would take advantage of the existing terrain and create a more physical challenging trail that would go through a beautiful, natural area. We also looked at creating would include stair training, a sprint track, a stretching area and then, of course, the other trailhead amenities like restrooms and drinking fountains. I think this trailhead would embrace the natural qualities of the shoreline and we also proposed adding a pier here because one of the things we heard over and over was more access to the water. Everybody wanted to get right down to the water. We've got a second idea for a trailhead underneath the i-35 bridge on the north side of the river. I think that this is critical to expanding trail usage towards the east. And here what -- what exists there now is a fairly desolate parking lot and some erosion. People park there and fish there. And it's I think a new trailhead underneath the i-35 bridge could support a lot of activities like a kayak launch, a stretching area. We also looked at the ideas of adding plantings, the opportunities for art that could really enliven this area. And we would also propose a fishing pier at this spot because that was one of the things that the neighborhood there was very interested in. [One moment, please, for change in captioners]

our third goal is to support the trail, and that relates to management, maintenance and funding. That's in y'all's hands and along with the trail foundation and the other volunteer organizations who are actively involved in it. This really concludes the presentation, but I hope it gives you a possibility of what we saw for the trail, and I wanted to thank a few people. We worked with -- we have a lot of organizations that worked with us, particularly in the workshop. And they were very helpful, collaborative and creative ideas came out of that and it's been your privilege to work with them, and actually this project was really wonderful. We benefitted more than we ever imagined. You could hardly call it work. Our goal for it, I just want to restate that, was to help the trail foundation to visual lies how this resource may best serve the austin community for future jepses. And now we brought copies of the vision plan for y'all and I'll leave them with your staff. And I'll be glad to answer any questions that you have about it, but first I wanted to introduce susan rankin with the trail foundation.

Mayor Wynn: Thank you, barbara. Welcome back, susan.

Thank you. I'm susan rankin, executive director of the trail foundation. On behalf of the board and the members of the trail foundation, first and foremost I would really like to thank rvi. They have contributed over 900 hours of time pro bone know to create this vision plan for the trail and for the city of austin. The community will greatly benefit from the insightful and thoughtful work that they've put into this vision plan. And like the vision that was received of by then mayor roy butler, lady bird johnson and other civic leaders almost 40 years ago, this vision plan can guide us to make the trail the best urban hike and bike trail in the united states. And that's the goal of the trail foundation, to use the successful attributes that are already out there at the trail to make this area that already has great recreational space, a beautiful lake, stunning natural areas, and build on them with the consistently great purpose. The most used trail in austin should be and represent the best of austin's creative spirit. The trail foundation over the last five years has had a lot of experience in enhancing the trail, and i think that it should give everyone here hope and confidence that we can continue to work in partnership with the parks department to greatly and significantly improve this truly special place at our lake. We are fully committed to bringing private resources to bear to the table to the benefit of the trail and to the city of austin. Austin. By working together we can make huge progress in improving this trail in any economic climate, including the current economic climate. When we work together, we look forward and we think in 25 years we see a much, much even greater place out there at the trail. We think that we can continue to greatly enhance this trail, and it's already a standout for its natural beauty and its wildlife, its recreational utility and its important role in bringing the community together. And we plan to continue to bring the private resources of our community both corporate foundation and individuals to the table for the benefit of the city. Do you have any questions about the plan?

Mayor Wynn: Thank you, susan. rangin, council? I'll just say the plan, the vision, the enhancement projects are all really, really exciting. And I hope that we can figure out how to pull together some resources, public and perhaps also some private help to make them happen.

Right. It's a beautiful place, but there's so much more that needs to be done out there.

Mayor Wynn: Agreed.

Thank you.

Mayor Wynn: Thank you. Again, these plans and visions are -- will all be available to the public via the city website or other resources. They're exciting and I hope you get a lot of momentum built about improving our trail. Council, further questions or comments regarding our presentation? Thank you all. Again, thanks to everybody for our presentations this afternoon. Council, if you remember, we -- I guess I i announced that we in closed session are not going to take up our previously posted discussion about various agreements with the austin revitalization authority. We had just sort of generically pulled item 30 off the consent agenda this morning. It wasn't related specifically to that, although it's in that area. And I know that some folks need us to take action apparently on item 30 for a couple of important things to move forward, so without objection, real quickly i would like to call up item number 30 on our agenda. I

don't think we have any citizens here signed up. margaret shaw. mayor, members of council. Again, item 30 is just a small item that we would like to move forward. We have four homeowners that are waiting to close on their homes in the central east austin area between east 11th and 12th street called the juniper olive neighborhood, so we would like to -- the action before you today would amend a development agreement to make some just administrative changes in the contract and allow us to go forward and move those families into their homes, and to also allow ara to begin construction on the fifth home in the project. With that I'm open for any questions if you have them.

Mayor Wynn: Questions for ms. shaw? Comments? Again, we have no citizens signed up on this item. Seeing that I'll entertain a motion on item 30.

Move approval.

Mayor Wynn: Motion by councilmember cole to approve item 30 as posted and presented. Seconded by councilmember shade. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of six to zero with the mayor pro tem off the dais. Thank you. So council, I guess that takes us to our zoning cases for the afternoon. Let me make sure I'm not forgetting any possible action item from earlier. So without objection, welcome mr. greg guernsey. He will present the zoning agenda. Councilmember leffingwell.

Leffingwell: Mayor, i know we have a number of folks here to address an item action on executive session. Should we make some kind of announcement to them as to what the expected --

Mayor Wynn: That's right. So item -- earlier in closed session we took up item number 84, legal issues regarding for lack of a better term, the bfi landfill application. We lengthy and well attended closed session discussion regarding the legal issues there. We have a posted action item number 87, which was to take potential action related to that issue, and we in fact do have three or four folks signed up here wishing to give us testimony. Without objection, we should try to let these folks either testify and/or see if council is going to take any action or have any dialogue. So I'll -- so perhaps without objection then, why don't we let these folks give us some testimony and then I'll entertain comments, questions, dialogue or potential motions.

Folks have been waiting all afternoon, so i apologize for this delay. Our first speaker signed up on item number 87 is mark McAFEE TO BE FOLLOWED BY Melanie. Welcome. You will have three minute.

Good afternoon. I'M mark McAfee, thank you for the community once again to talk about the landfill siting in northeast travis county. Well, as we all know at this point, city staff screwed up really badly and one has to wonder when it's screwed up this badly, whose side they're on. I want to thank laura morrison and mike martinez for immediately recognizing this and working really hard and diligently to find a way out. And all staff who put in countless hours on this matter as well. And I want to thank lee leffingwell for his leadership on waste issues in general. Some have tried recently to compare this issue to-- the we're in to the domain subsidy predicament that the city is backing out on their word. This could not be further from the truth. In this case without the consent or the knowledge of city council and with

no public meetings, staff has reversed a 7-0 vote by council to oppose any expansion, a vote that was taken after five years of very public debate. This is not the way we want to run our city. We are either a city of laws and rules or we are not. We are either a city -- we are either a democracy or we are not. You all are elected first and foremost to protect the welfare and health of the public citizens. And the location of a landfill affects the health and welfare of literally tens of thousands of people. Landfill siting obviously is a matter for city council to rule on, not for city staff to make decisions behind closed doors on. I'm sure the city staff, like I say, perhaps purposely have left us with almost no good options; however, the only reasonable thing to do at this point is to not ratify this rule 11 agreement and furthermore to start an investigation of how we got into this predicament to make sure that this doesn't happen any longer. Thanks. I sure appreciate it.

Mayor Wynn: Thank you, MR. McAFEE. Welcome, melanie. You too will have three minutes to be followed by robin schneider.

Hello. I too echo mark about thank you for the help and what you've done as council to look into this. I would like to emphasize the process. has been trying to get a contract. We have personally fought this for five years with the county, so we're very familiar with the contract. ON OCTOBER 31st, STAFF Took the bait and went for the contract that we had been working on for so long. Please, focus on the process. The deal was wrong. Whatever the result, our legal team and our belief is to stay focused on this one point. Excuse me. Our attorneys tell us in their interpretation of the law that what legal did was against the law. I don't know what was discussed in executive session, but hope it looked at the process and not what's the best deal now. We all agree it looks bad. At this point the community and the legal team would rather have nothing from the city. This feels like just mistake upon mistake. The city attorney signed a rogue agreement, then the city attorney is hiring to look into it, so in other words, the person being investigated is doing -- is hiring the investigator. It's like the fox guarding the hen house. So it doesn't feel very comforting to know what was going on in executive session. It took too long. We heard that as of tuesday or so that some of the three outside council were -- didn't even know yet to start looking. It feels so rushed. In conclusion, we realize that there is no good conclusion. We know this. Had the focus been on b.f.i. Or on waste management? Did outside counsel advise on this? There is so many intra caseys to this that I can't imagine how someone in 24 hours can really look at this properly. If you don't attempt to state that the city attorney did not have authority, you will be laying the groundwork to perhaps give the green light to waste management, which would -- [ buzzer sounds ] -- perhaps lay the groundwork for both expansions and building the largest grouping of landfills not only in texas, but in the united states. Thank you.

Mayor Wynn: Thank you, melanie. And robin schneider signed up wishing to give us testimony. Is jd porter still with us? Robin, jd has offered you his time. You will have six minutes. Welcome.

If I were an iraqi journalist right now, i might be tempted to take off a shoe and throw it.

Mayor Wynn: I have reflexes as quick as george bush. [ Laughter ]

my organization, texas campaign for the environment, works very hard to get this council on record

opposing both expansions. My staff canvassed neighborhoods across the city, not just in the area near the landfill expansions, we found widespread opposition to expanding these landfills, and the councilmembers who were here at the time remember those letters that you got in your boxes from citizens across this -- from across the city. You went on record to oppose these landfills. City staff then came up with a more torturous reinterpretation of your resolution and then went ahead and filed this settlement agreement at the end of the day on halloween this year. Then on november 5th as the opposition and controversy had already broken, they went ahead and unnecessarily filed prefilled testimony on november 5th, which created an even worse situation because it not only undermined the city's opposition to the b.f.i. Expansion, but it undermined the city's opposition to waste management and the neighbors' opposition to both expansions. The city attorney should never have noagd and signed an agreement that they were not authorized to begin negotiating or even executing. They should not have filed that prefilled testimony. They should have come clean immediately once they did at some point admit a mistake in not coming to you, but they did not immediately come to you to try and fix this as soon as possible. Instead, it dragged on for weeks. Council, you were completely right last week taking this matter up. Some have argued that you stepped out of line, and they are wrong. You were right to question the validity of this agreement and report back quickly. This has raised very large issues about who is calling the shots at city hall and what leeway does staff have to go against a stated resolution and policy of the city. It also raises the issue of your ability as a council to get legal assistance when you need it, when you cannot depend on your city attorney because they have messed up a situation. Hopefully this will never happen again, but I think we also need to look at that larger issue and look at potentially the city auditor having the power to hire attorneys. They now report directly to you and that is possibly an option. Long range possibly the city attorney should report to you. The city attorney told at least one councilmember that this agreement with b.f.i. Was the best they could have gotten. That is a lie. Here are just five critical areas where the city attorney failed you and failed us. This is not a compromise. Bfi, if this agreement holds, is still getting the 75 feet expansion that they have sought all along. There is no decrease in the height. And this is like putting a seven-story building on top of another seven-story building. The top of this landfill will be taller than the top of mount bonnell. Secondly, it has no teeth. There's ridiculous language in the agreement with bfi that says monetary damages would not compensate the city, blah, blah, blah, blah. Well, monetary damages is the only thing that b.f.i. Might understand. That is laughable. Number 3, the rule 11 agreement says that there can be no transfer station or liquid waste or solidification basis after 2015. It does not say anything about other solid waste facilities that could be put on that location after 2015. Four, the rule 11 agreement says that changes may be made with the consent of the and the city manager or the city manager's designee, presumably head of solid waste services. That is completely unacceptable. That is putting again way too much power in the hands of staff to negotiate away anything that might be positive in an agreement. The city council must have power in that regard and it is also vital that the neighbors have input and a position in any agreement. This is something that we argued with the county judge about repeatedly is you must give the neighbors standing so that if four members of the council or three members of the county commissioners court wants to make changes, the neighbors are there to have a veto if the changes are not acceptable. This is a really terrible situation that your staff has gotten you into and it raises many questions about how to avoid any situation with regards to anything that comes before you and how to avoid situations like this in the future. If I were you, I would be looking for

some new people in some key positions. Thank you.

Mayor Wynn: Thank you, ms. schneider. Council, that's all the citizens that want to give us testimony on this potential item posted as item number 87. Further council comments? Questions?

Martinez: I would say based on the lengthy discussion we had in executive session and based on some more follow-up that we expect in the very near future based on that discussion that I personally feel like we should not take action at the time until we get that follow-up information and then come back and discuss it at a later date.

Mayor Wynn: Further comments, questions? Procedurally then we don't leave items on the agenda because hopefully we will end our meeting later tonight, I guess I will entertain a motion to -- smith, would you recommend a -- sometimes we withdraw items from the agenda, sometimes we vote to postpone for a particular meeting in the future.

I think postpone to a particular meeting in the future.

Mayor Wynn: Then councilmember martinez moves that we postpone item number 87 to our next meeting, which is january 15th, 2009. Seconded by councilmember morrison. Further comments? I'll agree with councilmember martinez that we got a remarkable amount of legal advice and discussed legal matter in closed session. It was very enlightening. Further comments on our motion and second to postpone item 87 to our next meeting. Hearing none, all those in favor please say aye. Opposed? Motion to postpone passes on a vote of six to zero with the mayor pro tem off the dais. So council now that takes us to our zoning matters. greg guernsey.

Thank you, mayor and council. Greg guernsey with the neighborhood planning and zoning department. I'd like to walk through the 00 zoning ordinance and restrictive covenant items. These are items where the public hearings have been closed. The first item that I'd like to offer for consent is item number 91, this is case c-14-2007-0052, known as the g property located in the 9609 swanson's ranch road. This is a zoning change request to general office conditional overlay district zoning. Council approve this had on a vote of six to zero at first reading. I'll note there is a valid petition. The valid petition has not been withdrawn, however the ordinance does reflect those conditions that were offered by the applicant addressing building coverage, impervious cover, far and forbidden uses. Item number 92 is case c-14-2007-0232, the rundberg business park at 320 east rundberg lane. Applicant is requesting a postponement of this item to your february 12th agenda. And item number 93 is case c-14-2008-0020 known as the sundberg tract at 8219 burleson road. The applicant is requesting an indefinite postponement of this item. They are still working on fiscal issues that have to be worked out before second and third reading. That includes the items that I can offer by consent for this portion of the agenda.

Mayor Wynn: What was the recommendation on item number 91?

91 Was to go ahead and approve what you approve odd first reading, noting that there was a valid



petition, but there wasn't a vote of six to zero when that came forward. Councilmember mccracken was absent on that first reading motion. So we could take that one still as a consent item.

Mayor Wynn: For second and third reading.

For second and third reading. And item number 92, postponement as well as 93.

Mayor Wynn: Correct, thank you. So council a proposed consent agenda on the cases where we've already conducted and closed the public hearing would be to approve item number 91 on second and third reading. To postpone item 92 to our february 12th, 2009 meeting and to enindefinitely postpone item number 93.

So move.

Motion by councilmember cole. Seconded by councilmember leffingwell. Thank you. Further comments on our consent agenda? Councilmember morrison.

Morrison: Show me as voting no on 91.

Mayor Wynn: So with guernsey, it would pass on second reading only.

That's right. We would bring back third reading on a separate day. Given the petition requires six affirmative votes and not having that, we can still move forward with just second reading today and bring it back another day.

Thank you.

Mayor Wynn: So we have either an amended -- an amended consent agenda, second reading only, item number 92. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of -- the amended consent agenda on a vote of six to zero with mayor pro tem off the dais, noting that on item number 92 the individual vote show councilmember morrison as voting no. Sorry, 91. Thank you very much.

Thank you, mayor and council. Let me continue with the 00 zoning and neighborhood plan amendment items. This is where the public hearings are open and there's possible action this evening. The first item I would like to offer as a consent item is item number 94, case 01 known as the met center ii property at 8200 burlson road. Staff is recommending a postponement of this item to your january 15th aigd. The commission has yet to review this item. Item number 95 and item number 96 are related items. One is a neighborhood plan amendment and one is a zoning change for the property at 3617 axle lane. Staff is recommending both items are indefinitely postponed. Item number 97 is case c-14-2007-0262 for the central austin combined neighborhood planning area vertical mixed use building zoning opt in, opt out process. We had a neighborhood request from the heritage neighborhood to postpone this item to the -- to postpone this item. Staff is suggesting not the 15th, but the 29th. You have several items that you've

postponed to the 15th. They did not offer a date, so staff would suggest the 29th to kind of liberate you from a very active agenda right when you come back after the holiday.

Mayor Wynn: Thank you.

So staff would recommend a postponement of that item to the 29th of January. Item number 98 is case c-14-2008-0203, known as the lake at parkline property at pecan street boulevard at lake creek parkway. This is to rezone the property to community commercial mixed use conditional overlay combining district zoning. The zoning and platting commission recommendation was to grant the gr-mu-co and this is ready for consent approval on first reading only. Item number 99 is case c-14-2008-0225 for the property located at 2608 and 2610 east second street to zone the property to family residence neighborhood plan or sf-3-np zoning, combining district zoning. The planning commission recommendation was to grant --

Mayor Wynn: Mr. Guernsey, I'm sorry. Are notes are one case off everything. We need to back up. 94, Proposed to January 15th. -- Postponed to January 15th.

Item 94 was the Met Center.

Mayor Wynn: Right.

That was postponed to February. Item number 95 and 96 are both on Axle Lane. Those are both indefinite postponements.

Mayor Wynn: That's where we're off.

I probably wasn't clear that there were two items there.

Item number 97 was a staff recommended postponement date of January 29th, and that was based on a neighborhood postponement request that was not specific. Item number 98, that was consent for first reading.

Mayor Wynn: Correct.

Item number 99 is a consent for three readings. As recommended by the commission.

Mayor Wynn: Okay. Thank you. Now I'm caught up.

Item number 100, this is for the property located at 7201 Levander Loop. That will be a discussion item. 101, this is case c-14-h-2008-0031 for the Schneider house at 2508 Harris Boulevard to zone the property family residence historic landmark combined district zoning. The staff, the landmark commission and the planning commission all recommended to grant this. This is ready for consent approval on all three readings. 102 is case c-14-h-2008-032 known as the Leach house at 1402

woodland avenue. This is to rezone the property to family residence historic landmark combining district zoning. It was recommended by staff, the landmark commission and planning commission as well. This is ready for consent approval on all three readings. 10 3, this is case c-14-h-2008-0033, the riley house at 1406 way then avenue. This is a zoning change request from family residence to historic landmark combining district zoning. It was recommended by landmark commission, planning commission and zoning commission. Avenue 104 is c-14-h-2008-0034, this is the siller stein house at 2506 harris boulevard. This is to rezone the family from historic residence family residence, recommended by staff, the landmark commission and the planning commission. This is ready for all three readings. 10 5 is case c-14-h-2008-0035 known as the harvey house at 1309 marshal lane. This is to zone the property to multi-family residence medium density historic landmark neighborhood plan combining district zoning. It was recommended by staff, the historic landmark commission and planning commission. This is ready for consent approval on all three readings. 10 6 is c-14-h-2008-0036, this is the overton house at 1403 springdale road. This is zoning change from family residence historic landmark neighborhood plan combining district zoning. It was recommended by staff, the landmark commission and planning commission. This is ready for consistent approval on all three readings. There's a family member here that is in support of this, would like to just say a few words in appreciation to council if that's all right with council and we can leave this on as a consent item.

Mayor Wynn: Yes, thank you. 10 #, c-14-h-97-008 known as the norwood house as 1012 edge cliff drive. This is to zone the property to public historic landmark neighborhood plan combining district zoning. It's recommended by staff, the historic landmark commission, the planning commission. This is ready for consent approval on first reading only. 10 8, this is for the precinct 1 new office building. This is a neighborhood plan amendment and the related item, number 109, case c-14-2008-0174 for the precinct 1 new office building both at 1811 springdale road and 4704 heavy lien lane. These items are pulled from your agenda. These items were previously continued to your february 12th agenda, 2009, so there's no action on 18 or 109 required. Item number 110 is case c-14-2008-0151, barry cairo prak tick at 11777 jollyville road. This is a discussion postponement item. Item numb 111, c-14-2008-0217. Staff is requesting a postponement of this item to your january 15th 2009 meeting. The zoning and platting commission have yet to review this fum. Item number 112 is case c 814-060233, this is the wildflower commons planned unit development at 4700 to 5200 block of sh highway 45. We have a request from s.o.s. It's our first request for postponement. This is to your january 15th agenda. Item number 113, case c 12 known as the terrace p.u.d. revision 12. That will be a short discussion item. That concludes the items i can offer for consent at this time.

Mayor Wynn: Thank you, mr. guernsey. We do in addition to the family member who would like to speak in favor of item number tun 06 we also have folks signed up wishing to speak in favor of item number 99, the zoning case at 2610 east second street. So without objection, council, I would propose that for consent agenda and let those citizens give us positive testimony if they still prefer to do that. So our proposed consent agenda on these cases where we have yet to conduct a public hearing will be to postpone item 94 to january 15th, 2009. To indefinitely postpone cases 95 and 96. To postpone item 97 to january 29th, 2009. To close the public hearing and approve on first reading only case 98. To close the public hearing and approve on all three readings case 99, noting we'll have some testimony here on the consent agenda. To close the public hearing and approve on all three readings cases 101, 102, 103,

104, 105 and 106. To close the public hearing and approve on first reading only case 107. We will note that on changes and corrections this morning we noted that items 108 and 109 have already been postponed previously to february 12th, 2009 meeting, so no action is needed on 18 and 109. We'll be proposing to our january 15th, 2009 meeting both cases 111 and 112. I'll entertain a motion on that proposed consent agenda.

Cole: So move.

Mayor Wynn: Motion by councilmember cole, seconded by councilmember morrison to approve the consent agenda as read. Again, we do have a handful of citizen comments starting back with item 99. Four neighbors signed up in favor of this case, although I don't see them right now. Gavino fernandez signed up wishing to speak in favor. As did paul hernandez, (indiscernible). Sorry if I mispronounced that. And frances martinez, who were all here earlier on an item. And I suspect just signed up in favor wish to go speak, but this will be approved on the consent agenda. Also, apparently on item 106 we have perhaps a family member who would like to give us some brief testimony. This is volma overton house, historic zoning. If you would like to come forward. Welcome.

Good afternoon. My name is val overton junior, and I would just like to take this time to thank you all for recognizing the work done by my father and mother in their efforts to make austin a better community in rezoning the home historic. And also I'd like to thank you for recognizing the historical and cultural significance of this home to austin. And this home over the years, back in the early 50's I remember as a child, many of the strategies and the planning to fight the civil injustices here in austin came right out of that home. And many people over the years have spent time at that house talking to my mother and my father and planning their strategies to make a difference in austin. So for me it's special, and for my family, we're honored to have this home recognized as an historic. And it's important to me that as this home is historic that that history is kept and passed down and will continue to be there for people to know and to acknowledge what the struggle has been all about. So I hope that in the future the council will continue to recognize historical and cultural contributions that different individuals make to the city. I'd just like to thank you very much for this time. Thank you.

Mayor Wynn: Thank you.

Cole: I have a brief question for mr. overton. Exactly how long was your dad president of the naacp?

He was president of the naacp for about 20 years.

Cole: And how long was he a member at first baptist church?

43 Years.

Cole: And I brought those two items together to emphasize the fact that your father was important in this community not only in the african-american community, but the entire community by what he contributed

to civil rights and integration even in his church life.

Yes, he did.

Cole: Thank you.

Thank you very much.

Mayor Wynn: So again, council, we have a motion -- we'll just take up the postponement discussion of item 110 here after our consent agenda. So again we have a motion and a second on the table to approve the consent agenda as proposed. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of six to zero with the mayor pro tem off the dais. So --

mayor and council, the discussion postponement item is item number 110. This is the bary chiropractic property, case c-14-2008-0151 at 11777 jollyville road. The applicant's agent ron thrower is present this evening and has made the request, and he can come forward and explain that. I understand there are neighbors that are opposed to the postponement request and would like the item considered. I will tell you that yesterday staff received a petition from the neighborhood. It was looked at by our ctm staff and it was found to be not a valid petition, but this would only have been ready for first reading only,, but it did stand at 29% based on the property owners' signatures that we had on it. And that's on your dais in yellow paper.

Mayor Wynn: guernsey, so is this the first request by the applicant or agent?

No. I believe this was actually on your agenda in november of last year, and there was thrower to work with some of the neighbors on some of the issues that they had raised from the planning commission. So this would have been the second -- would be the second request.

Mayor Wynn: November of '07?

November of this year.

Mayor Wynn: Okay. So council, we'll now conduct our postponement discussion debate and decision. thrower, you're welcome to come forward. I guess for lack of a better word, if a neighbor representative or perhaps two could come forward, again, we're discussing the merits of whether or not to postpone this case. If we decide not to postpone, then we'll conduct the full meerg hearing and debate. Mr. thrower.

Mayor and councilmembers, ron thrower representing bary crack chiropractic. Several times have come to light in the last week and what the owners are finding by walking highland oaks terrace is an effort to rework the existing restrictive covenant is that there is a lot of sentiment for getting the barry chiropractic property rezoned for the bary chiropractic use. There has also been some discussion about the misinformation that's been flying about, and a lot of the landowners feel like they have been misled in

some opposition efforts and obviously we're looking at additional time to try to get everybody together so we can talk about this and find ways that we can move forward with the project, hopefully with a better consent. I don't think we're going to win everybody over, but i think you're going to find that we're going to win a lot of them over. I would also like to point out that we have learned today that one member that -- whose name is apparently on that petition, that 17 plus percent, has also signed a letter today proclaiming they never signed that petition. So obviously there's a lot of factors and a lot of issues that we remain to work through, and we're looking for a postponement to january 29th so that we can work with the neighborhood and try and get the facts in place so that everybody is dealing with facts and not misinformation.

Mayor Wynn: thrower, then when we postpone this case back in november over a month or so ago, did we have that sort of a debate then about choosing a postponement date? Why is it that it's on this week's agenda and why didn't we postpone it for a longer period of time back in november?

When we talked about it in november we asked for additional time so that we could talk with the formed opposition that was identified that came to us, and we did actually have a meeting. There was -- something came about out of that meeting that required my landowner's attention to look more in-depth into their title policy for the property that is causing us additional delay because we've got an additional restrictive covenant that not even the landowners were aware of that we're working through an amendment process. And with that we've discovered that we have some sentiment for the support and we've also identified a level of misinformation that's been going on that we want to address.

Mayor Wynn: Okay, thank you. Welcome. If you could state your name and we're debating merits of a postponement decision.

My name is bob con cite and I live in an area where the bar y's are trying to open their chiropractic clinic. It's a residential neighborhood. This agenda item was before you in november and was postponed at the applicant's request and we raised no objection. We have met subsequently with the owners of the property on several occasions and have found that there just does not seem to be any room for us to negotiate because there are no negotiations ongoing. There's just -- we're just at an impasse. The reason they want the postponement has to do with deed restrictions, not zoning. Zoning is a different issue. They are in violation of the deed restrictions and they didn't understand it until i point it had out to them. Now they're trying to go back and have the deed restrictions redone. That's independent of zoning. I don't see why the deed restriction issue is even before you. Then again, I'm not a lawyer.

We're debating the merits now. Just for your information, we do have about, oh, 26 folks that signed up on this case, 12 against, 14 in favor, perhaps not all speaking either direction but about an hour's worth of testimony. Questions for either the neighbor or mr. thrower. cronkite brought up the issues of deed restrictions which we as council don't deal with. Can you give us a perspective on if there's a deed restriction issue, how does that relate at all to the actual zoning case.

It doesn't actually inhibit your ability from granting a request. I guess staff would like an opportunity to

look at the restrictive covenant. Typically if we have a restrictive covenant that prohibits commercial use and they're asking for the zoning that would allow this commercial use that staff would recommend -- staff already recommended this approval of this request as well as the commission on this particular item. So I'm not sure if that would be as real -- I'm not sure that that would be as relevant to this discussion this evening. I will also note -- thrower handed me a signature -- although it says rocks, he says he has a notarized version that one of the petitioners that was on the petition claims that they did not sign the petition.

That's good because you disallowed the names of two people that are on there that are the owners, they just -- the names they signed didn't meet the deed of trust names. So we're in an argument over whether this is a valid petition or not. To me that's irrelevant. The issue is the zoning case before you, and it's not the deed restrictions. The deed restrictions are something you don't enforce, we have to enforce those through litigation. You are just here for the zoning. And I think it's -- the zoning issues are pretty straightforward.

Mayor Wynn: Thoughts, mr. guernsey?

Well, it's entirely up to the discretion of you to go forward or not. The applicant had made one request. It was granted. Typically you grant one for each side. The applicant, as you heard, has asked for an additional postponement and raised I guess some issues about the petition. Staff's ready to go tonight or go another day, whatever your preference is.

Mayor Wynn: And cronkite, you and your neighbors would prefer to hear the case tonight.

Yes, sir.

Mayor Wynn: Okay. Questions for either side? Comments? We've got 26 folks down here. My instinct is we should hear the case. It might be awhile. We have a couple other cases to do before this, but without objection, we'll take the case up here in sequence as soon as s as soon as possible. Thank you all. Council, we have 10 minutes before our break. For live music. It looks like we might have a -- well. I was looking at the citizens sign-up, mr. guernsey. You were suggesting that perhaps -- I sort of hate people wait 10 additional minutes, but also often times it's frustrating to start a public hearing, barely get through the initial presentation when we break for live music. has 15 minutes' worth of people speaking, if they all speak. They're all here in favor. subtle is prepared to limit his comments without objection, council, it looks like we could get through in 10 minutes' time, so we'll take up that case before we break for live music and proclamations.

Very good. Let me go to 113. 113 is an amendment to the terrace p.u.d. This is case c 814-86-009.12. This is for a property located at 2300 to 3,000 block of via fortuna. The area is approximately 109 acres. It is a zoning request from planned unit development to planned unit development to amend a conditional zoning site plan and to amend a public restrictive covenant. These tracts are undeveloped. was originally filed in 85 and got approved later in 87. The applicant is requesting to remove two buildings, to remove some of the uses that are proposed as retail and office. And maintain the -- retail

and restaurant and maintain office uses on the property. The amendment with the restrictive covenant would speak to changing a portion of it to being public dedicated land or some nonprofit entity acceptable to the city and to change the transfer to the hill country conservancy, which they are in agreement. The planning commission's recommendation on this particular item was to grant the applicant's request, but including the four staff conditions numbered 1 through 4, those being that the building comply with the austin energy green building program under a two-star minimum. To extend 100 feet from the site of the loop 360 right-of-way and maintain and restore that area to hill country roadway character in compliance with hill country roadway ordinance, to use an integrated pest management plan and to enhance the water quality for all the buildings to a one inch capture volume. This proposal would decrease the amount of impervious cover on the property from when it's currently at about 32.31 acres to 30.72 acres. It would increase the downstream buffer area from 39.1 to 44.29 acres. The total square footage remains the same. overall remains the same. The undisturbed acreage 08 aigers to 66.0 finish acres. Staff understands the applicant would like to talk to you with regards to changing the austin energy green building going from a two-star to a silver lead. Staff would still suggest the green building program that's that's something we can do as the plans are going through. Once it goes from the desk and goes out in the field and gets construction, lead certification cannot be achieved until six months after the building is occupied and running. The applicant is coming forward and offering to have a third party submit lead certification afterwards and may be willing also to do two star. We think that's better because at least there's some follow-up. If we had some I guess written correspondence on that, staff would feel better about that. The big issue I think for staff is even though you have support of the barton hills neighborhood, pal said's neighborhood with a concern about -- that they would like a traffic signal just a little bit further north of this property, the applicant has worked diligently with the surrounding neighborhood groups on this and trying to preserve views from the creek, from across the creek in barton hills. This is in the hill country roadway corridor. And it would encompass all of the proposed buildings 3, all of proposed buildings 4 and going north of that area. And the building number 3 is proposed to be 120 feet in height. With the exception of height allowed in the code they could get to 138 feet, and staff's concern is that this building is only 100 feet from the hill country roadway intersection where mopac and 360 meet. So you will have a building that will be flat faced facing the intersection as you travel down 360 or you're approaching mopac 360 interchange and could be as high as about 145 feet, which is about the height of the pinnacle in oak hill. And it would be close to the right-of-way. building 4 on the other hand is 134 feet away. Building 4 sits about six to eight feet below the contour line or contour elevation of building 3, so staff would suggest that building 3 and building 4 be switched. It would bring the appearance of building 3 being at 100 feet to less, about three stories less in height, that and it would be under the proposal. I think the applicant will probably show you some quick designs of appearance in 3 and 4, but the location of building 3 is the main concern given its proximity to the bluff line and to its presentation to the hill country roadway. With that I think I'll pause. We are supportive of the revision that's requested, save and except primarily the issue of height of building 3 and 4, buildings switched, so it would be less impact on the hill country roadway, and the green building versus lead standard. With that I'll pause, if you have any questions, mr. Suttle is here to speak to the project.

Mayor Wynn: Thank you, mr. guernsey. guernsey, council. If not, we will conduct our public hearing



number 113, revision 12. Welcome mr. suttler.

Thank you, mayor, members of council. My name is richard suttler, here on behalf of the applicant. I apologize for my attire. My flight got in very late because of the weather. I didn't have time to change. We're here tonight, we're urging that after all the work that's gone on in excess of a year with barton hills neighborhood, pal saidz neighborhood and by and save barton creek deferred to barton hills on this, we're urging planning commission recommendation tonight, which is our agreement with the neighborhood. And then staff has an issue with leeds certification of buildings. All we want to do is we have all along said that we're either going to do green building two star or a leeds silver. We may do both, but we need to preserve the opportunity to do one or the other for various reasons, financing, national programs, etcetera. So we're here tonight, we'll answer any questions you might have because I know 30 creeping up on you. Again, this is a project that hospital gone through a lengthy discussion process and I think we've covered every issue and come to a conclusion with everybody in agreement, the neighborhood and their attorney are here today to confirm that. But if we could get planning commission recommendation with the addition that we could do silver leeds or green building 2, then i think the applicant and the neighborhood would be happy with that. I'll be happy to answer any questions you might have.

Mayor Wynn: Thank you, mr. suttler. I'll just cut to the chase. I'm told there's no good way for the city to enforce leed, so I will not be supportive of you all giving up the two star building requirement.

One of the things we did tell staff is if you should decide that we could do leeds as opposed to the two star, we would give a third party certification a co that we've done it. But I understand it is a tricky enforcement deal. We just want the flexibility to do either or, possibly both.

Mayor Wynn: But the fact that as part of our green building program, the plans are reviewed and analysis and expertise and help is offered by austin energy staff.

Fair enough. Thank you.

Mayor Wynn: Questions for mr. suttler? Question we do have other folks that signed up wishing to give us testimony. suttler doesn't need the extra time. Lisa hawthorne was here to speak if we had questions in favor, as was robert rendle.

I'm melissa hawthorne, mr. mayor, councilmembers. Any questions, I'm here representing the committee on area development for the barton hills neighborhood association. We worked long and hard and while we understand staff has other viewpoints, the association took a formal vote. What is presented is what they voted on. I cannot alter that.

I'm curious, hawthorne, staff talked about the switching of the two buildings because of the height. Had that been talked about --

we actually talked about it from another viewpoint. When you're back in the creek. And if you've ever

been back there, it's one of the few opportunities in austin you have that you can just get lost. I mean, and not know where you are. Honestly need gps, everything. And that is why that building is capped certain with no increase to height and we are just looking at it prappedz from another perspective. And being that our neighborhood vote was on july 15th and that that alternate viewpoint came so much later, the neighborhood would not likely -- being that we've been through a year of discussion -- alter their viewpoint irt.

Mayor Wynn: Right. Thank you. Questions for staff? Councilmember cole.

Cole: Mayor, because we have an agreement between the applicant and the neighborhood, I'm going to go ahead and move for approval of the planning commission recommendation with the option for leed certification or green building.

Mayor Wynn: We have a motion by councilmember cole to close the public hearing and approve planning commission recommendation, which cluses the option of leed silver or austin energy two star designation. Seconded by councilmember shade. Further comments? Councilmember leffingwell.

Leffingwell: Your comment was that leeds was not enforceable.

By the city of austin.

Mayor Wynn: And the city of austin staff is in no way even involved in -- leed certification comes six months after occupancy at its earliest, sort of by the structure of the usgbc, so two years' construction, so for the next 30 months the city of austin staff would have no oversight, no input, no review, no -- from an energy standpoint analyses of the standards for the building. So as opposed to our two-star green building program, austin energy staff and engineers were at the table in a sense the entire time or certain key points of the plan approval process.

Do you want to make an amendment to that, lee?

Leffingwell: I was going to suggest a friendly amendment for two-star building.

Cole: Acceptable.

Mayor Wynn: We have an amended motion -- actually, councilmember shade, do you consider that a friendly amendment? Okay. So we have an amended motion on the table. Further comments?

Leffingwell: I'd just like to comment that this project -- of course, the is famous, has been for a very long time, but this amendment actually improves the environmental quality of terrace in that it reduces the impervious cover, adds of course green building, and provides greater set back from the creek. So therefore I think it's a good amendment and I support it.

Mayor Wynn: All right. Further comments? Hearing none, all those in favor please say aye. Opposed?

Amended motion passes on a vote of six to zero with the mayor pro tem off the dais.

Leffingwell: Is that three?

Let me be clear for the record, it is ready for all three readings and in the drafted form, which I think that you have just made the motion and approved.

Mayor Wynn: Okay. So councilmember cole, just to confirm, so all three readings.

Cole: All three readings.

Mayor Wynn: Yes. On a vote of six to zero. Thank you, mr. guernsey. So council, that takes us to 30 break for live music and proclamations. Stay tuned for ben danaher. Hope I pronounced that right, ben. And a few proclamations. We'll then reconvene the city council as shortly after 6:00 p.m. as possible. We are now technically in recess. We will conduct executive session later in the evening. Ben plays all over central texas and plays with countless musicians, including the derailers, mickey and the motor cars and ryan turner. Come see him perform this coming monday, december 27th at mother egan's pub on west avenue with ryan beaver. Please join me in welcoming ben danaher. [ Applause ] [ ?? music playing ?? ] [ ?? music playing ?? ]

Mayor Wynn: Well done. So tell us in addition to mother egan's this coming monday and later next month, gigging somewhere else during the holidays, around early january?

Yeah, early january the 3rd I'll be at nutty brown cafe off of 290. And two more gigs at mother egan's on the 12th and 26th.

Mayor Wynn: Do you have a website?

All the dates are on my myspace page.

Mayor Wynn: Fabulous. How about any -- can you download any of your music? Are you working on a cd?

I am working on a cd right now. I am leaving here to record. And that should be out sometime by april, i believe.

Very good. I trust valuable at waterloo as soon as it's out.

Yeah.

Mayor Wynn: Before you get away we have the official proclamation which the local music community makes many contributions towards the development of austin's social, economic and cultural diversity and whereas the dedicated efforts of artists further our status as the live music capitol of the world, now

therefore i, will wynn, mayor of austin do here by proclaim today, DECEMBER 18th, 2008 AS BEN Danaher day and join on all citizens to join me in congratulating this fine talent. Thank you. So while ben sort of breaks down on that side of the room, we'll come over here and use this podium for our weekly proclamations. We use this time each week to say congratulations or thank you, job well done to folks, sometimes to raise awareness about important issues, help folks celebrate certain events. My first proclamation technically is a distinguished service award which I'm going to present to hope rodriguez. We're joined by folks from the city's municipal court to say thank you for 23 years. So I'll read the proclamation and perhaps i don't know if rebecca or the judge might want to say a few words in addition about hope. But the city of austin distinguished service award for 23 years of exceptional public service to the people of austin as an outstanding city employee and for her wisdom, ability and effectiveness during more than two decades at austin municipal court and for being thorough and conscientious while dealing with multiple and diverse projects and customers, we thank her for her contributions to our citizens and to our great city of austin. She will truly be missed. This is presented this 18th day of december, 2008 signed by me, mayor wynn, but acknowledged by the entire austin city council this distinguished service award to ms. hope rodriguez. [ Applause ]

mayor and citizens, I'm the presiding judge of municipal court, I'm ef lean mckee and I have worked with hope for a number of years. And I would like to tell you that there are two things that have come to mind when we think of hope. And one is her sweet smile and the other is an air of quiet competence. She has been an excellent employee, an excellent co-worker and we're going to miss her very much. [ Applause ]

I'm rebecca stark, I'm the director of municipal court. And I think court is a unique environment in which to work, and people that come to work there either love it or they hate it. Court -- hope has obviously loved it, and when you love your job you can tell. She's there with her smile and her professionalism everyday. She's done us proud. The city and court for 23 years. We appreciate it and we wish you well. [ Applause ]

well, I have enjoyed all my years with municipal court. The 23 years I've been with the city of austin have been at the court, and it's just -- it's a memory that i will take with me. And the experience I've gained with them on the judges, with everyone there, is just a memory that I will take with me and I'll cherish for a long time. Thank you. [ Applause ] okay. For my last proclamation before I turn the podium over to I think councilmember leffingwell, I'd like to give a proclamation, this being our last city council meeting before the holiday break, and the holidays here in austin of course can include our first night celebration throughout the day and into the evening of DECEMBER 31st. I'm joined by executive director dave sullivan and board vice-president or chair due we brooks. I'll read the proclamation and have dewey say a few words about first night. I'll encourage everybody if you haven't been to come downtown, mostly sort of in this lower downtown area, and along congress avenue throughout the day, december 31st and into the night. It's a very fun event, family friendly, alcohol-free, 120,000 people have come the first couple of three years, probably a third of those are children. So it's a great day to be strolling around downtown enjoying some pretty impressive artistic celebrations. So I'll read the proclamation and I guess dewey will say a few more words to hopefully remind folks how fun it is. It free. Come out and enjoy it. The proclamation reads on DECEMBER 31st, 2007, MORE Than 100,000

citizens joined together in downtown austin to celebrate the vitality and spirit of our great city at the third annual family arts celebration h.e.b. Presents first night austin. presents first night austin commissions hundreds of artists to engage austinites in a proud and diverse range of performing and visual art installations and happening each new year's eve. Whereas first night is a generous gift to our community which provides free, safe, inclusive and alcohol-free celebration that enables citizens of all ages to greet the new year biefly beautifully and safely. Now I here by proclaim DECEMBER 31st, THIS YEAR 2008, As first night austin 2009 is the title of the event. Here in austin. And please join me in welcoming and congratulating and thanking both dave sullivan and dewey brooks. [ Applause ]

I just want to say that austin and the arts go together and this is a perfect marriage with the great, great support from the mayor, the council and the city. It's a great event, it's a fun event, it's a family event. It's what austin is all about. But I want to turn this over to dave because he has a few things and some slides to show you.

As the mayor said, on DECEMBER 31st, H.E.B. Presents first night austin. We'll take the stage and we will paint the canvass broad. We have employed 800 artists and performers this year that will begin on second street, move down to the colorado river. We will have performances on the south first street bridge and we have animated the entire auditorium shores. We have a number of elements of surprises, but the things I really want you to focus on is this year the structure is be prepared. In the middle of a workshop you might be asked to perform on a stage or you can create a lantern and go up and be part of the grand procession. Our procession has grown to 32 elements this year. That's up 14 from last. The other exciting thing is that in place of the family fireworks, there is a magical resolution clock that's going to happen on auditorium shores. And if you come to the procession, we even have a surprise on how to get you into the procession to bring you over to the shores 00 the resolution count down will begin and I assure you you will be amazed. One of the things that's very important about this event is the synergy of all the people that come together to understand that this is what makes austin so special. Not only do we have h.e.b. As our presenting sponsor, but we have seton family hospitals and we also have at&t that have come forward along with the city. But since we're in the city hall chambers, I think it's very important for us to acknowledge why first night has continued and why we're here. The mayor embraced this idea and project when it came forward in the first place. Without you, your honor, first night would not happen, so I really want to thank you very much. When we came to -- last year when we thought about sustainability and the sponsorship, betty dunkerley came forward to forge a new partnership. Behind that mike martinez, behind the scenes every time I had an issue about working with communities, he has come forward and he has helped very greatly. Rolando fernandez from the city manager's office is an extremely strong friend who understands the process and helps us when we are in need. Bee trees thomas, who has also formed the city of austin, who is your official first night austin coordinator, has been tirelessly working with the artists from day one. I also have to thank cora wright, the assistance director of the parks and recs department who really bent and understood the projects that we're doing on auditorium shores. So I hav congratulate her. Jason parks has been with first night from the beginning and not only does he get it, but he is so committed to the safety of the people of austin and also its arrest thifts. Thelma has been extremely helpful to me when it comes to questions and communication about how to work with the departments and she's always ready with a yes. I also have to tell you that nicole sherbet from public information and kay owens from public information who is

our graphic designer have stepped up to the plate and created a program this year second to none. I also want to thank my first connection with the city, Megan Creeger from Arts and Public Place whose have come forward and made the bridge for the artists. I'm extraordinarily excited about first night this year. I encourage you to come. It's 3:00 to 12:00. That means midnight. It is cross and intergenerationally programmed this year, which means there's something for everybody all day into the evening. Nobody goes home at any time. We want you to participate all the way and the cacophony that will happen will make you feel that New Year's Eve is someplace that everybody belongs. I have to tell you I'm very excited about being an Austinite. I got here in July. I don't ever want to leave. And I have to tell you that first night will continue and it's only because of our partnership. Thank you very much. [ Applause ]

Mayor Wynn: For the next proclamation I'll turn the podium over to councilmember Leffingwell.

Leffingwell: Thank you, Mayor. My distinct privilege to present a certificate of appreciation tonight to our downtown command, and of course Chief Acevedo. I guess he considers himself to be part of that downtown command. This certificate of appreciation comes about because of a recommendation by our downtown commission. Who recognized the great work that they've done. So before I turn it over to Chief Acevedo and Ron Noble and Chief Patty Robinson, and Gina First, I will read the certificate. This certificate is worded 's downtown area command for their thorough and successful investigation of commercial break-ins on West Second Street. Thanks to the downtown area command's prompt and complex investigation, a person of high interest was quickly apprehended. The residents and businesses in the downtown area 's rapid response, the calls for assistance, their respectful attitude and the quality of their work in resolving incidents of all kinds. We join in this growing sector of Austin's population in commending, in thanking the downtown area command for their efforts to keep downtown safe and liveable. Presented this 18th day of December, 2008. The City of Austin, signed by Mayor Wynn and members of the Austin City Council. So congratulations. I guess, Chief, you're first. [ Applause ]

I'll just say that we love award-sty Austin Police Department. We're very thankful to you and to the downtown folks for recognizing the Austin Police Department in its efforts to really keep safe. I think one of our jewels, and that is our downtown area that is renowned around the world, especially with our entertainment district there. I want to commend Commander Noble and Chief Robinson and Lieutenant Curtis and all the folks in that command for their commitment to excellence and their commitment to the safety of the people of Austin. With that I'd like to just bring up Chris Noble, our commander, and congratulate you and your folk.

Thank you very much. I want to in particular thank the business owners and residents of the downtown area for their invaluable assistance to us and providing leads and other valuable information in order for us to pursue the suspect, who was ultimately caught. And in addition to that, extend my thanks to my support staff and my patrol staff for their rapid response to the crime scenes and then the follow-up with the business owners, and it was just -- and then the community outreach at that point to get the information that we need. Actually my thanks to the citizens of this city and this area command. Thank you. [ Applause ] [one moment, please, for change in captioners]

all right. We have a crowd here tonight. So you've probably read in the papers that there's a little bit of an economic -- a little bit of economic turmoil going on internationally, nationally and in this city, and i think that it's particularly challenging for small businesses to be able to stay alive and healthy in this environment because they don't have the backup of the -- you know, the multi-million dollar, multi-billion dollar corporations that are ready to help get them through. And I was last weekend out holiday shopping with my husband and ran into tray masengil at the bar, and we started talking about what a challenge this is, and the holiday time is when a lot of local businesses plan to -- or really expect to get a big amount of their revenue, and this season a lot of people are experiencing some pretty significant downturns in the revenue that they're taking in. So I thought what a great time to remind everybody in the city of austin as we're out doing our holiday shopping to keep in mind that if at all possible try and do your shopping -- your holiday shopping at a local business, because we need to keep remembering that shopping at locally owned businesses puts three times the dollars into our local economy. Of \$100 spent at a local business, \$45 stays in our community compared to only \$13 when people shop at chain stores. Locally owned businesses buy their goods and services from other locally owned businesses, linking our community in a web of economic growth. Local businesses pay higher wages to their employees and give more back to the community because they're connected in a very personal way. You'll see them sponsoring local events, schools, libraries, neighborhoods, sports teams, cleanup beautification days as well as many other charitable causes. So we have a proclamation from the mayor that I want to read and then I'm going to introduce everybody. Says proclamation, be it known that whereas shopping at locally owned businesses puts three times the dollars -- I just said that -- into our local economy of \$100 spent at a local business. \$45 Stays in our community compared to only \$13 when people shop at chain stores, and whereas locally owned businesses buy their goods and services from other locally owned businesses, linking our community in a web of economic growth, members of the austin independent business alliance represent more than 6,000 businesses making up the austin independent business alliance member companies collectively, one of the top five employers in austin, and whereas locally owned businesses from funky to sophisticated help austin retain its unique character and provide a more diverse range of product and service choices than available from national businesses. Now, therefore, i, will wynn, mayor of the city of austin, texas, do hereby proclaim december 18 to 31, 2008 as by local for the holidays in austin, texas. So I wanted to introduce folks -- I want to present it to bill -- steve -- come on, steve, bercu as the president of the austin independent business alliance.

Thank you, laura.

Thank you for taking this. [Applause]

and also we have with us here dean lofton, who is the executive director.

Thank you so much.

And vickie valdez, who is the administrator for small business development program in austin, and now, okay, i have everyone's name and i don't know everybody by face, so --

we had a few people show up --

okay. So we have daniel clup with sign satisfaction. Okay. He's waving over there. Dan, galot, with -- galate.

Galate. Let's see, bob -- you guys have hard --

hard names.

Hard names.

Bob tushak, jan rash and torres with go local austin. Mike gordon with junior's beer and wine, howie richard with expert tours. Shelly meyer, wild about music. Troy masengil with san sa bar, duane hill with dh photography, and bill bauer with garden.

Anyone left out?

Yes?

Jill lewis of austin --

jill lewis of austin slow burn.

David allen less than --

your name is jason with nathan allen rugs. Did we get you guys back there? Okay. So anyways, it's really wonderful experience and brings so much to the city of austin and all of us personally to have our local businesses, so I hope you-all will remember to shop local for the holidays. So do you-all want to say a few words?

I just wanted to say thank you very much to the city and we look forward to partnering with you in the future with projects like the I business tricks that we've done so far and i would encourage everyone if you want to look for a local business it's [ibuyaustin.com](http://ibuyaustin.com). [Applause]

thank you very much, laura. Appreciate it.

Thank you all. Wait.

Morrison: go ahead. Vickie is with our small business development --

program. Yes, the city of austin is committed to small businesses and individuals that are looking to start a small business in our community. We have a variety of different resources available, and what I wanted to share with you today is about our biz aid program. It's divided into three different aspects, one



is biz aid, business development, in which we will help you. We have free weekly orientation classes to any individual that's looking to start a business or anyone who has a business, we'll help you with information on how to expand or seek other resources to help you find other opportunities within our community. And then we also provide business development and coaching, one-on-one with your business plan or your current marketing plan to see if there's any other avenue that you should look at and maybe pursue that could help you expand or help your business out. The other area is we have business -- biz aid accessing capital, in which we'll help you find money. We have one-on-one coaching to help you find lenders and also help you fill out loan applications, if needed. And then the last area of the biz aid program is business education, which we have a variety of topics that we offer classes to small business owners that are very near and dear, which could -- they're anywhere from quickbooks to help me write my business plan to copy right, intellectual property, anything of that nature. But anyway, I just wanted to share with y a little bit about city of austin small business development program and remind everyone that the city of austin is really committed to small businesses, individuals that are looking to start small businesses in our community and for any further information of what I've shared, any of our classes, any of our resources, please contact us at 974-7800. Again, my name is vickie valdez. I'm the small business administrator for the program, and our number is 974-7800. Thank you.

Thank you.

Thank you, laura. [Applause] snider inside er inside er schneider insider there being a quorum present at this time I'll call back to order the meeting of the city council. We've been in recess now for 40 or so minutes. Apologize for the delay. We have two zoning cases, i think, left, case 100, bd and o campus, and 110, the bary chiropractic cases. So we'll welcome back greg guernsey, or a designee.

Hello, mayor and council. Greg guernsey, planning department. I was looking for steve sadowsky. He was just outside a minute ago. Let me introduce the case and then I'll let steve come back and probably speak to the particulars. 100 is the next item on your agenda. This is the zoning for the property of the texas blind, deaf, orb fan school, in particular the gymnasium and auditorium building associated with the property at 7201 levander loop. This is a case that was initiated by the historic landmark commission and is a zoning change from p neighborhood to p historic neighborhood plan. And I'll let steve continue that item.

Good afternoon, council, mayor, members of council, steve sadowsky of the historic preservation office, neighborhood planning and zoning department. This case came to you upon an application for demolition of the entire campus to the historic landmark commission, which recommended historic zoning for the gymnasium and the auditorium building and the doament of a master plan for the site. Planning commission last week recommended historic zoning for the gymnasium and auditorium building, with an additional study for adaptive reuse of the buildings. Let me go through and show you what these buildings look like. This is the gymnasium. These buildings were designed in 1959 by the houston firm of reduceday and martin, who were known for a lot of modern architecture, and they designed among other things the calhoun county courthouse in port lavaca and the matagorda county courthouse in bay city. The gym is a qant qansut hut style building. The most notable features are the metal steel arches that support the roof. Another view of the building, it's got a roy of clear story

windows above. You can see the brick walls and the arches there. Here's a better view of the arches. These really are the most distinguishing features on the building. Another view. This is the -- the firm who designed this was out of houston, george rustday and foi martin. This is the courthouse in port lavaca and this is the matagorda county courthouse in bay city that they designed after this. These designs are on file with the state at the general land offices, and they're dated 1959. The buildings were completed in 1960, and the school opened in 1961. The texas deaf -- deaf -- blind, deaf and orphan school was established in 1887 as an african-american institution, and from 1887 until 1961 the campus was located on bull creek road between 38th and 45th street. When they opened this campus in 1961 the campus moved there. The superintendent of the school at the time was j.c. McADAMS. He was a very prominent african-american educator. He had gotten a start in tennessee. His father was also a very prominent african-american educator in shelbyville, tennessee, and j.c. McADAMS WAS ACTUALLY Junior, came to texas around 1951 to -- came to austin in 1951 to become -- in 1951 to become superintendent of the school and was responsible for its moving out to its current site on levander loop. The auditorium, which is also a design of rustday and mated completed in 1961 was named for him in memory of 1989. J.C. McADAMS PASSED AWAY In 1988. The -- these two are the -- are probably the most prominent buildings on the campus, but I think it's very important that the council understand that the school was here as an african-american institution only from 1961 to 1965, when it was desegregated, and at that point it was taken over by the texas school for the deaf, and although african-american students remained on this campus in residential facilities, they were taken over to the south congress campus for all their educational facilities. So the proposal for the school, which I'm only going to touch on briefly since the director of health and human services has a much better presentation for you on that than I do, is to commemorate the history of the school. The -- as I said, the school was established in 1887 but did not move here until 1961. The proposal is to preserve the arches of the gymnasium, which are its most distinctive feature and then to construct a commemorative archway which will have the same a frame arches as the auditorium, and through this archway everybody who accesses this campus in the future will be able to view an interpretive historical exhibit concerning the history of the school that i will be happy to work on, the landmark commission I'm sure will have input on the text and content of that commemorative exhibit. But it's a way of commemorating the school. It's staff's opinion that while the school is a very important institution in austin, these buildings don't reflect its history, and commemoration of these buildings actually commemoration of the school at this campus is really more important than preservation of these buildings themselves. So staff is not recommending historic -- historic zoning for these buildings, and i lurey corona to make the presentation to you about their proposal for the commemoration of the school and its history at this site.

Thank you, mr. sadowsky. Welcome, mr. lurie.

Thank you, mayor, council members. disow ci has pointed out -- sadowsky has pointed out we've been working with the architect and project manager to make an alternative proposal for your consideration in lieu of historic landmark designation, and in doing so we basically had three objectives. One, we wanted to look at an option that would, in fact, commemorate the history of the school itself and do that in such a way that it would be very attractive and very accessible to everyone who comes on to this campus, and this now is the health and human services department campus. Secondly, we wanted to look at an option that continues to enable us to make maximum benefit and use of the property itself and create

compatibility in terms of the structures and the services and programs and activities on the property, and then thirdly, come up with an option that we felt would be viable, that is, affordable and sustainable from a financial perspective. So those three elements, commemoration, maximum use and viability. So given those three objectives, and what I'd first like to review with you is sort of an overall view of the campus itself, and that's on this next slide. The orange buildings proposed on the southern end of the property represent the animal services facility that we're currently clearing away for and working through the architectural design process. This -- by the way, this property is 44 acres in total, very large piece of property. There are a number of buildings that have already been restored. We restored four buildings on the campus, and they very much have the same appearance as their original design, and the buildings are oriented around a very attractive green space in the center. It's a quadangle, and on the opposite end of that from the animal services, the northern end is where the gymnasium currently exists. As you can see there's a lot of green space here which we intend to maintain. We're having discussions with the parks and recreation department about some things we might be able to do with this green space, fitness trails and so forth. The northern end of the property you can see is a very attractive pecan grove, and in the northeast corner we have about 5 acres that are uncommitted at this time, and you might recall when we had conversations about the animal services facility there was interest on the part of the neighborhood to take a look at the potential for possibly some affordable housing on this property, and that would be something that we would look at potentially in the northeast corner. I also want to emphasize just to the left of the orange buildings is where the auditorium currently exists, and what you might not be able to see here but I also want to emphasize is that we're trying to place as much of the parking at the entrance to the property, which is in the southwest corner and encourage folks for this to be a very pedestrian-oriented campus and property. So the intent here would be for people to park as they come into that main entrance and then to try to direct them in terms of pedestrian traffic through an entryway into the quadrangle and access the whole range of services that would be available on this property. Animal services, we now have vital records, birth and death, health promotion, disease prevention in place and some of our youth services and administration associated with human services already are in place. On the eastern side of the quadrangle we do not have buildings. The old buildings there have been demolished but over time it's our hope that through partnerships, maybe with some non-profits and some other entities in the community, develop that as well and generate the resources then that would be able to provide for facilities and services there, all oriented toward that quadrangle. So if we could go on to the next slide, bob. Thank you. Then just again reemphasizing the recommendation and what we proposed here in the context of the historic and architectural associations, as I mentioned, four buildings have already been restored. We're proposing a commemorative archway -- or arch entryway, and we've just started some preliminary discussions with arts in public places as a possibility of maybe using that funding and using that process, which is a very effective process in terms of engaging stakeholders in terms of what the actual design of this commemorative entryway would consist of, again reflecting the long history of the school, which Sadowsky pointed out, really dates back 70 years, even prior to the school being on this property. And then we also have included in this recommendation open-air pavilion, which would maintain the roof that is currently on the gymnasium and could be used for multiple purposes, recreational activities, cultural activities, entertainment, neighborhood activities and so forth, and then we wanted to and you'll see it in the next couple slides, reflect that curved design in the roof with the animal services center so that you

would mirror that image on the quadrangle. You would have the open-air pavilion on one end and you would have the animal services center on the other end, and then finally we have throughout this project been saving the brick through the demolition process so that we can reuse as much of that brick as possible, and again, kind of maintain the appearance of the original buildings that were on the campus. This next slide is a rendering of the pedestrian entryway that we've included in the recommendation here. This again is in that southwest corner I was describing where the majority of people coming on to the property would be entering the quadrangle through this -- through this pedestrian entryway, and the structure reflects that a-frame structure that we currently have with the auditorium, and within this entryway is where we would propose working potentially with the arts in public places process to develop something that would in a very attractive and effective way depict the history of the school and expose everyone coming on to the property to the importance of that -- of that history. The next, this is the open-air pavilion that i mentioned. This is actually looking from the north back toward the south, and this would maintain the most unique part of the architectural design for the gymnasium. It actually would be the actual roof of the gymnasium reinforced, used as an open-air pavilion, and as you look through this you're looking through the quadrangle, and then beyond that to the southern end of the property where the animal services center would be, and you can see that design, that roofline design reflected there as well. So again, you have that on both ends of the quadrangle and maintains that architectural association that is somewhat unique. This is a rendering of the -- of the shelter itself just again showing you the elevation from both the north and south directions, and again you can see -- see the roofline and the brick there that will be reused brick from the -- from the current buildings. So finally in terms of cost estimates, and this brings us back to the affordability issue, there are major items that would need to be addressed. The gymnasium and auditorium have not been used now for over seven years and have continued to deteriorate, and so there would be some basic costs associated if we were to look at renovating those. There are significant code and accessibility issues, utilities and site work that would be required. Our estimate from the public works department is that for the gymnasium the cost for restoration would be in the range of 4 to 4 million over the next two years, depending on when that project would be initiated. 7 to 4 million over the same time period, and the estimate for the commemorative proposal for the open-air pavilion is 650 to 700,000, and the archway estimate as you can see, about \$200,000. If we were to try to maintain these buildings there would be some additional costs required to fix the roofs and do a few other things so that we continue to preserve them, and that would be in the range of 150 to 160,000 and probably 15 to 20,000 a year to maintain them, and then just for comparative purposes so you can see it, the demolition costs associated just with these two buildings is -- is \$92,000. So again, council, that's our alternative option that we'd like for you to consider. We believe that it's a real good-faith effort that has been put forward to balance all of these interests, commemorate the history of the school, maximize the use of the property, enable us to proceed with that maximum benefit and do it in a way that is affordable and sustainable. Thank you, mayor. thank you, mr. lurie. Questions for staff, council? Council member leffingwell. so you said it costs 150 to 160,000 per year to maintain these buildings in their current state?

Council member leffingwell, not -- not per year, but initially we would need to do that to get them to a state where we could then maintain them on an ongoing basis, and that estimate I think is more in the range of about 15 to 20,000 a year, but this would be initial cost, do some roof repairs. We've got

leaking roof, we've got some structural issues with the beams, so -- we've got broken windows. There's concern about, you know, mold and other deterioration that would continue to develop if we don't do a few things initially, at least, for those buildings. so you say they've been empty for 7 years.

Yes. have you done any maintenance on them in that time?

Offhand I'm not sure what specific maintenance. I don't think we've done much of anything over the last seven years, melanie; is that correct? so are there any immediate plans for these buildings, use plans?

Immediate use plans, no, sir. so the -- the idea was -- would be if you spent \$150,000 initially, and then about \$15,000 a year, you could maintain them in a serviceable state?

I think the point is they wouldn't necessarily -- they're not serviceable, they can't be used in their present condition because of code accessibility issues. I think the point is that that investment is intended to prevent further deterioration of the buildings, so that if at some future date there was money available to renovate them, you know, it would potentially be less costly because we wouldn't have the continuing deterioration.

What do you envision -- do you have any plans -- i mean, I guess what you're asking for right now is just for demolition of the buildings.

Well, council member, our main request right now is to not designate this as historic, which then in turn would enable us to proceed with the further development of that particular space. We think developing the entryway we think would be an extremely positive thing. To be able to include the historic component of that we think would be very positive, and we also believe that the open-air pavilion would be much more beneficial and could be put to more immediate use rather than having the gymnasium remain there for an extended period of time in its present condition, which cannot be of any use at this time. that's all i have for now.

Thank you.

Mayor wynn: thank you. Any further questions of staff? Council? Council members morrison. We have a couple citizens who wanted to give us testimony. lurey, what are the long-term plans. There's a lot of land. Is it really intended to stay at parkland or does the health department have -- i mean, I know you talked about the one corner where there are no plans, but is that really -- you don't have any long-term plans to put more offices and things like that beyond what you were showing?

Council member morrison, our hope would be that long-term we could develop more buildings around that quadrangle, and I think the best opportunity for us to do that would be in partnership with other agencies and organizations we work with where we might be able to pool some resources. So basically in simple terms, the long range plan is to develop as much as we can around the quadrangle for departmental purposes, look at some potential in that northeast corner that would enhance or be compatible with some of the interests of the neighborhood, and then those other couple of areas where

we have the green space, probably continue to use those. There's a very large or significant power utility line that runs sort of through that green -- green space on one side of the property that limits what we can do under it in terms of -- in terms of development. But frankly, we want to have a good balance in terms of the buildings and the green space and maybe some recreational kinds of opportunities as well. was that the power line that we saw on the map where -- that was actually the dividing line between the plan and the --

if I could put the map on the overhead, I think I can show the power line. Would that be helpful?

Morrison: yeah.

That is it. Thank you -- if you'd just -- actually I can just put the pen right down there. That's basically where the power line is, and as you can see, we're not proposing anything underneath that. This would be some future parking, potentially, and then we have this space over here. We've had some discussion about, you know, some kind of park space here. We've talked about some trails or fitness trails around the pecan grove, and that's -- that's basically it. But again, council member, that's the power line right through there.

Morrison: okay. So you were intending to save the pecan grove in the northwest corner and not develop beyond --

that's correct. the quadrangle to the north?

That's correct. This building we're currently using, that has been restored as well.

Morrison: thank you. any further -- lurie, I have a couple questions. lurie, I'm assuming that you were there at the planning commission proceeding, and they made a recommendation for historic and adaptive reuse, and I'm wondering what your understanding of adaptive reuse in this context is.

I think I'd have to defer sadowsky in terms of -- in terms of the intent.

Thank you, council member. Adaptive reuse is a term that we use quite a bit as far as taking an existing building and using it for something other than its you know, we see it most in houses that have been turned into offices or offices that have been -- commercial buildings that have been turned into music venues or something like that. It does not -- it usually envisions preservation of the building, usually some additions to it, but it's basically taking what's there and using it for another purpose. well, I actually went to visit the auditorium and I noticed that it had a stage and a -- well, a stage, and I was wondering - I guess the work is not -- has not actually been done to think about what type of adaptive reuses that they had contemplating, is that right?

I believe so, yes, ma'am. let me ask lurie since we are having to contemplate maintaining the buildings, i noticed that there was a significant amount of vandalism. Can you comment on what you plan to do

about that or what you would do about it in the interim?

Well, council member, coal, you're correct, we have experienced some vandalism over time on the campus, and again, as these buildings have continued to deteriorate, it's resulted in easier access, if you will, to the buildings. So I believe that if we were to keep these buildings for some period of time, that part of this 150 to \$160,000 estimate i mentioned in terms of doing some work on those buildings in their present state would also include, perhaps, some things to improve the security or limit access to the buildings.

Cole: thank you. further questions of staff before we hear from our citizens? Let's see here. One second. So we have one person signed up wishing to give us testimony in this public hearing. THAT'S fred McGee. Mr. mckee, welcome. And is terry o'congressional --

he'll be here in three minutes.

Is he here? You have to be here in the chambers to donate time is why I ask. We'll start with 3 minutes and see how you do. Welcome. mayor, and good evening to city council, mayor pro tem, council member cole. I'M fred McGee, and I rise with passion to ask you to affirm the anonymous votes of the historic landmark commission and the planning commission and to reject the recommendation of city staff in this zoning case. The two buildings in question are viable, and the staff adaptive reuse estimate is inflated awn uninformed. I speak not just on behalf of the organizations which i lead, like austin demonstration and the montopolis organization, but also with the distinguished organizations, such as the heritage society of austin, I believe that you are in receipt of a letter from the texas historical commission about this matter, and i forwarded to you and your staffs copies of lers from fred michael beam of the national black deaf advocates in maryland and FROM DR. carolyn McCast cel and gallaudet university in dc who are come principal investors of a national science foundation of a study of black american sign language and who support the preservation of the remaining buildings on the campus. I'd like to give a quick shout out to the closed captioner for my deaf friends. If any of you do not have copies of these letters, i have copies of them with me and would be glad to furnish you with them. The reason why this property should be zoned as a public historic landmark is because it is historic, not just at the city of austin level but as a landmark of state or even national significance. This may seem obvious now, but this was not always the case. As things stand today most of the buildings on the campus have already been demolished. In an egregious example of bad historic preservation management no qualified historic preservation consultant to this day has had the chance to assess the total integrity of the school's site and produce a formal report of its significance. In its zoning change review report to you city staff reaches uninformed and racially biased conclusions that unfortunately remain as disturbing as they have become habitual. I encourage you to reread the letter from the texas historical commission to you for more prof al analysis of the school's significance, one that goes beyond architecture to include history and culture and the reason why the history of jim crow segregation is important to the city of austin, the state of texas and the united states in general. It is true that proper preservation of these structures will take resources. It is also true that taken as a whole the city council has not prioritized true historic preservation that is conducted in a systematic and integrated manner by qualified professionals who know the rules. I'm sorry, debbie russell, is debbie here? Debbie has

donated her time to you so you have more.

Thank you. -- Who understand the rules -- I guess I can slow down now, understand the procedures, are familiar with the customary funding sources for projects of this nature and who have the respect of their peers. Are there funding sources available for projects like this? Of course there are, and others and I would be happy to work with you to identify those funding sources, but i wish to emphasize that the preservation of heritage, of history, of culture. These are not ultimately about money. How do you put a dollar figure on a group's way of life? Federal and state law, as well as local ordinance and tradition, recognize the value of heritage preservation and its role in economic and community development, education, the arts and in our culture. I urge you to make a decision that encompasses the totality of public interest considerations, properly refurbished these buildings would make a harmonious and fine addition to this part of east austin. Lastly, I would be remiss in my duty if I did not add my voice to those that have previously urged you to bring in qualified people to include architects, archeologists and historians so that incidents such as this are avoided in the future. One thing is certain, austin is blessed with many historic buildings, traditional cultural places and archaeological sites, whether at this school, zilker park, city owned land in webberville or elsewhere, and I urge you to embrace this opportunity as a teachable moment that can hopefully lead to a systematic citywide approach where the diverse facets of the city bureaucracy can rely on an integrated approach to historic preservation with people in charge that do their jobs without fear or favor, who possess a dedication to public service and who discharge their duties with a heartfelt respect for the culture of all of austin. Thank you very much. And I'm happy to use the rest of my six minutes if you have any questions. thank you, MR. McGEE. Questions for fred, council? Council member cole? you mentioned resources that might be available to help preserve and renovate the buildings. Can you give us a little bit more information of what that will entail?

The advisory council on historic -- I could give you a long list of all the different historic tax credit program and various state and other federal programs. The -- thankfully, the advisory council on historic preservation has actually put together a resource web site that lists all of the different options that are available to do this kind of work. gov funding html and from there that opens up everything from grants.gov. That's the federal web site for gd grants. The consolidated federal listing of all federal funding opportunities that are available. There are also other things that the city now gets in terms of federal money such as the cdbg, which have drivers in them for historic preservation. But city staff, I don't think has actually used the necessary imagination that is required to investigate the manner in which those dollars can be used as true forms of community development, because ultimately historic preservation and economic and community development can be brought into harmony. In this particular instance that's fallen out of balance, and I ask you to keep that in mind as you consider what's going on here. thank you, MR. McGEE.

Thank you very much, council. thank you, fred. So council, that's all the folks who wanted to give us testimony in this public hearing 100. Further questions of staff or comments? Council member martinez? thank you, mayor. There's been a lot of correspondence going back and forth and obviously staff has taken the time to make a recommendation, but i think there's some significant due diligence that can be done moving forward, and as was SUGGESTED BY MR. McGEE, And some council



members have been talking to david this afternoon about this case, and I think we can get somewhere. I think -- hopefully if we can't exactly get to the point of historic zoning, we can certainly do something significant enough to where we can try to achieve some consensus. So with that, in order to allow some time, some additional time to continue discussing this, I'm going to move for the planning commission recommendation on first reading only.

Second. so we have a motion by council member martinez, seconded by council member cole, to close the public hearing and approve on first reading only planning commission recommendation. Further comments? Council member morrison? I think that the -- the correspondence that we have gotten that describes the historic significance of the buildings is very, very compelling for me, and i think that it's going to be a terrific exercise to look into funding mechanisms. One of the things that MR. McGEE POINTED OUT That's absolutely correct, and that is that we don't have a proactive preservation -- historic preservation plan in place in this city, and we keep getting knocked upside the head because of that, i think. So I know some of my colleagues and I are interested in working on that in the future, but for now I'm certainly supportive of this motion. motion and second on the table, first reading only, planning commission recommendation. I'll just say, I too look forward to perhaps some deeper investigation, if we don't get the historic zoning on third reading to come up with appropriate resource.

Mayor? council member cole. I also think that it is significant for this school to have existed for african-americans during this time period back in 1961. We certainly talk a lot and do a lot for historic preservation, but as council member morrison has pointed out, we don't do enough, but I think we do even less when it comes to preserving african-american heritage so that's the reason I'm supporting the motion. further comments on our first reading only motion? Hearing none, all those in favor please say aye.

Aye.

Mayor wynn: aye. Opposed? Motion passes on a vote of 7-0, first reading only. Thank you all. Council, let's see, that leaves us with one probably lengthy zoning case and i was looking ahead but i don't think there's any recommended staff postponements of public hearings of 6:00 p.m. So -- let's see. Without objection we shall go to our next and I think final zoning case, that being case 110, the bary chiropractic case.

Thank you, mayor and council. That is correct. Item 110 is case c14-2008-0151, bary chiropractic, at the 11777 address of jollyville road. The property is currently zoned sf-2, and the proposed amended zoning request is for lo-mu, which is an office mixed use designation. The planning commission's recommendation was to recommend denial of the requested zoning to the lo-mu district designation. The property is currently -- is about three -- one-third of an acre, and it's developed with an existing single-family home that fronts on a street called highland oaks trail. This property is located at the corner of highland oaks trail and jollyville road. The proposed use of the building would be for a medical office, chiropractic office, and the property self is bordered on the north by single-family zoning and uses as well as to the east and west. To the south is an existing office building and lo zoning. The adjacent property owners, as I indicated earlier, have filed a petition. It was not designated as valid, and during

the break I was actually handed a notarized document from a beach, hilda beach, that would have brought the petition as committed down to 11.27%. There also is opposition from the neighborhood regarding this case beyond the adjacent property owners that have voiced opposition within 200 feet, and staff did not recommend the zoning on this property. I guess at this point I'll pause. If you have any questions, ron thrower is here on behalf of the applicant to speak to his support of this. The petition at this time not valid. This is only ready for first reading, so it really would only take effect at third reading. You would only need four affirmative votes in order to approve a rezoning of this property on first reading only tonight. questions, comments? What did I miss? Okay. So then without objection, suggestion -- without objection we'll start our public hearing.

Ron thrower, the agent. again, for folks who aren't practiced at this, we first hear from the owner or the applicant or the agent, and then we hear from folks that are in favor of the zoning case and then we hear from folks in opposition, and then the original presenter has a one-time three-minute rebuttal. We initially set the clock for five minutes for the first presenter but folks can donate time to in this case him. So is j and/or jeffrey alexander here? I see one hand up. So that would be three minutes additionally for you, ron. How about melissa moore? Welcome, melissa. So ron, you'll have up to 11 minutes if you need it and you'll be followed by tim brown.

Mayor, mayor pro tem, council members, ron thrower. I can assure you I will not need 11 minutes to present this case. The items I'm handing out is also the exact same copy of the presentation that I have on the powerpoint, and what we have is the bary chiropractic property shown in green and it is located on jollyville road and highland oaks. What we have also shown in light blue is the currently commercial zoned property in the area, and a lot of these properties have been zoned commercial for quite some time. There's a jollyville area study which you'll hear later from some of the other neighbors that proclaim that that area study does not apply to these properties. However, the jollyville area study is over 25 years old. It says that 120 feet from jollyville road should be zoned for lo office. This is an adopted policy of the city of austin. I'd like to point out that jollyville road is also designated as a future core transit corridor in the design standards. This is something I believe staff and the commission overlooked and it didn't come to my eyes until after the commission meeting. Bary chiropractic property is unique. It's a home we want to try to convert to commercial use for the chiropractic office. We're asking for the existing building to be retained. We're asking for the existing driveway and the garage to be maintained, the garage would actually not be converted to habitable space at all. We're asking for a gate along the highland oaks driveway so we don't have any pedestrian or vehicular activity coming through the old front door of the property. We're putting extensive fencing and landscaping along the jollyville and highland oaks side of the property to help orient the property to jollyville. The main entrance is located on the jollyville side along with the major area of the parking, for which the customers will be using again accessed off of jollyville. So the idea that we're trying to convert existing homes to a commercial use is not new. This is something that's done quite often. We're dealing with a property that is on a five-lane major arterial roadway. When this property was originally disitted as single-family, it was a two-lane jollyville roadway at that time. Things are different. So the projections that we're offering for the neighborhood, again, just to itemize these a little bit better, the driveway is to be gated, fencing and landscaping, screening be installed along the highland oaks street. The primary entrance to the facility is along the parking area on jollyville. No of the building size and limiting it to

medical office and lo-mu uses after that. Limit the height to one story so that it keeps the structure non-intrusive and keeps it residential in character, and keep the vehicle trips limited to 20 trips along highland oaks terrace. There was concern that there might be additional vehicle trips coming off but I think we can easily limit that to 20 vehicle trips a day. And again, the lo having medical office as the only allowable lo use and then no uses being permitted after that. So we're looking for support of the jollyville road area study and recognizing 120-foot of lo that is all along jollyville and a lot of areas today. This is an area that shows jollyville road and 183, and what I'm showing in green is the currently zoned properties on the east side of jollyville road that are currently zoned lo. We also have the star is pointing out to the bary chiropractic site. We also have retail zoning. We have industrial zoning along jollyville. We have additional retail zoning. A higher classification of go zoning, and again, the jollyville road area study is promoting 120 feet, which you can see by this exhibit is -- it exists along jollyville road today. So what we're looking at is additional way that we can find to protect the neighborhood in the area, and one of the things that i came up with that I think is a solution because one of their concerns is further intrusion into the neighborhood for any future commercial development. There has been other activities in the area which rightfully the neighbors do have concerns about, and i want to try and find a way to help set a precedent to help any future activity with the other four homes in the area that are along jollyville so that there is no more intrusion into the neighborhood. And so with that what we're talking about is adding a 4-foot strip of sf-3 along the north side of the property against the existing residential structure on the north. And what this does is creates a barrier. It shows that this is the last line of commercial development along jollyville road. And I'd also like to point out that we have support of every property, the three properties that abut this. We have support from properties across -- or across highland oaks, and as you'll find out when amanda barry has her presentation, that there's a lot of support and sentiment in the neighborhood for this development, that I believe the opposition speaks for the minority here, and I'm available if you have any questions. thank you, mr. thrower. Questions for the agent, council? If not, then we will continue hearing from folks who have signed up wishing to testify in favor of the zoning change. Let's see, our first -- our next speaker is tim brown. Welcome, mr. brown. You will have three minutes, and you'll be followed by jack hall. Welcome. mayor and council. My name is timothy brown. I'm a medical sales rep, and so my job is to interact with doctors on a daily basis. The reason I'm up here tonight is recently, I don't know if you're familiar with arc, austin regional clinic. Tonight's local doctors support the clinic here in the austin area with multiple branches. Just yesterday they laid off 70 employees, so this hit pretty personal to me. So I'm over here tonight to support local businesses, bary for that. thank you, tim. Our next speaker is jack hall. Excuse me. Welcome, jack. You have three minutes and you'll be followed by madon row. Sorry if I mispronounce thad.

Mayor and council, I'm a direct neighbor in the back of this proposed business, and I'd like to point out that there are several doctors' offices in the area, one directly across the street from me, and one directly across on jollyville. So doctors' office is familiar with the area, and what I first noticed -- when I first noticed that there was probably a business going in I was of some concern. barry contacted me and asked me if I had any concerns. I did. I was concerned about it looking like a house instead of a business, like the other office across the street from -- looks like a house instead of a business. And I noticed that he was putting the driveway on the jollyville area instead of on the highland oaks area, which would alleviate any traffic going on the highland oaks area. My concerns were that the direct

parking in back of my home, that I was concerned about the drive -- the cars might be too close to my fence. So he -- we talked about it and he proposed putting -- putting a steel post up behind the house to keep that -- any automobiles that would be coming towards our fence. So that problem was alleviated. And then I noticed that we could see the autos or structure that was going to be parked behind that, so we suggested a higher fence, barry said that was no problem, that he would build a higher fence as well. So all the questions that i had he answered, and i personally believe that barry will be a very good neighbor, and the business is not threatening in any way to the neighborhood, and I'm perfectly satisfied with him being there. And that's all I really have to say. Thank you. thank you, mr. hall. And let's see, our next speaker is medon row. Sorry if I mispronounce that. And is susan here? Susan wants to donate her time to you so you'll have up to six minutes. So how did I do on the pronunciation?

You nailed it. [Laughter]

mayor wynn: oh, good.

Yeah, good job. I probably won't take the whole six minutes. This will be kind of short and sweet. But first of all I wanted to thank the neighbors of highland oaks, which is the street that the property is on, for their hospitality and voicing their concerns. I had the privilege of walking around with amanda barry and we spoke to a lot of the neighbors on highland oaks. Now, I understand there is more opposition from the street over, which is arabian trail, which actually isn't the street that the clinic is on. So we talked to the neighbors that were the actual neighbors on that street, and, you know, at first whenever I heard about what was going on I really didn't understand what the problem was because the overwhelming support that these neighbors were showing was incredible. I thought, wow, what's the you know, some of them did have concerns. They wanted to make sure that there wasn't going to be a bar or a restaurant or a gas station or something like that going up, on one neighbor even asked -- you know, said -- made the comment, hey, if I could look in a crystal ball and know that, you know, barry would be here for the next 10, 15, 20 years, then I think that you would get everybody's support from the neighborhood, because it's a doctor's office. And, you know, I know that there's no guarantees in life, but I know that barry actually -- his role model is a doctor named steve hays out of actualsa and everything that barry has done is to mimic and model this certain gentleman's practice, and steve hays has been in the same location for 29 years. barry's chiropractor as he was growing up. barry has really, really been focused on mentoring his practice after his mentor. We called a meeting last night to try to talk to the neighbors, whoever wasn't concerned, and one neighbor showed up, and it was a neighbor from arabian trail. So really, I guess I've just been puzzled after going and speaking with these neighbors on highland oaks. They're great people. They've invited us into their house. They've voiced their concerns, and I think that the barrys are doing everything that they can to address these concerns with the neighbors, just as thrower had pointed out, all the things -- the changes and things that are happening to actually preserve the neighborhood look. And I think that's the biggest -- biggest problem. You know, one neighbor asked about parking. He was concerned about parking. Well, I think that a lot of that has been alleviated with the jollyville entrance being placed and the highland oaks entrance being blocked off. I think that -- I think that the barrys are doing a lot to actually try to preserve the neighborhood and to address any of these you know, my wifey moved from dallas on ewife and I moved from dallas down to austin, and we're both doctors as well, and we moved here because austin

supports small local businesses, and that's why we're here. And, you know, the bottom line from my understanding and what I've seen after actually speaking with the neighbors on highland oaks, I can't speak for arabian trail, which is the street over, but for speaking with the neighbors on the actual street that the proposed clinic would be, they're in full support -- I've spoken to many of these people. They're great people, they're excited, and, you know, we're excited, they're excited to be part of this neighborhood, if given that chance. So that's all I've got. thank you, sir. Thanks. Let's see, our next speaker is amanda barry. Welcome, amanda. Let's see, as you approach, some folks want to donate time to you. Is amy barry here? Welcome, amy. How about john laplant? Sorry if I mispronounced that. Is john here? Okay. Thank you. And judd johns. Welcome, judd. So a manned a you'll have up to 12 minutes if you need it.

I won't need that much time. Thank you first of all for listening to us, and earlier the support of the city for its small businesses means a lot to me personally because this is our one small business. This is our -- our life calling for this one clinic. We have a one-doctor clinic, one staff member. And the most we grow is two staff members, next. So this is a true small austin business, and our whole business is to take care of other people. So thank you again for being here, and thank you to all of you who showed up in support and the awesome support we've gotten in the austin community. Again, it's so great to see that austin really does support its small businesses. To give you a little bit of barry owns a current chiropractic and acupuncture clinic and is known for helping his patients find the true cause of health problems. So the past four years we have leased the space off of highway 183, and then for the past two years, as rau mentioned, we've modeled off our mentor that we need to find a permanent location, so that 15, 20 years from now our patients can still find us. For the past two years we've been looking for that permanent location, and what we -- and we have found that the property on jollyville road, and the property on jollyville really is a great barry and our patients, and also it sounds like it's the best opportunity for the neighborhood, especially where a lot of developers have being attracted total area. A small doctor's office to protect a residential neighborhood from a five-lane corridor. It allows us to keep a large five-story footprint coming at the front of their neighborhood. So I think it's a great opportunity all around. It's a win-win for neighbors, it's a win-win for us and our patients as well. So -- it's very difficult to find a place that supports businesses and then also has a family feel. And so why jollyville for us? There are 470 businesses along jollyville road. 48 Of those are medical specialists. So that -- on the business side is a great spot for barry to be in with the 48 specialists to refer to and refer from. And then a picture is worth a thousand words. I have a few quick slides. I'm not going through them slide by slide too much. But starting from the arboretum, this is only a little over three miles from our property we're talking about now, so the green area is going up volume I ville, the shops, the hotel, seven restaurants. There's lots and lots of commercial properties along jollyville, which I don't want to bore you if you already know jollyville very well, but it's very much lined with commercial properties, and what attracts us to this area specifically is that, you know, you may have these, you know, dental group lining on jollyville but you have [indiscernible] supporting the commercial property as well. So you're allowing commercial to provide the barrier between the five lane road but you also have access to great neighborhoods, family filled environment. Very difficult to find that anywhere in austin. It's a great combination and -- which is why we've chosen this location. So again, just going through, you know -- there's commercial, residential, commercial, residential, commercial, residential. And especially as you

get closer to where we are that star is where our clinic would hopefully be located, if you'll look, there is - look at the j. That's a current dentist's office, and that residence behind that dentist's office is beautiful. It's kept its value and the real estate studies I've done in this area have shown that the real estate neighborhoods behind the doctors' offices have held their value a lot stronger than, say, a texaco or one of the larger commercial -- if a larger developer came in and put a footprint there it would be harder for the residents to keep the value in their home. So so that's why jollyville for us, and that's what attracted us to this property. So that question has been asked, why this property? And to us, you know, it's a good match. We have the family feel. This is where we live, this is where our patients are already. Our current practice is only a mile away so when we move we won't lose all of them. Also, this is where -- again, where we live and where we want to bring our family, raise our family, and it's a good match for us all around. There's really nothing for sale in this area that you could purchase and have as a permanent location. There's a lot for rent, the rent goes up higher every year, so this one location is our one chance to get in this area. And it also -- it's the one spot where our clinic could thrive. So the main reason why i feel -- why you would approve this rezoning request is that, you know, the single-family again, ron already mentioned this, was put in place years ago, years and years ago when it was two-lane street, and now there have been material changes to jollyville road. I mean, it's very much -- very much commercial. So I very much feel that -- especially with all the doctors that you see that i pointed out on this area outlining our -- actually surrounding the current property, there are already doctors there. We're very much in line with what's going on on jollyville and this area. So we also have huge support, so the majority of the voters in this area are in support of our property going to light office, and the reasoning behind that is first of all it helps protect the neighborhood. We're willing to put things in place like the residential strip on the residential side. That helps keep the neighborhood from encroachment of other commercial properties. We're willing to block off our highland oaks side, and we're willing and caring -- if someone brings something up, jack wanted his concrete posts, we're willing and flexible to work with what the neighbor wants. So it's much better to have someone who cares about the neighborhood and wants to be a part of the neighborhood family than a big developer cost coming in and not caring what the neighbors really think. So again, there is huge support -- I've gotten over 95 signatures in support and the majority of highland oaks -- I just got to meet with a lot of them and was surprised and shocked to find, you know, the ten items that we have listed up there, we're keeping the building one story, we are blocking off highland oaks, we are doing everything within our property limits to make sure that it's a good match for us but also a good match for the neighborhood. None of those items have been communicated to anyone on our street that we're going to be on. So to have spoken and done open houses with people who I thought were representing the neighborhood and for them not to communicate to anyone -- hardly anyone, i know of one person who may know of anything that's gone on in this whole process. For 20 people that I talked to no one has informed. That's why we wanted that 30 days to do a true neighborhood information -- you know, meet with them once a week and actually get the real neighbors everybody, sea crest, highland hills, arabian trails -- highland oaks support us, even without knowing the limits we have been offering up. So they've been afraid of two-story buildings going in. They've been afraid of bars going in. But we're willing to keep a one-doctor office. We want it for the next 20 years, one story, same square footage, limiting everything we can to make it a good fit. We're hoping that even with these limits that we're clearly demonstrating our care for the community, is basically what I'm trying to say. barry's character in all of this, there have been some

slanderous comments. There have been horrible rumors. There have been booing of neighbors. I've had neighbors come to me crying, certain comments from very, very few, but i have a majority -- I have 95 people in this area that want our clinic to be there. barry's character, we've been very open and supportive of everyone. If someone has a concern, we still, yesterday, have gone out and said, what do you need? Is there anything I can help with you? I mean, we are still open, still very supportive of the neighborhood, still very much want to be a part of the neighborhood and have tried to be -- to respond in loving and open ways. And as neighbors have met with me, especially at highland oaks recently and found the facts behind what we're willing to do, that's I think what's really driving the support, is we are willing to limit ourselves, to protect the neighborhood for future developers, and, you know, there are only two or three houses along jollyville now, so if those do go commercial at least we've set a precedent for those houses. If we're approved at least there's a precedent for what could go in around the area. So I'm hoping it's a great opportunity for this neighborhood as well. So again, a small doctor office is a really good match for this area. It makes sense, and we support -- we support protecting the neighborhood. As these things have come up we've addressed everything we could up to this point, and I ask you again to listen to the over 95 people who have supported this, and then I also ask city council to show that you truly support our small business. Do you have any questions. thank you, ms. barry. barry, council? Thank you, ma'am.

Thank you. so our next speaker is roger borebone. Sorry if I mispronounce that, roger. You'll have three minutes. mayor and council members. I was at the last hearing with -- regarding this subject, and I was surprised that no one had spoke on the nature and character of dr. barry. barry for several years now, both professionally and personally, and I have only known him to make decisions and be governed by actions of the utmost integrity. I've never seen him ever be flappable in any situation. What he says he intends to do is what he follows through with, and I know that there's concerns, rightly so, with neighbors in the area, and I think this has obviously been addressed at this point, and I want to make sure that the people who are in opposition know that what is proposed is exactly the extent of his future vision. I've known his mentor and know that this opportunity that they have will mimic what he's envisioned since he was a child at his doctor's -- his chiropractor's office in oklahoma, and so I know this is a great opportunity for him to realize his potential as a business owner and doctor. I too am a small business owner here in austin, and I'd like to thank the city of austin and of course the council here for supporting small businesses, because i think really when we say small business, what we really mean are just austinites, just amanda barry, just a couple with a small, small practice. So I appreciate that support as a small business owner and thank you for your time. thank you, roger. So, council, that concludes all the folks who wanted to give us testimony in favor of the zoning case. We now hear from folks in opposition before we get a rebuttal, perhaps, from the agent. Let's see, our first speaker in opposition is bob konkright. Sorry, bob, welcome back. And bob, some folks wanted to donate time for you. The rules are they need to be present in the chambers to do so. Is sherri osbourne here? Welcome, sherri. How about troy farnham?

He had to leave. how about bill brewer? Welcome, bill. And thomas olendorve? Welcome thomas. So bob, you'll have up to 12 minutes if you need it. Welcome. mayor, council members, guests, staff. Thank you for allowing me to speak. My name is bob konkright and I'm here representing the neighborhood. I do live on arabian trail. A lot of the folks that live on highland oaks are here and support what I'm saying,

so it's not just me that's making these. The question here is about a home. Can you pull the picture up, please? This is a single-family home that is going to come up on the overhead shortly, that until recently had been only a single-family home as in all the homes in the area are. It's bordered on three sides by single-family residences, on the other side by jollyville road, and up until recently its address was 11801 highland oaks trail. It was suddenly changed to 11777 jollyville road just recently. This is a residential house that has been bought in the middle of a residential area, and they're now proposing to make it a commercial enterprise. The applicant has talked to us several times about putting restrictive covenants on the property, and I find those discussions hollow, because the -- if you could pull up the restrictive covenants -- no, the other way -- covenant, the other way, please. The restrictive covenants that are currently on the property have been violated in every way, so I don't see why placing more restrictive covenants -- covenants is a good thing for us. Secondly, the applicants have cited the jollyville road study. They do, however, quickly overlook one phrase that's in the study that says, residential areas should remain residential, and this is a residential area. And we would like it to stay residential. I know I'm an interloper. I've only been there 30 years. So we do want it to stay like that. [One moment, please, for ]

in our opinion this is a classic case of back door zoning. The applicant came forth and bought the property without even knowing anything about restrictive covenants or anything, and suddenly started renovating property. The baryes signed on february 13th the notes saying that they -- to buy the home with a freddie mac fannie mae loan, which is a federal program to buy homes, not businesses. And they signed -- can you put up the other one. And they signed a family rider, which said they would not seek to change the zoning unless they had permission in writing from the lender. I don't know if they have that permission in writing. I've never seen it. I don't know if the lender is even aware of this. I do not think they do have that approval, however. And I have been unable to get compass bank to give me any indication of their support. However, on march 3rd a city inspector said this was going to be a commercial venture, a chiropractor's office. This is less than a month after they closed on the house. And yet throughout the entire process and all the renovation process, they listed on every application intended uses was single-family residence. They have more impervious cover than is allowed by single-family residence. They have eliminated -- they went through and remodeled the house to where it is now an office building, still saying it was going to be a single-family residence. Only in july did they start the process for converting this to a commercial zoning. We were told by the city staff up until virtually the day we got the notice of zoning change that this was going to be a home-based business where there would be at least three -- no more than three clients per day and no advertising. Of course, some of our friends, our neighbors on highland oaks kept saying if it's a home-based business, why do they have such a big parking lot in the back and a curb cut on to jollyville road? So we had no chance to really get the neighborhood together to do the planning that was necessary, and I'll be very honest with you, i could conceive if we could get the planning process going, a probability -- i don't know how big it is, but a probability that the neighbors might want to shut off highland oaks trail at jollyville and allow one business there. I don't know. But that's something that the whole neighborhood has to be involved in. We can't make that decision. And we have not had that chance because we've been kind of blindsided through this whole process. The zoning and platting commission originally -- has stated that they do not concur with their attempts to rezone it. In our opinion it is just very clear that this is back door zoning.



The applicant has come through, they've done all the renovations, and then suddenly said, by the way, now we want to make it commercial. They have talked about the concessions they're going to make. Well, we met with them on several occasions, not just me, but some people from highland oaks, and we -- when we brought up some issues, some of the issues we brought up we were told were non-issues. They were non-negotiable, like we don't want cars parked on highland oaks. Well, they want to leave the garage there and have people parking on the side street and in the garage. Then why do you have a parking lot in the back? Why do you have such a big parking lot? They are not here to protect our neighborhood. In fact, they did all of this renovation without a site plan, with no guidance, with no drainage, and there are big drainage problems in the area. And that's why I'm involved because I'm in the downhill side. I get all the drainage. And all that impervious cover could have a big potential impact on us. But now they don't have to address those issues because of the way they've gone about doing this. I would like to make a couple of suggestions on some of the processes that have been happening here. Number 1 is the address of this place was changed, and that's a big deal because if this were 11801 highland oaks trail, that would be a lot different mindset on voting for something commercial versus 11777 vocationalville road. -- Jollyville road. That address change was accomplished without anyone being asked input, without any knowledge and no appeals process. When we were just told it was changed and there's nothing that can be done about it. We were also told like the curb cut on to jollyville road, which I would think you would have to do, you need to do some type of studies about the impact of traffic, was just made because it was a residential office. Or home. The other thing is I think it would be -- it would be wise for the city or good for the city to require anybody that is changing their address from a single-family residence to at least get input from the neighbors or at least allow an appeals process if there's something that we think is wrong with it. Currently that's not the case. The other thing is any time you have a single-family residence that is being zoned for commercial, i think it would behoove the city to request a letter from the lienholder saying they concur because I'm not sure the lienholder knows they're even trying to change the zoning on this. And I think that's a big issue for a fannie mae loan. The applicant is right, we have not had a chance to get people together and talk about this. It's hard in the best of times to be able to get folks together, and on such short notice and having to back pedal, we've just not been able to do it. And we will do it and we will, you know, get folks together and try and develop some type of plan for the area. I don't know anything about anybody being intimidated or people crying and coming to them and crying. We've asked for names so we could go address the issue and we've -- they've not been forthcoming. If that is true that it's happening, I serm apologize and I will do everything i can to rectify that. But one big thing that comes f forward to me, and that is the bary's are saying they really want to open this medical office and provide a service to the community. Within 300-yards of this house are five medical condominiums, five. And they all have space available. Why don't they go there where they're in with other doctors? And where they could get more referrals? Why come to our neighborhood? And suddenly create a stream of traffic through the neighborhood that could endanger our children? Anyway, any questions I'll be glad to answer them.

Mayor Wynn: Thank you. Questions for bob, council? Thank you, sir. Let's see. Our next speaker -- let's see. Bill brewer signed up to speak next, but bill donated -- you donated your cronkite, so we need to find somebody who will dough nighttime to you, bill, since you gave up your time earlier. What's your name?

[Inaudible - no mic].

Mayor Wynn: I didn't hear the name.

Am I here legally?

Mayor Wynn: I'm trying to make you legal. [ Laughter ] all that effort, you should -- let's see. All right. So jennifer, instead of donating time to glen hawthorne, you now will brewer to give us three minute testimony. Welcome, bill. You will have three minutes to be followed by phil williams.

My name is bill brewer. I live at 11901 arabian trail. When the city fathers set up this city, they decide that had this area was going to be manufacturing and that one was going to be commercial and they said this is going to be dwellings. And anybody that buys in that area should be able to -- should be assured that it's going to stay commercial or a dwelling. We've been here four times this year fighting this. Three with this same applicant. I've been married to the same woman for 54 years. I've lived in my house for 49 years. There hasn't been too long a stretch for where someone comes in and tries to change the character of our neighborhood. It's not right. It's not right. We moved there because it was a dwelling, single-family dwelling, and we love it. It's the finest -- I was a real estate broker when i retired four years ago. I know something about this city's neighborhood areas. bary is so damned anxious to change a dwelling into a commercial, he lives pretty close to this area, let him do it to his house and his neighborhood instead of ours. I could go through all the cronkite has gone through. It's worthless. The only thing I can figure is you people must love our shining faces because we're here so many times during the year. I beg you in every way i know how, don't let this go through. Follow the leadership, if you call it that, of your own staff, which has denied this, of your own zoning people, which overwhelmingly denied it. I don't know where these people said they've visited so many neighbors that have agreed with them. I haven't seen them. I don't have that much longer to worry about this. But I'd like to think that when I die that someone that will be occupying my home and enjoying it the same way my wife and I have for so many years. If you let this go through, it's going to be like sherman going through georgia. They're going to grab this house and that house and that house, and every time they're going to have an excuse why it should be commercial instead of a dwelling. You have the power to stop this. I beg you. If I could get up, I would get down on my knees and beg you. Please, please, sir, I beg you, stop this where it gipsz. And do it forcefully so that the next person that gets this bright idea will think two or three days before he comes in here and asks for you to change the zoning. And it will happen -- the three house, the one across the street from this one on highland oak and the two at the end of my street are owned by one person. Do you think there's -- do you think it takes a rocket scientist to know what he's got in mind? Yes, sir, you let this through and you're going to have a whole lot morphology through. I thank you for your time and I apologize for my emotional breakup.

Mayor Wynn: That's okay, bill. Thank you. Our next speaker is phil williams. Welcome, phil. Is susan olendorf here? How about owen (indiscernible)? So they wanted to donate their time to you, phil, so you will have up to nine minutes if you need it to be followed by lisa williamson. mayor, councilmembers and our fellow citizens. My name is phil williams as you said. I'm a property owner in the neighborhood just across jollyville road from the property we're discussing tonight. I would like to make you aware of my

concern not only for our neighbors in rain tree estates, but for my community, subdivision as well. As you know, a picture is worth a whole presentation of the facts and figures. Let me show you the slide that outlines my concerns. The cross hatched properties that you're seeing there in the circle is the subject property, 11777 jollyville road. Those that are cross hatched in red are owned by the same person or one of his partnerships that bill mentioned. You can look along jollyville road and see all of the large corner lot and the things that are happening there that we have questions about what is the future of our neighborhoods? The green properties, which I don't think they show up there, but there are three rental properties there that are owned by non-occupant owners. Now, as we look back at the intersection of jollyville road, there's two -- jollyville and bell, there are two properties there with red dots in them. The one on the east side was approved last fall as an lo-mu lot. You rezoned -- council rezoned it. It's got a 16,000 square foot office type, two-story office type building built five feet from the property line. The one directly across jollyville road at the corner of bell has a 4200 square foot two-story building built five feet from the property line with a full parking lot and an entrance off of jollyville road. Both of those properties were developed or both of the buildings were built while those were zoned sf-2. And then later rented as businesses. We've already had that invasion into our -- invasion and along vocationalville. My concern is if you approve the requested change for 117777 jollyville road tonight, we can expect an abundance of spas and hobby rooms and personal office requests throughout our neighborhood. You have a picture here taken from one of the neighbor's parking lot of the building at 11701. Does that look like a spa, family room, hobby room, two-stories? I think they even were going to put a car -- antique cars into it. But to me it looks like it was an office building from the start, even though it was put on an sf-2 property. Now, none of the properties that you see along the -- on the layout that I had, none of those are large enough to provide water retention or adequate parking to meet austin impervious cover requirements. This will result in unacceptable on street parking as well as environmental impact and endanger the safety of our neighbors and our children. Let's try to keep austin green. mayor and councilmembers, I ask that you step up to the plate tonight and protect our neighborhoods from further encroachment, not only tonight, but take steps to provide the planning, zoning and enforcement officials and inspectors the poirsz to enforce our codes and ordinance so that we don't need to go through the same process several times in the near future as each of these lots come up for rezoning and encroach into the interior of our neighborhoods. Are there any questions or comments?

Mayor Wynn: Thank you, phil. williams, council? Thank you, sir. Lisa williamson? And is donald here? Welcome, donald. So lisa, you will have up to six minutes if you need it. You will be followed by beth balls.

Thank you. In the picture there's the bary's property. The thing just to the right are the two properties that are there together. The pro property that my husband and I occupy, they face on to arabian trail and we have two and a half lots that abut the house on jollyville. That's where I live. I live in a house built in 1956. As you saw from the previous pictures of the area, it is heavily treed. It is a beautiful neighborhood. So our house has been there for over 50 years and brewer has lived in the neighborhood almost as long as our house has been there. The person who bought my house originally lived there until he died, and we bought the house after that, so it's had two owners in its 53 years on the earth. bary seems innocuous enough and I hear the cheerleaders and he's such a nice guy and everything,

but the way that he's come at this gives the people in this neighborhood a completely different picture of him. These people can tell us what a nice and healing and kind person he is, but when you go into a neighborhood -- and that's the other thing. They talk about these green lines and these 120 feet and everything. Well, the whole length of jollyville is a sandwich. Jollyville and 183 are very close together. You don't see 183 on these maps, but for the most of it, the two streets are not very far apart. There's car lots and then there's businesses. On jollyville there's businesses, there's car lots and businesses on 183 and they back up to each other. They're very close. Then the road curves and we can find ourselves on the radar because the road curves right at us and everything kind of widens out. So what you're looking at is yes, there's businesses back up to businesses, but in this area our neighborhood comes in here and there's this whole big area that's a beautiful treed neighborhood that has businesses on 183 end of it and we have -- and then we have our end. All the businesses that are there now that they're getting petitions and they're all signing off on are on the other side of this five-lane road they keep mentioning. They're not on our side. The neighborhood that is behind them at jollyville goes all behind and down the canyon and into the great hills country club and all into the balcones canyon land zone is on the other side. We are six little streets that have been there in this eye dill lick thing, all the development has come to us. When we moved there 20 years ago none of these streets came through. Home deep wasn't there. wasn't there, nothing was there. We had to go to ohlen and 183 to a grocery store. So all this has come to us, but we have lived there and it's wonderful and yes, when everybody is gone at night it's very quiet, it's very ideal. The pictures that they showed of that two story monstrosity were taken by me. What those pictures tonight show, those are two pieces of an I-shaped building that was built around a single-family home that faced out on to a residential street and they came in and they built this thing on a single-family and it goes up. So my concern and why I'm here speaking is since the same person who did that back door and this is being back doored, that the day is going to come that I'm going to come home and there will be an eight foot fence built around those two lots just like they've done -- he's done every other house that he's done this two, will be built around those two outside houses and I will end up with one of those two monstrosities that I look at through my beautiful trees and the beautiful trees of the lot that are there now. If this goes through, it's -- and it's innocuous enough and yes, they're making all these happy concessions and everything, but the truth of the matter is if this goes through, then it opens the door to every other one of these properties to have that same sort of thing done, and the people at the zoning commission are like, oh, yeah, we remember you from that -- the one there on the -- this thing, because it was so back doored and so screwed up that it was memorable when he finally came in for the zoning change. And he's built another one right across from it that has a red dot on it. The sale thing. The single-family home is there and there's this two story thing that looks like a smaller thing of that that stretches the whole length of the lot behind it. I just don't see why we deserve this. We've been here all this time, our neighborhood has been here, our restrictive covenants say we're supposed -- if it's residential, it's supposed to stay residential. I just don't see anything compelling to change to be made. Thank you for your time.

Mayor Wynn: Thank you. Our next speaker is beth falls. Okay. That next speaker then is roger faulk. Welcome, mr. faulk. So in addition to beth, let's see, is cindy it looks like papsa -- all right. faulk will have up to nine minutes if you need it.

Good evening, mayor, councilmembers, happy holidays. My name is roger faulk. I'm an area resident

and I'm a party of notice on this case. A case that I'm against. As many have already articulated, this thing was kind of done before the zoning, and that seems to be a problem in our area. It seems to be an ongoing, habitual behavior that troubles us. And the only thing that controls that behavior is your vote on the zoning. Apparently. It seems that there's no site planning being done, that they're circumventing of the typical and established development processes that the city has in place. That concerns me. And it also assumes that there's going to be an after the fact reward of the zoning after they've already done the improvements. That's my understanding you get the zoning, you get the site plan, you do the improvements. Another thing that's bothering me, last year and this year we get these comment forms, the people that are within a certain range that y'all send out. You know, you need to change these so that the parties that are throwing them out tell you what their interest is or their connection to the property is. I reviewed a number of them on this case. There's a taco vendor that lives in east austin who was renting space three miles up the road. Hey, he's for it. There's a day manager at a restaurant up the street, he's for it. There's a guy who lives in south austin, service writer at covert ford. He's for it. Mine, who was sent to me directly by the city, isn't even in the record. What's with that? A lot of people have articulated there's a domino effect in place here. You've seen that there's parties that own a lot of property here. You would be setting a precedent for those properties. And they basically are all the borders of this neighborhood. Betty baker, I've got a quote up here for her, she recognized that. These folks, they want integrity. We want integrity in our neighborhood. These boundaries create that integrity. I just don't see the justification for you to override your staff's recommendation, the vote of the platting and zoning commission, their deed restrictions, and the will and interest of the neighborhood and their residents. That's about what I've got to say.

Mayor Wynn: Thank you, mr. faulk. Thank you, sir. So council, that's all the folks who have signed up to speak in opposition. There's a number of folks who signed up not wishing to speak in favor. We'll note them for the record. Now we'll set the clock for three minutes and give thrower a three-minute rebuttal. Welcome back.

Thank you, mayor, mayor pro tem, councilmembers. About the deed restrictions. Again, we're in the milgtd of modifying the existing deed restrictions that are in place and we have a lot of support from the affected property owners that are in relation to that specific deed restriction, none of sch live on arabian trail and sechrest, it's strictly the highland oaks property owners. The illegal development that you heard is not illegal development, it is permitted development through the city of austin. It is actually a long process that amanda bary went through to actually get to the point where she is today about going through all the proper channels at the city of austin and the city of austin staff directing her on exactly what needs to be done. The impervious cover is within the limits outlined by the current zoning, and she apparently reached that point and city staff then instructed her that now is the time to go for the rezoning for the property. The city staff was in full knowledge of exactly what was going on with the development of the property. As far as the signatures for the restrictive covenant minutes that were moving forward, we are getting those signatures notarized and we believe that those have a much better standing versus just signatures on a petition, which we still contend one major person as part of the petition claims to have never signed that petition. Again, the petition is at 11 percent and I think that easily we have 50% within the petition area that are for it, if not more. You've seen the bad apple of the neighborhood that apparently owns a lot of property in the area. And what we're trying to do is help set a precedent that

helps to protect the neighborhood so that when the bad apple does come forward with the zoning changes that we are setting the precedent and that can be something that is lived by. We're not putting in a 16,000 square foot structure disguising it as a gainrlg, we're keeping an 1819 square foot home and making it a medical office where the baryes want to stay for 25 to 30 years. We don't want to be associated with the bad apple of the neighborhood, again, and we want to protect the neighborhood and set the precedent for the future zonings for those single-family homes that exist on jollyville road, a major arterial roadway, five-lane arterial roadway where this house sat on the market for six months before somebody brought forth a contract to purchase the property. Six months where a house sits on a major arterial. Who would want to raise a family on that type of roadway? And I'd also like to point out that this council, some of this council adopted the commercial design standards, which designated this road as a future core transit corridor. It is a desire of future core transit corridors to not have single-family zoning or single-family structures along those roadways. Those are the roadways that we're trying to promote for commercial development. The jollyville road area study is pro he moating 120-foot depth of commercial zoning along this road and that's exactly what we're conforming with. I'm available if you have any questions.

Mayor Wynn: Thank you, mr. thrower. Questions for the agent, council? Comments? If not, that then concludes the public hearing portion of this zoning case 110. Any thoughts or questions for staff or anybody else? Councilmember shade.

Shade: I'm just curious, not of staff, maybe this is for ron. A lot of things have been raised here, but what's up with the home loan issue? I mean, can you speak to that? And when was this house purchased?

I can't speak to the home loan. I was not involved until city staff instructed bary to get the property rezoned. So I can defer that to the owners of the property.

Shade: Okay.

You're asking why residential loan?

Shade: I mean, when did you -- when did you buy the house?

February.

Shade: In february. And you bought it knowing what the zoning was, but with the intention of getting the zoning change hd?

And with an application for zoning handed to us with the purchase of the property.

Shade: So what's up with the issue that the other side raised on with respect to your home loan?

I don't know if there is an issue. When you purchase a property residential you can only get a residential

loan.

Shade shea I see. So what happens if you're no longer a residence. Because no one is living in the house, is that correct?

Right. If it's no longer a residence, then we're able to get a commercial loan, which is -- it's just changing the name commercial loan, same lender and everything.

Shade: Okay. And what's up with the parking lot?

What do you mean what is up with it?

Shade: How big is it?

It's within 44% impervious cover and was permitted by the city in february when I went to them. It's all part of one site plan that was originally permitted through the city. Again, I'm not a pro at this. I went and said here's what I want to do. Here's my site plan. I had an architect draw it up. Everything is measured out. It's not changed since then. It's the same thing the city has approved. There has been no change from what the city has guided me through this whole time.

Shade: I'm new at this too. It is really complicated, but I can't fathom buying a house and taking out a residential loan and buying a house and then thinking -- and then thinking this will be what I'm really going to use for a business and taking that risk if you don't get the zoning. It seems like a lot of steps have been taken before the zoning took place, and it may have been not the order if you were going to redo it.

My preference agree, but following the city's requirements that they told me at the time, first of all for the lending, it's residential. I can only get a residential loan if I was going to purchase the property. I can't change it to commercial and rezone it commercial. At that time then I can change it. The site plan I took to the city, they guided me that all the fee developments I've made are within residential guidelines. Everything is within -- something you could do to a house. We paint the exterior, we added rock to the exterior. We made it look better, with you we used the same square footage, we didn't change anything significant. It's a one story building that we're able to use as is.

Shade: I support small business and I know that these shouldn't be considered either or situations, but this is the second case similar that we've seen here in the last, you know, seven days. And I'm really perplexed by it. Again, I run a small business myself and I live in a neighborhood that's had mixed. I just can't fathom -- it's good intentions, but I don't understand how people are getting guidance or people are getting guidance from the city that suggests buy a residential home and then run -- and then put in a parking lot, and it just -- change the curb cuts. I don't -- I'm not sure if maybe this is for staff, but I'm just perplexed by how this happened week after week for us.

I actually worked with about 42 different people. I was referred, bounced back and forth, back and forth,

so it's been a very difficult process. But to buy again a residential property and the risk involved, I thought I was following city standard on how things are normally done. Like I actually had the application going in place with the development, actually just updates, and the updates again weren't significant enough that the city even -- they said you can go ahead and do the commercial zoning alongside. So again, following guidance that they gave me. They didn't tell me to buy the property. I bought the property because Jollyville is commercial and this is the only place I could afford on Jollyville. It's the only place my small business can afford to me.

But the incident didn't have the entitlements.

But there's only one way to get the entitlements is to go through the zoning process. So we've tried to go through the zoning process, instead of being like some other people I've seen on Jollyville where they'll work business without even going through zoning. We're actually trying to do what the city tells us to do.

Shade: Does staff have anything to add to that in terms of the process? This is just the second week in a row. That's why --

I can tell you about five different ways this would have happened. If a property owner comes to the city and said we want to develop our property and want to put a parking lot in, they may have asked staff and staff would have probably truthfully said you can go in, you're a single-family residence, nothing stops you from putting a parking lot in the back of your single-family residence. Single-family with you probably wouldn't have to address the drainage issue, you wouldn't have to address compatibility standard. In the example that you saw several photographs of, I think the person represented to the city that they had several antique vehicles and they wanted to build a large garage and there's nothing that stops them in the city of Austin from building a large garage even if it's more than 10,000 square feet and it's more than two stories tall. Then if the property owner then decides I want to change it to a commercial use, that building for its setback, that parking lot for its setback, even though it might be five feet instead of being 25 feet for a setback is grandfathered because it already exists. Our watershed staff, they're asked what can I do as a single-family home? You can remodel a single-family home. You can do the driveway in the backyard. I think it would be untruthful for the staff to tell someone saying no, you couldn't do that. This is a loophole there that would allow someone to take advantage of a residential zoning, maximize a structure, then ask for commercial zoning on the other side and it's a risk. And that's what you have before you tonight. That's what you had before you last week. You may have it again in the future. They take that risk because they've done the investment as a single-family residence. If the zoning doesn't pay off, they'll lose. And it's as simple as that. And they play that real estate gamble by taking out the permits as a single-family residence to the maximum extent possible and then asking for commercial zoning, whether it's residential or retail later. And I've seen it done when I worked in development assistance center. Back in the early '90s. I'm sure it hasn't changed today. And it just depends on the situation. Some people do this by going before neighborhoods before the fact. Some do it during. Some do it after.

Shade: Do you think that this loophole is understood by the bary's going through this that they



understand the risk that they're taking?

I frankly don't know. Contractors that come in and do work with the city over time, no. If they do any commercial or residential work for any length of time in the city of austin, they know.

Shade: Okay.

Mayor Wynn: Councilmember leffingwell.

Leffingwell: Can you answer a question about the curb cut on jollyville road? It's been shown on a piece of paper.

If you have a house and you meet the distance requirements from the intersection, probably 100 feet or 60 percent of frontage along jollyville road, it's not in a blind spot or close to your neighbor going the other way, there is no reason why the city staff wouldn't allow it.

Leffingwell: I've been showing a document saying they were ordered to restore the curb there by november foreign 14th, 2008.

I didn't -- tory store the curb? -- To restore the curb?

Leffingwell: Right. Maybe I could ask for a comment from one of the neighborhood folks. We'll let him answer first.

Actually, I can talk to that with more facts than he will give you. The curb cut, if you don't mind me saying really quickly, was not to restore the curb, but that city members called and said that it was done incorrectly. So I talked with three different people on the city's permitting committee who approved me to fill out the driveway on jollyville and then someone from -- someone from the three who are for some reason always tryi sabotaged us called the city and said it was done incorrectly. So when you call someone at the city in a different permitting area, even in you have things approved from someone else, they don't always talk to each other. So now we have someone else coming from a different area telling us that now we have to redo the driveway. Not fill in a curb, but redo the driveway. So the city is really costing us money by making us tear up and then redo a driveway that has already been approved by two other permit members. So again, it's just me getting stuck like ping pong between who wants what and what's approved and what's not. But it's real expensive for me because after the fact we do it and then they come back and say it's not approved. Redid it. It costs me money. No one else is accountable.

Mayor Wynn: guernsey, you're looking at the form.

The neighborhood representative handed me a notice for utility and contractor, unacceptable utility excavation, repair and site construction. It speaks to a commercial driveway poured without passing city of austin prepour inspection. So it appears that there had been work done without the proper approvals going in to provide for that. And it said corrective,, they need to remove the driveway, replace the curb

and gutter, reinforce concrete drainage pipe and put back to original conditions. And that was a remedy that was cited.

Mayor Wynn: That's as recent as last month?

It's dated october 16th, and there's actually two letters.

And as of december 1st they said -- the permitting office retracted that and said that they don't know if they're going to make me redo it or not. It's up to the permitting office. If I have to pay to redo it, I'll redo it.

Mayor Wynn: Councilmember morrison.

Morrison: Well, first of all, I want to remark that we have to keep in mind we're not zoning for people, we're zoning the dirt. In my view this is the wrong place for commercial zoning. The restrictive covenant doesn't support that, looking at the land use patterns around it disit support that. And I certainly can't support this process of sort of being pressured into zoning because of assumptions that are made. So I would like to move to deny the zoning application.

Mayor Wynn: So motion by councilmember morrison to close this public hearing, item 110 and deny the zoning request. Seconded by councilmember leffingwell. Comments? Councilmember martinez.

Martinez: Mayor, you're probably going to say the same thing I was, in that for me this is -- it goes beyond zoning. I think this is really bad policy that we have a situation that we keep getting trapped in time after time after time. Now, I'm not a land development expert or an entitlement expert, so maybe we're stuck in this perpetual cycle because of legal decisions that have been made in the past, but if staff sees this coming and has seen this on numerous occasions, why haven't we started some code amendments that speak to this specific issue where we see this happening week after week where folks are developing to the max as a residential property and then either buying it or somehow with the intention of turning it into commercial and coming to us saying we need a rezoning category in order to keep operating this way or in order to operate as a business. It just seems like there's a flawed process there.

Councilmember, we do have a lot of people that will maximize the potential of their lot. They'll build out the most amount of impervious cover they can, the maximum height, and there's nothing wrong with that. If it's all within the code. And it wouldn't be in this case if this property owner wanted to have a driveway and wanted to have a large play area in the backyard, put up a basketball court, barbecue, wanted to park a car back there, that's perfectly fine. It's only when think chose to change the zoning to a commercial use where it really becomes an issue, and so there's not a quick cure that I know of that you could really go in and say, no, you really can't build out what's already allowed under your zoning ordinance. The buck kind of stops here with respect to that because they are all doing it on the pretense that they can get the commercial zoning to begin with. And to say to someone that they can't build out to the maximum height and they can't build out to impervious cover, I think a lot of homeowners would say

that's why I bought my lot. I put on the second bedroom to get away from my kids or I want to put the ball court in so my kids can stay home and don't have to walk 10 blocks to a park.

Mayor Wynn: Councilmember shade.

Shade: I understand that point and I understand what they're allowed to do, and I think in this case and in a case that we've seen just recently and perhaps others that you've seen in your career, it's not about maximizing what they can do with their property. They're buying a property specifically to convert it to a different zoning use. This is a case where they bought this house specifically to make the change. And then before getting the zoning change started investing and making the changes as if they were going to get the zoning change. Or to pressure, as councilmember morrison suggested, us to agree to a change. And I think, you know, that when -- if they're getting signals that would suggest that it's something that is likely to happen, it is a bad policy. And I really feel for the people that are in this room. Listen, we're here week after week and as is greg and his staff, and every time we're going to upset half the room. And it's not really the most pleasant thing to do. I realize how much emotions get in and the talk of neighbors not being nice to each other and that sort of thing happens week after week and I have told people that I sometimes feel more like judge judy than I do a councilmember. And I'm --

Mayor Wynn: You're way better looking than judge judy. [ Laughter ]

Shade: I'm really sorry. I'm going to support the motion as it stands, but i do want people who took the time to come and support bary and I respect the amount of work that you've bary, to try to make this work, but it was a risk. You may not have understood the risk, but this is clearly a neighborhood and, you know, just a really tough situation. But I'm going to support the motion as well because i think it's the right policy decision.

Councilmember, what we can do is make sure that the development staff gets the warning out and maybe residential review as well that a zoning change is not a guarantee. Unlike building codes and subdivision regulations, pretty much if you meet those standards you're guaranteed approval. But zoning is nothing like that. It is a risk that you take to change an ordinance of the city of austin to get additional development potential on your property.

Mayor Wynn: Understood. I'll just say in my opinion jollyville road is a core transit corridor, and whether we only designate it as a future corridor or not, roads like that it's our sort of philosophy and our goal not to have single-family structures on core transit corridors. That's specifically where we want to have the immediate proximity, if not behind, then above, have that mix of marriage of residential and commercial. The reason why austin's traffic is hor ren douse and it's getting worse everyday is because for 50 years we did put all the manufacturing here, the retail here, schools here, parks over here and residential over here, and we wonder why we're stuck in traffic and we want to put guns to our head, and the traffic is going to get worse and worse and worse until we finally start doing what we've begun to do in west campus and in downtown and core transit corridors and with mueller is getting a lot of people getting closer to where they work and shop and worship and go to school and the doctor. So what I'm really struggling here with is -- I'm as troubled with the technical dynamic of improving your residential

property or maximizing your residential property, but everything in -- in my opinion everything on jollyville road, that faces jollyville road for some reasonable depth should be commercial with mixed use designation to allow for perhaps residential above, but ultimately to deliver and bring the commercial uses and those -- and that appropriate proximity of uses together. And so I just -- I just don't know if this was the right case. Obviously it's a troubling case from the timing, the technicality of veicht and heart burn and emotions, but fundamentally I have a problem not voting for a commercial -- the question is is it the right commercial designation, but a commercial mixed use designation on a core transit corridor? My guess is from a lineal standpoint, 90% of jollyville road now does have commercial uses. I'd like to see that be uniform as we're trying to do structurally with our core transit corridors. So I don't know that having this case survive one additional reading accomplishes anything, but I think from a philosophical standpoint, I have to vote against the motion. I guess the motion technically wasn't to zone it residential, it's just saying this might not be the right commercial designation. So very respectful of that, but I just can't vote to continue to maintain single-family zoned property on a core transit corridor. So I'll be voting no, but completely understand the dynamic and philosophy and the heartburn. Again, we have a motion and a second on the table to deny the zoning as requested or posted. Further comments? Hearing none, all those in favor please say aye. Opposed? Please show the mayor voting no. Motion passes on a vote of six to one. Thank you all.

Mayor, that concludes the zoning cases for this year. [ Laughter ]

Mayor Wynn: Congratulations, mr. guernsey. The question is was this a successful year or not? Okay, council, we have -- let's see. We have three, I think, relatively short public hearings. Combined there's only 11 people signed up to give us testimony on all three. The citizens are obviously here. We still have to conduct some closed session, legal discussions regarding the peninsula annexation, but the only folks waiting back there are our staff and unfortunately a couple of expensive outside attorneys. So my recommendation is that we go ahead and conduct these public hearings. I think we might can get through them in 45 minutes or so. And then we can end our evening with our closed session and then some type of action or not on the peninsula. So with that we'll just take our public hearings in sequence. We actually have more people signed up for this first one, so that seems equitable. This first public hearing is item 114 regarding our homestead preservation reinvestment zone. I would appreciate a brief staff presentation from ms. shaw and others. Then we have about seven folks wanting to testify. Welcome, ms. shaw.

Good evening, thank you, mayor. Councilmembers, my name is margaret shaw. I'm the director of neighborhood housing and community development. I will be joined tonight by leslie broader, the chief financial officer, as well as chris white meyer from the law department, presenting the homestead preservation reen investment zone much the action you have before you tonight is to conduct a public hearing and possibly take action on the creation of the homestead preservation reinvestment zone. We wanted to start with a short presentation to recap the issue for all of the folks watching at home as well as y'all. Again, this is legislation shafs passed in 2007 by the state legislature, authored by eddie rodriguez. The emphasis was to increase home ownership, provide affordable housing opportunities and prevent the involuntary loss of homesteads by low and moderate income homeowners in the central east austin area. The statute is unique in how it creates a tax increment financing zone in that the city

and the county must adopt a zone, the exact zone and contribute equally to that test. And it speaks to the income levels of the clients to be served with the majority of the funds serving those with incomes of less than 50% of median family income. We've placed before you the specific income targets that we have and uses of the funds within the statute. It also includes some of the funds to be used for the administration of the tif as well as for administration and operating purposes of the nonprofit organization that may use some of the tools in the legislation. We have in the preliminary project plan set the uses for the collection of these funds very broadly. For the acquisition, renovation, reconstruction, rehabilitation of affordable rental and home ownership in the district. The tif board will be responsible for forwarding the final project plan and financing plan to the council and the county for approval. To recap, we started on October 16th where the city council adopted that preliminary project and financing plan, in the meantime staff has been busy briefing the other taxing jurisdictions. I'd like to note that the Travis County Health Care District was the only one to waive the presentation which they're allowed to do under state law. And then we, city housing staff, as well as finance and law, have been working very closely with our county counterparts, physical meetings as well as lots of e-mail exchanges for information regarding the zone. Establishing the tif again as I said tonight we have the public hearing and possible adoption of the ordinance. The staff is also -- has been invited to come before the county commissioners on TUESDAY MORNING, THE 23rd, and have provided us with three pages worth of questions that they would like the staff to respond to on Tuesday morning at that session. With that, I'd like to turn it over to lessy broader.

Just a couple of financial slides and then we'll turn it over to Chris for wrap-up and talking about the options that council will have in considering the tif. This slide is just a recap of the estimated tax increment ranges that we analyzed as a part of the development of the financing plan. We did look at low rainings, low water crossing ranges, low growth scenarios, high growth scenarios. And when I say high, something more in the immediate future, not high growth sustained over the long-term. And then ultimately in terms of the revenue projections, we landed somewhere mid range. I did want to note that the estimated tax increment ranges shown here do include the two transit oriented development districts that are included in the district, and that was based on previous council discussion and direction in October. This slide is just the various possible increments that council may consider together with the county, and we have attempted here to estimate both a combined city and county tif revenue combination. In total over the 10-year period. And as Margaret mentioned previously, of course, if council takes action to adopt the tif tonight, then of course the tif must be approved by the county as well in order to become effective. And then lastly, we shared this slide with council in October. It's really just a compare and contrast between traditional tifs and the homestead preservation tif. Of course, traditional tifs are more focused really on economic development and commercial investment and the property values typically increase within the tif zone due to the improvements in the zone that are funded by the revenues. The homestead preservation tif creates or preserves affordable housing. The emphasis of course here is on residential as compared to more of the commercial investment. There is the unique matching funds requirement from the county and of course there's the aspect of dedicating tax revenue to pay for projects in the zone that would normally have accrued to the general fund for municipal services. That's of course a policy consideration that council will be looking at. We did attempt to estimate that impact. We've shown here just the averages over the life of the 10-year tif. Of course,

those would start small and grow over the life of the tif, as would the tif revenue. And with that I will turn it over to chris whitmeyer.

Mayor Wynn: Welcome, mr. whitmire.

Chris whitmire from the law department. In your material there's a proposed ordinance for the council's organization to permit you to choose to move forward with the creation of the homestead preservation reinvestment zone. But because of uncertainties when we initially drafted the ordinance, it does not designate a specific tax increment that the council might choose to deposit into the tax increment fund. Therefore it's necessary to amend the ordinance and I'll outline five options that you might choose to select a percentage or amount of tax increment to go into the tax increment fund. The first option seeks to try and assuage some concerns that the county has expressed to us that they would like more time to examine the impact of the tif, particularly in the difficult economic circumstances that we have now. So one way to do that would be for the council to select a low increment that would not cause the county to react with alarm and perhaps when they meet on december 23rd or december 30th, they would go forward and issue a final order to create the reinvestment zone this year, which would give us a base year for the tax increment of 2008 rather than waiting to next year where we'd have a base year of 2009. So under that option perhaps the council would select something in the range of 10 percent as the amount of the increment. A second option is to specify actually the tax increment that the council would like to specify in some amount between zero and 100%, perhaps 50%, 30%, 80%, whatever percentage the council would select to choose. The third option is that the city would specify, we agree in a range to the amount of tax increment to be specified by the county when they -- if they take action on december 23rd or december 30th. For instance, the council might say we agree to the increment that the county selects on or about december 23rd or december 30th in the range of x to y. Say, for instance, 50 to 100% or 30 to 80%. The fourth option is a variation on that option, and that is that the city specifies that it agrees up to some specific percentage with the percentage or the amount that the county specifies when they meet on or about december 23rd or december 30th, and that might be in the nature of up to 100% or up to 80% or some lesser percentage. In the last option, the city simply amends the proposed ordinance to state that the city agrees to the amount of increment to be specified by the county, and thus the county might specify an increment from zero to 100%. One last important point to note is that whatever percentage of increment is designated by the city council and possibly by the county should they act on the december 23rd or december 30th, that would have the effect of creating the reinvestment zone with the base year of 2008 and then if the city or the county wanted to reconsider that percentage of increment, that could be done and it could be adjusted either up or down with the agreement between the city council and the county commissioners court. If you have any questions, we'll be happy to try and answer them.

Mayor Wynn: Thank you, sir. Questions for staff, council? We will move on to the public hearing. Jane, you will have three minutes and you will be followed gavino fernandez. Welcome.

Thank you, mayor wynn. Members of the council, thank you very much for this opportunity to speak. For the record, I'm jane rivera, chair of the rosewood neighborhood contact team and member of the rosewood, glen oaks neighborhood association. I want to be very simple about my statement here. My

neighborhood needs this neighborhood preservation district very badly. About two years ago the did a study of foreclosures in travis county and specifically in the city of austin. And approximately 70% of the foreclosures of homes were occurring within this preservation district area. It's a very serious problem for us, particularly for elderly and disabled people who live on a fixed income, and more of the poor live still in this area than is true of many of the other areas of the city. So I just want to go on record saying that we strongly support it, particularly the homestead preservation tif. And I want to say special thanks to representative eddie rodriguez for sponsoring this legislation. Thank you.

Mayor Wynn: Thank you, miss rivera. Next speaker is gavino, fernandez. Welcome back. And debbie russell wanted to donate her time to you, so you will have up to six minutes and you will be followed by paul hernandez.

Good afternoon, council, my na [pounding of gavel] with el paso -- my name is gavino fernandez. I too want to thank the people who worked on this legislation. I think that the effort was there, but it fell short. To me this is displacement in zone, not a reinvestment zone, because once again it is silent on the tax increase impact that it is going to have on those homeowners who are barely hanging on right now. The other part of this is that I see that -- because it is -- does speak about it has the ability -- the possibility of amendments, and we are in communication with the county and thank god that they're asking to take a step back and a deep breath and look at the impact. Because basically what this document looks at is the infrastructure impact, how this wood, brick, it does not look at the human impact that it's going to have on the existing homeowners on that homeowner that is 65 and over, is only getting \$400 a month, 300 of that is medication, if not more. This plan does not speak to that. This is a tax increase coupled with the plaza saltillo's removal of the height restriction. That's a tax increase. Because there is no safety net to address where those people are going to go once this particular legislation takes place. Add a tax freeze to homeowners for the 10 years that this is going to be in effect. Instead of using that revenue of the tax increases that are going to be realized by projects and the creation of the tif, let's get creative. And use those funds to help either subsidize the increase to the existing homeowners or implement a tax freeze during the 10-year period. As I was reading the document at the very end, it speaks about that if economic conditions aren't generating or aren't the way they were supposed to that this whole thing is -- either party could break this tif and have it no longer be effective. We every morning wake up learning that the gonzalezs are no longer going to be in the barrio. The herreras are now moving. The lopezs can no longer maintain living in the barrio because of these creative false hopes of maintaining the people. It sounds good, looks good, but when you read into the details, all it is is a tax increase. We have many opportunities to be creative. This is thinking the old way. This government with -- the naips are supposed to be good for us. I didn't realize that I was planning to exit myself out of my own land. So while some neighbors come to argue zoning, we're here arguing trying to keep our land because we're losing it left and right. Because of these so-called creative ideas. The other part of this is that the percentage of dollars that goes to home ownership. We feel that should be 75% and the rest should be for rental or apartments because the more we get into rental and apartments, we're going back to a policy that the housing department did away with, and that is that we're housing people. We need to be very, very sincere in ensuring that we enhance home ownership in this particular area. Not displace it. So it is my hope that when both government entities come together that you take those issues into consideration. It can be done, it has been done. And again, you

know, the other issue is why don't we use those monies to identify four or four landowners. Provide them with the credit, the financial means for them to build that five-story facility around plaza saltillo. They can own one and rent the rest or lease the rest. Why not be creative in that fashion? s to buy them out. We'll give you 100,000, yet the developer is going to make millions and millions over hundreds and hundreds of years. Yesterday it was raining. Today it's (indiscernible). What is it going to take in order for y'all to really put some serious practices in preserving the latino culture in this particular area and the african-american culture? Because it encompasses a large area. And we are in communication with commissioner gomez and ron davis because this too falls in their area. But with that again, it looks good, but this is a tax increase and it's going to displace more of our people. Again, I don't know what way we could do it. There must be a way where we could get those landowners to become owners of their own development through some type of credit or some type of financial assistance. And once these properties -- one of the biggest fears in any democracy is when government owns more land than the public. [ Buzzer sounds ] and that's one thing we want to stay away from. Thank you, mayor and thank you, council for listen to go our ideas. Thank you.

Mayor Wynn: Thank you. Our next speaker is paul hernandez.

[Inaudible - no mic].

Mayor Wynn: I don't mind. Frances, you will be next. Followed by paul. Welcome. You will have three minutes.

Good evening, mayor, city councilmembers, my name is frances martinez. I'm a member of el concilio and president of the (indiscernible) neighborhood association. And I read part of this homestead preservation zoning, and I really didn't quite understand it all. I think that maybe our neighborhood should be educated on this project here; however, we are very sad on this plaza saltillo also that passed to have the five-story building around there. Now we have to deal with these other homestead preservation district. And this concerns me a lot because we do have a lot of elderlies there, including myself. And I was born and raised there in my neighborhood. And I'd like to continue to be there. I thought I wouldn't see the day when I would retire and still be there, but thank god I did. We retired and I still live there and I want to continue to live there. But this plan seems like probably it won't be possible because of the tax increase, and I definitely would really like for you all to look at this project and take accountability on us, the people that live there. And also, one more thing. If one of the councilmembers or someone could call me and let me know where I could call when we still have the horses there on 300 attiiac, and when they poop on the street who do I call? It takes a couple of days. I call the 311 and they call me back and it's still there. So if one of y'all can give me -- can call me. You have my number. I'd like to yield my time to paul.

Mayor Wynn: Thank you, frances. So paul, you will have an extra 56 seconds in addition to your three minutes. Yes, councilmember leffingwell.

Leffingwell: Could i ask the acting city manager to have someone call her and answer that question



about the horses?

Mayor Wynn: The aggies make the freshmen push the buckets. Welcome, paul.

My name is paul hernandez. I'm a member of el concilio and a member of lulac. I would like to tell you that first in reviewing the document that is supposed to help east austin, I find that it does help east austin, the geographic area, but it does not help the people. The people that live there. Instead, I find it does the opposite it hurt the people. It hurts the people that are the poorest. What the people need to hold on to their land, first of all, is less taxes. Second of all, is less land value. And it goes against what you are trying to do. You are traig to create a higher tax value on that property. So I see a collision. Now, how are we going to resolve that issue? Are we going to allow low income people to live close to downtown, close to the lake, close to 35 in the east austin area or not? Are we going to create a donut hole that is white and affluent? It seems to me that these plans may head in that direction. Because it does not present the safety valves that are needed for these people. While yes, they may have a house, how long can they hold on to it if they did do not have the income to keep up with the taxes? The land values continues to go up, then how will they pay those taxes? Is the tax increment finance district going to pay for those taxes for everyone in that area? I think it's over a one billion dollar tax area. Is that tax increment finance district going to pay or is it going to build buildings, hotels, office buildings, condominiums? Condominiums, stores? Or is it going to help the people? Is it going to help the low income people stay in east austin? The people that live there now. The homeowner that is barely hanging on right now. Is the city willing to freeze the city taxes in that area today? That is step one. Are you willing to freezes freeze your taxes in that area today? Is the county willing to freeze their taxes in that area today? That will be a great help. Second, what can we do to make sure that that land is not valued more when there is an improvement next to it? When there is a poor little house and a-million-dollar McMANSION BUILT NEXT TO It, what can the poor little house do to not get extra value? [ Buzzer sounds ] those are the questions that I have, so I suggest that you create a moratorium. I suggest that you also create a committee of people that live in that area to tell you what to do. Thank you.

Mayor Wynn: Thank you, mr. hernandez. Let's see. Our next speaker is alyssa rendon. Sorry if I mispronounced that. She signed up wishing to speak in opposition. Karen pop has signed up wishing to speak. I thought I saw karen earlier. Sitting in the back row. Like it's church. Joke. Welcome, karen. You will have three minutes.

Good evening, mayor, members of council. My name is karen popp and I'm speaking as a supporter of the homestead preservation district. I'm the vice-chair of the community development commission. The community development commission has looked at this program several times and has endorsed it, and is very supportive of the idea. I think there are some misconceptions in the community about this. The legislation is written so that it specifically benefits low income people and it's written so that large percentages of the funds benefit lower income people because we know that the median income in east austin is much lower than the median income citywide. And this program is specifically designed to benefit those income groups, and especially those income groups. The author of the legislation, the two authors of the legislation, representative rodriguez and representative dukes, wrote this so that it

emphasized home ownership and the preservation of homesteads, more funds would be available for rehabilitation. funds that we use now for rehabilitation are becoming unusable in the district because of the high appraisals. These funds we would be able to use in place of those home funds and continue to do rehab. The city's rehab program is performing at a higher level than it has performed at in years and I have been looking at these program for a number of years. So I think this would be a very welcome resource to supplement what we're already doing with rehabilitation of individual homeowners properties. It would also be available to support the other kinds of housing activities in the district that really benefit low income people. That's what I wanted to say this evening. Thank you.

Mayor Wynn: Thank you. Let's see. tafayo wanted to give us testimony. Welcome back.

Thank you, mayor, mayor pro tem, council. I'm a lulac district 12 director and I'm also a lulac national civil rights commissioner. First of all, I want to say feliz navidad to each and every one of you and may these holidays be prosperous for y'all. In the mean I am I would like to say that I oppose this tif and the reason why our community is not aware of the ramifications that will occur with this tif. There's a lot of pros and cons. If it looks good, there's something wrong with it, and this looks too good. So I would say if the community had an opportunity, if you look at the size of the tif, i assure you that the majority of us you can use it in -- they do not know all the ramifications of this tif. If you would read it, analyze it, you would see the poor of the poor gets hit the worst. I was going to say another word, but I better not. Even commissioner eckhardt has reservations over this. Others have reservations over this. I don't believe the community has been vetted. And until the community is vetted, they won't understand what they're stepping into. You had other cases that came up where you said you wanted to protect the homeowner. This is not protecting the homeowner. This is not protecting the poor of the poor. You're giving the opportunity to people who have an opportunity to again exploit those who need the help the most. And I assure you that if there would be a way to put this aside and let the community vet this more, let you vet this more, let you look at it thoroughly and see what is coming up, if others are looking at it and saying there's something wrong because it looks too good. That's all I'm asking, that you give us an opportunity to inform our community. Give them the civil rights that they deserve and have to know what they're stepping into when you make a decision. You make the decision for many, many, many thousands of people that when they turn around, they find themselves in a corner. And we need to be able to open the door and really, really bring truth to the community of what we're doing. And not what we're not doing. Thank you very much.

Mayor Wynn: Thank you. And it looks like gilbert rivera signed up not wishing to speak in favor. So council, that's all the citizens who signed up to give us testimony on this public hearing, item 114. Questions of staff? Further comments? Motions? Comar.

Martinez: Thank you, mayor. I realize that the concerns that were raised here tonight, while on their face they seem pretty alarming, if they were actually -- if that were actually what was going to take place, i certainly would not be supporting this and i certainly would not have spent the last four and a half years working on it. There's been substantial community outreach and community input, and i realize that, even with all of that it's still very confusing. We still engage as a council, with staff and in lengthy conversations trying to make sure we understand the impact of what we're doing. For me what I believe

we are doing is exactly what some of the folks have asked us to create in terms of a program or a process. This is not an additional tax. It called tax increment financing, and what that means is a portion of the existing taxes of those who live within the district will now be diverted and applied towards affordable housing, to an individual who wants to buy a home as long as they fit within the income parameters, which is 30 to 70% of median family income. It will also alleviate the tax burden of the land, not the home, but the property. So the person that's living in an 1100 square foot home and gets a one-million-dollar mansion built next to them, their property value doesn't go up. Therefore their property taxes don't go up. If they are part of the community land trust. So it's a nonprofit that owns the land. The land trust owns it. And it's run by folks who live within the homestead preservation district. So the board is made up of folks that live in the district. The program is run through our neighborhood housing community development department in conjunction with travis county. And I just -- you know, i want folks to understand that exactly what folks are asking for in term of assistance for those who need it most, I really can't think of a better way to help those folks than by enacting the land trust and the homestead preservation reinvestment zone. Those things that you talk about in the saltillo tod, that entire tract of cap cap land that's just dirt now and not generating a penny of taxes, those are going to be the buildings that are taxed to pay for all of the other affordable projects that we find in the reinvestment zone. It's not going to be on the existing homeowner that lives there. And in fact, there will be relief provided to you if you qualify within those income parameters that i mentioned. So I realize that there's still some concerns and some questions out there, but i firmly believe that this has been vetted to the point to where we need to act as a council and we need to act now. The longer we wait, it just gets worse. And exponentially worse. We've heard about the foreclosure rates. That's a direct reflex of us not taking action to do something like this. So I'm very supportive of the legislation. I do think representative rodriguez and I thank representative dukes for their efforts. I think all the folks out in the community who helped as well, because it wasn't just two state reps. It was the entire delegation. It was a lot of community support. This is not their concern. The county is in support of this particular piece of legislation. Their concern is if you create a tif, you remove revenue from your general fund that goes to county services county wide. So their concern is how do we make up that difference? How do we provide these county wide services if we're not going to draw away from our general fund and dedicate it towards affordability. That's their concern and quite frankly it a valid cerp. We have the exact same concern here. And because of that concern, what I would like to move, mayor, is that the city move to enact the homestead preservation district, the land trust, and the urban land bank, and that we leave the percentage of commitment from the tif completely open-ended so that we send it back to the county and we say, travis county, we want to do this. And we want to do this to the extent that we're willing to let you set the mark. If you say it's 10%, then we'll agree to that. If you say it's five percent, we'll agree to that. If you say it's 50%, we'll agree to that. [One moment, please, for change in captioners] I too have been at this table for at least they four years that rodriguez has been with me and working on this. I'm very supportive. The points rodriguez made are all right on. I'm just hesitant to not set a maximum. The conventional wisdom is that the county probably perceived them having even less flexibility than do we and so the conventional wisdom might be that their number would be lower than something that we might be able to live with financially. At the same time I just think it looks like we're not, you know, doing our our part of our job by at least setting our maximum exposure or limit. So I'm very supportive of all of this with the exception of I would recommend that we come up with what would be our maximum

number, recognizing that the county -- I believe the county would have the flexibility to choose anything up to that figure. smith, I see you wanting to jump in.

Excuse me, mayor. I just want to make sure and ask chris whitemeyer. The motion talks about the fourth bullet on the slide and the council member characterized that as leaving it totally open-ended and I wanted to make sure because something in my memory said the 4th was the up 2 percentage option, so I just want to make sure that the reference to the bullet on the slide was exactly what the council member intends.

As I understood, the description from council member martinez, that would be the last bullet, bullet 5 to specify whatever -- we'll agree with whatever the county specifies when they address this on or about december 23 or 30th, and that the mayor's proposed option is the fourth, or the second-to-last bullet, which is an up to percentage. That clarifies it?

It is. It's clarification of the motion I made, but I -- i understand what you're saying, mayor, but I want to make one other clarification, and that is that the legislation requires an actual dollar for dollar match, so when we say up to 50% of our property taxes, we're actually committing a dollar amount, and the county would have to match that dollar for dollar. So for us it may be 50%, but I believe I remember staff saying for the county there's a 14% difference. So it would be 64% for the county in order to matchus dollar for dollar. So I'm also okay with saying up to 50% or up to 30%, but just to be clear, 30% is not a direct matching number. It would be a dollar for dollar match, so if we said 30% and the county wanted to meet us at that 30% mark, they would have to actually give 44% of their general revenue.

Mayor wynn: understood. You know, we have so far a motion and a second on the table with additional comments that might ultimately end up being a friendly amendment. Council member leffingwell? well, I also have a concern about not setting a maximum, and of course I don't know what that maximum should be, and I'm also not too sure about how to word the language of it so that it accommodates the differential to make it a dollar for dollar, be a percentage for the county and for the city. But just for starters i would suggest as a friendly amendment that the city's top of range a 40% tif as a friendly amendment. so we have an amended motion and second on the table approving these items setting the city's maximum percentage tif at 40%, recognizing that the county ultimately now has the ability to choose anything up to that from a numeric standpoint. Mayor pro tem? I like the thrust of council member leffingwell's proposal. I personally would be more comfortable in the range of 20%, but -- 25%, but I think it might be important for us to understand the different fiscal impacts, say of 25 or 40%. I don't feel strongly about it. In the discussion this week among members, that a number in the 20 to 30% range someone heard -- I'm open to 40 as well, I'd just like to know the different impacts that we have. leslie, do do you-all have sort of the ability to --

it's on slide 7, mayor, at 10, 25, 30, 40.

In terms of the total revenue that's collected, and then we did attempt to look at just the average annual revenue that could potentially be foregone by the general fund, and i believe at 40% it was around \$600,000. And that's -- that's just an average over the ten-year period. Obviously it starts small and

grows over time. And it's the same with the tif increment as well. So again, the increment grows and the revenue starts small and then grows over the ten-year period. I guess my question is this shows the chart on slide -- the chart on slide 7 shows the combined city and county tif revenue.

Yes, so the city would ultimately contribute approximately half of that.

Council member martinez point out that actually there's a differential percentage to the county's homestead exemption, so we would have a little bit higher share, maybe, so for instance, to make it simple, say at 25%, that would roughly result in perhaps 6 million for the city and 4 1/2 million for the county or something like that.

We have not looked at -- we've attempted to roughly estimate it and we've focused really more on the increment that the city would contribute. So we've not attempted to go in and project what tax rates the county would implement or -- so we've just said that they would be roughly equal. And, you know, they could -- they could differ. These are -- these are estimates. will we be able to change this year to year or are we locked in? Once we started at 40 and --

I'm going to have to defer to the lawyers on that. They've considered this.

The answer is yes, the amount of the increment could be changed at a future date as long as there's agreement between the city council and the commissioners court after a public hearing to do that.

Mccracken: okay. I'm fine, then. we have an amended motion and second on the table approving these items with a maximum city tif percentage of 40%. Council member martinez? I will just close by saying that, you know, I realize that we have to be fiscally prudent, and part of setting a cap is being fiscally responsible, but I've -- you know, I've been on the council for two and a half years and I've seen us adopt tif after tif at 100%, seaholm, we do tax abatements, we do all these other things but when the one tif comes forward that actually invests in people and affordability, we start talking about being fiscally responsible all of a sudden and it rings somewhat hollow. But with that -- it's a step in the right direction, and hopefully in the coming years we'll increase that percentage amount up to 100% as we've done in many other projects. and further comments on our motion? Council member morrison. I want to say that I'm fully supportive of this. It's been, I think, very frustrating from the community's perspective that it's taken a long time, so it's really terrific to see that we're getting it in place this year. It's also frustrating from, I think, all of our perspectives understanding the crisis that we have in affordable housing, affordability, and we don't have all the tools at our disposal that we'd like. And so I'm just delighted that finally we're getting one more tool in place that's going to help some folks that are really challenged by affordability. council then coal. I'm going to be supportive of this but i think the comments that are made are concerning mostly the fact that it suggests that there's a real need for more education, more outreach. I mean, this is a voluntary, you know, today, in other words, if somebody owns their house, they don't have to participate, and I think that was evidently not clear based on some of the comments that were made today. And so I'd really encourage us as we do plow forward and assuming the county partners with us on this, that we do more to get the word out what this tool can

mean. council member cole?

Cole: yes, mayor. I would just like to emphasize that I have received calls and people have come to see me concerned about this legislation, not understanding exactly what it does, that we do need to do more outreach, especially in the african-american community there's been concern expressed because of historical reasons when the government acted in certain districts only that was for harmful ways and that were actually taking people's property. And so there's a concern that with the land trust that we're actually going to get property or take people's property, and we know that this piece of legislation is not designed to do that and will not do that, and we are acting in good faith, and we need to be sensitive to what some people's concerns have been and be reassuring and do that outreach effort. again, we have a motion and a second on the table approving this item with a 40% maximum city tif. Council member leffingwell? we hear on a fairly regular basis about suggestions about the homestead deduction, and i want to emphasize once again that the city's options are very limited. They're limited by state law as to how we can formulate homestead deductions. I also want everybody to know that we already have a homestead exemption, i should have said, for persons over 65 or people with disabilities, and that exemption is \$51,000 a year. That is an option that we could perhaps exercise to change if we chose to. For people, again, over 65 there's also the option of not paying your taxes at all. I believe, you correct me if I'm wrong, but a person over 65 has the option of deferring taxes indefinitely until the title changes on the house, and of course you got to pay interest of 8% on that, and if you go too many years there might not be much left. But I believe that is also -- also an option. And then I want -- you know, I'm very sensitive to council member martinez's comments, that we need to be investing in people and we need to put that at at least as high a priority as other tifs that we have done, and that resonates a great deal with me, but I believe i also understood in my conversations with the staff that there may be a problem if we start off with too high of a tif, that we may not actually be able to spend that money. I mean, the money has to be spent within the district and there may be -- there are some limitations on the options. So I think it is wise, at least in the beginning here, to start off with a somewhat reasonable number. And I don't -- you know, i don't have any -- any bolt from above telling me that 40% is the right number, but I'll just take a stab at that, and obviously I'm going to support the motion also. again, motion and a second on the table. Further comments? Hearing none, all those in favor please say aye.

Aye.

Mayor wynn: aye. Opposed? Motion passes on a vote of 7-0. Thank you all very much. So council, that takes us to 115, floodplain variance. I appreciate -- a staff presentation.

My name is kevin shunt. I'm engineering supervisor of the floodplain protection group in the watershed protection and development review item. The item before you is the floodplain variance request for a proposed development at 8204 and 8206 sandalwood cove which is located in shoal creek watershed. The city council granted a floodplain variance in 2007 that has since expired. The current request before you is a different development application. It's a new variance request. jeffry russell, the owner of the property, he proposes to demolish two existing houses and construct a new two-story single-family house that encroaches on the 25-year and 100-year floodplain of shoal creek. The owner initially requested a variance to eliminate entirely the drainage -- the requirements to dedicate a drainage

easement to the full 100-year floodplain. We had a meeting with the applicant this evening, as a matter of fact, and discussed this request. We brought to them a revised drainage easement document and they are in agreement with the approach we have, and I'll address that a little bit later in the presentation. In addition, the owner requests to increase the nonconformance of the property by increasing the total condition of the living area, the house, compared to the existing structures, and the proposed development will not have normal access to an area that is a minimum of 1 foot above the 100-year floodplain elevation. The 100-year floodplain depth surrounding the structure will be about 2 feet, and the depth of water in the street will be about 3 feet. There's a general overview of the neighborhood area. It's approximately 200 feet upstream of Steck Avenue. A closer view of the property and the proposed structure is highlighted there in pink. You can see that the structure and the lots are completely inundated by the 25-year floodplain, which is in dark blue, and the 100-year floodplain, which is in light blue. These are pictures of the two existing residences that are on 8204 and 8206 Sandalwood Cove that are proposed to be demolished. Here's a site plan of the proposed development. The foundation of the building is highlighted in pink with the single-family structure, and the garage -- the garage attached by a breezeway. A history on the variances on this property. Again, city council did approve a variance May 24, 2007. In general that granted them the ability to encroach into the floodplain, and it did require a drainage easement for that development excluding the footprint of the structure. The project never did receive building permits, and therefore the ordinance expired on June 4, 2008. Just a quick comparison on the variance from 2007 to the current variance request. Again, in general, the living space within the two applications, the current living space is a reduction -- a slight reduction from the previous application. The foundation footprint area is a slight increase. The impervious cover is being maximized with this current application at 45%. And again, initially, in 2007, the variance included the drainage easement requirement and now this variance that we're approaching you with actually does include the variance requested. Initially they were requesting a complete variance from the requirement, and now the request has changed. I was going to talk about the importance of the drainage easements, but again, staff has drafted an ordinance, which is in your backup, that includes the language to grant the dedication -- the dedication of the easement as required with the exception of the footprint of the structure. We've talked to the applicant and to the owner about a modified drainage easement language, and they are comfortable with a verbal agreement on how we could craft some language that we would be comfortable with as a city in order to get the protection of the easement and for them to be comfortable with having the easement on their property. In summary, the staff still recommends denial for this application. The two main reasons for that is that there's no safe access for this structure out of the floodplain. Again, the depths around the house of about 2 feet and in the street of nearly 3 feet, and also the additional occupancy in the floodplain. The living space compared to the two existing structures will be increased. Despite the fact that actually the number of bedrooms is being decreased from seven bedrooms to four bedrooms in the current house -- in the proposed house. Sorry. The applicant has agreed to build a finished lower elevation exceeding the minimum requirements of the city, and the finished floor would be about 200 feet above the 100-year floodplain, and again the drainage easement requirement as it's drafted in the your docs still remains because the draft ordinance as you see it requires the drainage easement excluding the footprint of the structure, and again, the applicant and the owner have reviewed that they are in agreement with it and they can speak to that as well. If there are any questions for staff, we're available and we do have staff

from the law department for questions if you have any. questions for staff, council? Comments? Council member martinez. on the -- one of the slides he said that the current application goes from 39% to 45%?

Correct. impervious cover?

Correct.

WOULDN't McMansions limit it to 40%?

The residential review staff has reviewed the applicant and they've determined that the way the application stands that the application is in compliance with McMansion.

Martinez: how so?

The 40% is actually the floor to area ratio, which 4, as opposed to imperfection cover, which can be up to 45%.

Right. Thank you. further questions of staff? Comments? If not, then we will conduct our public hearing. We have, kindly, only two people have ended up agreeing to speak. Earlier today we had 26, and for the record, all the folks who were have signed and said not wishing to speak and all in favor. Technically we have 48 folks who have signed up in favor, not wishing to speak, and we have two speakers. The first is jeffry russell and/or dal galet.

Good evening, for the record I'm dal galet. I represent the property owners, the applicant in this case. Also with me is jeff russell, the property owner, and he wants to make a very brief presentation after i make a few comments. This is the same property that you guys granted a variance for in 2007. It's basically the same project that was previously approved. There are some minor modifications, which I'm certainly happy to answer those questions. The reason it didn't happen for construction is there was a disagreement about whether or not certain things that were added made this a new project that changed the scope of the project, and then there was an honest disagreement about the scope of the drainage easement. Long and short of it, a year passed, so it elapsed, so we're back here today seeking the grant of a variance for this construction of a single property in this area. The rationale for that floodplain is right now we got two properties that are substandard from the standpoint that near in the floodplain and there's no safe access to the properties. The access from the street is going to be exactly the same as it currently exists. What we're agreeing to do is to elevate the properties above the floodplain, make them flood resistant. We also obtained a study and did a very conservative stuff I that basically elevated the entire structure of the entire lot to 1 foot above the floodplain and the conclusions from the engineers who are here today said there is no adverse downstream impact on the property. When we sought this application for a variance, we sought a variance from the requirement to grant a drainage easement. And that's the way we were prepared to go forward, and we honestly believe that this is not necessary because there is a drainage structure already on the property. There is a 40-foot drainage easement behind the property. We met with staff today and talked through the issue, and



they're primary concern relates to flow across the property. So in that regard, council, what we've done is we were concerned that this easement only restrict flow and not allow any construction of any drainage improvements. It's my understanding that staff has agreed to that, that there will be no improvements on it. Secondly, we wanted to have the fact, if by some fluke of nature or some drainage improvements come in the area, this property -- goes out of the drainage -- out of the floodplain, that this drainage easement could be amended to remove that requirement. It's my understanding they've agreed to that. Secondly -- lastly, we wanted to work with -- work with -- in crafting language so there would be clarification as to what actual structures could be put into the -- to the drainage easement. So what I would like for you to do is grant the variance that you granted last time and direct staff to work with us in coming up with a flow easement upon these terms as I've defined. With that said, I'll pause russell describe this project.

Thank you, mayor wynn, council members. I wanted to real briefly let you know how this changed since the last time. Everyone saw the benefits of the project last time. We're taking two houses susceptible to flooding by about two feet of water, shown here, and we're building a new structure elevated above it. Please ask me if you want to understand those better and I will go into them but for the sake of time I'll move to the next slide and show you the property. my machine isn't letting me start the clock. Thank you.

I will talk slow to make up for that. No, kidding. This is my second-to-last slide, so this will be great. This is the current design, and I've listed just kind of a broad category. Last time I was everyone was concerned about the condition space. We went to architects and made it smaller. It's smaller, and we have a lot of port space and things because that's important for green building. What's changed here and I'll click the mouse again to show you a comparison to the previous square footage. What's changed is yart features. I had yard features. We had trouble getting them in. We got agreement with the review staff and I got agreement that we can have these in the yard. In the drainage easement. That's going to work out. Someday we might want to have a pool. Our kids are lool so we wouldn't build that tomorrow, and a few walks through the yard and fence around the pool, just typical features you'd have. Rainwater collection tanks we'd like to have in the back. So those are the big features that changed since last time. They advised me to start over with a new permit to make this happen so that's what we're doing, and I'm asking you to grant the variances we need so we can build this house and so our growing family can live in a house that's elevated above this flood level. Thanks. thank you, mr. russell. Council, that's all the folks who signed up wishing to give us testimony on this public hearing. We will note the other 46 folks in favor for the record. Questions of staff for anybody? Comments? Council member leffingwell. question for staff about the drainage easement. It's my understanding that what is -- what we're talking about is an approval of floodplain variance that was approved two years ago, right?

It's a similar variance. The ordinances are similar. The differences are the building areas. the original request was that the drainage easement for that portion of the property in the floodplain that's not part of the building footprint not be considered a drainage easement. Now I'm hearing it called something else, a flow easement. Tell me what the difference is between a drainage easement and easement.

There is no difference. It was just a term used by the attorney, but it is -- it is a drainage easement. The first ordinance excluded the footprint from the drainage easement, and this ordinance excludes the footprint of the structure from the drainage easement. The only thing that has changed is we've talked about the form of the drainage things that -- and why we mentioned flow is that the easement, the drainage easement itself states it's for the flow of water. It's not to allow construction, and that's what the -- but all these things that were talked about, the pool, the pond, presumably sidewalks could be -- these could all be in the drainage easement anyway, right?

No. The pool and the rain barrels, especially the pool is something that without reserving their right to have a pool, putting that pool in the drainage easement, they might or might not be able to. It would have to be reviewed by our drainage staff to determine whether it impeded flow. So what they want is to have some assurance, so they're going to reserve their right in the future to have a pool of a certain size in a certain area in this drainage easement. That the drainage review staff says is the right size for this area. Is this normal procedure? Could anyone that had a drainage easement make that request?

No, it's not, but they did bring up, I think, some good points about what person would want the city to actually build a drainage structure in their front yard, and theoretically a drainage easement -- our standard drainage easement we're allowed to do that. Not that we've ever done it or it would be our intent, but that was a reasonable request. This applicant was just very concerned about, in the future, making sure that he and his wife complied with the drainage easement. There are other people who just sign the drainage easement and probably never thought about what it said and they just were very diligent and read it carefully and said, maybe these are going to cause me problems down the road and maybe they would. So I think it's a good improvement, I think it's a reasonable drainage easement form, and, in fact, I'm going to incorporate these into other --

so you think it's a positive improvement, something that will become commonplace going forward.

The pool is obviously different, but I think parts of what we're doing in this drainage easement will become standard for residential floodplain easements like this.

Leffingwell: thanks. further questions of staff? Comments? Council member martinez? mayor, I want to make a motion. We obviously granted a floodplain variance previously and we heard the testimony and thought that it could be a viable project, so with that and with the language that I believe staff is agreeable to, I will move that we approve the variance with the requirement to dedicate the drainage easement to the limits of the 100-year floodplain excluding the footprint of the house, garage, storage area and covered porch. motion by council member martinez, close the public hearing and approve this floodplain variance with additional comments. Seconded by council member cole. Further comments? Hearing none, all in favor please say aye.

Aye.

Mayor wynn: opposed? Motion passes on a vote of 7-0. Thank you all very much. Public hearing -- two

more citizens to go. Public hearing no. 116. Chapter 26. Welcome.

Item 116 is a chapter 26, which is a change in use. Normally I'd tell you it's a change in use in parkland. This item is a change in use in balcones canyonland. It's a piece we know as cold water canyon that we bought back in january of 1993. When we purchased this 427-acre tract of land there was a 13-acre portion severed by city park road. In that 13-acre portion is an existing ingress and egress easements in place since 1960. So 116 is a change in use to right-of-way. That right-of-way would be conveyed to travis county. It is still subject to the ingress and egress easement that's in place. The legal fact finding for this particular item is that there is no other feasible and prudent alternative to the taking of the balcones canyonland preserve and all planning to minimize harm has been addressed. thank you, ms. plumber. Questions for staff, council? Staff. We do have a couple folks who want to give us testimony on this. Is carol lee still here? Hello, carol. And is lazet, schmidtly? I hope I pronounced that right. You have up to 6 minutes and to be followed by chris to to fer sloafer.

Good evening. My name is carol lee and I'm a resident in the glen lake neighborhood which is down city park road from the location of the request. The request before you tonight is to ask them to 08 acres to property to travis county for right-of-way. .048 Acres is not very large, and it may seem like an insignificant request, but this action will impact at least a couple hundred acres of confirmed golden cheek warbler habitat so the ramifications are large. And I appreciate your consideration. This property has been used as an easement for a private access road to two homes for years. It's a little caliche road off city park road. What's not described with this request is that it's being made to you to convert it -- convey it to travis county and convert it to right-of-way to provide ingress and egress to a subdivision, and that's going to be quite a different use than a private access easement to two homes. The landowners and developers of the web estate subdivision will realize significant economic gain with the conveyance of this property to right-of-way. The city of austin has an opportunity here and an obligation to citizens to negotiate a better deal. I'd like to briefly describe just two facts to make sure that you also understand with this request, this area is rated by city of austin as an extreme risk for wildfires. The subdivision will be served by travis county sd 4, which has no plans for increasing resources. As it's currently proposed the conveyance of this 048 acres of bcp land is going to allow a single-access driveway that's about 6700 feet long. That's more than five times the desired length of what the city of austin's standard is for single-access roadways, and having only one access to the windy and narrow city park road creates a severe public risk to the residents, responders and increases the risk of fire to the cold water canyon preserve. The second fact I wanted to make you -- make sure you know about is that the park and recreation gap analysis for this area is very, very deficient in parkland. This year I've worked with ricardo so liz at parks and rec to understand the parkland dedication program better and try to figure out how we can solve that deficiencies. Since 2001 there's been a dozen applications processed in the city park road and 2222 area there, and no parkland has been added. We have, of course, the treasured emma long metropolitan park at the end of city park road, which is quite a distance from most of the residents, and the \$8 a vehicle entry fee does not really provide a neighborhood community gathering spot. So with that I'd like to ask that if you are so inclined to authorize the conveyance of this bcp property, that you consider making it conditional on a couple things, and that is that the web mountain drive portion that this little piece of bcp property will enable either be limited to a maximum of 30 residential lots, which is the travis county fire code standard for

how many dwellings they can serve on a single-access road, or that there be an enforceable agreement with all required parties to provide a secondary access. The second condition that I'd like you to condition is that the developer satisfy the parkland dedication requirements by conveying to the city one acre of parkland adjacent to this 13-acre tract. That would allow for some public benefit from the loss of these bcp lands. The bluff area of the 13-acre bcp property is an elevation of 950 feet, so it provides some scenic views and it's used by students very frequently to explore the geologic formations of the edwards plateau. It's very accessible by city park road and would be a valuable addition to the city's requirements of providing parkland for area residents and protecting the scenic views for the public to enjoy. And so with that -- with this particular development the city really has an opportunity here to obtain some true value in exchange for true value that they will receive from this conveyance. It would be at no cost to the city and still enable the landowner/developer to realize significant economic gain in return for the conveyance. So by requiring these additions -- these conditions, you have an opportunity to improve the public safety for residents, help satisfy the need for area parkland and preserve the scenic vista for the citizens and visitors of austin to enjoy. And I would just like to show you -- we wanted to get out and take a picture of the bluff, but it was so foggy that you couldn't even see downtown from downtown the last few days. So I'd just like to show you the part that is bcp and what possibly could be served as parkland. well, your time has expired. You can put it up on the screen for us while we call christopher sloafer up to give his testimony. Welcome, christopher. Can.

Thank you four time, thank you four dedication. Iblght believe you-all stay here so late. I didn't know these council meetings lasted so long. we're just hitting our stride. Are you kidding?

The reason I'm here is twofold, along with the same reasons we were just discussing. I own the 40 acres adjacent to the tract we were just discussing and it's currently under a conservation easement in the balcones canyonland preserve for the warbler habitat. I also have 65 acres in oak hill that's under a conservation easement run by the city of austin, but with both of those I've been, i guess, become somewhat of a -- an expert on the way these things work, and i just -- when I saw this and I just found out about it yesterday, I was confused because for -- for three reasons. One, the valuation, \$350, 05 acres, seems ridiculous. I know what I paid for three quarters of an acre on my 40-acre tract and I can only develop three-quarters of an acre and it's significantly more. I tried to buy land from the webb estates just to prohibit building on it because it's adjacent to mine and they want hundreds of thousands of dollars per acre so I didn't understand the valuation. It kinds of threw me off. 2, I know in the construction of my house on the 40-acre tract, if you see the picture it's 40 acres in the middle of the webb estates, or the proposed webb estates, but it's my understanding that they're completely landlocked, that you own in the land in the front, I own the land to the left and the left of the land is in the preserve as well with the exception of a small point in the back which is river played mud. So I don't know that they can develop this land unless 04 -- or .05 acres over because it's restricted to two houses right now. And so I guess my concern is, one, how we can say in chapter 26 that by conveying this we're not doing harm to the tract, because it is part of a larger tract that is part of the preserve. I don't know how we can look at that and say it already has a right-of-way easement. It's going to continue to be a right-of-way easement, because you're not talking about two houses. You're talking about going from two to four trips a day to 200 trips a day to service the proposed 70 houses that are there. Two, when I was building my house I was limited to an 18-foot driveway, so even though I have three legal

lots, even though I've got 40 acres, I can only build one house, and I was limited to an 18-foot driveway. The city requires a 20-foot driveway. Well, the city will move and let me go down to an 18-foot driveway, but the county and the bal -- and the fish and game wouldn't let me go up to 20. So I guess my point there is that the reason behind that is they felt that that one to two foot of driveway adversely impacted the habitat, which is the purpose for that balcones canyonland preserve and the coldwater canyon tract. So I don't know how taking 1/20 of an acre is any worse than me taking two feet. If they're worried about the buffer zone and they're worried about 1 to 2 feet, then they are definitely going to be worried about a dirt road going from two houses to a roadway that services 7 -- or 70. So I guess that was another concern of mine. And then I saw the unforeseeable financial impact. There's 200 acres of land that are directly impacted by this subdivision as a result of the city conveying this key area. 200 Acres of preserve land, 50 of which is part of the franzeti tract, which is mine and the cold water canyon tract that isn't even part of the web's estates. So by conveying this little bit I piece that seems like an insignificant amount, definitely has some unforeseeable financial impact because to replace that or to get that back it's going to cost millions of dollars. 05-acre transfer for a right-of-way. It's a gateway to build a huge subdivision in the middle of a preserve that we spent millions in taxpayer money to develop. So that's it. Thank you for your time. thank you, mr. silver. So council, that's all the folks who wanted to give us testimony at this public hearing. Question -- comments, questions for staff? plumber, did you hear anything that you feel that you need to correct or --

I do want to clarify that this area is in what we call the bcp utility corridor, and those corridors were aligned along roads, and this particular -- when you have the bcp utility corridor, that's been mitigated in within your permit. So when we look at the first time when we were approached by travis county, we made sure it was in the bcp utility corridor. And I thought that was maybe a point that needed to be clarified. council member shade. is this something that the advisory committee looked at for bcp as well?

No, ma'am, I worked with lilly conrad and we went back to the original permit and made sure it was in the bcp utility corridor. It is impacted by the ingress and egress easement and that was the second consideration that we looked at with this request. council member morrison? I'm -- can you explain how you came up with the appraisal of it being worth \$355?

Yes, ma'am. We looked at -- we have our chief appraiser, one oldrag, looked at this. The biggest impact to value is it cannot be developed. It's an ingress and egress. That's been in place since the early 1960s, I believe, and we purchased that property subject to that easement. So that's the biggest impact to value. And it is about 11 feet from the road, so development potential doesn't really apply to this particular piece. well, in a way, if you-all consider what the gentleman was talking about, if I -- I mean, if I were the owner of the land that's undevelopable because of this, I would certainly pay more than \$355 for it. So that's not really a consideration that our appraisal takes into account.

No, ma'am. And then I also have a -- and then I also have a question for the chapter 26. There's the test that comes down to the conclusion that there's no feasible and prudent alternative to the use of this tract. Isn't one alternative just to leave it alone?

Yes, ma'am.

Morrison: okay.

Yes, ma'am.

Morrison: all right. I guess I'm concerned -- I'd really like to get, as council member shade sort of raised, having the advisory committee take a look at it and give us a recommendation and an assessment on the use of it, so I guess -- I don't know if there's a timing issue going on right now with this, any pressing time, and I don't know what their schedule is, but I would like to make a motion, I guess, to kick this to the bcp advisory committee. Is that the name of it?

Uh-huh.

Morrison: okay. And ask them for their recommendation. well, no, we have a bccp coordinating committee that's chaired by council member leffingwell. There's two members, council member leffingwell and this week travis county commiss dougherty. I chaired that for seven years. These would always come to the coordinating committee first, I thought, to then get our briefing, and then we would send it to the council and to the county commissioners court. Has this been to the bcp --

no, sir, the determination when I worked conrad --

because it's in the utility corridor?

Yes, sir.

Mayor wynn: all right. I guess I'm getting a little confused. Isn't there another committee that I think maybe a parks board representative is on with regard to the canyonland? no, there's a coordinating committee that council member leffingwell now chairs. Scientific community --

there's a scientific committee -- I know there's a scientific committee. There may be a citizen committee. citizens advisory committee and there's a scientific advisory committee and then there's the coordinating committee, and I -- I think I agree with your suggestion that we send that through some kind of process, and I would like to have the scientific advisory committee opinion on it and send it to the coordinating committee.

Thank you for clarifying that and I guess I'd also like to have the citizens committee look at it because I believe the parks board chair is on that committee, so it seems like that could be a good perspective.

Leffingwell: yes.

Morrison: thank you. so motion and second on the table to close the public hearing and ask that the bccp coordinating committee properly route this to both their citizen advisory and scientific advisory

committees. Does that seem appropriate, mr. nichols?

Yes. so we have a motion and a second on the table, sending this to the bccp coordinating committee. Further comments? Hearing none, all in favor please say aye.

Aye.

Mayor wynn: aye. Opposed? Motion passes on a vote of 7-0. Thank you all very much. No. 117.

117. This is also a chapter 26 change in use, but this is water quality and quantity land. This is 741 square feet. This is a piece that is a narrow strip of land. It would be conveyed to the adjacent property owner. If there's legal fact finding on this particular piece is there is no other feasible and prudent alternative to the taking of the dedicated parkland -- not parkland, excuse me. That was habit. Water quality and quantity and all planning to reduce harm to be taken into consideration. This 741 square feet allows us to move the fence adjacent and you may see in your backup the map where it's kind of a long skinny narrow piece, and that request came in and it is not a piece that is usable as part of the quarry quality and therefore we're bringing this item forward. questions of staff, council? Comments? We have no citizens signed up wishing to give us testimony. Council member leffingwell? mayor, I'll move to close the public hearing and approve the resolution for the change in use. motion by council member leffingwell, seconded by council member martinez to close the public hearing and approve this resolution regarding use. 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. thank you all. So council, that just leaves us now with item 36 and 37. Both related eangs to the peninsula annexation. -- Essentially to the peninsula annexation. I'm advised we need to take up legal issues regarding those two items in closed session before perhaps taking action in public. And so without objection we will now go into closed 071 of the open meetings act to take up items 36 and 37, legal issues regarding the peninsula annexation issues and areas. I anticipate this being probably a half an hour closed session discussion at which time we'll come back out and either adjourn or take action. We are now in closed session. Thank yo. Westlake drive item 36 and 37, discussing legal matters. We have now ended our closed session agenda for the day. Council, the last two items we have on our agenda are items 36 and 37. I will entertain a motion. motion by council member martinez, seconded by council member shade, to postpone these two items, item 36 and 37, to our thursday january 29, 2009 meeting. Further comments? Hearing none, all those in favor please say aye.

Aye.

Mayor wynn: opposed? Motion to postpone passes on a vote of 7-0. There being no more business

before this member of the city council, we stand adjourned. It's 10:22 p.m.

**End of Council Session Closed Caption Log**