

Closed Caption Log, Council Meeting, 01/15/09

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thank you, pastor. There being a quorum present, at this time I will call to order this meeting of the austin city council, it is thursday, january 15th, 2009. We are here in the council chambers of the city hall building, 301 west second street. Approximately 10:22 a.m. Before we get started, in the business I would like to -- I would like to one, remind everybody, today martin 's 80th birthday. This essentially kicks off our mlk weekend celebrations here in austin. There are a handful of smaller celebrations and events over the course of the weekend. On monday, when we celebrate king's birthday formally, as a city holiday and many others, do know that we have our annual mlk 00 in the morning I believe at the mlk statue on the university of texas campus, generally proceeds to the capital building. there are festivities on the south steps of the capital. From there the march proceeds over to houston tillotson university. Because of that, of course, there are a number of road closures, we do this in sort of bubble format. Once the parade and celebration passes, then the roads open back up. Approximated elect obama has asked all americans to join him on monday actually in a day of public service. Serving others in the community. So even though I do encourage you to attend some of the formal celebration, including our march and celebration. I hope that you will join me and my daughters as we figure out what -- what service we can provide on monday for our fellow citizens and encourage everybody to have a -- have a safe and fun celebratory weekend coming up. People ask -- I saw the memo that although it's the city [01:26:00] of austin holiday, all of our offices will be closed on monday. A number of services will still be provided. Everybody always asks about trash and recycle and yard trimming collection. That will continue on normal schedules. So if monday was your day for garbage and/or recycle collection that will occur, but all other city offices essentially will be closed on monday. 2007 So, council, let's see. We normally take this time to -- to alert our colleagues and staff and/or the public to -- to a potential upcoming items for council or other sort of public issues. In the near foreseeable future. At this time I will ask if anybody has any potential upcoming items from council. Thank you all. Hearing none, what I will do now is read into the record our changes and corrections to this week's p agenda. 13, we should note that this comes recommended by the water and wastewater commission. We should note that item 14 has been reviewed by the and small business council subcommittee. 24 we should insert the additional conditions that this is for a total contract amount not to exceed \$180,000. 29, we should note that this is in an amount not to exceed \$97,641. 39, we should note comes recommended by the austin airport advisory commission. We should note the -- the -- the fact that item 65 is [01:28:00] related to item 70. Not 69. And that item 66 is related to item 67, not 66. And item 67 is related to item

66, not 65. And that -- a -- item 70 is related to item 65 and not 64. Generally we just do those on the agenda so folks can quickly reference another item. Items that are taken up jointly. 75 we should correct the zoning case number to read c 14-2008-0052. 82, we should insert the phrase on approval of second and third reading. And note that first reading WAS APPROVED OCTOBER 23rd, 2008, By a unanimous vote. 93, we should note that -- that the planning commission will review this CASE ON JANUARY 27th, 2009. I anticipate that might be postponed later today. 98, we should -- this is the mets center pda amendment, we should insert the phrase staff recommendation is deny limited investor neighborhood plan or lipdanp combining district zoning to change a condition of zoning. Also insert the phrase the planning commission recommendation is to deny again limited industrial service plan development area neighborhood plan or lipdanp combined district zoning to change a condition of zoning. 98 that will be taken up this evening. 103, we should note that it comes recommended by [01:30:00] the planning commission. We met just this week, JANUARY 13th. I believe that's all of our changes and corrections to this week's posted agenda. Our schedule for today here as soon as we get through our consent agenda whereby we likely will unanimously approve the vast majority of these items on our agenda, i will take up any potential discussion items, I think we will have one or two. Then at noon we will have our normal general citizens communication, where we hear from 10 different citizens signed up during the course of the week. 00, we will have our afternoon briefing today -- today's briefing is on the hispanic or latino quality of life initiative. Get a briefing from staff on that. , technically, we will recess the city council meeting and call to order the austin housing finance corporation, board of directors meeting and take up that short agenda. Then we will reconvene as a 00 begin all of our zoning matters. 30, As always, we break for live music and proclamations. Today's musician is jeff lofton, so I encourage you to stay tuned. And sometime after 6:00 p.m. We begin our public hearings. So, council, so far, we only have two items pulled off the consent agenda. 50, related to the zero waste plan has been pulled as there's I think going to be some -- some motion to -- to expand or amend the backup resolution to that plan. 70, technically, is pulled off the consent agenda as a posted action item related to -- to executive -- executive session discussion. We are posted to potentially take that up in executive session. If there's not -- later on in the council doesn't have the need to take that up in executive session, then we [01:32:00] will take -- we will call up 70, perhaps sooner rather than later. Council, any additional items to be pulled off the consent agenda. Before I put those in numerically? Councilmember cole?

Cole: Mayor, I don't have an item to be pulled off the consent agenda, but I do have a motion to change the language to an item on the consent agenda, number 60, would you like that now?

Why don't we get a motion and a second on the table for the consent agenda and take that as a potential amendment.

Okay.

Thank you.

Mayor Wynn: Again, any additional items to be pulled off the -- off the agenda before I propose a consent agenda numerically? If not then -- bear with me on this, our proposed consent agenda will be to approve item 1, our minutes from our previous meeting, from austin energy to approve items 2, 3, 4, 5

and 6. From our austin water utility, to approve item 7. From our aviation department, approving items 8. From our communication and technology management department approving item 9. From our contract and land management department approving item 10, 11, and 12. We will be approving items 13 and 14 per changes and correction. Also approving item 15, 16, 17, and 18. From our economic growth and redevelopment services department, approving items 19 and 20. [01:34:00] From our health and human services department, approving items 21, 22, 23, and 24 per changes and correction. From our law department we will be approving item 25 and 26. From our neighborhood planning and zoning department, approving item 27. From our parks and recreation department, approving item 28. From our public works department, approving item 29 per changes and correction and 30. From our purchasing office, approving items 31, 32, 33, 34 35, -- 34, 35, 36, 37, 38, and 39 per changes and correction. Also approving item 40, 41, 42, 43, 44, 45, 46, 47, 48, 49. We will be approving from our transportation department, items 51, and 52. We will be approving item 53, which is our board and economics appointments, that I will now -- board and commission appointments that I will now read into the record. To the african-american [01:36:00] resource advisory commission, candace wade is nominated by councilmember cole. To the austin community education consortium, suke steinhouseer is my nomination. To the downtown commission, james moody is my nomination. To the planning commission, gerado castillo. To the robert mueller commission, michael jones is councilmember cole's nomination. To our sustainably food policy board, I've nominated allison beetle, mayor pro tem mccracken nominated terry buchanan, councilmember cole has nominated ellen sweets. To our waller creek advisory committee, councilmember cole represented joe bolash representative of the hotel association and joe webber representing the downtown austin alliance. Those are our nominations, board and commissions, item 53 on the consent agenda. We will also be approving items 54, 55, 56, 57, 58, 59, 60, and 61. And we will be setting the public hearing for our future meeting by approving item no. 62 much. Item no. 62. Council, that's our proposed consent agenda, I'll entertain a motion of approval as read.

So move.

Motion by councilmember cole, seconded by councilmember shade to approve the consent agenda as read. Council, we do have a number of citizens who want to give us brief testimony on items [01:38:02] on this agenda. But perhaps before I do that, if -- if there are council proposed amendments to an item, perhaps it might make sense for everybody to hear those before we get citizens comments. Councilmember cole?

Cole: Yes, mayor. 68 dealing with the integration of the lions municipal golf course, the last whereas should read whereas this distinction marks the integration of the lions municipal golf course as a public golf course in austin.

Mayor Wynn: Thank you. So I will consider that -- excuse me the maker of the motion on the consent agenda, I will consider that part of the main motion, councilmember shade do you concur with that? Great, we still have a -- we still have a motion and second on table approving the consent agenda as read. Without objection, council, I would like to take citizen comments first before we then hear from all of us. So -- so we have a couple of folks that have signed up -- on our signup table out there, you can

check if you are for an item, against an item or only want to speak if council has questions. A couple of folks have checked that box, for instance, william adams checked that box on item no. 1, The minutes from our last meeting. So I want to make sure that adams -- declines to address us on item no. 1. I doubt our council has any questions about our minutes. Mr. adams, thank you. 2, related to our austin energy advertising package with the austin american-statesman, barbara lowe signed up in favor, again wishing to speak only if we had questions about the item of her, ms. lowe. I will note your -- support [01:40:01] for the record. Thank you. And let's see. 7 relates to -- to our -- which I will speak to later because there's a 7 and 57 relate to our proposed walk for a day project. bill bunch signed up wishing to give us testimony on this item, number 7. I saw bill earlier, mr. Bunch? Would you like to come address us or --

> [indiscernible]

Mayor Wynn: On item 57? Thank you, I will get back to you then. Okay. 21, gus pena signed up wishing to address us on item 21 and 22. 21 Related to an after school program and 22 an issue with our mhmr board. Welcome, mr. pena.

Good morning, mayor, councilmembers, gus pena, happy new year to you. Good to see you all again this new year, thank god for allowing us another year. 22 I want to speak to you about the issue of funding for mental health treatment for specifically for youth at risk. I used to work with travis county juvenile probation department. card here, I was a counselor and worked with the austin travis county advocate program. What this program entailed was working with juvenile probationers, assisting them in getting them to different appointments, meetings, to deal with their issues and that they met their conditions of probation. One of the things that we are noticing right now, mayor and councilmembers, city manager, you all need to know that anger management, it's called now bipolar disease or affliction, it's an ongoing increasing issue in our [01:42:00] community. It's just not a specific part of the segment of the population, it's everywhere. I will be honest with you, it is an ongoing problem, it's a growing problem, it needs to be specifically, aggressively addressed. A lot of our kids and youth, for whatever reason, whatever situation in their family structure are having problems dealing with anger management problems in school, you can speak to the teacher, you would hear this [indiscernible] in some of our campuses. I want to thank you all very much for working with the austin travis county mental health and mental retardation center. Dave evans the director is a friend of mine. We need a lot more funding because we're going to see an increase, we're seeing an increase in kids having problems with anger. Thank you all very much for that. Also for adult treatment. Homeless population, working with some of the homeless veterans right now, we see a lot of anger management for the family situation in the community, lack thereof. But anyway you are going to see an increase of need for more funding. That's all that I have to say. I want to thank you all very much for appropriating, allocating funding for these necessary, very important items on the agenda. And I will address the other pertinent issues under citizens communication. Thank you all very much.

Mayor Wynn: Thank you, mr. pena. Let's see, also, council, -- number 28, resolution adopting the barton springs pool master plan, we have a bunch of folks who have signed up in favor of this item, not wishing to speak. A handful of folks who are here to answer questions if we have them, including robin cravey

who we have been in discussion with for a couple of years on the project. Bill bunch has signed up wishing to speak on this item, mr. bunch? Is andrew hawkins still with us. Bill, you will have up to six minutes.

Is this all of my time for the consent agenda?

Mayor Wynn: No, sir, I'll call you back up. [01:44:00]

Okay, thank you. I appreciate that because i was concerned that on the pool plan it certainly deserves a full public hearing and the last time it was before you was just on a briefing. It's great to be here, 2009, next week we get to celebrate change in washington. I hope we will soon be celebrating change here in austin as well. And that -- that specifically means really thinking hard about our own priorities and how maybe we need to revisit what those are. With barton springs, we're in a critical stage drought. Springs flows are streamly low -- are extremely low, we could actually be facing closing the springs to inadequate spring low. Enough water permitted for pumping that the springs could literally be pumped dry. To my knowledge, this city is not spending a single penny on protecting barton springs flows. Certainly the barton springs district is the primary entity charged with managing pumping. From the aquifer. But they lack the resources to do the job. And what's needed to reduce the pumping pressure on the aquifer. We need this city to act immediately for a plan to protect flows at barton springs. This community has been asking this council and previous councils for a few decades now to protect water quality. We're in a bust. We have a unique opportunity to buy lands that were slated for pavement. And development. In this extremely vulnerable watershed. We should be doing everything we can to seize this opportunity. To buy these lands. And prioritize our spending on protecting these lands. And yet you are presented with a plan that's called a master plan, and abuse of [01:46:02] the english language, because this plan does absolutely nothing to protect the quantity or quality of flows at barton springs. And yet it envisions us 2 million for phase 1 and perhaps tens of millions more down the road for developing the immediate area around the springs. At the same time, our day to day operation and maintenance of the springs go underfunded. So a lot of these proposals in this plan are really third tier priorities. Yet they seem to be getting the bulk of the funds. So I would urge you, I know that you have redrafted your resolution on the plan to -- to underscore that you are supporting the resolution from the joint environmental and parks board subcommittee. That this document is really just a starting point for further discussion. That's really important -- important. But then the bottom line of the resolution says you are adopting the plan. Sore it seems to me like university trying to have night and day at the same time. The public process for this plan was severely broken at the outset. A lot of key decisions were made behind closed doors with a small group of people at the outset. The communities -- was never engaged to really get involved and think about collectively and in a cooperative fashion what is a good vision for -- for the future of the springs and its immediate environs. I certainly hope that can happen now with oversight of the joint committee. But given this resolution as you have written it says that you are adopting this plan, we can't support it [01:48:02] and we urge you to rewrite it to emphasize that -- that you are accepting this as was recommended. This ties also to the walk for a day issue where again we're concerned about looking at spending a whole lot of money, developing our watershed protection lands. When our priority, especially during this economic downturn, should be in acquiring more watershed protection lands rather than developing the ones that we have. There are landscape

architecture firms across this country that have worked with our national parks system, with state park systems, that would kill to come and work with our community, with our community of landscape architects, with our parks goers, with the university of texas and their -- their community regional planning program in the school of architecture. But none of them were invited to do so. This plan was handed to -- to a local firm on a rotation list for routine architectural services. Now, to equate the crown jewel of austin as -- its planning with routine architectural services is an insult to the springs and to the community. I think as a result we have one plan with one set of ideas that was basically jammed through and down the community's throat. We really need to step back, reopen this process and invite a community process and invite the best ideas from around the country as to what a vision of barton springs should look like and hopefully that would be one of restoration, of the native and natural beauty of the springs. Its native biodiversity [01:50:00] rather than one of further suburbanization or urbanization of the springs. Thank you.

Mayor Wynn: Thank you, mr. bunch. Council, in addition to mr. Bunch [applause] a number of folks are here, not wishing to speak or here to answer questions if we have any of them. All in favor of the plan. .. [Reading names] all in favor of this item 28. 29, and 30, both -- both are related to -- to bike improvements here in austin. 29 Technically is the -- is the interlocal agreement 's ctr to do the bike lane study. Item 30 is the list of campo stimulus package products. We have a number of folks signed up again not wishing to speak or here to answer questions if we have them. For the record on item 29, our bike lane study, rob b [indiscernible] sorry, rob. Chris riley, tommy eden, [indiscernible] and robin cravey are all here signed up not wishing to speak but in favor of item no. 29. And item 30 bill bunch signed up wishing to speak, neutral, but again rob, chris riley, [indiscernible], robin cravey and will [indiscernible] not wishing to speak in favor. bunch, if you would like to give us testimony on item 29, the campo stimulus package we could take that. Thank you, we will certainly show your interest in the item.

Council, a number of folks are here to speak, again we have taken that off the consent agenda as we anticipated a fair amount of discussion about that, the zero waste plan. [01:52:01] I anticipate us taking that up here in a few minutes after we approve the consent agenda. Our number of items from council that have a couple of folks that wanted to speak, item 54, is a -- is an item from council related to our recently approved oak hill flum or future land use map, cecilia rodriguez signed up wishing to give us testimony on item no. 54. Is mr. rodriguez here? Welcome. You have three minutes, welcome.

Good morning, everybody, my name is cecilia rodriguez, I live in the west creek subdivision in a single story home adjacent to 6110 hill forest. I want to ask you to make things right and approve agenda item 54. This will begin the process of allowing the land use designation for 6110 hill forest on the oak hill neighborhood plan to be changed from sf 6 back to sf 3, where I believe it legally should be. On december 11th you all had approved item 96, the oak hill neighborhood plan. It was closed, leaving 6110 hill forest at sf 3. The west creek supporters from my neighborhood then went home, thinking everything was fine. After that, councilman martinez proposed an amendment where he inaccurately asked that the property be changed from sf 5 to sf 6, when it was actually the sf 3. I think many of you didn't realize that you were voting on the same property that you had voted to remain sf 3 since he had also mentioned the property by tract and not address. Councilmember martinez, i respect that you are sponsoring this agenda item along with council woman morrison to help correct the error. Our

neighborhood has been staunchly opposed to [01:54:01] increasing the designation of the property above sf 3. Many of us have attended meetings and written letters to you during this entire process, for the oak hill neighborhood plan asking you -- giving you many reasons for keeping the property at sf 3. And we're upset that the last minute amendment to item 96 from a december 11th agenda was not rescinded because of the inaccuracies that were given as it was presented and the fact that it was presented after the item was declared closed. Our neighborhood was not given the chance to give our input. This is a breakdown in the process of government. I would hope that other neighborhoods don't have to go through the same thing. It was supposed to have been concluded on decem 11th, SO I WAS VERY UPSET About this. Anyway, we will do our best, though. We will do what we need to do to preserve the quality of our neighborhood and insist that any structures that are built there be compatible with our neighborhood and high density zoning and in the mill of our neighborhood that allows for three story units is simply not compatible with our neighborhood and it would be a huge infringement on our privacy. Again, I ask you to approve agenda item 54. Thank you. Let me see, council, on item 55 regarding what I refer to as just the sort of sound zoning -- sort of zoning issue, item 56 our music department resolution, a bunch of folks here in favor, most not wishing to speak. But without objection i would like to just go ahead and call up these two items combined as is the same folks who want to speak to both 55 and 56. I think we have four people wishing to speak, which allows us to keep it on the consent agenda. My instinct is that they had an order that they might want to go in. [01:56:00] I think paula leasey who chaired the task force would like to speak last. Perhaps either troy dillinger or craig berlin or brad stein might want to come forward. A number of folks signed up not wishing to speak on both items 55 and 56. State your name for the record and we'll limit it to three minutes. mayor and councilmembers.

Thank you, my name is craig berlin, an austin resident since 1981, former working musician, owner of pro tape systems. We are a supplier to the pro video, audio, film community and -- and recording industry and live music industry. I want to thank you in advance of those of you particularly who have supported the live music industry all of these years, I want to apologize for not being more involved in the discussions, ongoing on these issues due to my involvement at the state level of the texas motion picture alliance, an organization fighting to bring better city of san antonios to the state so that -- better incentives to the state so that our film industry can be resurrected. Regarding the establishment of the office and the music office with the city and the other issues that are -- that are ancillary to that, I would like to state that -- that 15 years ago, i was involved in forming an organization called the texas music association. Our focus at that time was -- was that music is business. And that jobs are created by business. And while some people view these things purely as artistic endeavors they create jobs and people are fed. Everything is true today as it was in the past, yet the [01:58:00] quality of life for musicians has become increasing a struggle. In addition austin is in danger of losing its population designation as the live music capital of the world in terms of the reality of how that actually works in promoting the quality of life for the people who are involved in it. While I no longer actively work and play music myself, I am actively involved in supplying the recording industry and the live music industry. And I -- I deeply support the efforts of the city to help coordinate as has been done in other cities such as chicago and new orleans, to actively participate in facilitating the -- the good business that music can be done. Where there are issues with zoning, where there are issues with -- with music levels, where

there are any issues related to music, i think that it has been demonstrated that having an austin film office, having state offices related to music, and film and video has been beneficial in coordinating efforts to improve business transactions that are done related to this particular industry. So I want to enthusiastically support both items 55 and 56, that will first review the -- the regulatory operational and enforcement requirements for music venues, but far beyond that I feel very strongly along with save austin music and the music task force and other supporters [buzzer sounding] that the creation of the city music office would be streamly beneficial for the entire community and thank you for your time. And your efforts in this correction. Troy dillinger, welcome back, followed by gary [indiscernible] followed by paula basey.

Good morning, council, my name is troy dillinger, founder of austin music. Let me say first for planning 2008 the year of austin music giving birth to our organization. Thanks, also, mayor for sponsoring this move to create the music department. martinez and ms. cole for sponsoring 55. What I would like to say is that this is a big day not only for music in austin, but for increasing relations as austinites. Save austin music has a guiding motto, which we urge each councilmember to adopt. It's bad for austin music, it's bad for austin. It's no secret that our relationships with the neighborhood groups have been bad for a long time. And we hold ourselves to this motto as well. We know that we have to stop being bad neighbors. The issue created by a few bad neighborhoods, impacting the -- we have to stop reacting as a -- item 55 will potentially allow all involved parties to mutually heal a decades old wound which created contempt and separation in our community and as a representative for a large portion of our music industry I would like to acknowledge our historic lack of communication and presence when others are trying to solve problems that we helped create. We are also excited that in the next six weeks we could see the creation of a solution that's fair to both music and to our neighbors. So that we can move on with tackling the serious emergency which our industry faces. We are facing an emergency. Austin musicians and other in the music related businesses face the same downturn everybody else is facing in the national economy, but we also face a downturn in the international music industry and then at home it's terrible for us as well. Worry getting hit on every side. We're getting hit on every side. One of the biggest jewel in austin's crown is in serious danger, it's not only going to take our industry's efforts but a strong commitment from the city to save this precious local resource. Speaking of wish, I'm an austinite since 1975 and I've spent countless hours relaxing at barton springs. And I'm excited about the [indiscernible] that's going to take place at barton springs, our -- the facelift, our local industry needs a similar facelift. Live music gives enjoyment, respite to thousands of austinites and tourists every day of the year. Like barton springs we are one of a handful of treasures that make austin a better place than anywhere else in the world to live. We haven't had a strong commitment from council to our industry and we need that. Today, council, you are going to take -- to take a move that will help us to do did 20 years ago, we are on the forefront of creating community that can work with you on that. Boy, I have so much more to say [buzzer sounding] but I'm out of time. Quick note, I would like to say as we create this music department let's include experience city staff and let's head hunt for -- for a -- for an accomplished member of the international music industry. So that we avoid the pitfalls that we have seen and let's take this thing from being a failed good old boy network to a player on the national market. Thanks for your time. And your commitment.

Mayor Wynn: Thank you, troy, for all of your work, gary signed up wishing to give us testimony.

Welcome, gary. You, too, will have three minutes to be followed by [indiscernible]

mayor wynn, good to see you again. Councilmembers. Just a few brief things that I would like to comment on. This means a lot to me. And my appearance here today probably is evident of that. But I want to applaud the code and the ordinances is a living document. The codes is a living document. It needs to adopt and evolve as the changing situation as the -- as the situation with the music in our town evolves. I'm glad to see and i applaud the effort to although at the outdoor music venue permit, ordinance and the sound and noise ordinance in general. I would like to say that i think that it's very critical and important that -- that we make sure that -- that this is not done in any sort of an anti-competitive way. That measures are not part of the ordinance. Or the process or the timing of the process. I will briefly go away from my points here and mention that I am hoping that on FEBRUARY 26th, WHEN THE Moratorium date is scheduled to take place, there won't be new ordinance requirements in place that will make it either very difficult or impossible for both south-by-southwest official event and unofficial events that exist on the fringe of the festival to be able to put on a safe, fun music event during south-by-southwest. Two reasons, the unofficial fringe of the south-by-southwest has evolved. Outside of the original official festival. And it's a natural evolution. It's a growth that is phenomenal. The point being that any attempt to restrict or put barriers on companies who want to come into austin and spend their budget to put on a great, safe, fun show during south-by-southwest, should be avoided, especially at a time of economic need like we are facing right now. I would think it would be at least crazy to put up any bears to that and -- owe barriers to that, at most crazy, at least fiscally impossible. If adopted as written, without discussion or without amendments, I don't see a problem, although i will read directly from the ordinance. Number 5, of section 1 of the proposed moratorium, states that the provisions of this ordinance will not impede or limit the operation of the venues of the south-by-southwest music festival which begins march 18th. Does that refer to the official south-by-southwest music festival and only those events and venues directly alleviated with south-by-southwest -- affiliated with south-by-southwest? Or does that also protect the many companies, organizations, independent record companies, retail companies, promoting products that are coming into town and planning on spending a lot of money in austin, texas, to put on events. I want to make sure that those unofficial events are also protected during the moratorium and the period of time after. It does seem to address that issue where it says in part 3 temporary moratorium. A permanent or permanent renewal. Now a permanent or permanent renewal under city code section 9212 shall not be issued until february 27th, 2009. Unless the permit or permit renewal will expire on or before march 24th the last day of the festival. Does that mean that someone going in for a -- I'm reading this newly right now. I thought that only applied to renewals. I see it also applies to also applying for a new perm. As long as the permit expires on or before the last day of the festival, they will still be granted under the existing ordinance. I'm only wanting to anticipate and guard against on february 27th that there being a new more restrictive ordinance in place at that time. Which is only three weeks before the beginning of the festival and would create a fire storm of -- of -- of the new requirements requiring possibly longer to implement than is allowed between the end of the moratorium and the beginning of the festival.

Mayor Wynn: Okay. I understand, I appreciate your comments. I -- my belief is that the whole construct here is to specifically avoid that. Simply fix a quirk or a conflict between our overall noise ordinance and whole permitting process and in support of the overall experience of south-by-southwest for everybody

and, you know, some arcane language in our city zoning code.

I agree with the need to address it. It was difficult to figure out three years ago when i had to sit down and read it word by word to figure out for my clients what they could do and under what restrictions, I appreciate the effort.

Mayor Wynn: Thank you. My regards to your family. Back in beaumont. paul obase is our final speaker, welcome, paul.

Thank you all very much for this opportunity. My name is paul obase, i chaired the live music task force recently, I also sit on a the live music task force, I own momo's and manage musician's careers. When item 55 got posted publicly, any time that you use the word moratorium and live music in the same sentence, there's naturally going to be an uproar, we saw that quite publicly. James moody while on the task force, both our mailboxes were full yesterday. But we attempted to address what's really going on versus the kind of perceived idea of whats happening here. This makes sense. For several reasons. One thing that we discovered as part of the task force is mass confusion. When it comes to the sound ordinance. When it comes to the sound permit procedure in the process. 2 and related, we thank for you that. For this first attempt maybe ever to clean all of this up. But I do want to -- to -- to announce to the music community that this is not -- not the content of the voice mail message that we got, is this the city once again standing in our way to do what we love to do, which is have live music. That's not the case as i understand it. We are seeking clarity. The neighborhoods that came around spoke to us as a task force were pretty impressionable when they said as it exists now, anybody can apply for a -- for an outdoor music permit and get it. And can -- possibly can do it personally. So that's -- that's something that we want to avoid. We don't want people out there putting live music that gives us good -- attempted good players a bad name. By the same token, it should not -- I don't think it will -- make it more difficult for -- for existing outdoor live music venues to -- to obtain a permit. This also illustrates this kind of confusion and -- and misunderstandings, the need for music department or music office. And I want to kind of -- to kind of say again what we talked about on november 20th, THAT THE NEEDS OF This music office are pretty powerful. Not only to address issues like this, like sound or affordable housing for musicians or health care for musicians or parking issues, the issues of the day need to be addressed by central office, but also we're talking about economy. There's -- there's roughly 20,000 of us in this city that are involved in music as a career, as a business. And to -- we've identified that we're underperforming, relatively speaking, to our peers like national and new orleans and chicago and seattle. So underperforming industry -- [buzzer sounding] that's 20,000 strong and a billion dollars in annual revenue could use some help by this music office. Again, to reinstate, to instate an office that addresses the issues of the day and fosters an economy is important and I thank you for item 56 and seems to be some expeditiousness in getting this created and we hope to see how this is going to get implemented fairly quickly.

Mayor Wynn: Without objection, we still have a couple of other items that still have a couple of citizens that like to give us testimony. Coincidentally on our agenda 19 is approving our resolution for the 2009 inductees to the austin music memorial that are -- that is there in the sort of the -- of the patio, the plaza area of the long center for the performing arts. So I wanted to invite [indiscernible] to come up and give

us a brief sort of summary, bio, of I guess the 10 inductees this year. I just say I pride myself on my support and knowledge of austin music, sort of a -- half consider myself an austin music historian, but it's amazing how much I have been learning from this process and the breadth and length of the -- sort of the music history from all genres here in austin. With that, I would like to kick walk us 19, the 2009 inductees to our memorial.

I am the cultural arts program manager in the economic growth and redevelopment services office. Thank you for highlighting item 19 today. We are bringing forward the individuals recommended for the 2009 induction into the austin music memorial. The memorial is really a result of a number of years of conversations in the community in early 2006 the austin music commission along with the long center came to council and created this proposal to create the austin music memorial. In november of that year council did adopt a resolution supporting the creation. After that in the next year staff in collaboration with the music commission and local music community stakeholders developed the program and selection process, nominations advised from the -- solicited from the community, the official unveiling took place in -- in -- along in conjunction with the grand opening of the long center for the performing arts, we inducted our first 10 individuals. I would like to thank the many members involved in the creation of this program. The music memorial serves as an economic development tool, cultural heritage site, tourist destination for the city. The goal is to honor the deceased individuals that have made important contributions to the development of music in austin, representing all sectors, genres and the diversity of our city. The individuals honored in the memorial represent all facets of music in austin. Oftentimes -- to date over 50 individuals were nominated. We are pleased today to bring you the second annual slate of individuals recommended. I would like to take a moment, you have it in backup, read those names for you. Elmer akins, td bell, kamil although cantu, medicaid michael david fuller, lonnie guerrero, bill neeley, gene ramey, robert shaw, cb stubblefield and domino joe deblanc wood. Those are the individuals for this year. Thank you for your support. I would answer any questions.

Great, thank you. Questions, council? I trust that the city's website is going to perhaps have bios or photographs of these 10 folks?

Absolutely, we will get the information out as soon as it become official.

Thank you, so, I wanted to take advantage of these music related items altogether. Also, on the consent agenda, we have -- we have item 57. [One moment please for change in captioners] appreciation and understanding of our natural environment, which is very important given that we don't have big public lands like they do in so many of the other western states. So we support a trail system. We're very concerned about the process. The resolution draft that I've seen that's posted says not a single word about public involvement. It talks about staff involvement, it talks about this cooperative agreement with the hill country conservancy, a private, nonprofit locally, but there's nothing here about the public being involved. The second whereas on the second page references an already successful model for development and implementation of a trail system on the city's water quality protection land along slaughter creek. That's correct. That was a public stakeholder process with meetings posted to the public. Handled very appropriately by the water utility and its water quality protection land staff with an excellent result. Yet we're having something that's completely an thet kel to what you're referring to here

as a successful model. Our concern is that a big trail system marketed as a tourist attraction will become a development amenity and would actually spur growth that would be opposite to and obstructed to our community's efforts to acquire additional lands. I'm concerned about the decisions being made up front in the back room. I know there's a big push already to have a chunk of this trail be extremely well developed. Now, that would be appropriate in sunset valley or in urban areas where we build a trail much like our town lake trail that's well developed and maintained, white crushed granite, that sort of thing. But in the more rural areas south of slaughter lane, personally I think this should be a wilderness trail. It shouldn't cost anything. It's something that could be implemented by volunteers if you engage the community as I'm sure they're eager to be engaged in. Yet in a presentation to the cofer from hill country conservancy talked about developing a trail at a cost of \$750,000 per mile for a total cost of 6 to \$24 million. Once again, that's an enormous sum of money to develop what are lands that are supposed to be protection lands. And also doing it potentially right at the time when we really should be focusing on acquiring more of these lands with the downturn in the economy. So I hope you'll take care to step back and engage the community up front rather than once again having us learn what kind of trail system we're going to be handed on the back end. Thank you.

Thank you, mr. bunch.

Mayor Wynn: Council, i apologize, back to the combined 55 and 56, the combined music items, alice blakeheart wants to give us testimony. Alice, welcome. You too will have three minutes.

Thank you. I appreciate the opportunity to speak in front of you today. My name is alice, and -- good morning to council and the mayor. I wanted to talk today on behalf of local musicians. I'm a local musician. I'm 23 years old. And -- I don't have a speech. I just kind of wanted to basically give you kind of how I would like to be a musician a little bit these days. Things are really hard right now. I'm a professional musician who's working a full-time job 40 hours a week, plus, in addition to that spending 20 to 30 hours in addition working with my band and an additional 20 plus hours working, you know, to actively make it on the scene. It's a difficult thing. There's a lot of competition and it's -- it's really hard to be a musician. There's a lot of us -- there's some really strong competition and more than that there's a lot of really strong competition outside of not just -- not just within austin, but also outside of the austin city limits as well. Seattle, you know, los angeles, all the major music cities in the world, they are very much ahead of us right now. And as a musician I already have a difficult enough time trying to make it locally. I've told my band that i want to do everything to be able to push us to the top, and I am a very active member in the local music community. That being the case, I would just like you all to know that the city and the community will definitely benefit from the resolution being passed to be able to work with the taskforce a little bit further. A lot of us are in need and I speak on behalf of not just myself, but very many musicians who could not make it out here today because they have day jobs, because they have families, because we all have things that we have to attend to. Really I would just like to remind you all that there are many people just like me out here trying to make it every single day. There are very many musicians just like me in other cities trying to make it. And if myself, my band, all the local musicians around are going to have any opportunity in being able to actively make it as well, we need to be able to have a fighting chance in the big world community. That way we can go ahead and continue, you know, having big headlining names such as stevie ray vaughns and all that sort of thing. Without

your support, without your help we are not going to be able to continue. And unfortunately that's, you know -- that won't just impact our city, but that will impact the world as well because we are, you know, a hub. And really that's all I wanted to say. Again, I appreciate you all and thank you very much for allowing me to speak. And I would just like to go ahead and express myself for these things.

Mayor Wynn: Thank you, Alice. Let's see. Council, a couple more little items here. So item number 60 we have a slightly amended resolution and item for council regarding the Travis County Historical Commission's application to the state regarding historic significance of the Lions Municipal Golf Course. I think we have three people who wanted to give us some feedback on that item. Is Mary Arnold still with us? I saw her earlier. Mary, welcome. You will have three minutes, to be followed by Francis McEntire, WHO WILL BE Followed by Robert Hoser. Welcome.

Good morning, Mayor and Council, City Manager and City Attorney Smith. We're very glad to be here this morning in support of this very important resolution and how very appropriate it is that it's Martin Luther King's birthday. We have a group in the back who have come to support, and I'd just like to mention that already the money for the marker has been raised at our October golf tournament, our interfaith golf tournament. Councilmember Leffingwell and Councilmember Cole both attended that tournament and got to see the presentation. So we thank you. We will continue to work with you on the future of Lions. There's a junior varsity tournament at Lions this afternoon. I saw golfers there on my way down this morning. Way Benson, speaking of -- Ray Benson, speaking of Austin musicians, played in our June tournament. Marcia Ball and her husband are taking golf lessons at Municipal any and Bruce Robison is also a golfer and a musician. Thank you very much.

Mayor Wynn: Thank you. Frances McEntire also wished to give us testimony. Excuse me, sir? Let us finish this item and I'll call you back up. Let's see. Is Frances McEntire here? She signed up wishing to give us testimony. I'm sorry. Okay. So then we'll go back in a second to the Barton Springs Master Plan. Robert Dozer? Sorry if I mispronounced that last name. You too will have three minutes. Good. Thank you. You too will have three minutes. Welcome.

Thank you very much, Mayor and Councilmembers. And I also want to thank at this time the Austin History Center because when we were doing the research for the briefing and memorandum for the historical marker, they were very cooperative, and we used their offices a lot to develop the research. And of course, I want to thank Councilmember Cole for sponsoring the resolution and also providing a lot of resources to us in order to develop this historical record regarding the Lions Municipal Course being the first course in the South to desegregate. And I'm up here just because I couldn't get General Marshal to come up, but I think in light of it being Martin Luther King's birthday today and just where we are as a nation a few days before the inauguration of Barack Obama that it's interesting that this has come up and it provides us an opportunity to look back 60 years just to see where we were and how far we have come. And at that time General Marshal was a teenager, maybe even a preteen when he was caddying out at the Lions Municipal Golf Course. Bacon was about the same age, maybe a few months older.

Mayor Wynn: I'm not sure they're going to appreciate you giving out their ages. [Laughter]

I'm not giving you their ages -- maybe you can figure it out, but I'm just giving you the background. [Laughter] and they couldn't play on the course, but they could carry other people's bags, but they developed -- the research that we showed, looked into, showed that through caddying, the african-american community developed really a love for this game. And sam biscoe also caddied and was a part of the support that we had in developing the record on this thing, and he played in the interfaith tournament. And I just think that it is -- in a generation before the generation that is a generation like barack obama that is now ascending to power, but these -- just like they stayed in golf and continued to play the game, this generation, particularly the people that we have been involved with, sam biscoe, general marshall bacon stayed in the game -- [buzzer sounds] -- and continue to achieve and accomplish and helped us push through this marker and are now fighting to preserve the course. And I know that the council is doing what it can to help us save the course, so we're just appreciative of that and supportive of this resolution. Thank you very much.

Mayor Wynn: Thank you, mr. dozenner. So council, in addition to dozer's comments that we heard, a number of folks signed up in favor of this item, not wishing to speak, bless their hearts, so that concludes all of the citizen testimony on item 60. And then finally, MR. McENTIRE, I GUESS, Wanted to give us testimony on the barton springs pool item, which is item number 28. francis McEntire? Yes? [Inaudible - no mic]

Mayor Wynn: On 28? Why don't you follow MR. McENTIRE. Welcome. Tiew will have three minutes. mayor, councilmembers, thank you very much for prowlouing me to speak to you on this very important, to me, issue. I came to austin in 1957, and I started swimming in barton springs with my wife. And I took my children swimming. And now on holidays I take my children and my grandchildren and the last holidays we went swimming three times. This is an iconic place in austin. The degradation of the pool led us to the formation of the barton springs group to clean up the pool, but once you get a group started, it just exploded. Everybody wants to improve barton springs. There isn't anybody in austin, I don't know, that doesn't want to preserve and protect and restore barton springs. And I urge you to pass this. Thank you.

Thank you, MR. McENTIRE. I appreciate your patience.

Mayor Wynn: whaley, roy. You too will have three minutes.

Howdy, y'all. My name is roy whaley. I serve as the vice-chair of the local sierra club chapter. And I wish that not only would the spring flows never run low, but the cash flow would never run low so that we could do everything we wanted, not just at the springs, but throughout austin, texas. I personally, I don't really have a problem with the old bathhouse. It hasn't changed that much since I was a kid in the 50's and swimming there, but water quality sure has. While I'm all for improvements, I would hate for us to miss the central point, which is taking care of the springs itself. Taking care of the water quality. I'd love to see us do improvements, but the way for us to really take care of water quality is to take care of water quality acquisition lands. We're in cash flow problems. I know we don't have the money to do all of that, but we can do something that won't cost the city a penny. I know this item has been pulled, but let's stick with the bradley agreement. Let's make sure that what does get developed on the recharge zone is

as low density and environmentally sensitive as possible. And that will go a long way to taking care of the water quality at Barton Springs. You know, this is something that we've heard a lot said over the last year, two years, that a deal is a deal. Well, the Bradley agreement was a deal also. Is this a deal is a deal that's time to be modified? To be amended? I don't think so. So in order to preserve Barton Springs so that we're building amenities around a pristine pool instead of amenities around an ever-deteriorating pool, let's take care of our water quality lands on the recharge zone. And I also did sign up for the trail for the day, if I could, on that also.

Mayor Wynn: You're welcome to take some more minutes and do that.

Okay. I'll be succinct on that also much the Sierra Club also definitely supports getting outside, definitely supports trails and we're excited about this trail. Once again, when we get into the cash issue, though, we're back to water quality. And rather than to spend money on a trail, it would be better to spend more money on acquisition of land at this time. If we're that tight on dollars, let's go for more land. Bunch said about the improvements in the highly urbanized area. You have got -- and the issue will be, of course, by making it a volunteer trail system is keeping on the trail and not wandering off because it is water quality control. So it has to be on the perimeter, it has to have the lowest impact, and that would be a wilderness trail. And I know that there are a lot of volunteers out there not just in the Sierra Club, but throughout the whole community that would be willing to work on a wilderness trail. George Cofer is a friend of mine. I think the world of George and I appreciate all that he's done, but at this time I think our money is better spent on acquisition rather than improvements. Thank you very much for your time. I appreciate you letting me come back up. Happy New Year's.

Mayor Wynn: Council, I believe that concludes all of our citizen sign-up testimony on items that are proposed for approval on the consent agenda. So with that I'd like to open it up for council comments on the consent agenda. Councilmember Martinez?

Martinez: Thank you, Mayor. Most of the comments that I was going to make have already been said by a lot of the testimony, but going to item 55, you know, this item is simply trying to clarify how the land development code conflicts with our sound ordinance. And our intention is to not harmony of the planned events such as South by Southwest and those events surrounding South by Southwest by creating this temporary moratorium. We hope to come back with some suggestions and amendments to the ordinance so that everybody has a clearer understanding of it. So that we're all operating on the same playing field because we do have issues regarding sound that can be addressed and should be addressed. So coupled with item 56, I think these go hand in hand. It's the work of our taskforce. It's the work that's going to continue to happen. And in item 56, the recommendation is to come forward with cost estimates for creating a music department, and it's my understanding that staff is asking for a little bit more time to develop those cost estimates. And I understand if they need more time, we obviously need to give them time to do that, but I think it was our intention that we would just take existing employees and there really wouldn't be any additional cost, so I'm hopeful that -- I don't want staff to think that we're asking them to do some elaborate process on coming back with a cost estimate. I think the recommendations from the taskforce were to take a few existing employees that work with the music community, but aren't necessarily a music department. And consider using those employees to create

the initial steps in that department. So what I'm going to do, mayor, is try to make a friendly amendment on item 56 that it currently says that we ask -- that we ask staff, the city manager and staff to come back with recommendations on february the 12th. So I would like to suggest a friendly amendment that we give them until at least february 26 to come back with cost estimates for the creation of a potential music department.

Mayor Wynn: So let's see, councilmembers cole and shade, we have a proposed amendment to item 56 amending that time line to february 26. Is that considered friendly? Thank you all. Further comments on the consent agenda? Councilmember morrison.

Morrison: Thank you, mayor. I want to make a few -- a comments on a few items. First of all, on item 55 and 56 with regard to music, i just want to thank all the folks in the community and the leadership that everyone has shown. I think the dedication and hard work that people have been doing to continue the work of the taskforce is really going to be the way that we're going to make progress in this community. So I insearly thank everybody for that -- i sincerely thank everybody for that. Regarding the walk for the day, one thing we haven't discussed is the public process or the community -- the public process that we might conceive of for discussing walk for a day. So I'd like to ask if we could perhaps have staff work with council offices and the community in parallel to doing the work for the walk for a day mou and start to put together what we might conceive of as the public process for conversation about the trail. As it develops, if that's all right with the sponsors. It's not an amendment, it's just a suggestion that in parallel that we go ahead and start talking about the public process.

Mayor Wynn: And those discussions have been happening. I don't see him right now, but darrell slusher, who is our director of conservation and environmental affairs has been helping to spearhead this is well aware of that and perhaps greg, would you like to say a few words about that opportunity.

Yes. Darrell and I have been working on that. We've already had public sessions going on and we'll expand that and work to make sure and come back with council on the public input part of it.

Mayor Wynn: Great. Thank you, greg.

I would like to --

Morrison: I would like to comment on one more item, item 58 regarding looking at the potential for a new zoning district that would be essentially low density clustering. And I wanted to explain that this came out of conversations that have occurred repeatedly, especially for instance in the oak hill neighborhood planning effort where there's certainly an interest in protecting our watersheds, but also doing some -- finding creative ways to do that. What we have experienced is that our single-family sf-6 zoning category allows for clustering, but it's a higher density one, so we've been repeatedly in the situation where we want to go ahead and capture the clustering capability, but stick with the lower density. So I think that with this resolution, we're going to be able to go forward and talk about actually having a specific new zoning district that will allow us to protect environmentally sensitive lands, allow us to cluster single-family, but still maintain the low density that's appropriate for the area. So I look forward to

working with staff on that.

Mayor Wynn: Thank you, councilmember. Further comments on our consent agenda? Councilmember cole.

Cole: Yes, mayor. I would like to make a comment on a couple of items. First of all, on number 60 dealing with the muny golf course. I was very pleased to bring this item forward and it was an historical day for the city to recognize this as one of the earliest golf courses, desegregated golf courses in the south and especially in austin. We have a shared history together and we're marking a time in our -- the span of our city, our state and our nation that we're willing to come forward and do that. And that is not always been the case. I would like to thank people that have worked so hard along with the general marshal and mary arnold and bob oser to do that. I would also like to switch and make a comment about the barton springs pool because it does sink into the analysis of muny when we talk about austin icons that have been so important to us and recognizing those as being important to our entire community. Yesterday we did that with the friends of barton springs pool and we know many, many stakeholders have been involved in that process. And so we'd like to thank them for being involved and encourage them to continue to be involved. And we have committed a substantial amount of money for some of those improvements. We know that it isn't enough, but we're going to raise money and continue to work with the city to find that funding. And I understand that there is a party tonight having to do with barton springs pool, and that party is from five to seven at the gingerman, which is located between fourth and guadalupe -- guadalupe and lavaca on fourth between guadalupe and lavaca. Finally, I'd like to make a comment about item number 14 that was considered in the mwbe committee, the construction manager at risk item. There was a discussion related to item 5 of that having to do with the fact that as we adopt a small business approach, we also want to remember to do outreach efforts to local businesses. I think that that was pretty much the understanding of the committee, and councilmember shade and councilmember martinez sit on that committee with me also. And finally, there was significant discussion about the budget and cost control sections of that, and some of the contractors, especially the african-american contractors, were concerned that the general condition point systems that were being awarded was not going to result in enough participation. And over the last, I guess, day and a half, we've had significant discussions and negotiations among the committee members and the contractors, including the presses of the hispanic contractors association, and everybody has become comfortable with the notion that we will reduce the points with general conditions to 5 points. So this will result in more participation and people will actually be able to participate in a broader measure in the contract, we believe. So with that, I do not believe that we will be having a special called meeting on this issue, and that the committee has agreed to that, and we want to just thank the stakeholders for being willing to work with us in such a short period of time to bring a resolution to this issue.

Mayor Wynn: Great. Thank you, council. Again, we have a motion and a second on the table approving the consent agenda as proposed. Further comments? I will just briefly like to say items number 4 and 5 from austin energy, this is two more hi-rises downtown that are tapping into our district chilled water system. If you remember, we now have two facilities downtown that are -- that at off peak hours at night are essentially generating ice underground that we then use as it melts the chilled water and circulate it

through downtown. The beauty -- the environmental beauty of this for this format is we've built a gorgeous facility there at fifth and red river and then there's an ugly one over here by city hall that we named after paul robbins. [Laughter] joke. It was the first one, so we named it after paul since it was the first one. It's about a 35,000-ton capacity chilled water system or essentially air conditioning capacity system. With these two projects, we're still only at about 40% subscription of that. Essentially there's still more than twice the number of buildings that are on it, including city hall, name russ other buildings can also be -- can tap into it. What this does is allow for the air conditioning essentially in the peak of the afternoon when we struggle as a utility both for financial management and environmental reasons to try to avoid additional peak load in the middle of the afternoon and the summertime, these buildings, all rises in this building here are chilled with water that was frozen the night before. So as all the air conditioning units turn on, it doesn't generate -- draw any more electricity off our peak load. It's a remarkable, remarkable benefit. For instance, just these two buildings that are tapping in today, it's about 2300 tons, the equivalent of air conditioning. That will remove annually 600 tons of co 2 emissions from going into the atmosphere each year. That's the equivalent of planting 20,000 mature trees. For the same amount of co 2 capture, sequestration, by not having to burn more fossil fuels in the middle of the afternoon. Remarkable environmental feature, at the same time it helps to offset the higher costs to develop in our urban core versus out in green fill suburban volleyball setting. So it helps to drive development into our desired development zone. Water use plummets with that development. Vehicle miles traveled all plummet with this kind of dense mixed use urban development, and this project perfectly drives that. By the way, this investment by austin energy is of course paid by over time by the chilled water sales. These buildings are all signed up for multidecade contracts with austin energy that allows us then to recoup that initial expense. So any way you measure it, this is a remarkable, remarkable program. I just want to applaud austin energy's foresight years ago to think about this. In fact, it was paul robbins who challenged us to think about that concept. Really it's old technology. Many campuses, university of texas has a district chill plant, for instance, have had this concept. But we're the first utility, I believe, in the country, out of 616 of them, that have this concept of doing it in your private sector cbd and allow the private sector buildings, not necessarily just government-owned buildings, so tap into what is a remarkably effective program both financially, environmentally and from a utility management standpoint for us all to be proud to be continuing to push forward with these efforts. So I applaud austin energy staff and really just the whole institutionalization of the construct of environmental protection as we try to deliver reliable electricity to hundreds and hundreds of thousands of utility customers. So hats off to austin energy. Again, council, we have a motion and a second on the table approving the consent agenda. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of seven to zero. Thank you all very much. [Applause] again, if folks could please take your conversations out to the foyer, we would appreciate it. We have a little more business to conduct. Council, I apologize, I need to step off the dais for about 30 minutes. I believe we have enough time to take up item number 50, the zero waste plan, prior to citizen communication. We have just about a couple of speakers on that item. And so I'm going to allow the mayor pro tem to take the gavel while I step off the dais and should return shortly after citizen communication. Thank you.

McCracken: I'll take about half a minute to allow the room to clear out so we can get started. I believe

we'll start with the staff presentation. I don't have the mayor's computer screen here. From zero waste, are we going to hear from solid waste? Who are we going to hear from? Okay. I guess we have citizen comments and it's a discussion item. So I'll ask the city clerk to tell us who we have signed up to speak. In the meantime, we want to take comment and we'll start with councilmember leffingwell.

Leffingwell: Well, since we're waiting on the speaker list, I just want to say that at the appropriate time I'm ready to make a motion in approval of the resolution with some suggested changes that have been negotiated and agreed upon by all parties, including the staff and the stakeholders. So I think it's going to be acceptable to everyone. And if anyone is planning to speak on this subject, please keep that in mind as you address us. But again, when the speakers are done, I'll be ready to make this motion.

McCracken: Any other comments from councilmembers? What we might start off by doing is going the old school method and letting people who have signed up to speak just come up and then we'll check you off on the list once the computer screen gets up and running. So who wants to volunteer to be first? You turn it over to mairpt and all chaos erupts. Yes, sir.

Good morning. My name is dick pierce. I'm on the list. I'm a decade long austin citizen, an educator. I teach sustainable systems and family and community gardening. I do that through permaculture courses in our program for austin. I'm a master gardener and master composting and a landscape designer as well as a gardener and recycler, composter. And I also represent the austin permaculture guild, which is a group dedicated to improving the environment, growing local food, more food, supporting local business, community jobs, recreation and health. And that leads you to gardening. And that leads you to using and reusing our local resources. I and we strongly advocate for the -- for you to pass -- approve the zero waste strategic plan. It is a strategic plan, and in that sense it's good work at the objectives and the directions and the future projects that need further definition. And come back for approval. But it's a good job and sufficient to get on with the detail work that needs to be done we suggest that be done without further delay and requesting your approval. Two items, three items to mention specifically in the plan that we are excited about and would bring your attention to in the strategy is we're excited about helping with the further definition and proposal for neighborhood regional centers, and particularly using those regional centers for local composting facilities both for education and for gardening and lowering transportation costs. I want to thank you all for establishing recently the food policy council, which is forming up now, and ask that you direct the further strategy of the zero waste to collaborate closely with that food policy and vice versa. Because this worked well with the particular the local regional centers with composting and with local community gardening efforts as well. We're exiefted about the citizen education program that is mentioned in the strategy. We think that's critical and we'd look forward to assisting in the definition and the implementation of a public education programming on composting in particular on those regional centers and at people's homes. Thank you very much. I look forward to your approval.

McCracken: Thank you, mr. pierce. Who wants to go next? mayor and honorable councilmembers, my name is emily barrett and I'm a proud homeowner in the windsor park neighborhood and resident of northridge drive. I'm here to respectfully request that the city honor the compromise solution as suggested by city staff to the neighborhood association for the planned light at the intersection of ryanly

and cameron road.

McCracken: I'm sorry, emily. We are actually on item number 50 and not on citizen communications right now.

I apologize.

McCracken: But i understand how the confusion arose. We're kind of doing free flow right now. We'll be going here in about 10 minutes. That would be great, shirley. Who is next? mayor manager, honorable city councilmembers. I'm david hogan, the citizens of northwest hills and also I attend saint matthew's episcopal church. I'm an active recycler myself and an organizer in our church environmental group. We have an environmental stewardship committee. Our church works to complement the services that the city provides, and i would thank the city for providing those recycling services now. We're an avid user of those also. I believe churches are uniquely positioned to provide the motivation for recycling. We work to raise our parishoners consciousness that we're all on this planet together and we need to be good stewards of those resources that god has given us. At present with every person on the ertd using resources like the average american would painfully find ha ou that there aren't enough resource there's to do that for us to live a sustainable life. As a standard of living increases all over the world, the situation is going to get worse. I'm glad to see that the city of austin is on a path to support a yet smarter approach to solid waste management, namely zero waste or dorn close to it. It's a good start to building the infrastructure we need to support a sustainable life-style and i encourage you to vote in favor of the zero waste strategic plan. Thank you.

McCracken: Thank you, mr. hogan. Next?

Your name is what?

[Inaudible - no mic].

McCracken: Miss perkins, I guess you will have six minutes then.

Thank you, sir. I don't plan on taking all six minutes, but I do thank you all for the opportunity to speak this morning. My name is birdie perkins. I'm the organic green coordinator with bar mansion and on behalf of that business we just want to tell you that we support the plan and the work of gary lewis and his consulting firm as well. We appreciate and thank you for your intention to adopt this resolution. We've been hearing a lot about how to adopt a strategic plan for the zero waste initiative is going to require a lot of hard work, and I just wanted to tell you as someone with personal experience of implementing -- i implemented a zero waste system for our facility and barr mansion is now a zero waste business in the austin area. And I just wanted to let you know that it was a lot easier than what I think we may give it credit for being. There's certainly an educational component required and streamlining our recycling capabilities. But it happened for us and it happened for us in a month. Our facility generally can count on 1800 to 2500 guests walking through the doors every month, and we were able to decrease our waste and cut our waste by 98 percent. So the results were surprising to us,

quite dramatic, and certainly possible. So we wanted to -- we wanted to just sort of give a word of encouragement that this is a positive direction. We thank you and I know from my conversations with people in the community and as a member of the austin community, I think the public is ready. There's so much that we feel we can't control, so many large looming issues. And this is something that everybody can do in our daily lives and in our homes. And we just -- we urge you to continue on the track and to have austin live up to its name as a progressive, green city. Thank you very much.

McCracken: Thank you.

The next speaker is kerry getter.

Mayor pro tem, councilmembers. My name is kerry getter. I'm the ceo of balcones resources here in austin. We're an environmental -- corporate and environmental holding company. We own balcones recycling. Balcones fuel technology, and austin and dallas shred. We have 120 employees. We're fully engaged in the business of recycling and resource transformation and understand the business of recovering the highest and best use of every material we touch. We actively participated in the public hearing process behind this plant. We support the city's efforts to achieve zero waste and look forward to assisting solid waste services and any other agencies involved. To attain that goal. My comments here may be a bit moot given the fact that I understand there's some language to be introduced here to address my concerns, but I wanted to share them with you publicly nevertheless. My comments are provided as a basis for our qualifications as it relates to the written comments on the zero waste plan, which your offices received in a letter dated december 5th, 2008. Our corporate headquarters are on -- are in east austin on east 11th street. We have processing facilities in austin, on east sixth street. Dallas, and little rock, arkansas. We're a local company with deep roots in the austin community. We understand the volatility of the recycling commodities market on a local, national and international basis. Our products, recyclable paper, cardboard, metals and plastics, are sold domestically as well as worldwide. We're the largest rail shipper in city limits of austin. Balcones recycling is the largest independent commercial recycler in the southwest and one of the largest in the nation. We do not own a landfill. We have developed and implemented a federally trademarked recycling program called anything that tears, which is used locally by 75% of the largest office buildings and office works in austin. It's also used by the university of texas, aisd, the texas capitol complex and several central texas health care facilities, and numerous corporations throughout central texas. In 2008 we recycled the fiber equivalent of over two million trees, conserved a minimum of 250,000 cubic yards of landfill space, and avoided the production of greenhouse gas emissions that would have occurred had this material been landfilled. For the past five years, we have been the primary material supplier to a department of energy -- [buzzer sounds] -- funded bio ethanol research project that produces transportation grade ethanol and electricity from targeted materials that are traditionally landfilled. That's a technology that we hope to bring to austin. For seven years we've been engaged in the production of an engineered fuel that is used to generate steam in commercial environments and have been awarded one patent for our process and have three more pending. Balcones fuel technology threw its waste diversion programs has successfully recovered nearly 6 trillion btu's through its resource transformation process.

McCracken: Your time has expired.

Excuse me?

Your time has expired.

Thank you.

McCracken: Thanks a lot.

We have three speakers who have signed up for, but only if there are questions. Do they want to speak? Christopher (indiscernible). Sandra sane. Dr. land. Then we have a number of speakers that have signed up for, but not wishing to speak, if you would like me to read their names into the record.

McCracken: We can enter them into the record later. Thank you, shirley. So with that I guess we'll turn it over to councilmembers, unless the three speakers who were available, if they wanted to speak, want to speak. I see no hands up. So colleagues, any questions, comments or do you want to go into the motion? Councilmember leffingwell.

Leffingwell: I want to say before I make the motion that this has been a long time coming. We have worked on it and hired consultants and it's been a long, laborious process, but I think we're now in the threshold of integrating a long-term zero waste strategic plan into our master plan. I'll discuss that in just a moment. But I want to read -- I want to make a motion to approve the resolution adopting the zero waste strategic plan with four changes. I'm not going to read the entire resolution, but i would like to highlight the changes for the record and I'll give a copy to the city clerk. The first change is the first sentence of the first resolved paragraph, the sentence will be changed to read, the city council adopts the zero waste strategic plan attached here to as exhibit a, and here after referenced as the plan, as a long-term planning vehicle, and this is a change. And further directs the city manager to incorporate the plan into the development of a solid waste services master plan. And you all have this -- a copy of this revised resolution with the changes highlighted. The second change is an addition to the first sentence, actually the second line of the second page, and I'll read the entire sentence here. City council recognizes that the policy and program recommendations in section c of the planned maintenance changes the rules, ordinances and/or policies and will require ongoing collaboration with key stakeholders, public, private partnerships and close coordination with public and privately owned regional waste disposal facilities and recycling and compost operations. That's the change, the last few words. The third paragraph on the same page is an addition -- additional sentence. After the -- the last sentence will now read: City council approval is required for any changes to existing policies in effect as of january 14th, 2009, with regard to control over pricing, collection, and disposition of commercial solid waste and commercial recyclable materials or to impose surcharges to or limit the rights of area landfill operators to receive waste. Basically requiring council approval for those kinds of changes. And the last change is the last bullet on the last page, which will now read, encourage existing landfill operators to collect methane gas and initiate a study of issues surrounding the use of landfill methane as an energy resource, and its implications for the city's goals regarding zero waste and climate protection. That's my

motion.

McCracken: Do we have a second? A second by councilmember martinez. Any further comments? All in favor? The motion is passed unanimous on a vote of six to nothing with the mayor off the dais. So at this time we are going to go to our noon citizen communication. Our first speaker is frances martinez. Frances martinez? We will go to our second speaker, emily barrett. You are now up.

I believe I should introduce myself as eager beaver barrett. Hello. I'm a homeowner in the windsor park neighborhood, and I'm a member of the association and I'm here to request your support in having the city honor a compromise solution that they suggested. Basically there's a light plan for cameron and reinli and the proposed solution or what I will refer to as the compromise basically amounts to a right left turn only restriction for the eastbound traffic at this soon to be installed light. I did hand a map out that might makes things easier if you want to look at that. Since the construction of what we call the jug handle at the mueller development, it's become far more difficult to enter our neighborhood from northbound i-35. In fact, reinli offers the first opportunity to enter the neighborhood for those travelling northbound on the i-35 access road. While we would encourage people to go just one block north to use clayton and briarcliff, which is a wider eastbound street, people ineffectively use reinli to go on to cameron. This is a safety concern and that's why the light is planned. We're concerned that if the light allows traffic to go straight on to northridge, then northridge could become a major entry point into windsor park for northbound i-35. Northridge is a quiet residential street with no sidewalks and is not designed to handle large amounts of traffic. We have elderly neighbors who routinely walk our streets with canes and walkers. We have young children playing in front yards and we're very concerned that the safety problems that the city is trying to solve will just be displaced on on to our quiet residential street. In october city engineers came to speak to our association about the signal and upon understanding our concerns they suggested the compromise of a right and left turn only for eastbound traffic. We were subsequently told that this was approved by management and it was a go. But in november the city decided they would not do the compromise and in favor of a wait and see approach. I was told by city staff that it was essentially a call from the messiah lutheran church which made the city reject the compromise in favor of the wait and see solution. So the residents on north rim support the compromise and since the windsor park neighborhood association supports the compromise, only one call from the church side lined the compromise, and I'm curious why. This is a real breach of trust between the city and windsor park resident. The church is a good neighbor, but we feel the concerns about limiting access to the church are unfounded. There are a number of ways to approach the church that are safe and quick, even with the compromise. The compromise will not only help residents, but also make the northridge side of the church safer for parishoners who park along our street and neighbors alike. I don't know the actual reason the city changed their mind on the issue, but I do encourage you to support the compromise solution that will preserve the safety of northridge, the integrity of our politically active and ever increasing tax base of a neighborhood while increasing the safety of cameron road. Thank you.

McCracken: Councilmember morrison? Oh, yes.

Morrison: Thank you, ms. barrett. I have had the opportunity -- I was trying to understand the situation a little bit better, and have started a conversation that's gotten a certain way with staff. One of my

concerns is that there is a clear element of your neighborhood plan that addresses this situation, and it talks about striping, restriping of cameron. And I think that's what you were alluding to that first the idea was to restripe cameron and then the compromise solution from that was to do the right left only turn lane. So one of the fundamental concerns I have about this is that we don't have necessarily a coordination between our public works and our neighborhood planning efforts that have already gone on and been adopted. And I have had the opportunity to speak with the city manager about this, and I think our conversation still needed to be continued because the last step of that conversation was we hadn't quite come to agreement or we didn't have the fax in front of us about what the original proposed striping meant. And I did just get that recently from the neighborhood plan and it's quite clear that it was the highlights of the striping, restriping, relane, which would introduce accident frequency. There would be a center turn lane for the entire section of the road and then there would only be two lanes in each direction. So I would -- and the misunderstanding, I saw, was from another's perspective, the restriping comment was only referencing cross walks. So it's really much more extensive than that. So I would like to continue our conversation specifically about this one because it does seem quite reasonable that we make sure that we know where we're coming from and understand the history of the agreements that have been made to the neighborhood. And then more fundamentally make sure that we have something in place so that all of our departments have in mind that they need to check with the neighborhood planning department and the neighborhood plans on, for instance, on public works issues to make sure that we're cognizant of them as we go forward. So I don't know, city manager, if you had like to comment on that or if we can continue our conversations to address this, because it is -- I do think we need to understand really what the right thing to do is in light of the chronology. Okay. Thank you. So we'll get back to you and thank you for bringing it up. Again.

McCracken: Our next speaker is ray nadler olenick. mayor pro tem and councilmembers. Today I want to recommend a very important book, the flower ride deception by christopher bryson. com and also in the u.t. Library. The fluoride deception tells the story of how we arrived at this strange situation where we add toxins to our water supply in the name of public health. Now the story. It's the late 1940's and early 50's. The nightmare of world war ii is over, and america is the new superior power and enjoying a period of unrivaled peace time prosperity based on the steel and aluminum industries, both of which employ hazardous fluorides in their smelting processes. The cold war is on and we're stockpiling atomic weapons. That process requires fluoride too. Meanwhile, looming on the horizon are a rash of lawsuits brought by workers who suffered fluoride injury in the war time plants and farmers downwind of those plants whose crops were devastated. The captains of industry threatened by potentially damaging revolutions counter with their own bold plan. They will use advertising to give fluoride a makeover, transforming it from poison into remedy. Then they'll persuade health officials in new york city to add it to their water. Who could question its safety after that? They chose for their task this man, edward brunase, known as the father of public relations, who wrote a best seller titled prop propaganda. That should tell you something about him. The industrialist knew he would be perfect for the job because of the spectacular success of one of his prior campaigns, persuading women to take up smoking. That's right, the same man who got women smoking in 1929, heavy drinking fluoride today. He was the nephew of this man, sigmund freud, and he knew his psychology. Realizing that people trust expert, he employed doctors, testimonials to sell cigarettes. He also pioneered branding. He branded fluoride anti-

cavity without any evidence whatsoever and the brand stuck. He was lavishly financed by industry and by those top everybody echelons of the dental establishment, dental schools and research laboratories that depend heavily for funding. There was tremendous grassroots opposition initially, but it was no match for the tidal wave of money flowing into the pro fluor addition covers. In time, the resistance caved in and the history was forgotten. Today over 50 years later, two-thirds of america's water is artificially fluor fluoride eighted. About that more next time. Check out the fluoride deception and read my blog. Thank you.

McCracken: Thank you. Our next speaker is ms. phillip dick. Ms. dick? Then our next speaker is carol anne rose kennedy. And then our next speaker is sylvia mendoza.

Good afternoon, city councilmembers. I was originally going to speak to you about another topic, but this one came up and seemed more important. So I'm here today to speak about construction work that sometimes goes on throughout certain neighborhood areas in the city of austin. Only this work happens to go on late into the night. This specific work has to do with construction crews, and I'm pretty sure, but not positive that the street and bridge department of the city of austin. On january sixth and seventh, I observed large construction work going on late at night. I understand work goes on at night on major highways, but this happened to be in my neighborhood. I complained to 311. I was told that this type of work goes on all the time as long as there is a permit. It does not matter what time it is. It sometimes can go on all night. The police came out and checked to sigh if there was a -- to see if there was a permit. There was. The police said he was also told that another crew was coming out around midnight to pave the street. This conversation happened at around 11:30 p.m. I'm greatly concerned about how it affects the health and safety of individuals who live in the immediate area where this type of work is going on. For example, loss of sleep of the adults and children. And the crews cannot see if someone happens to walk by. I myself walked over to see what was going on at about 11:00 p.m. I stood there for at least five minutes before someone finally noticed me. I asked -- they asked what i needed. I also observed it was a crew of four men digging and operating heavy equipment and certain areas-- in certain neighborhoods crews are told to pack up and leave by 6:00 p.m. Those neighborhoods do not want loud construction work. Now I'm going to give you the benefits of the construction work not going on at night. First of all, no overtime. That is a big savings for the city of austin. Secondly no accident or less accidents for city workers because it is more dangerous working at night. And thirdly, less chance of a lawsuit if some innocent bystander was to get hurt or fall in a hole. For instance, someone who is drunk or in a hurry walking home in the dark. There are a lot of people who walk home in this area. This is a fact. Thank you.

McCracken: Thank you. And councilmember morrison?

Morrison: Thank you for your comments. I have seen this issue dealt with -- raised before. And I believe that there are limits on noise and construction noise by hours. And I'm -- I've heard -- I've seen this situation before where our 311 operators may not be on the same page with regard to what those limits are. So I think that it would behoove us to perhaps look into that a little bit if we could to really get well established, if there are limits on construction at night. I know that downtown we have a process whereby you can get permits to do concrete pours at night, but that's specifically downtown. So if we

can look at what the limits are at night. And then make sure that our 311 operators understand that so that we'll get things addressed appropriately when people call in.

I called three times 311 to find out what each one told me. They basically told me the same thing.

They said that -- I think you said they said that if you have a permit, you're allowed to make noise at night?

And it was three different ones. So they need to be educated correctly.

Morrison: Right. And in fact, we've been having lots of conversation about sound and hours with regard to music, and so i think it would be really great to get that all straightened out.

McCracken: Our next speaker is marcos deleon. And our next speaker is gus pena.

Good afternoon. Gus pena again. Even in my current situation, some of y'all know what I'm experiencing, I still get calls from people -- from the community that have concerns, various concerns about issues that are ongoing within -- are waiting for final decision. One is the hispanic quality of life initiative. You remember last year this came about. My question to the council at that time was what is this all about? What does it entail? What will 700 or 750,000-dollar study, what kind of return about the taxpayers get for this expenditure? So we're hearing now that at 00 the hispanic quality of life initiative, there will be a presentation and an established report or whatever you want to style it. Tried to get documentation. It's not rewarding. Couldn't get anything. We just want to know what we're getting. Is it the best bang for our buck? Is it going to really help the community? I know it's just a question of what is needed, what kind of problems are there in the hispanic community? But I just -- at this recession, I just question further expenditures. And when we tried to get documentation, we'd like to get documentation to educate yourselves before making a presentation to question y'all and staff as to the status of certain things. I'll leave it at that. I'm not going to be able to be here at 2:00. Unemployment rate is high. A lot of people have given up. Please -- I say this with all due respect, marcos. You're a friend. Please don't lay off any people. There's enough people out there already that are unemployed and cannot seek employment because they're 100 or 200 applicants per job. It's bad out there. One thing we don't support is any kind of cuts in our police personnel. Y'all don't know what's going on in the city and the streets out there. We've been in combat. And it concerns a lot of people that -- just to hear about possible cuts. Please don't. It's not wise at this time. The recession is fairly bad on everything. I was over at the city of austin building at barton springs road, and one texas center, I guess it is. City employees driving f-150 tundra truck. I don't think this is a wise expenditure. Maybe we can get a vehicle during budgetary process or anticipation of budgetary process that's more applicable to not being a gas guzzler. This big 150 tundras are big and they really eat gas. If you remember the report last year about our gas situation, the city's situation, it's not good. Too much money is being spent on gas and this is not good for the economy or the environment. Volunteerism, please, again I will ask the public again, if you have time to volunteer, volunteer to help out students who are lacking in math and reading. [Buzzer sounds] I'll wrap up real quick. I applaud the city of austin volunteerism rate, the city exeez. They're doing a good job. We need some more. Or kids are failing. We need to get them into the

right track into society. Thank you very much.

McCracken: Thank you, mr. pena. Our next speaker, paul hernandez. And then our final citizens communication speaker is gavino fernandez. With that, that concludes citizen communication. The city council now will go into executive session for private consultation with attorney under section 071 of the open meetings act to potentially discuss items 63, 64, 65, 66, 68 and 69. And potentially to discuss deliberations regarding real property under section 072 of the open meetings act to discuss agenda item 67. And with that the council will go into executive session. [01:38:25]

we are out of closed session, thank you all, in executive session we did not and will not take up either the legal or real estate matters 66 and 67 regarding the lions municipal golf course. We did take up legal issues, items number 63 regarding waste management, 64 regarding the austin revitalization authority, 65 regarding bfi, 68 regarding 328 hartwood and 69 regarding the northwest austin municipal utility district. We're now finished with our executive session agenda for the day. So, council, you will note that -- that similar to a previous meeting, we have 70, potential action related landfill for lack of a better term that relates to discussions that we had in closed session at our last meeting, that being in mid december and briefly just now in this session. We do have a couple of citizens who would like to give us testimony on -- on 70, so without objection, I would like to see if those folks are still here who would like to give us testimony, then I'll open it up for comments or potential motions. Let's see. Are the macafees back in the room? I know they were here earlier, welcome. So -- so melanie and mark have signed up wishing to give us testimony. [01:40:01] They are welcome to now come do that. And they will be followed by melissa perkins. Okay. Okay. How about mark?

[Indiscernible]

Mayor Wynn: Okay, melissa, you will have up to six minutes if you need it followed by mark macafee.

Thank you, good afternoon, my name is melissa perkins the organic green coordinator with barr mansion. We wanted to sort of put something together to show council to put a bit more human face on the landfill discussion. We are a quarter mile away, less than, and so this is something that we deal with and our neighbors deal with every single day. And -- and in my discussions with folks, there are a fair number of people that did not want to be videotaped but every single person that I talked to was in firm opposition to the landfill expansion. So, you know, you can take my word for that. But I wanted to put together a video, here's the following information for you. [No sound] > being progressive in our thinking, trying to come up with good ways of doing things and -- why we can't find a balance.

Garbage everywhere. Do you -- you see the grackles, sea gulls, all of this stuff that kind of atmosphere attracts and when we bought the house they told us that you couldn't [01:42:03] smell it, it wasn't true.

Look at the landfill, feel the wind coming, wonder what's coming in this wind.

We have 290 which is the major corridor that's planned to -- to be expanded and more traffic going through it. And now you have -- you have no regulation as far as what you can put on the billboards.

What can be -- the latest one that they put up is right off the freeway. You can see that thing. I'm not being judgmental, I'm not trying to tell anybody where they can go, what they can do, I'm just saying people that don't like to see it or don't, you know, that have a problem with it or whatever shouldn't have to be, you know, thrown into it just like that, either, you know,. And I think it's legitimate, people's concerns to what kind of growth this is supposed to be the develop -- the desired development zone, this whole area. That's one of my concerns is that honestly I haven't seen any other, too many other things coming out this way. I haven't seen any libraries, parks, museums, stores, shopping areas, businesses that -- that -- businesses that I would go to or, you know, would like to live next door to. I think part of the problem that we're having now is because back -- back when we first moved in, that is the landfills, that the local governments didn't have enough foresight or didn't choose to use it, you know, for permitting this type of business so close to downtown. Even if there wasn't very much out here at the time. Being so close to downtown, I think it's seven, six miles, they should have known it was going to be a problem.

Trying to get a sense of scope of how close it really [01:44:00] is to your neighborhood, which is -- right there.

That's right.

That's the street. The closest house is actually maybe what is that, about 40 yards.

> You know most of the mornings when you wake up in the mornings it smells so bad you don't want to go outside. Three or four hours before you go away.

Did he have asthma before you all moved to harris branch? Is it a life long thing he had.

I lived here about seven years, it was about that time he was diagnosed with it.

What I'm saying is that place is right in the middle of all of them houses and that wind, when it blows, it blows north, south, west around east, gets to all of them houses around it like harris branch and there's -- there's [indiscernible] valley, oak crest and well even the school over there, decker, they get it, too, you know.

The landfill has been there, seems like, forever.

The main thing that I'm concerned about is, you know, the expansion of it. And you can already smell it sometimes from -- we live three miles away, we can smell it. The kids are always smelling it on the playground.

Do you -- how often do you smell it on the playground would you say, girls?

Like every day we go outside towards the track.

Oh, is it -- is it worse on hot days or does it matter?

It doesn't matter.

I think it's worse in the summer.

Yeah.

And the girls have allergies and asthma.

I hear that as a common complaint among the parents I've been talking to, that there's a lot of asthmatic kids.

They are asthmatic and every year they are bringing me into the office to tell [01:46:00] me my daughter is missing school because of her asthma. And so -- so it's a -- we go round and round at the school a lot. I have to meet this week because she's already missed seven days, but sometimes the asthma is so bad -- you know, it's aggravated by the air.

The bell that they have there, they buzz it, you can hear it and it kind of like hurts your ears. It's to get the birds away from there.

Ah.

It stinks. It's trash, it smells a lot. When you go outside for recess.

Yeah.

The water comes, there's like birds that watch it like animals that they -- when they are dead they eat. Birds and animals eating.

Thank you, melissa, excuse me. Did mark macafee come back into the room? Mark also signed up wishing to speak, technically neutral, on item no. 70. So, council, that's all of the folks who had signed up -- sorry, robin. Somebody checked your name off robin. Robin schnieder is also here wishing to speak, welcome. Mark will follow robin.

Still got my shoes on. [Laughter] I'm here today to speak to the whole issue of the landfills. I didn't catch all of that, but I've been hearing from kids and parents and others that live in the neighborhood, these same kinds of complaints. And if you folks really want to show your opposition to the expansion of landfills, you need to be doing something different. I would start -- because the waste management [01:48:00] landfill expansion is about to begin, it's already in process. You still have the same attorneys who betrayed the neighbors working on the waste management landfill. And I had urged specific councilmembers to hire independent counsel before these even began. I urged candidates in candidate forums, you may remember, some of you who ran last year, that the city hire outside council that is

expert at fighting these kinds of problem landfills. And I urge you to do that with regards to waste management. Holly Noelke we have no trust in her to fight the waste management expansion. She is compromised. It is time for the city to look at that landfill expansion as well and to hire outside counsel and to fight it vigorously and to continue to do whatever you debate to stand up for those neighbors. Any questions?

Mayor Wynn: Thank you, Robin. Schnieder, counsel? Thank you, Robin. Let's see. Mark Macafee, welcome back, Mark. You, too, will have three minutes. Good afternoon, Mayor, Councilmembers. Thank you for the opportunity to speak. I want to basically reiterate the points that you just heard Robin make. Holly Noelke needs to be pulled off of both cases. We need to have -- to have representation from the city that we can trust. And the restrictive covenant, I don't know what -- the only thing that we have seen was incredibly weak and I guess at this point if you are going to go down this road, then we -- [01:50:00] we certainly must tighten up that restrictive covenant. So that it has some real teeth in it an penalties and -- but I am here to also reiterate that our attorney says we would like for y'all to -- to just walk away from the rule 11 and at this point, you know, from everything that we know, it seems that staff got really -- really took the -- took the lead on this without council really knowing what was going on. I can't understand how the city council can sit around and have that done. You are elected to make these hard decisions. This is an eight year public battle. And to let staff make the decision behind closed doors is a real travesty. I hope you all will just walk away from it. Thank you.

Mayor Wynn: Thank you, Mr. Macafee. Council, that's all of the folks that signed up wishing to give us testimony on this posted item no. 70. Let's see, again, we had brief closed session legal discussions just now regarding this case. We had lengthy closed session legal discussion back in our last meeting in mid December with -- with a host of -- of attorneys and law firms well represented. Further comments on -- again, we have a posted item no. 70 for potential action. Further comments, thoughts, Councilmember Morrison? I wanted to offer a few thoughts, thank you. First of all, that's a very compelling video and I appreciate all of that as well as the interest and passion and work that's being done in the community [01:52:00] on this issue. Just as an update, I want to let folks know that, you know, you know that we had -- we had a lengthy -- lengthy discussions, we talked with outside council and had the opportunity to look at options. In terms of legal opposition at this point it's my position, best action not to take any action right now. Although, I do want to have indicated I understand some possible openness to working on the restrictive covenant or supplement to the restrictive covenant so that hopefully will be something that will bear fruit and I hope that the city will plan on taking some steps to see if they can make that happen. So I hope that we will -- I'm certainly just in regard to the other case that's going on, certainly I think that and probably my colleagues are going to be -- I and probably my colleagues are going to be very interested in staying up to date on that case, thank you.

Further comments, motions? Councilmember Shade?

[Indiscernible] [inaudible - no mic]

the comments that Councilmember Morrison just made and say to those of you that think that we are just sitting up here, we got three outside attorneys to look at this, both Councilmember Morrison and I

came in after some of this was going on, but I think that my colleagues, every one of us sitting up here, has done a lot, have done a lot for -- to dig into the deep issues here. While we recognize there were problems in some way with the process, we believe that no action is the best action in the best interests of the community at large. So we don't make that decision lightly. And I hope that you understand that. We also have concerns about the neighbors and the community at large as well. [01:54:01] And that's how we came to this difficult conclusion with a tremendous amount of outside and inside counsel advice. Any further comments or questions? I will entertain motions on item no. 70. Hearing no motion, item 70 technically is now withdrawn from the agenda. No action on item 70. Council, that take us to 71, which is our afternoon briefing. This -- this meeting's briefing is our hispanic latino quality of life initiative briefing. Before I turn it over to -- to the city manager to introduce the team and give us his thoughts, I would like to recognize councilmember martinez.

Martinez: Mayor, thank you very much. As you mention this is the launch really of the hispanic quality of live report. Last year in the spring of 2007, all of you -- supported this initiative and it was unanimously adopted by this council. I really want to thank you for your support and for moving this forward. Since that time, we've been able to assemble a team, hired a consultant and reach out and do -- do an initial survey of at least a thousand local hispanics on various topics and various issues to create the foundation, to create the floor, if up, of where we move from this point forward. We will now embark upon the community forum programs again taking additional input and feedback, dissecting this out in the different areas of -- of importance that are identified, by our consult tant and by staff and I just want to thank them so much for the work they are about to present. I have had the opportunity to go through the work. While you will hear that -- that in some aspects [01:56:00] hispanics do have the -- have a very good quality of life here in austin, we pride ourselves in being a very welcoming, diverse, open, progressive community. I think today's report will show that. That's a good thing. I think we can build upon that. I think we can continue to learn from that, continue to be open minded and progressive and more inclusive of everyone, not just hispanics but everyone in our community. What you will also hear today that there are areas of focus that need our attention and they need our attention very rapidly. If we don't pay attention to these areas of concern, that moving forward in -- you know, in short order we could be facing even more drastic issues community-wide. You will hear that -- that 62% of all hispanics in austin, texas, earn less than \$50,000 a year. [Indiscernible]% earn \$25,000 a year. 50% Of hispanics born in austin this year will be born to an unwed mother. Those are issues that on the surface deserve our attention as policy makers. But the other areas that they touch also deserve our attention as it relates to education, under employment, insurance, underinsured, community programs, after school programs, so this report I believe is not going to just be a guiding living document for the council, it's going to be for the entire community. We can take this to our school boards, we can take this to the county, to our legislature, we continue to build on this moving forward, including coupling in the work we did with the african-american quality of live report. That I believe created a foundation for this and has been a very worthwhile tool for us in making decisions as policy makers since that report was released. So I want to thank everyone [01:58:00] that took the time to come out here today, that's been working with us, our hispanic chamber representatives that are here, the consultants that have worked on this with us as well. Folks from the united way and just community members in general, community leaders in general. I want to thank assistant city manager rudy garza, he is heading it up on the administrative

side. I want to thank the city manager for his support in making this happen. It certainly wouldn't be possible without all of you so that I look forward to hearing today's initial report, but more importantly I look forward to the work that we're about to embark upon and then eventually come back to council with. Thank you all very much for being here, mayor, thank you.

Mayor Wynn: You bet, councilmember. Without further ado I turn this over to city manager marc ott to introduce the team and effort.

Thank you, mayor, I want to thank the comments from councilmember martinez, a most eloquent introduction of the topic. I thank you for that. There isn't much more for me to say other than i certainly want to express my commitment to this issue, i think it's extremely important and appropriate not just for hispanic and latinos, but for the entire city of austin. I think we're all going to be better served at the end of this very worthwhile process. I agree with the councilmember. I think that as you listen to this presentation, you're going to be impressed by the work that has already been accomplished by a number of folks that have been involved in the work already are sitting in the room today. I do want to acknowledge assistant city manager rudy garza who I called on to provide the leadership for this initiative. In addition to rudy we have others that have been involved already, paul saldana and [indiscernible] from avante solutions, we've had other city staff members involved including the cities demographer, ryan robinson and a number of assistant directors, including david juarez and veronica and shannon jones and joe barnes. These folks have already done a great deal of work to begin to move us in the right direction in regards to this most important initiative. With that, rudy, I will turn things over to you.

Good afternoon, mayor and council, I'm rudy garza, assistant city manager. Myself and two other individuals will be presenting to you today. My role today will be to -- to review with you the process and time line as we go forward through this initiative. Following that be ryan robinson other city demographer, reviewing with you statistics that he has found over the last several months working intensely on getting ready for today and as we move through. [Indiscernible] talk to you about -- about the process that they will use for the community forums and as well as -- reaching out to the community and putting together the information that we will ultimately present to the citizens and to the city council. Some of this information, councilmember and our city managers have talked about, but for the public's purpose on may 8th was when the city council passed a resolution directing the hispanic latino quality of life be implemented. I also wanted to thank at this time assistant city MANAGER michael McDonald, brilliantly instrumental for me and all of us because he obviously was the lead as we know for the african-american quality of life, we were able to build off of his experiences and so this, what you will see the hispanic quality of life will certainly model and follow the same process as the african-american quality of life initiative. What we have done so far very quickly, using the resolution, using experiences from the assistant city manager, we have defined the scope of work. As I mentioned ryan robinson worked very diligently to put together some of the key statistics that you will find that are all revolved around the quality of life issues. In addition to that the city manager identified the core team. We have identified four key areas, education led from the staff level bert lumbreras. Economic development, including business, capital, employment issues, led from staff by veronica lara, assistant director at smbr. Health care issues will be led by assistant director shannon jones as well as joe barnes. And

finally the cultural arts history and enrichment, other social type of issues headed by assistant director david juarez. And as our city manager noted the consultant president and ceo paul saldana will be leading those efforts. Paul will be talking to you more about the specifics about the community forums, but obviously the next steps after today as we refine going forward is going to host those four community forums that will cover each of the areas that I just noted. After that process, after the community forums are completed, solutions will then be tasked with compiling all of that information, analyzing and preparing what they see as their assessment and their recommendations, that will be provided to staff which we will share and work closely with the city manager on. We will then same step as the african-american quality of life, the city council will then be -- be convening a citizen task force or panel to review those findings and those recommendations by the consultant. The role of the citizen panel will be to basically validate that report. To ensure that in fact the consultant bottom line the consultant got it right. So the citizen panel will review that information. They will also have maybe one or two forums to hear directly from the citizens. The citizen panel. Then they will assess what they learn from the consultant. They will also take the information from the citizens and develop their own set of findings and recommendations which that will also be turned over to staff. At that point the staff and city manager will be working closely to analyze all of the findings, all of the results and recommendations from both the consultant forums, from the citizen panel and the forums held by the citizen panel and the city manager would then return with a report for the city council to review. So very quickly, the time line for all of that. We expect the forums to go through february and april. The consultant will present their report in june, spending the month of may putting that information together. We expect to come back to the city council over the summer to ask you to convene that citizen panel and that citizen panel will work in the months of july and august to assess the report and have a community forum which then they will present to the city council in august. We would then spend -- the -- working closely with the city manager to analyze all of the information as i stated, ultimately presenting the city manager's recommendations and finding in november to the city council. That's a very quick recap of the process that we will be following, with that I will be introducing the city demographer ryan robinson, all star and all nation right I don't know robinson.

That's right.

Welcome, ryan.

Thank you very much. Mayor, mayor pro tem, council, city manager I'm pleased to be here. I think my piece of this is try to put together a data foundation. As we've seen from which many subsequent activities, what will occur. My part of it is to quantify and measure something that is really relatively nebulous, that is the notion of quality of life. What is quality of life? I think a community's quality of life can be one of the most defining characteristics of a community. I truly believe that austin has one of the highest levels of quality of life in the country. People move here, companies move here, expand here, investors invest here, primarily I believe because of our quality of life. I think it has become our biggest economic development engine. So what we're going to go through this afternoon, at least my part of it. A couple of highlights from the report that I trust everyone has, is within your backup. It's our attempt to quantify and measure quality of life for -- for a very large and very rapidly growing component of our community. We're going to pose three basic questions in trying to determine whether the quality of life in

austin for hispanics is markedly different from the quality of life experienced by hispanics in other cities, the state and the nation as a whole. Secondly whether the quality of life experienced by austin hispanics is significantly different from the quality of life experienced by the rest of the city and other demographic groups within the city. So this is what I would call a gap analysis. We're going to look at discrepancies across a variety of socio-economic indicators. Thirdly, we're going to compare that gap. How do local gaps compare to gaps in other cities across the nation. So to set this comparative analysis up, our set of -- of peer cities include every major city in the state of texas, the state of texas as a whole, and then a selected set of cities around the country that are within 200,000 plus or minus of our total population, they include many of our peer cities, places that we often look to for comparative information. Places like columbus, ohio, denver, seattle, portland, those standard observations. I want to drive home the point while these cities are somewhat similar to austin in terms of total population, there's an enormous amount of variance within that set when it comes to the hispanic share of total population. And this first bar graph i think illustrates that with el paso being at the very top of the list, fully 80% of its population is of hispanic origin. And you can see that austin there is in the top third of that group, 35.9. That's the latest official share of total that we get from the census bureau. That comes to us from the american community survey, we will talk about the pros and cons of the data set. All the way down at bottom of the list are places like jacksonville, memphis, richmond, columbus, baltimore. I think that we need to keep in mind that these are city that's have much, much smaller hispanic communities than austin does. Yet I think that they are -- within the realm of -- of a peer city to where we want to do a comparison with those. Keep that in mind, there's a lot of variance in terms of the size. I don't expect people to read this. This is the structure. The score card itself, in the first column is the listing of items that we use to define what we mean by quality of life. Indicators like family income, educational attainment, home ownership rates, poverty levels, unemployment rates. The third column is something headed up as peer ranking, that's simply the rank order when we look at the family income, median family income, we will look at this in greater detail in a moment of hispanics in austin, they rank 11th out of the set of 31 comparables. The fifth column is the disparity ranking. In other words how big is that gap, where does it rank? In the case of family income it's the 10th biggest gap in the country. The second page of that score card continues with data themes, including business ownership, ethnicity shares, age structure, housing patterns and that fourth category, that final category is kind of a grab bag, what we are calling community issues, it includes individual data themes of immigration and non-citizens, academic performance, teen pregnancy, single parents, occupational structure and housing pressures. Before we get into the -- the socio-economic aspects of it and open up those data boxes, I think we have to talk about population growth. One of the overwhelming characteristics of austin's hispanic community is its sheer size and rapidity of the growth it has experienced recently. That bar graph is -- is the city of austin total population, history, from 1900 to 2010. And this is something that the mayor and I have spent quite a bit of time looking at. It never ceases to amaze me that we have become, this is unofficial, but I think that we will receive the official information when we get the data back, but we are the 14th most populous city in the country. Granted the city is different than a metropolitan area. But in terms of what everyone in this room does on a daily basis, we're the 14th most populous city in the country. We have recently passed columbus, ohio and the city of san francisco using 2000 data we were 16th and again I think the census data lagged a little bit behind our own numbers, i think we will finish out the decade even in a conservative projection just under 800,000, we will finish up at about 785, less than a year

from now. Graph compares the total population of the city since 1950 and the total growth of the hispanic community and you can see that both are growing rapidly. But the steepness of the as cent for the hispanic community continues to be shown, actually accelerated. This graph does the job i think most effectively where we're looking at how much of the city's total growth is coming from growth within the hispanic community itself. So back in the decade in the 50s, GROWTH WAS IN THE Hispanic community accounted for only 15% of total growth. Fast forward that to this decade, I guess it's the double oughts. I still can't figure out what to call this decade, I'm almost looking forwards to the teens. When it's all said and done, it will account for somewhere between 70 and 80% of our total growth. It was one of the stunning take aways I received personally from doing this analysis. Of course that growth has got a special manifestation to it. We can map that using dicennial block data. On the left hand is 1990, right hand panel is 2,000 census blocks, if it's colored purple that means that 80%, 80 to 100% of that total block is hispanic, red 60 to will 0, orange 40 to 60%. You can really begin to see the emerge against of large neighborhoods with hispanic households. To me in my mind the quintessential is dove springs. People call those barrios, i mean that in a positive sense, we need to talk about the characteristics that define a barrios, in dove springs, 90 to 95% is hispanic origin beginning, spanish is spoken, families are full of children, households are four, five, six persons per household, multi-generational families. Other neighborhoods that fit that pattern and yet are different, of course core east austin, I'm including riverside drive and montopolis in that, thirdly probably the most recent neighborhood to emerge is the saint john neighborhood. Back to the city as a whole, this graphic to me says so much about how not only has austin grown very rapidly, but we really have diversified ethnically. Back in 1960, we were overwhelmingly an anglo community, over 70% of our population was anglo, we had two relatively same size non-anglo groups, those being hispanics and african-americans, an almost non-existent asian community. Over time to the points that we find ourselves today the anglo share of total has dipped below 50%, so we have joined every -- almost every other large north american city in bing majority minority community. You fast forward a very short 11 years from now and the anglo share of total and the hispanic share of total in the city of austin will be very nearly equal to one another. [One moment please for change in captioners] because of issues of undercount, because of a variety of extenuating circumstances, I think we need to see that as a base. When you begin to cross tab this by and I think and open up and peel back by layer and we'll do that by age, one of the big take-away items for me is that children now within austin, individuals under the age of 18 are majority hispanic. 50.1%. You take that down one more level and look at individuals under 5, that hispanic share jumps all the way up to almost 54%. This is indicative of how very young this hispanic community is. Not only is it rapidly growing, but it's a very young population and that has significance certainly from a policy standpoint. The first socioeconomic data is income. San jose at the top of that list. AUSTIN COMING IN 7th. And this is median attack income for the city as a whole. We look at hispanic median family income, san jose again at the top of the list. While austin is not within the top quarter, hispanic median family income is within the top third of that class, so to speak, coming in at \$40,000 a year. At the bottom of the lift, richmond, raleigh and detroit, again, places with significantly smaller hispanic communities. And this is in with reference with respect to the disparity, with the gap. As a demographer, I found this one to be one of those, you know, I checked it twice and checked it three times because the discrepancy is so incredibly large. City-wide median family income is 63,000. Anglo family income 90,000. Hispanic median family income 40. Let's go back in time quickly to 2000 and look at those data

points and yes, there was a discrepancy in the rest of 2000, but notice what's happened over that 7-year period, that discrepancy has increased. In my mind, this is a local manifestation of what a lot of people have written about and that increase in inequality. We see it here structurally and spatially. This is a map of median family income. These are block groups from census 2000 so the data are old, but it's the most recent information we have for small areas. If it's a blue color, the median family income is that 150,000 or greater. If it's red, it's at 20,000. And that kind of reddish-orange, you can see that. That arrow is exactly a 5-mile arrow and imagine how steep that gradient is as you move from east to west within our community. And you can move from an area of town that has median family income of 25,000 to 150,000. This is a way to grasp that discrepancy. The smaller the bar with Raleigh at the top, the discrepancy is actually larger. So what we're measuring here is what percentage Hispanic median family income is of total median family income. In Austin it's roughly 65, 66% of total. You can see that we have one of the larger discrepancies in the country coming in at 10. But let's look at educational attainment, the second socioeconomic data item that we'll look at. Comparatively, Austin Hispanics do relatively well coming in at 8. 15% of adults age 25 or older hold at least a bachelor's degree. But again, here's our look at individual groups. The city as a whole, we're famous for having one of the highest educational attainment levels in the country. Almost 43% of our adults have a bachelor's degree or greater. You can see that Hispanics in this case lag at the very -- in the group at 15.4. So yes, they look relatively -- the group does relatively well on a national comparison, but the gap is enormous. And subsequently we rank as having the second largest gap out of our comparative set. I think that we have to talk about international immigration and language issues when we talk about demographics of Austin's Hispanic community. Again, these are census data and the census bureau asks a citizenship question, it does not ask immigration status. This is simply what is your country of origin, are you on citizen or not. 40% of Hispanics are noncitizens, but look out large that share is for our Asian community. Part of the story is something that I really will admit I missed, and what I missed was how much in migration we were going to receive from international immigration. This pie chart shows the three basic components, natural over death. Domestic, people moving from other parts of the state, other parts of the country, and in international immigration, households moving here from other countries. IN THE 90s, THAT International component made up only 8% of our growth. Look what happens when you advance that to the 2000 and 2005 period, that number jumps all the way to 23%. There are a lot of reasons why that happened. The big question now that economists and demographers are asking is what happened to the flow of immigration. Most people will say that it has leveled off. The Immigration Policy Institute in Washington, D.C. published a report yesterday that said while flow has probably leveled off, those households are not leaving. And so they are here to stay and they are here to stay and that's the significant issue from a policy standpoint. A couple of maps to express this, a concentration of Spanish speakers, 50%, Spanish is their primary language. And that map is followed up with a concentration of immigrants. I'll toggle back and forth. They are not exactly the same map, the biggest difference coming from the north Austin civic association where we have lots of immigrant households who aren't necessarily Spanish speaking households, that is one of our Asian concentrations in the community. A couple of quick maps to drive home a point that I feel is part of this different picture and this is differential housing patterns. This is a percentage of block total. But look how different the second map is and that's mapping individuals from an absolute standpoint. So again, percentage-wise, you see these large concentrations of primarily working class Hispanic households

and yet when you map that from an absolute standpoint, you see something that I think is important, that hispanic households exist in almost every corner of the city so you have a duality is at an all time low. Enormous amount of dispersal. For working lower class hispanic income, you see a continuing concentration within only a certain few neighborhoods. That brings us to slide I'll -- it would be a bit to call these conclusions so I'll call them observations. The first being a huge absolute population growth. Not only within the city but across central texas as a whole. I haven't touched on the regional aspects. The region so not too far behind the city. The majority of children in hispanic -- in austin are now hispanic. Deep persistent socioeconomic gaps persist and yet there is an expanding middle class. Austin's hispanic community is not culturally monolithic but rather contains an amazing amount of diversity. I think this is a temptation to look at a community that while there's a strong sense of place and there's a strong sense of unity within that community, there's an enormous amount of variance up and down that -- within that community structurally. Coupled with intense concentration and heightened segregation for working class households and potential emergence of two communities. One fully integrated and engaged and the other isolated, maybe that's a little strong, potentially isolated, existing within a cultural bubble. And this subcommunity is decidedly disadvantaged. That cultural bubble is interesting because on the one hand think it is a somewhat isolating mechanism, and on the other it's a strengthening, sustaining safety net type of mechanism too. And in the sense of newly arrived immigrant households are supported within that cultural bubble. And I think it's that very bubble that we need to spend time thinking about and crafting our policies. And so I will close with a pair graph from the written report and I appreciate your patience. To me and I'm not a policy guy, I'm a data mechanic, but this one paragraph sums it up for me at least. The overall quality, and councilmember martinez said as much, the overall quality of life in hispanics is good and yet there is increasing urgency to the economic, educational and social challenges facing the rapidly expanding lower socioeconomic rungs. Community for the problems of today's hispanic community will become possibly overwhelming and potentially debilitating problems of the entire austin community tomorrow. That's my piece. I'm available for questions. garza, city manager may want to give it to paul and then I can come back up.

Mayor Wynn: Why don't we save questions for all pieces of the presentation until after the final slides. Paul, welcome.

Good afternoon, mayor and council, paul saldana, i represent the firm adelante solutions.

Mayor Wynn: And a new daddy.

He's five and a half months old. I think he's watching at home. Before I get started with my presentation I want to introduce some members of our team who you will see working very diligently in the community forum so I do want to make a couple quick introductions. Alisa may, you can stand. Former school board president doyle valdez. Mario sanchez with astilla communications and from my office raul sombrano and sebastian sifuentes. As you've already heard by assistant city manager rudy garza, the council in may of 2008 adopted a resolution to move forward with this particular initiative. That resolution also specifically cited the successful african-american quality of life report that led to create higher levels of community engagement and create policies to address the needs of the african-american community. The intent is that the hispanic quality of life process will yield similar positive

results. In addition, the city was presented research and data from the making the connection examination of community engagement by hispanics in the greater austin area. The city I think recognized the opportunity to expand on this foundation of the initial study and recognized the need to further study and engage community discussion around the four areas of education, economic development, health, cultural arts, history and enrichment. What I want to do is give you a profile. Councilmember martinez referenced the fact that we had initiated a study last year where we surveyed over 1,000 participants. So I want to just briefly give you a summary of that particular initiative and I'll go into the profiles of the participants of that particular survey. The study on hispanic community engagement sought to examine three areas. First the issues hispanic latinos need to be addressed. The role in addressing these issues and the last thing to do more in the hispanic/latino community to promote their civic involvement and community engagement. As I mentioned, we surveyed over 1,000 interviews through face-to-face interviews, phone hotline surveys, electronic mass mailing, a particular website. We engaged and went through a series of 12 stakeholder meetings and conducted two focus groups over a nine-month period. Our preliminary findings of the data collected revealed the following profile of participants. When given the choice, participants overwhelmingly identified themselves as hispanic or mexican-american. The data also indicates that over 60% of the participants have a household income of less than \$50,000 a year. I think you'll find that there is particular information is consistent with the information that ryan presented earlier. Nearly 53% of those surveyed had either a high school, ged, some college and/or associate's degree, and as previously referenced, the participants ranked education, economic stability issues which includes business economic development, employment, housing and health as the top priority issues. Over 62% of the population surveyed indicate they are already engaged in either schools, churches and/or nonprofits. They reveal not only are they engaged but they are willing and wanting to do more. So using this set of information as benchmarks, if you will, we believe it's a critical that we further expand and our understanding of the fastest growing population in the city of austin, hence the opportunity for prosperity. Moving forward with the city of austin's hispanic quality of life, as ryan already mentioned, in addition to the analysis of the comparative quality of life indicators and the data and things he presented to you, we feel it's incumbent upon the city to analyze whether or not the city is providing opportunities to further enhance the quality of life for all hispanics. Ryan talked about the diversity within our own community, and I think to this point we do have a growing number of folks who have yet not been engaged in the process and it's important for to us get them involved in this process and for us to look at these issues. From a planning perspective, we started defining the scope of work and methodology and the time line in november of 2008. In december we presented a draft overview of a process to city staff, were able to brief the city manager last week and we are culminaing with this report and presentation to you today. Moving forward with the public engagement process, we're recommending a total of four community forums. And our recommendation is that the first forum begin at the end of february, FEBRUARY 24th, I BELIEVE WE Have a date confirmed for that. We will be recommending the following order of forums. First starting with education, the second on economic development, followed bicultural arts, history enrichment and then health. We want to make sure that we are as inclusive and inviting and so we plan to host the forums in different parts of the city to ensure a greater turnout for this particular important study. From a marketing and outreach perspective, our efforts will obviously set the tone for the successfulness of our proposed community forums. This initiative will be carried out in partnership with

the city and our team of consultants; however, this particular initiative will be led by the city and we will support them in this role. The intent is to create a marketing, an outreach perspective that the community can relate to and equally important is create a safe and inviting environment for participants to freely voice their opinions and thoughts about existing city services and programs and the quality of life here in austin. We will utilize a bilingual communication strategies focusing in two particular areas. The median advertising for the forum and, of course, the grass roots community outreach effort. The media aspects will obviously include earn media plans, press releases, media stories, development of all the collateral materials which may include flyers, posters, website, hotline information. And then in addition to that it's absolutely important in order for us to be truly successful and have good turnout in the forums that we initiate a grass roots effort community outreach by utilizing a lot of the different groups that are represented here today in the chambers. Using those opinion leaders that we do have in the hispanic-latino community to help spread the word about the important discussions we're going to embark on here over the next several months. I want to just quickly go over the structure of the actual forums. We're proposing a two-hour community forum starting around 6:30. The proposed format for the forum will include just a very brief introduction of the process. We feel it's important from the onset to sort of set the expectations of what we want to basically accomplish in these particular forums. There will be a brief presentation on the particular subject matter by city staff and the consultants. We will have a very brief facilitated panel discussion and then we'll get into the important aspect of the forum by incorporating what we hope will be a structured community dialogue, small group discussions, and then there will be a large group reporting for those individuals who are participating to provide some general discussion and feedback. Equally important is for us to take advantage of the opportunity to collect data at the particular forums so we will initiate a survey for those participants who are at the forum, those who are not -- are able to participate, the website will also have -- on the city's website we will have a survey where individuals can participate and give us feedback. This particular survey we'll ask them for feedback on all the four different subject areas that we will be looking at. As your consultant, what we'll do after each of the forums is provide you a very detailed summary report which captures the community feedback. We will specifically document ideas, specific themes, a prioritization of issues, and we will provide the city assessment and feedback on the things that the city is doing well and the things that the city is not doing well. Finally, I just want to give you a time line. Rudy garza has already gone-- this at the beginning of the presentation, but the forums will initiate in february, go on through the end of april and may, at the end of may, adelante will provide a final draft report and we'll present that to city staff at the end of may and we will come back to council with a presentation in june of 2009. I appreciate your attention and we'll be happy to answer any questions. I'll turn this back over to rudy garza.

Mayor Wynn: Thank you, paul.

Mayor and council, thank you very much and I'm just going to close out with a couple of things. First, I know it's important for the citizens to know and the community is watching, we are in fact working to put all of the presentations and reports that you saw today on the city's website. In fact, two other staff members that I want to recognize that will be working directly on this and also for the citizens to know they have specific questions or need information, they can contact VICTOR, ONE OF OUR PIOs, AS Well as renee, who are going to be assigned directly to this project and will be responsible for putting this information online and helping with the outreach along with our consultant. I also wanted to thank

very quickly a couple of our partners because I think councilmember did allude to this. I want to thank our superintendent pat forgione and aisd. They have been very supportive and shared a lot of information and I think we're going to benefit from that as we go forward in our education forum. I also want to thank the united way for allowing us to use the data paul presented today and also the findings that was part of the united way's efforts that will help us tremendously as we move forward. But saying that, again, the councilmember mentioned it, i think it's important that we recognize that as we gather information and assess the issues that come up and come up with recommendations, what we're going to find is that everything that we find will not necessarily be something that the city of austin will be able to impact and that's where we're reach out to our partners, the school district, the county, the state and other agencies that will help us move forward and address the quality of life issues. Finally, I just want to thank you for the time today and encourage the citizens to look forward to the dates. We want participation. So anything you can do to bring yourself to a meeting, bring others to the meeting and encourage the citizens that typically don't get out to these events to please participate. So with that, staff is here and we're prepared to answer any questions.

Mayor Wynn: Thank you, rudy. Questions for staff, council? Comments? Councilmember martinez.

Martinez: Thanks, mayor. I do want to ask, rudy, what is our plan for outreach in terms of informing the community about the forums that are going to take place and, you know, how do they get involved and find out where they can get that information?

I'll give that a shot. I may rely on paul to help me. We certainly will be using all of the media venues that we have. In fact, una vision has stepped up quickly and stated that they want to be very involved with helping us with getting the word out, but we certainly want to use all of the media outlets. We're looking closely with -- working closely with communications that will help us develop the brand, the key message that we will then turn into postcards, fliers that we'll get to various parts of the community. The city's web side and working with victor and renee and any other forms of outreach. I'm not sure if there is anything else that you want to add, paul.

I think, you know, this is a community mission -- community initiative driven project so we are going to really ask our opinion leaders and community leaders and including all of the different organizations that the city has funded over the years. You have the partnership with the greater austin hispanic hispanic contractor associations, the various art groups that receive funding through the cultural arts funding. We are going to reach out to them and ask them to be part, to basically be collaborators and partners with us to help spread the word to those particular groups.

Thank you very much.

Mayor Wynn: Further comments, questions? Councilmember shade.

Shade: You know, I was told I would be impressed and I am. This is a lot of information and obviously a lot of great work. I'm curious on the outreach meetings if there is a way -- what really strikes me is the unbelievable diversity that exists within this community. It's not a monolithic community although it can

fall under the category of hispanic. What I'm curious about can we add a step where we measure or I guess make sure that when you have the forums and map out who attended that is accurate based on census information we've gotten from ryan so we make sure we don't have any gaps before we provide the conclusions and is that one of the steps you are planning?

Absolutely absolutely we will do that. And the spent is for us to go to where the hispanic community already is. Our own community is very diverse so we're going to the faith based organizations, we're going to where the community is. We will is a sign-in registration for those attending the forum, but we will make sure we document those efforts and make sure we are being as inclusive in reaching out.

Shade: I know that you will be and I have no doubt about that and your efforts, but what I'm saying because so many people don't participate in these kinds of things and you have so much different socioeconomic levels, so many volunteer interest areas, if you are capturing information of those who attend to then compare to it the census information we have so if there are any gaps we have to think more creatively about how to reach those so any conclusions are not representative of those who participate but representative of what we know this community actually is. It's a much more difficult task than for some of the -- you know, again, it's such a diverse community, I think it's going to be a big challenge.

Absolutely.

Mayor Wynn: Further questions, comments? Thoughts? We look forward to an extensive program. Thank you all very much. Very impressive team. So council, let's see. We're actually past our posting so without objection we'll recess this meeting of the austin city council, call to order this meeting of the austin housing finance corporation board of directors meeting and welcome ms. margaret shaw.

Good afternoon, thank you, president, members of the board. My name is margaret shaw, treasurer of the austin housing finance corporation. We have five items on the agenda and I overall of them on consent. The first is approval of our december 11, 2008 minutes. The second, third, fourth and fifth I'm proud to say is with your approval today, 6 million to create 77 units, all of which would serve families and individuals that earn less than 50% of median family income. Most of those for people at 30% of median family income are very low-income residents. Item 2 is a partnership with the community partnerships for the homeless to purchase 24 units on sweeney circle. Item 3 is our partnership with austin neighborhood alliance for habitat, an affiliate of habitat for humanity which would purchase for the first time two newly constructed homes to place their homeowners in. Item 4 is our partnership with the austin-travis county mental health and mental retardation center to create a 37-bed transitional facility on north lamar. And last but not least is a partnership with foundation communities by which we would help them refinance existing debt on one of their 92-unit properties and thereby enabling them to lower rents for 14 of those units to 30% and allow them to reach those families with supportive services and other services. With that I overall five items on consent and happy to answer any questions if you may have them.

Mayor Wynn: Thank you, ms. shaw. Questions of staff? Board member martinez.

Martinez: I don't really have any questions, I just want to thank margaret and anthony and staff for the sweeney circle project in particular. We know that last year we went through a pretty controversial case right around the corner from sweeney circle and one of the things that the community said was why don't you come in and fix up what is already existing here as opposed to adding more projects, if you will, more housing projects. And so in this particular case, that nonprofit heard the pleas of the community, found an opportunity on sweeney circle and has now come back and it's going to take existing structures, refurbish them and then offer them as really, you know, affordable housing for the folks in that community. And I think that what we'll find in that area is that the community is really looking forward to and hoping that it helps for further redevelopment and revitalization of that area. Thank you for working on that.

Thank you.

Mayor Wynn: Further questions of staff? Comments? Again, we have a proposed consent agenda consisting of all five of our posted items. I'll entertain that motion. Motion by board member leffingwell, seconded by board member martinez to approve our consent agenda as proposed. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of 7-0. Thank you, ms. shaw.

Thank you.

Mayor Wynn: So there being no more items before this ahfc meeting, we now stand adjourned. Seeing how we are postalled posted for 00 for our zoning cases, we will remain in recess until then. We are now in recess. Thank you.

Mayor Wynn: There being a quorum present, at this time I'll call back to order this meeting of the austin city council. We've been in recess for about 30 minutes. We now go to zoning matters and I'll william cannon mr. greg guernsey.

Thank you, greg guernsey with the neighborhood planning and zoning. Let me go through our consent 00 agenda starting with item 72. These are items where the public hearings have been closed and there is possible action today. Case c14-2008-8894. The city is requesting postponement to january 29. Item 73, case c14-2008-0208, zoning change for property located at pecan park boulevard to community commercial mixed use overlay. This is ready for consent approval on second and third readings. Item number c14-2008-215 sh, willows apartments at 1330 and 1332 lamar square boulevard. Staff, the neighborhood and the property owner, the mary lee foundation, have worked out an agreement that the mary lee foundation would come up and offer some comments about their project. Few may recall, there was some issues about putting in some findings for this and after some discussion with the neighborhood and mary lee, it was agreed that if mary lee foundation came forward and entered comments into the record about what their project is and what they plan to do, that there is would be sufficient for the neighborhood. So we could leave this on consent and offer that as comments or we

could leave this as a discussion item and they could do that later.

Mayor Wynn: Why don't we leave out the consent and welcome comments witness we get a motion and second.

Item 75, this is case c14-2008-0052, this is the property located at 9609 swanson ranch road. This is a zoning change request from single-family residential to general office conditional overlay zoning. We have a valid petition. An agreement has not been signed. We can offer this still as a consent item on third reading. If it is your desire to do forward with this case. Item 76, case c14-2007-0102, hill country springs for the property located at 1001935 south to move industrial service for tract 1, community commercial conditional overlay combining district zoning for tract 2 and rural residence conditional overlay combined district zoning for tract 3 and this is ready for consent approval on second and third reading. Items 77 and 78 are related. 77 is a neighborhood plan amendment for the property located in the 1600 block, 1602, 1604 and 1606 martin luther king. These are discussion items. Staff would like to go into detail before you act on this. We still have a valid petition existing on 78. Item 79, this is case -- excuse me, these are related cases. Neighborhood plan amendment, 02, project destiny. This is a neighborhood plan amend to change the future land use map to office mixed use for the property located at 7315 airport boulevard. The accompanying zoning case is c14-2008-0171 for the property, same property, 4315 airport boulevard, to change zoning to neighborhood office, mixed use, conditional overlay combined district zoning. Earlier this week we had a valid petition that was filed. A name has been removed and currently the petition stands below 20%. We will offer this as a consent item unless you choose to pull for discussion. Item number 81, case c14-2008-0128, this is for the spot at 5005 spicewood springs boulevard, approve third reading, zoning to townhouse district zoning. Staff did do a review of the project. It was -- a conceptual project that was submitted and reviewed by our watershed protection department. The backup identifies several variances that could possibly be required if the project was developed with the four units that the conceptual plan proposed regarding cut and fill, construction on steep slopes. There is also an issue I think about a compatibility driveway. We could offer this and take this on third reading if you have further questions, I can go in more detail and we can have this as a discussion item. But we would offer this as a consent item. Item number 82, this is an oak hill case along with 83, and i think these are going to take a little bit of discussion. But on item -- yeah, I think I'll leave it at that. Item 84 is a discussion item on william cannon. I understand there's a neighborhood agreement regarding these properties, however, we still have a valid petition on this but we'll have that as a discussion item. Item 85 through 90 are related to the mlk boulevard station area plan. These items would be up for third reading. We have a postponement request by a larger property owner in this area. Staff does not object to the postponement and we would suggest this be postponed at the property owner's request to your february 12th meeting. That's items 85, 86, 87, 88, 89 and 90 that are all related to the martin luther king station area plan. And that concludes the items i could offer for consent at this time.

Mayor Wynn: Thank you, mr. guernsey. So council, our proposed consent agenda on these cases where we have already conducted and closed the public hearing and likely taken some action would be to postpone item 72 to JANUARY 29th, 2009. To approve on second and third reading item 73. To approve on second and third reading item 74, a and we'll get some comments for the record from the

applicant owner. To approve third reading for item number 75. To approve item 76 on second and third reading. To approve combined items 79 and 80 on second and third reading. To approve item 81 on third reading. And to postpone items 85, 86, 87, 88, 89 and 90 to our february 12, 2009 meeting. I'll entertain that motion. On the proposed consent agenda. Motion by the mayor pro tem, seconded by councilmember cole to approve the consent agenda as proposed. Before we take any council comments, potential add-ons or deletions, I would like to call up I guess somebody from the mary lee foundation on item number 74. For some comments. For our record.

I'll just note that is a zoning change request to multi-family residential, conditional overlay, the zoning that's expressed in the ordinance that you have is basically mf-4 district with some exceptions for height, units and f.a.r. And at this time I'll turn it over and nancy will come forward and speak to this.

Good evening, my name is nancy cates, development director for the mary lee foundation. I was asked to give some comments for the record on the willows apartments. Just to give a little bit of background, on march the 1st of 2009, mary lee foundation will celebrate its 46th year in austin of assisting very low-income persons to live and contribute back to their communities. Since 2000, mary lee's focus has been on redeveloping the lamar square drive neighborhood. Which is a combination of developed and -- already redeveloped and needing to be developed properties on there. Again, we house about 200 people in that neighborhood and we provide jobs to about 100 people in that square. The city of austin has assisted in the funding of the cornerstone in 2004 and is now assisting in the funding of the willows. Both of these projects provide outstanding community benefits. The willows will house very low-income persons at 30 to 50% of median family income. The building will be completely accessible. There will be a 40-year affordability funding and as far as the mary lee foundation is concerned, it can go much longer. We intend for it to be that way from now on. It will be a green building site. We will abide by smart housing. There will be on site case management. There will not be any increase of traffic because of this redevelopment. In fact, we'll only seek [inaudible] traffic. We are replacing some of the low-income housing that has been lost in this area as well due to development. So we're putting back some of those. This project is a great example of a three-way partnership between the city, the neighborhood association and the people who live at mary lee foundation. It's a win-win for all three, and we are truly excited about being a part of all of this. I think that covers where we are and we really appreciate everything that the city council has done for us. Thank you. cates, and for all the work of the mary lee foundation.

Margaret shaw wanted to come over and she whispered in my ear and said this is the first g.o. bond project. If I could let you know this bond project for the city.

Mayor Wynn: Thank u again, council, we have a motion and second on the table approving the consent agenda as proposed. Further comments. Councilmember morris son. [One moment, please, for change in captioners]

Morrison: I don't know if it was appropriate to pull this off the consent agenda to get those questions answered. If we could pull those off, number 81 also, so that we can get the answering back. That was

another clustering one. And then just for clarification, is 84 on the consent agenda?

No, it's not. I think that's it.

Mayor Wynn: New other items to be discussed off the consent agenda. We have a motion on the table taking actions on items 72, a postponement, item 73, second and third reading, as with 74, approving item 75 on third reading. Approving item 76 on second and third reading. And postponing cases 85 to 90 to our february 12th, 2009 meeting. Motion and a second on the table. Further comments? Hearing none, all those in favor please say aye. motion passes on the consent agenda on a vote of seven to zero with the exception of item 75, councilmember morrison will be shown as voting no.

Let me go ahead with our 4:00 zoning items. This is where the public hearings are open and there is possible action this the first item i would like to offer is item number 91. This is case c 814-2008-0146. The commission will review this on your -- on the 20th agenda and staff is recommending postponement of this item to your february 26th agenda. It a staff postponement to february 26 on item number 91. Item number 92 is case c-14--2008-0152 for the property at 6300, 6302 u.s. Highway 290 west. This is a zoning change request to general commercial services conditional overlay combining district zoning. The commission -- planning commission recommended the cs-co-np combining district zoning and this is ready for consent approval on all three readings. Item number 93 is case c-14-2008-0159 known as the third and colorado hotel property. Staff is requesting a postponement of this item to your february 26th agenda. The planning commission recommended postponement of this case to their january 27th agenda. So staff is looking at postponement to january 26th. Item number 94 is case c-14-2008-0227 known as the live oak brewing company. This is the property located at 1615 crozier lane. This is a zoning change request to limited industrial service. The zoning and platting commission recommendation is to grant limited industrial service overlay combining district zoning with conditions. This is ready for first reading only. Item number 95 is case 01 known as the pioneer hill tnd amendment number 1. This is to approve second and third readings for the property located along dessau road to the traditional neighborhood district or tnd district zoning to change a condition of zoning. I understand this could remain on the consent agenda noting that there would be a right turn in, right turn out proposal leaving the property.

Mayor Wynn: Councilmember morrison.

Morrison: Yes. I have been speaking with staff about the possibility of having only right or left -- allowed as opposed to no straight through.

So there would be signage --

Morrison: Signage that says left, right only, no straight through.

I think we've discussed that with the watershed protection and development review department. George zapalac I believe is in the audience. That would be acceptable.

Morrison: All right. Thank you.

That's item number 95 that's approved for second and third reading. I don't believe there are any citizens signed you on that particular item. Item number 96 is case c 06, pioneer crossing amendment number 6 for the property at west braker lane at musket valley trail. This is to zone the property to planned unit development district zoning with a condition. The zoning and platting commission recommended the pud zoning with conditions and this is ready for consent approval on all three readings. Item number 97 is case c-14-2008-0210, the ashok medical office for the property located at 12554 through 12622 metric boulevard. This is a zoning change request to general office district zoning. The zoning and platting commission recommendation was to grant go-co or general office combining district zoning. The applicant and the neighborhood have agreed to one additional cfer condition or a modification of the condition. Currently the ordinance that you have that could go on consent speaks to a height of 48 speet feat, but the applicant and the neighborhood have agreed to a lesser height, a more restricted height of 40 feet. And with that one change to the ordinance, the neighborhood would be agreeable to let this go on all three readings. So we could do all three readings to clarify that the amendment, if council agrees with both parties to limit the height to 40 feet on item number 97 in addition to what other conditions are listed on the ordinance. Item number 98 is a discussion item. Item 99 is case c-14-2008-0112 known as the minware property. Applicant will not be in town when this case comes up today, and has agreed to a postponement to your january 29th agenda. All parties agree, the neighborhood agrees with that postponement request on item number 99 to your january 29th agenda. Item number 100 is case c-14-2008-0204 known as the property at 6516 and 6520 south first street. We have an applicant postponement regarding this to your february 12th meeting. The applicant's considering modifying the rezoning request on this case and would like more time to think about that. So a postponement request by the applicant on number 100 to your february 12th agenda. 10 1 is case c-14-2008-0217 for the property located at 8524 peaceful hill lane. We have a postponement request by the applicant and neighborhood. It's a joint request. Both parties agree to your january 29th agenda. 10 it 2 is case c 814-06-0233 known as the wildflower commons unit planned development. This is to a property at 4700 block to 5200 block of sh 45. We have an applicant postponement. It is their first request and this is to the february 26th agenda. That concludes the items that I can offer for consent approval at this time.

Mayor Wynn: Thank you, mr. guernsey. So council, our proposed consent agenda on these cases where we have yet to conduct a public hearing is to postpone item 91 to our february 26th, 2009 meeting. Close the public hearing and approve on all three readings case 92. Postpone item 93 to our february 26th, 2009 meeting. To close public hearing and approve on first reading only item number 94. Can't have any beer until we approve on all three readings. Item number 95, we close the public hearing and approve on second and third reading with the additional restriction as mentioned earlier from the dais. On item number 96, we'll close the public hearing and approve on all three readings, as with item number 97, close the public hearing and approve on all three readings with the additional restriction of a 40-foot height limitation. We'll be postponing item 99 to our january 29th, 2009 meeting. Postponing item 100 to our february 12th, 2009 meeting. Postponing item 10 1 to our diswrarn 29th, 2009 meeting and postponing item 10 2 to our february 26, 2009 meeting. That's our proposed consent agenda. Motion to approve that is first made by councilmember morrison and seconded by councilmember

leffingwell to approve the consent agenda as proposed. Further comments?

Mayor, the applicant has handed me a letter on item 10 2 that a postponement is actually to your 29th -- january 29th meeting. They would like to make sure that that was -- not february 26th.

Mayor Wynn: Councilmember morrison and councilmember leffingwell, the amended consent agenda is to postpone 102 to january 29th, 2009. Further comments on our proposed -- on our consent agenda? We have a motion and a second on the table. Hearing none, all in favor? Opposed? Motion passes on a vote of six to zero with councilmember martinez off the dais. guernsey, before you head into our discussion items, folks, we're joined here by eight numbers of troop 399, boy scout troop 399 that meetings at the tarrytown methodist church. These seventh and eighth graders, 13, 14-year-olds, att o'henry, kealing and saint andrew's middle school. They're here to see good government in action. Please join me in welcoming young men from troop 399. [Applause] why don't you all stand up so all the girls can see you. I'm glad y'all are here. Thank you. gurp si, discussion items.

That brings us back, i believe, to item number 77. And item number 78 on your agenda. Item dispefn is case npa 02 for the property located in the 1600 block of east mlk. This is to approve second and third readings of the zoning -- of the neighborhood plan amendment to the upper boggy creek neighborhood plan, an element of the austin comprehensive tomorrow plan to change the future land use map to neighborhood mixed use. The associated case is zoning case item number 78, this is case c-14-2008-0099 for the property, the same property located at 1600, 1602, 1604 and 1606 east martin luther king boulevard to change the zoning to neighborhood commercial mixed use, vertical mixed use building, central urban redevelopment, neighborhood plan combining district zoning. We still have a valid petition against the zoning change request at your first READING ON DECEMBER 11th, I wanted to note that the vote was five to two. And so if the vote would remain at a five-two, the zoning change would be denied. I wanted to make sure that you were aware of that before you took any action. The public hearing has been closed. We have received some correspondence that some of the names that were suggested that might be removed from the petition have not been. And so the petition still stands.

Mayor Wynn: And all the other facts of the case remain the same.

If you would like me, i can go through the case again, or if -- if you would like to take action.

Mayor Wynn: I think we're okay with it. Councilmember leffingwell.

Leffingwell: Just a point of clarification. I believe if the vote remained the same at five-two, it would pass on second reading only, is that correct?

Yes. Either a, you could deny it or b approve it on second reading, that's correct, for the zoning.

Leffingwell: I thought you had made the statement that it would be denied on that vote. Maybe I misheard.

If you were taking action on both hearings. If you were to only take action and you didn't have a vote -- if you had a vote of only five-two, the zoning would fail if it was offered on second and third. If the motion was only on second reading or it was only to get approval for five affirmative votes, we could take it as only approval of second reading and we would bring this back at another day.

Leffingwell: Okay. I think we're straight.

Mayor Wynn: Further comments? Questions on this combined case 77-78?

Mayor and council, if the vote is successful only for second reading on 79, you could still take action on second and third reading on 78 unless you only wanted to make a motion for second reading on 78 and then have third reading be considered at the same time at a later date if the vote is not successful to have six affirmative votes on 79.

79 Or 77?

Excuse me, 77.

Mayor Wynn: Further questions, comments on our combined case 77-78? We might want to wait -- i don't know where councilmember cole might be, but my instinct is we may not need that fifth vote. So I guess I'll entertain a motion on this combined case, 77 and 78. Motion by mayor pro tem to approve on second and third reading item -- combined case 77 and 78 that I'll second. Further comments? Yes, mayor pro tem.

McCracken: My understanding is that we have the neighborhood association's support, but not the blackland development corporation's support. Is that the correct lay of the land right now?

I believe that's correct.

McCracken: I guess we can get some more clarity about -- before third reading should that be what arises, but the entire intention and the consensus of all stakeholders in the vertical mixed use standards was the 10 percent was achievable and anything above that was not. And it was only achievable if you got the density bonuses. So we can get more information about that prior to third reading should that happen, but I think there would be some helpful things to know as well as i probably need to make sure that we have confirmed that the support of the neighborhood association gets some clarity about what's happening with the blackland development corporation, but my understanding is they supported this on first reading and now may not be there on second reading. Thanks a lot.

Mayor Wynn: Thank you. Again, we have a motion and a second on the table approving combined items 77 and 78 on second and third readings. Further comment?

McCracken: [Inaudible - no mic].

Martinez: Thank you, mayor. I just want to say that i did support this on first reading because I thought that there had been some collaborative efforts in trying to reach an agreement. And while I understand that some of the neighbors in that process ultimately ended up agreeing with what was proposed, that the concerns that were raise odd first reading about whether or not it was actually enforceable, the future actually agreed upon development was enforceable by the city or by the neighbors still remains in question. So because of that I'm going to not be supporting the motion.

Mayor Wynn: Further comments on the motion? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of -- motion passes on second reading only on a vote of four-three - - motion fails on a vote of three to four. The motion was to second and third reading. Since there's a valid petition, had there been four or five affirmative votes, it would have passed on second reading only. Sorry. So then motion passes on second reading only on a vote of four-three with councilmembers leffingwell, martinez and morrison voting no. Thank you all.

Thank you, mayor and council. That takes us to item number 79.

Mayor Wynn: And 80?

And 80. 79 And 80 are project destiny. This is for the property that is located along or at 4315 airport boulevard. Item number 79 is a neighborhood plan amendment to approve second and third reading to the amendment to the upper boggy creek neighborhood plan element of the austin tomorrow comprehensive plan to change the land use des i guessmation to office mixed use. The zoning case, which is item 80, c-14-2008-0171 is to change the zoning on this property to neighborhood office mixed use, conditional overlay, neighborhood plan combining district zoning. Bryan guequierre is here if you would like to ask him questions as well as the neighborhood president representing this area. This is a property that is located along airport boulevard and has existing single-family homes, i believe, to the north and to the east. There's a church to the west that fronts on airport boulevard. The property owner operates a law office on the property, currently operating as a home occupation. He has a desire to place a sign on the property. Around our home occupation regulations, that would be prohibited. So part of this is not out of a desire to advertise on the property. The applicant has agreed to provide scaled down drawings of botsd the signage -- both the signage for the southside of the property abutting airport boulevard and that the neighborhood would have input regarding the size of the size, the amount of lettering and the overall aesthetics. The owner has also agreed to roll back revision thruz a private restrictive covenant that if the use ceases more than 90 days or if a change of ownership would occur that a rezoning case would be initiated and revert with the council's discretion certainly to sf-3-np. If you would like, I can go into further detail on this item.

Mayor Wynn: Further questions of staff, council?

I would note we did have a valid petition later in the week. A name has been removed from that petition. It stands at over 19, but i 54, so it's not a valid petition that would require a super majority vote of the council.

Mayor Wynn: Again, questions for staff, council? Comments? Difficult case that we heard at our last meeting, i guess, in december. Councilmember cole.

Cole: guernsey, did you say that the neighborhood president was here?

Yes. Both the applicant and the neighborhood president is here for this area.

Cole: I'd like to ask the neighborhood president to come forward and answer a few questions. I don't believe --

Mayor Wynn: Welcome.

I'm carol, president of the dellwood ii neighborhood association.

I wanted to ask about the valid petition. Before we didn't have much neighborhood input when we heard this on first reading. And now we have a petition. And I just want to know how the neighborhood feels about it.

The neighborhood itself, the neighborhood association, when we discussed this at length when this first came up, had decided that because of the neighborhood office that it would be a good use of that land and making that with the conditional overlays on it, because of it being on that busy, busy, busy street. And there were some new neighbors that had moved in in the interim, and were not sure -- they were not a part of the process when we did it, so they were a little unsure of exactly what it was. We have had numerous meetings. Our last meeting was at that residence the night before last. And so some clarifications were made. There were some clarifications on the whole application process, and i had all of the documentations and the paper trail that had gone through that. And that answered some real valid questions on the part of some of the adjacent neighbors. I think there's 11 properties within the 200 feet. So that was the concern was and and could it ever be a five-story building?

And was the position of the neighborhood association that they wanted the sf-3 designation np to stay?

No. The position of the neighborhood association was because the applicant is a resident of the neighborhood. He owns two homes and bought that home specifically to make that a law office. And it is strictly prohibited use would be for administrative -- I think it's administrative offices and just professional offices. It's got a very limited, narrow, narrow use. I don't have that paper right in front of me that was filed. Two uses, correct?

The uses would allow for residential, like a single-family home duplex, like a garage apartment, two-family residential. Not for administrative office, professional office, but we have a list of prohibited uses that are in the ordinance. So it's a very narrowed neighborhood office district that would be allowed based on your first reading and their agreements with the neighborhood.

And that's what the neighborhood association agreed upon.

Morrison: I wanted to talk a little bit about the special conditions that you all had agreed to. Mr. guernsey read them off. So it's prohibited use, some prohibited uses and prohibited uses and then also a roll back provision, is that correct?

Yes. That should the land -- the use cease for 90 days or he sells the property. We would use a restrictive covenant -- a deed -- I'm losing the exact legal terminology, but we do have an attorney that would draw that up and that would stand, and bryan has agreed to foot the cost of that to go back to that, and then we would go through this process again to take back.

Morrison: Okay. I guess I have some questions about if it changes ownership, what exactly happens that bryan will split the cost of a zoning change? What's the practicality of that because then there would be a new owner who might oppose it.

That's correct, councilmember. The property owner in the future would have the ability to file a petition against rezoning back to the sf-3 that would require three-quarters of a super majority of the city council. This is a private restrictive covenant. The city is not going to be a party to this particular agreement. Most of the time if we have someone offer a covenant to not object to the rollback of a zoning, it's usually a use ceases. This is rather unique in that if bryan, if his practice, I guess, and he decides to sell the property, that even if another attorney wanted to buy the property and work with it, it's my understanding this private agreement is being drafted that would state that the rollback would occur, the request to roll back the zoning would occur.

Morrison: But only at change of ownership.

But only a change of ownership.

Morrison: The current owner wouldn't have any standing.

No, but would be able to file the case.

Morrison: Can anyone file a case to rezone?

No, only the owners. Before he sold the property he would have to file that zoning change request.

Morrison: Is that the way the restrictive covenant is set up?

That's how it is.

Morrison: So before he sells the property he would file and request that it be down zoned.

For the deed to be clear.

Like I said, councilmember, it's a private agreement. The city is not a party to this agreement.

Morrison: I guess i just have some concerns about how pragmatic that really is and whether that really would result in a down zoning just because of all the timing change -- the timing that would be involved and it -- the council might not approve it.

I think the neighborhood association is taking that risk and we've discuss that had in quite detail with that. And the neighborhood office fits in to the neighborhood, so if it even were to remain a neighborhood office, perhaps that would fit in to what the use of the neighborhood in 10 or 15 years once the entire mueller development, all 750 acres is developed, that airport boulevard will be even more traffic. So we don't know what's it going to be and what kind of land use and traffic use will have on that property, on that street. I hope that answers your question.

Thank you.

Morrison: My concern is if we're looking at the future where there could be significant changes in airport boulevard there because of mueller development, my preference would be that if we're going to change the use and actually revision that street that we do it in a comprehensive way as opposed to -- (indiscernible).

Mayor Wynn: Thank you. Councilmember leffingwell.

Leffingwell: So weigh heard you say was on this roll back prois provision, first of all, it's a private covenant, so somebody would have to enforce it before it would ever be rolled back, right? And then if it were -- if somebody did try to force it, it would be in effect a down zoning, so it would require a six out of seven council vote, three-quarters majority to approve that roll back. Is that not correct?

That's correct. I'm not aware of what the private agreement is. If bryan remain the owner of the property and has agreed not to petition against it, then it would only take four votes. If, I guess, bryan started the zoning case and then the sale occurred in closing and he no longer owned it, then the new owner could certainly file a petition to oppose the zoning. Maybe bryan should come up and speak more specifically to the private agreement and how that's handled.

Leffingwell: But unless he specifically agrees in a private covenant that he's not going to petition against the down zoning, is that enforceable?

Only by the parties. The city would not be a party to this agreement. So if bryan changes his mind, it would only be between I guess himself and the neighborhood.

Mayor Wynn: Councilmember shade.

Shade: Bryan is the lawyer. We have lots of lawyers in this room. I'm not an expert on any of this, but isn't there any other way for this guy to get a sign? Is there anything else we can do besides this?

We could change the home occupation ordinance to allow a sign. That might be one way of doing this.

Shade: I mean, I would really like to pursue that. I know it might sound crazy, but I was one of the people who voted last time with the majority, but as I've continued as we've had more cases and I've seen this issue, someone said it last time and the time before, but we're zoning the dirt, the land, not the person. And I think that this creates all kinds of uncertainty and all the players will be different years ahead. And I really feel for the people involved with this, but I think from a policy perspective, it will be very hard for me to vote to support a zoning change. But I really think there should be some way for this problem to be solved much more easily. If anyone else is looking into that, I would love to know how we could.

Mayor Wynn: Councilmember leffingwell.

Leffingwell: I frankly think that the most appropriate thing to do would be to change the law you could have a small sign. It doesn't make much sense to have a commercial -- in effect a commercial use and not being able to have a sign identifying that commercial use. So from my perspective, I think that's a preferred way to go. As councilmember shade just said, what we're actually doing is zoning the entire piece of property, and it seems a little bit inappropriate to zone a piece of property just so you can have a small sign on it.

This would also allow him to actually convert the home into an office. He could have additional employees, the home occupation ordinance is an ordinance really intended to keep a house looking like a house. You don't really make any modifications. You can actually have staff work in a home occupation use, but it's a single one. By changing zoning you could have two people. It also limits the number of trips to property, maybe only three a day. By changing to an office zoning at goar, you could have numerous trips throughout the day of clients or meetings and things like that. But the home occupation ordinance in its self is really intended to keep a house looking like a house. Part of that was to make sure there was not a sign posted on the property. So we can look at changing the home occupation Down zoning, so it would require a six out of seven council vote, three-quarters majority to approve that roll back. Is that not correct?

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Right. But in the course of the discussion with the neighbors, has that also been talked about? Modifying -- most of what I've heard is about the sign. So do the neighbors realize that he could pave

the front yard and turn it into a parking area? Or do some of the other things? Has that been discussed among the neighbors? Any thoughts on that? Looking at really turning it into a place that has more employees than just current home offices?

I don't know if negotiations between the neighborhood and the property owner had any further restriction.

Mayor Wynn: Bryan, you're welcome to come answer specific questions, yes, sir. Everybody just calls you mr. bryan. Guqierre. It's actually pretty easy to say, but it's really difficult to read. You should not look at my name if you want to say it. My understanding was that I wouldn't be able to make a lot of changes, physical changes or pave things over or anything else. When I applied for this -- and again, I would love it if there was just some easy way to put up a sign without having to have gone through all this. And if there didn't have to be a private restrictive covenant and everything else. The city said no, you can't do this. But again, the neighborhood has been overwhelmingly in favor of it. And there is -- I don't know if we can get the map up where y'all can see it, but it's a wholly unique property in that when i first approached mark walters will city staff, he's like you've got all [00:06:00] this street side parking, which made it somehow better or okay with what the restrictions are. Because all the other houses along airport, they don't have any street side parking, they've only got alley access. And so my house there, it's a corner lot, it's on airport, which is a state highway. It's a major arterial thoroughfare with over 40,000 cars passing everyday. We wouldn't -- this would not qualify for residential zoning if they tried to build this neighborhood now because it's on a major artery. There's 40,000 cars a day on this state highway. And again, I don't know if y'all got the pictures. I tried to send you the pictures, but I wouldn't attach them to your e-mail, so I sent them to joy, who i think sent them to you. There's a picture of the sign at the church, which is on the same side of airport on the other side of rowwood. There's a picture if you look at the alley hipped my office, there's a six-story apartment complex that's gone up with the mueller development, and the alley access is the pathway that leads to the pedestrian access to the hike and bike trail. Three houses up from me is the fire station. Across from that is a rental property -- a car rental separation. I mean, it's basically about 12 houses on either side of airport. This is the only section of airport boulevard that's zoned residential. So I don't plan on changing the structure at all. My understanding was i wasn't even allowed to change the structure with n.o. I don't intend or and i didn't think I was allowed to or anything else. The neighborhood, we talked about that a lot. One of the guys, one of the officers, he's very concerned that I was going 11, which I've assured him again and again it's not that kind of zoning, you can't do that.

Shade: Can I ask a valid question. If there was a way to have you have a sign, which is all you really want -- [00:08:01]

it would actually -- in all fairness, the sign is the only thing that I really need to have, but for instance there's one room that's a residential room in the back of the office right now. It would be nice if I could use that as an office room and that sort of thing as well. is the most restrictive use and I'm fine with that. And if they change the occupation code, that would be fine too. It would just be kind of -- it's been few like a four-year odyssey to this point. It would be great ific just get it done and move forward.

Mayor Wynn: Further questions? Councilmember thomas. Councilmember martinez?

As it relates to a conversation on signage, we were able to pass something one as an item on council that allowed businesses on south congress to display signs because we felt like it was appropriate. I don't -- I don't understand why we can't do that.

Councilmember, the issue here is it's residentially zoned. So by saying you can have a sign on a residential lot displaying a home occupation, it wouldn't just mean along airport boulevard. You might have it to the interior of the neighborhood or elsewhere in austin that signs would then be allowed to be displayed. .

Martinez: But it seems like we could come up to a pres that speaks to issues like this. We had a case at the last council meeting or two council meetings ago where someone had bought a residential home and then did all these modifications and turned it into this office because she felt like it was appropriate for that location and on that street, but the bottom line was it wasn't zoned that way. We're continually going to see these issues as austin continues to grow. So it just doesn't seem like we should be rezoning an entire property just in this case for what appears to be a request for a sign.

The only other option i can think of might be [00:10:00] that -- we wouldn't be prepared to do this this evening. Is that you could add to the conditional overlay and we could look at adding standards that are similar to a single-family zoning. If the concern is that they're going to have pavement in the front yard, we could have the same impervious cover limitation , the height limitation, set back limitations and make sure that it's all maintained. But it still doesn't change the ability of the owner to run it as just a regular office.

Mayor Wynn: Remind me, guernsey, we're talking about something in addition to the signage. He doesn't plan to live in the back room, correct? This isn't a home office situation, this is -- i think it's appropriate that he wants to use this as a neighborhood office. Not a home office.

And the only way to do that is to zone it to an office.

Mayor Wynn: Right.

To this point my brother and two other people have been living there off and on, but I could use the space for other things.

Mayor Wynn: Right.

That would be great.

Mayor Wynn: Councilmember morrison.

Morrison: A couple of things. I guess I had understood at the hearing that it really was just for the sign

and that you intended to have people still live there. But to follow up on what councilmember martinez is saying, I could see other things to explore. For instance, one of the reasons we're thinking might be okay for a sign in a residential area is because it's on a busy street or something. So I wonder if we could even handle something like this, have it -- have a sign be a conditional use, if we had a use which was home office -- home occupation on a busy street that was allowable or [00:12:00] a certain size street, certain standards. I can see some things to explore in that regard if what we're really trying to do is allow a sign in this type of situation. And I do want to remind everybody that there is a deed restriction that just violates the deed restriction, which is limited only to single-family residence. So another piece of why i was very uncomfortable with this is it puts the folks that are in opposition to it that are property owners in the situation of us moving forward. It would put us -- the city moving forward on something that then the citizens would be required to hire attorneys to enforce the deed restrictions. So I think that's a real uncomfortable situation for us to put citizens in.

Mayor Wynn: Councilmember leffingwell.

Leffingwell: Thanks for bringing up that point, councilmember. And I believe I recall from the last meeting that you stated that the reason that the staff recommended against this request was because there is a council resolution saying that we will not approve zoning changes that are in opposition to a deed restriction. So approval of this would mean we're disregarding our own resolution.

That's correct, councilmember. I think I said the shipman era back in the late '80's there was a council resolution that spoke to not zoning residential property for or against a deed restriction on the property. And that's the reason why staff recommended against the rezoning and against the neighborhood planning.

My understanding with that, wait it was explained to me -- can I speak?

Mayor Wynn: Bryan, if there's a question of you, if a councilmember asks for your clarification.

Was that the -- I'm [00:14:00] sorry, that the resolution was actually against staff being able to recommend the change. But the city council was free to vote how they wanted.

Mayor Wynn: Councilmember morrison.

And there's a copy of the resolution in your backup.

Morrison: I have a copy of it here. And be it resolved by the city council by the city of austin that the city council here by expresses its general policy and intention to deny any request to zone or rezone to allow uses which may conflict with existing private restrictions prohibiting nonresidential uses on a property. And that the city council will assume a private restrictive covenant prohibiting nonresidential uses on a property is valid until the restriction is removed or declared invalid.

Mayor Wynn: Further questions, comments? Councilmember martinez.

Martinez: guernsey, let me ask you a question. I'm still struggling with what seems to be either common sense or lack thereof. I'm about to find out. I've had a barack obama sign in my front yard for over a year and I don't plan on taking it down any time soon. I like it. So is code enforcement going to come out to my house now and give me a problem for having a barack obama sign in my front yard?

No, probably not, because it's a political sign, and the difference would be in this case this sign would be for advertising of a business.

Martinez: Well, I'll give this man a mike martinez sign and he can tell all his customers to turn at the mike martinez sign. [Laughter] case solved.

And there may be issues too about how long you can leave a political sign up. I'm not sure about exactly how that works.

Mayor Wynn: Further questions of staff? Comments? Fib else for that -- anybody else for that matter comments? Combined case 79 and 80. [00:16:02]

Let me ask a quick question, mayor, of mr. guernsey. I'm trying to explore what councilmember morrison and martinez were getting to. And I am disturbed by what councilmember leffingwell pointed out that if we pass this, we would be going against the resolution that is different from the deed restriction. If we were to try to pursue allowing some type of exception to where you could have the sign on a home office type use, on a core transit corridor, what would that look like? Can you give us any ideas about that?

We would work with watershed protection department and see if there's a way that we could modify signs for residential uses and maybe that you -- given certain circumstance, maybe if you're on an arterial of a certain width, then you could have a sign of limited size. You could speak to how it's eliminated to keep it, you know, to scale. But it would really speak to modifying the home occupation ordinance and our sign regulations to allow that.

Mayor Wynn: Mayor pro tem.

McCracken: Can we do it as a conditional use approach? I think a lot of this is the context matters. If you're going to have a sign for a home office, i think most of the time it's probably not something you would want to have. If you have like a -- something like a nail salon or beauty shop, but if you're on -- like councilmember cole said, if you're on a busy street, that might make a difference, but a lot of times again the context matters. So I think we want to do that as a conditional use approach if possible. Is that something that we could pursue through an ordinance process?

I think the homer would [00:18:03] still not like to live there or have his brother or relative live there. I

think in order to do that we would still require a zoning change.

McCracken: It's not the question I asked you.

Yes, we could pursue and see if we could do a conditional use permit grade sign to see if that's possible under a residential zoning category, if you meet certain conditions like being in an arterial.

McCracken: Or no conditions at all, just make it a conditional use. We could have the planning commission look at that and figure it out.

We could certainly take a look at that and bring that back to you at your next meeting and report back if that's your desire.

Mayor Wynn: Further comments, questions? Well, councilmember shade.

Shade: I was going to make a motion that we -- to deny this request, but that we come back with a way to help him get the sign solved. I don't know how we do that, but I think if I make that motion we understand the intent is that you come back and we put a time frame on it and we move quickly on this and find a way to resolve. I know it's been an odyssey and really feel for you. We need to put a frame stamp on it and make sure we do it in 90 days.

Martinez: I second the motion, but I think we would have to come back with an item from council. I'll have to talk to staff about how long it might be.

Mayor Wynn: If we deny this case, it goes away. The zoning opportunity, good or bad, is no longer available to us.

Shade: So the motion is to deny this case and the second part of the motion is [00:20:00] that we come back next eeoc week with the resolution. I'll even call it the guqierre resolution.

Martinez: Second.

Mayor Wynn: We have a motion by councilmember shade, seconded by councilmember martinez to deny this combined zoning case, 79-80, but with a further statement about intent of at least some councilmembers. Further comments on our motion to deny? Hearing none, all those in favor please say aye. Opposed? Motion to deny passes on a vote of six to one with the mayor voting no. Thank you all.

Thank you, mayor and council. That takes care of items 79 and 80. Our next item is item number 81, and this is a project that's located at 5 on 05 spicewood springs road. It's case c-14-2008-0128. I'll ask jerry to put up the exhibit that shows the conceptual plan. And at your last reading you had asked the owner to provide a conceptual drawing of a layout for development of the property. I believe you have this on the dais. It's for four units that would be proposed off of spicewood springs road. Access would be taken to a single driveway that would go to spicewood springs road. We asked our environmental

review section of watershed protection and development review to give us an idea of what possible variances may be required for the construction of this plan, and if you look at the exhibit, the areas that are in red are the building areas. The areas that are in blue kind of cross hatched are the pavement areas for parking and driveway. The four units are on the [00:22:01] uppermost slopes of this property. And the slopes in this area are of approximately a 70% gradient. The probable variances that could occur with this development was that they would have to go seek approval for cut and fill greater than four feet, construction of building and parking lots on slopes that exceed 25% and construction of roadway or driveways in slopes that are greater than 15%. There may also be some issues about the placement of driveway and concerns of possible trees, but usually this is done with more detail at the time of site plan. It would be subject to compatibility standards because of the adjacent sf-3 property and they may be subject to setbacks. It appears that the proposed driveway that's along the southeastern portion of the property, this would be to -- in front of and to the right of the buildings would be within the 25-foot set back under a compatibility standards and may require a waiver of the commission. To go seek. Unless they're closer than five feet and then it would require board of adjustment action. There's also a concern that was raised about the location of the driveway in proximity to the other driveways. Staff could not deny access certainly to the property, but we would have to look at the preferred access given the location of the adjacent driveway next door. So that's what we came back to. And it's in the form of a memo that has been addressed in the first two pages. I apologize. For some reason the conceptual plan did not get attached to your backup, but this is the exhibit that I believe you have on the dais. The adjacent property owner expressed concern about this I think at your last meeting where that property that runs parallel and actually has an access easement. If this was developed with four units on a single tract, the access to the [00:24:01] adjacent neighbors' property would not be allowed by zoning because this would be considered a townhouse or condominium type of project that would require the sf-6 zoning that would be property. But you could not take access through an sf-3 lot. They would not be able to use the joint access driveway of the property next door because it wouldn't be zoned appropriately. They would have to have their own driveway.

Mayor Wynn: Questions for staff, council? Comments? So we are posted for third reading, having done the first two already, correct, Mr. Guernsey?

That's correct.

Mayor Wynn: Councilmember Morrison.

Morrison: I can't remember how long ago it was that we heard this case, but the issues that had come up were -- I know some of my colleagues had expressed similar concerns and that is if we move from sf-2 to sf-6, were we in effect giving them zoning where they were going to have to go forward now and ask for variances to do what they want? So that was the discomfort there. That's what you were listing there as likely variances that would be needed if you do an sf-6 zoning.

Based on the conceptual plan, our environmental staff having done the review, believes that there would be variances that would be required at this time of site plan for cut and fill, construction on

steeper slopes and taking access through steeper slopes for driveways and roadways.

Morrison: So to make use of the zoning they would be effectively needing variances, which is something that I'm not comfortable with, so that's -- I don't think I'll be able to support this zoning.

Mayor Wynn: Further [00:26:00] comments on item 81? Councilmember Leffingwell.

Leffingwell: In the original discussion we had sort of talked about trying to make a determination of how many units could be placed on the property. I believe we suggested four, maximum of four units under sf-6 unit. We didn't have any idea how that could be laid out at the time. So semi question is -- so my question is did you do any analysis of how many units could be laid out and not require these variances? I'm not so much concerned about the cut and fill as I am the building on steep slopes where it's totally prohibited.

Under the current zoning it would only be allowed a single-family home, and I believe that -- I'm not sure if this is a legal tract or not, but they probably could come forward in getting that home constructed. I might let Pat Murphy come up if there are actually two units and subdivision is required, you would still have to have street frontage and access, so some of those same issues might come up at the time of division subdivision.

They might, but you seem to know under the four-unit scenario it would require these variances. So my question is if you did two, would they require the same variances? And before you leave one more question, you may have already said this. We had already discussed some kind of legal instrument to preserve in perpetuity the rest of the property that was not developed.

Let me turn that question over to Pat Murphy. He's assistant director of watershed protection and development review.

Good afternoon or good evening, council. My name is Pat Murphy with the watershed protection and development review. In my apal just, just -- in my analysis -- I have not taken that long to look at this, but I think it would probably be a variance required just for the access to whatever gets built on this tract. So in my analysis I think a [00:28:00] variance would be required even if they build one unit on this tract.

Leffingwell: Which they can do now with the current zoning, right?

Current zoning would allow for a single-family residential unit, and I am not certain of what exact regulations would apply to that given that we don't -- I don't think we have a subdivision file on this property at this point. Is that correct? So based on that, even access to one unit would apparently require a variance on this tract under a site plan. So I'm not sure it's a question of the number as much as it is if you do a site plan on this tract, I suspect you will need a variance for construction on the slopes for the driveway.

Leffingwell: Yeah. And again under either scenario, existing zoning or the sf-6 with some limit on the number of units would require the same variance.

Apparently what they have done is they have suggested that four units is what they could accomplish under the allowable watershed impervious cover, which is 11,500 square feet. They have proposed some two-story units at 2250 square feet each as at least an idea of what they could do. So four appears to be the number that they think they could yield under the watershed regulation impervious cover limit.

Leffingwell: But four would require a variance for building on steep slopes?

Yes. And cut-- and likely potentially cut and fill as well as construction on slopes for the driveway.

Is there any number of units that can be built without the variance or building on steep slopes?

I can't say for absolutely certain. In my analysis and based on my experience, I don't think they could even build one unit without a variance.

Leffingwell: So the trade-off in my mind that I'm trying to balance here [00:30:01] is that preserving the land, most of the land, actually a large percentage of it that is down in the -- I think is a critical owned or transition zone of this creek, and it's also steep and somewhat pristine. That could be preserved as a buffer in exchange for one additional clustered unit or two or three, whatever that would require the same variance scenario. That might be an environmental enhancement perhaps.

Could be. And certainly something like that would be typical of what we would consider in the context of a variance request.

Leffingwell: Yeah. And so we have made no determination -- we have not pursued this idea of the buffer or conservation easement for the balance of the property? Is that right, mr. guernsey? I thought we talked about that.

We talked about trying to find a way to cluster development furtherest away from that. And there are possibilities of doing that once the subdivision was actually filed. But there's not a way to do that right at this moment. We could certainly have setbacks to try to create that buffer. But that wasn't exactly proposed by the developer.

Leffingwell: I would say for my part I'm not specifically trying to accommodate additional units, per se. What I'm trying to do is achieve the best environmental result. And if we could, as I said, have a legal instrument to preserve most of this property, to me that seems to be better. So I'll leave it at that.

Mayor Wynn: guernsey, remiepped which of any of these potential variances, murphy and you have spoken about, would come to council if at all?

None of these variances would come back to council. They would most likely go back to the commission.

Mayor Wynn: Right. [00:32:00]

Mayor Wynn: Further questions of staff or anybody else for that matter of item number 81, our third reading with the case on spicewood springs road. I'll entertain a motion. Councilmember leffingwell.

Leffingwell: I guess what I would try is a motion -- would it be ready for third reading if -- without the conservation easement or buffer arrangement. Do we even know where that is now?

What we could do is if it is the desire of council is to try to create that, we could work with the owner and talk with environmental staff. We could provide setbacks from a certain property line that would create that buffer area and bring that back to you for consideration of third reading another day. We would have to actually come up with the area boundary before we could do that with that direction.

Leffingwell: In that case I move to postpone until february 12th. Does that sound --

we could probably get with the owner to get that information.

Mayor Wynn: Motion by councilmember leffingwell, seconded by councilmember martinez to postpone this item 81 to our february 12th, 2009 mieght. Further c? All in favor? Opposed? Motion to postpone passes on a vote of seven to zero. Thank you all very much. So council and folks that 30 break for live music and proclamations. Stay tuned for jeff lofton. Technically the city council will be in recess while we do music and proclamations. And I anticipate us coming back in session to take up the rest of the zoning cases shortly after 6:00 p.m. We are now in recess. Thank you.

Okay, folks. So welcome back to our weekly live music gig here at the thursday austin city council meeting. Joining us today is master trumpeter jeff lofton. Jeff's music brings modern elements to classic jazz and he has been compared to the likes of davis, gillespie and coal train. Recently he performed at the 14 the annual jazz festival here in austin that featured legends curtis fuller and david fat head new man. [00:38:00] Currently jeff performs a weekly jazz brunch at waterloo ice house on 38th and almost lamar with his quarter at the time and frequently plays at the elephant room. On february 28th of this year, jeff lofton's miles davis tribute kicks off at elephant room in a series of conjunction with the blanton museum's spring show birth of the cool. Please join me in welcoming mr. jeff lofton. [Applause] [?? music playing ??] [?? music playing ??] [00:40:29] [?? music playing ??] [00:42:05]

Mayor Wynn: Jeff, tell us, in addition to the weekly sunday brunch at waterloo, and one can check the elephant room's website I guess to check on your scheduled air, where else can we see you? Do you have a website? How can we follow your music more?

My website is jefflofton.com. I will be performing tomorrow night at elephant room with alex coke and

james polk as well as my wonderful drummer and her husband chris joan.

Mayor Wynn: So jefflofton.com. Friday night gigs at the elephant room. A big deal. And so the show on the 28th of february -- the series that begins there, tell us a little bit about your partnership with the blanton museum.

This is a show that i originally did at the victory grill. It's basically a miles davis 50's, three sets of music from that era. And this was done basically to promote that era of miles davis music because I feel like it's underrepresented out there. And also I just love playing it.

Mayor Wynn: Right.

So that will also feature my bassist here, mark. And also (indiscernible) and his brother, a great piano player. Both of them play with clark terry at various times.

Mayor Wynn: How long might that series run at the elephant room beginning on the 28th?

That's just one performance, but you never know about that show. That show keeps coming back because people like it.

Mayor Wynn: Before you get away we have the official proclamation that reads, the city of austin texas is blessed with many creative musicians whose talent extends to virtually every musical genre. [00:44:00] And whereas our music scene thrives because austin audiences support good music, produced by legended or local favorites and newcomers alike by going out and listening to live music at these venues around town and whereas we're pleased to showcase and support our local artists, therefore i, will wynn, mayor of the live music capitol of the world do here by proclaim today, january 15th, 2009 as jeff lofton day in austin and call on all citizens to join me in congratulating this great tall less than. Talent. [Applause] so while jeff and the band or the troupe breaks down on that side of the room, we'll use this podium for our proclamations. We actually have two brief ones today. We try to take this time each week to raise awareness about a cause to say thank you or good-bye often times to colleagues. My one proclamation before i turn the podium over to councilmember shade technically is the city of austin, I think, is receiving an award from the , specifically our austin water utility. So I'm joined by director greg mazaurus and a number of austin water utility folks because I think we'll be presented an award by mr. michael michau are d. Welcome back. We've done this a couple of times. Please welcome me in , michael michaud. [Applause]

thank you, mayor wynn and the citizens of austin. Before I actually present this award, I'd like to tell a little bit of a story on [00:46:01] how we got here. Back in the mid 1990's, the city of austin was having a large number of sanitary sewer overflows, which were impacting water quality and potentially impacting the health of the citizens of austin. We asked the city of austin, austin water utility to take a look at what they can do to remedy the situation, reduce the number of sso's. They came back to us with a proposal that we put in a friendly over, and over the past decade or so they have done a wonderful job of implementing that order, and in fact they are within probably june or july going to complete all of the

work that they agreed to do. About six years ago we were going -- they did -- were doing such a good job, we came down to them and asked them if they would work with us and develop a workshop that could not only benefit them, but could also benefit other cities in similar situations. They graciously agreed to do that, and over the past six years, I believe, raj, they have worked closely with my region 6, the texas commission on environmental quality, and the city of austin to put on an annual cmom, which is compliance, monitoring, operation and maintenance. It basically is a program has developed that looks at not only the maintenance of the facilities, but also the financial aspects of funding continued maintenance of those facilities. The city of austin has done a great job over the last six years. They've done a great job in working with our cities to help them develop a program very similar to theirs or [00:48:01] actually possibly even different, but work with them to develop the number of sanitary overflows. And with that I'd like to express my thanks to the city of austin water utility for the work that they've done not only in developing their own program, but taking that expertise to other cities not only within our five-state region, but also other cities outside our five-state region that have attended the cmom workshop. Thank you very much. [Applause]

well, thank you. On behalf of all of our staff and really these events come together, our cmom training, our oak hill whole order, overfour hundred million dollars of work to make the waterways and community of austin a better place to live, that happens because of hundreds of staff that work for me and our community and are tirelessly committed. It's always great to be recognized for something you enjoy doing. We enjoy working and growing and being a better organization and sharing that with others. We get as much out of our workshops that regional partners come to as I think they do. So again on behalf of everyone in austin. is haip, we're happy. -- Is happy, we're happy. [Applause] [00:50:27]

Mayor Wynn: With that I'll now turn the podium over to councilmember shade for a final proclamation of the evening. Councilmember.

Shade: Thank you. I'd like to call julian huerta up, please. And melanie, good to see you. Welcome. This is actually a very big honor for me because this is the first proclamation I've ever gotten to issue. And it is for what is one of my absolute favorite organizations in town, foundation communities is a very important partner of the city's. You do incredible work in affordable housing. What some people might not know is that also for the last I guess five years now you've been providing community tax centers, which are open seven days a week in 10 locations and are supported almost entirely by volunteers, nearly a thousand volunteers who come out to help people do their tax feelings filings. So it's really my pleasure to get to present you with this proclamation. And I'll read it to you now. Whereas community tax centers are now open to help low income families get their tax returns done for trained and certified volunteers, and whereas community tax centers prepare for more than \$17,000 in refunds by helping citizens take advantage of the credits and deductions they are eligible to receive and whereas information about locations, hours, eligible and paperwork needed is available by calling 211 and whereas community tax centers are made possible [00:52:00] through the support of the city of austin and numerous private donors as well as through the work of more than 950 volunteers. We do here by proclaim january through april 2009 as community tax center days. And again I thank you for your efforts on behalf of the whole community. [Applause]

all right. Thank you so much. The last time the i.r.s. Looked into this, they discovered that -- they estimated that about \$30 million of tax credits in the form of earned income credit goes unclaimed in our community. And that's money that could help the finances of some of our lowest income families. So the tax centers are all about trying to help people claim that money that's due to them. As councilmember shade said, we have 10 locations around town. There are centers that are open mornings to evenings everyday of the week, so it's really easy for families to come in and get their taxes done by trained, certified volunteers who are going to do a good job in preparing their returns correctly. We also have a number of other opportunities for families to improve their finances through financial coaching, and help applying for money for college. So we want as many families in our community to come out and take advantage of these important services. And again, the way to find out where to go and what to bring is to call 211. So thank you so much to the city and to all of our supportrs. [Applause]

Mayor Wynn: We symptom still have a couple of discussion items on those cases where we've already closed the public hearing, I believe, and a few more public hearing discussion items. Welcome back mr. guernsey.

Thank you. We do have a couple of items left. Your favorite item, oak hill, to talk about. What I thought I might do is offer you to take up item 82, 83 and 84 all at once. Then kind of walk through the motion sheet because we do actually have agreement on part of this that we can take some of this on consent, possibly postpone some of it and probably end with a discussion of a property known as the waters tract and walk through that. I'll read these quickly into the record and probably go to the motion sheet. Item number 82 is case np-2008-0025, part. This is the oak hill combined neighborhood plan to approve an ordinance on second and third readings to amend the austin tomorrow comprehensive pln pla by adopting land use designations for tracts ag, h and l of the oak hill neighborhood plan. Item number 83 is a zoning case, case c-14-2008-0125. This is part of the west oak hill combined neighborhood planning area rezonings to approve on third reading for tract 12-a known as the waters property. And then finally item number 84 is case c-14-2008-0115 for the property loicted at 4808 west william cannon. This is a zoning change request to lrmuconp which stands for neighborhood commercial mixed use, neighborhood plan combining district zoning. And this is discussion for second reading only. That's on item number 84. Let me take you to the motion sheet and what I'd like to discuss with you first are tracts h and i. These are properties that are located on 71 west, state highway 71 west and affect the promise land church property at 8901 state highway 71 west and 8955 state highway, this is the rural rosie estate properties. As I understand we have agreement to move forward on h and tract i, and leave these properties to be designated as large lot rural single-family land use for the designations of both h and i. The promise land church no longer wishes to contest the future land use map regarding these properties. At one time I think they were asking for a slightly higher single-family category and possibly a mixed use category, but that has been abandoned by them and they will -- after discussions with their neighbors, they have agreed to remain large lot rural single-family land use. So we could take tracts h and l of item number 82 as a consent item for approval. I believe that's second and third readings.

Mayor Wynn: guernsey, I'm not sure if anybody from the promise land west church is here, but I just want to -- frankly want to make sure that we believe that they've had good advice or somebody who

knows our land development code, sort of knows the process.

Ex-planning commissioner came to me as representing promise land church. I'm confident that his abilities, seeing him at work as a planning commissioner. I believe he might be still here too. Representatives of the church are here, I know.

Mayor Wynn: That's good to hear.

I can offer h and I to large lot rural single-family on tracts h and i. These would be for the future land use map. And associated with item 82. Then I'll move on from that point and try to guide you through the rest of this.

Mayor Wynn: Council, I'll entertain that motion, that is, under item 82 approving for tracts h and i the large lot rural single-family land use designation.

Leffingwell: So move.

Mayor Wynn: Motion by councilmember leffingwell, seconded by councilmember cole. Further comments? Hearing none, all those in favor please say aye. Motion passes on a vote of six to zero with the mayor pro tem off the dais.

Thank you, mayor and council. Let me then go on to tract ag. This is for the property located at 4808 west william cannon. This is the future land use map. Council approved your december 11th meeting, neighborhood mixed use land use. The property owner is agreeable to the neighborhood mixed use land use. The associate zoning case is item number 84, which is case c-14-2008-0115. This is the zoning case for that same property. So the applicant has come forward -- the property owner has come forward with an agreement that I received 00 today that they had worked out with the neighborhood association for the west creek area; however, we still have a standing valid petition of approximately 74.45 percent. jeff howard representing the property owner would like to defer action on the future land use map, and would like to have second reading this evening on the zoning case. And you're only posted for second reading on the zoning case item number 84. This property, as proposed, was originally approved at your last council meeting for lo-mu-co, which is an office mixed use district with some conditions. The agreement that i understand has been reached by the property owner represented by jeff howard and the west creek neighborhood is for lr-mu-co-np. And I'm not sure if you actually have this on the dais or not, given the lateness that this was received by us, but I think howard may have transmitted to you electronically this. Let me read through this our staff suggestion would be to postpone both the flum and the zoning tonight. Thank you, jeff. Because we see some things in here that we could not actually draft into an ordinance. Let me just quickly go through this. They've agreed to limit the impervious cover to the existing impervious cover, which is approximately 8100 square feet. To prohibit certain commercial uses. And one of the uses it speaks to commercial repair services, except for locally owned jewelry store with no more than two locations. That's not something we could easily do through a zoning ordinance. Prohibit all industrial uses, although all those uses aren't allowed under the lr category. Prohibit certain civic uses. And two of the uses I'll note one being group home class 1 and

group home class 2. Since this is an mu category, we would suggest that these uses actually be deleted. The law department has advised us where you have residential uses allowed, there are some fair housing issues related to prohibiting group home class 1 and class 2 where residential is permitted. There are also restrictions on the total amount of building square footage, limitations on height limited to an absolute height of 35 feet, providing for building setbacks from the east and west property lines, vegetative buffers, 50-foot setbacks. Also that there would be a recreational easement that would be created and offered by the owner that has been drafted. And this easement would be recorded at third reading so that there would be a connection of the trail along williamson creek. And then there are some private restrictions too that have been entered into. And I know jeff might be willing on behalf of his client to agree to a postponement if council would give directions to staff to draft an ordinance of this version, but right now we would just simply suggest postponement of this because I can't tell you all the ins and outs that has been presented.

Mayor Wynn: Thank you, mr. guernsey. guernsey, council, or mr. howard? howard, maybe could you confirm some of the things you heard and the concept of a postponement now that there's a little more complexity to our motion sheet?

Thank you, mayor and council. My name is jeff howard. We've been very busy and i want to thank the neighborhood in particular for being diligent and patient. And we've worked very, very hard and finally reached an agreement and that's in the two pages we handed to you. We didn't get it finalized until four p.m. today. That's why he got it at 00 and I apologize for that. In light of that staff is going to want to review this and take time. We're agreeable to postponing both 82 as the tract ag and item 84, which is the zoning case, to january 29th so that staff can look at this and give you better feedback, but what we would ask is if you could instruct staff to be prepared to prepare an ordinance with as much of this as they can put in an ordinance, that way when we come back, we can come back for second and third reading and be done with this case on the 29th.

Mayor Wynn: That's incentive enough. [Laughter] councilmember leffingwell.

Leffingwell: Mayor, I'll move that we postpone this case until january 29th 82 and 84, with direction of staff to incorporate as many of these conditional overlays as possible into the ordinance that they bring back to us.

Mayor Wynn: Motion by councilmember leffingwell, seconded by councilmember cole to postpone the flum designation of tract ag on item 82 and to postpone zoning case 84 to our january 29th, 2009 meeting with additional instructions to staff. Further comments? 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.

Mayor and council, that would bring us to item number 83, which speaks to the waters tract. And I've had a conversation with mayor pro tem's executive assistant and indicated that mayor pro tem would like to talk about the waters track and not miss the opportunity. If there's -- if there's an indulgence of

council --

I understand he's giving a speech. I'm sorry.

Mayor Wynn: Council, without objection, I would just consider that a council request to table for a few minutes. We believe that the mayor pro tem is 15 to 30 minutes away. [Laughter]

he's always late. [Laughter]

mayor, I can go on to another zoning item.

Mayor Wynn: I say that, council, with all due respect because the other two zoning cases that we have are public hearings, only have one item has two speakers and the other one has three speakers. So my instinct is we might could even get one of those accomplished here in the next few minutes and then come back to item 83.

Very good. Let me go on to number 98, mayor and council. 98 is case c-14-03-0116.01. This is known as the met center ii property. It's a pda amendment for the property located in the 6800 block of burleson road. The property is currently zoned limited industrial service planned development area neighborhood plan or li-pda combining district zoning, and the applicant would like to change conditions of the zoning on this property. The property itself is approximately 291 acres. It's known as met center. It's located along burleson road. This would be south of ben highway 71 near its terminus with riverside drive. The property owner has requested that they be exempt from subchapter e of the land development code, which is our commercial design standards. With respect to this development, with the exceptions of uses that are rmp yeeg -- that are residential uses, general retail sales and general retail sales convenience uses. But all other uses would not be subject to commercial design standard.

They do apply to industrial uses with more than 25% office space. And the latter type of this development is contemplated for the met center ii properties. The surrounding properties to the north are developed with single-family, manufactured home parks. There's an lcra service center in this industrial warehouses. It's zoned various zoning categories, commercial and residential. And industrial. To the south is some additional undeveloped land. Including the colorado crossing subdivision and zoned li-pda as well. [One moment, please, for change in captioners]

questions for mr. guernsey? If not then well conduct our public hearing for this item no. 98. ron thrower. We'll set the clock for five minutes.

Mayor mayor, council members, ron thrower. guernsey pointed out the property is 300 acres in size, located in southeast austin and is part of the old lockheed track and my client has developed the property as an industrial park, which accommodates a lot of flex space. The buildings are very large in nature. And the intent behind it is to have flexibility in the design of the building and design of the site so that he can remain a viable alternative to help lure tenants here through national competition. And what we're looking for here is a waiver to the commercial design standards specifically, and more importantly

as it applies to the office uses and office users that would be coming to these properties. The -- one particular office user that is coming to the site that is currently under contract is looking at fencing the facility and it's to have a security guard house and such like that but nonetheless it's an office use and is subject to the commercial design standards, but I can assure you that this particular building is probably the least visitable pedestrian-friendly building that you would likely ever see. And couple that with the industrial uses that may come to this property or that should come to this area, I don't think that the commercial design standards are the in modus for development for this particular project. Commercial design standards are definitely suited for more urban style doafits where you get some cross pedestrian activities, that we don't believe we have the cross pedestrian activities that would occur here. We do and are promoting pedestrian activity in the hike and bike trails that are going to be developed within the property, and my client is also going to be developing a golf course within the property. And we also have two wet ponds on the property that provide superior water quality. , In fact, our models for the city property are exactly how a wet pond should be built. So we're looking for variants to not have the applicable design standards applicable, because it is an industrial style property, and the only times that the commercial design standards should be applicable within our property is if it's going to be a retail, a residential or a restaurant use. And that is not, again, the style of development that we're looking at putting on the property. But if -- if one is ever contemplated, then yes, we recognize commercial design standards should apply. I've been involved with the rewrite, relook process of the commercial design standards, and this item, this issue has been discussed internally and while so many of the items are being pushed to a later date, this item still remains further discussion inside the core group. My client wanted to go ahead with a pda amendment so that he can keep his property viabl attract national contents to the property so we can bring jobs to the community, and I'm available if you have any questions. thank you, mr. thrower. Questions for the agent, council? thrower, the algt, howard yancy -- the agent, howard yancy is signed up to answer questions if we have them. So council, that's all -- we have nobody signed up in opposition, so that's all the citizens signed up on this case. Questions of staff or anybody else? Comments? I will say I know that the mayor pro tem did have -- also had some strong sort of opinions about this case, just with his, you know, history -- with that working group. Council member morrison and others were there as well, the whole concept of originally trying to, essentially, as I understand it, exempt industrial property, also recognizing that gray area where I think things like crestview, maybe the domain, technically are li sort of pda's but, you know, involve multi-story residential, you know, significant retail restaurants, just a different product but the same broad category, even though the -- I think the original intent was recognizing industrial parks, typical suburban industrial parks aren't going to be part of that equation.

Mayor? council member martinez? I agree with your comments and I think this is one of those cases where commercial design standards -- they weren't intended to be applied to tracts similar to this in nature, and I do think this is a unique case, so I'm going to make a motion that we wave subchapter e and that we approve item 98. guernsey, help us. So if the council wanted to, in a sense, approve this case, technically, are we approving a zoning change or is the -- as the council member looked, are we approving a technical exemption? What is our action here?

You are approving a zoning change that would modify the pda, and if you were doing approval it would be the applicant's request. I talked to ron and just confirmed that if the use has a residential general

retail sales convenience or general use or a restaurant use, those uses would then be subject to commercial design standards, and the remaining uses that are on the property would not be. And if that is what you would like to do, it's, just simply making a motion of the applicant's request, and it's only ready for first reading today, we'd have to prepare an ordinance for your consideration later for second and third reading action. so motion by council member martinez to close the public hearing, approve the applicant's request on first reading only with the additional restrictions as outlined by guernsey, seconded by council member shade. Again, motion and second on the table, first reading only, approving the application. Further comments? Hearing none, all those in favor please say aye.

Aye.

Mayor wynn: aye. Opposed? Motion on first reading approved, the vote of 6-0, with mayor pro tem off the dais. Thank you all. guernsey, item -- let's see, is 103 a zoning case or a public hearing?

103 is a public hearing, and I will introduce it and then probably introduce probably virginia cully of my staff. 103 is conduct a public hearing and consider an ordinance consenting to the annexation of 7 acres of land into the senna hills municipal utility district approving the third amendment to the first concerning the creation and operation of the senna hills municipal utility district and providing specific amendments to chapters 25-8, subchapter a, article 12, the save our springs 7-acre tract. 7-acre tracts likes near the barton springs zone and is the save our springs regulations apply. And wol I'll introduce virginia cull I and she'll cully and she'll have a brief presentation.

Mayor wynn: thank you. Welcome, ms. collier. My name is virginia collier from the neighborhood planning and zoning department. The senna hills municipal utility district item that we have this evening is 7 eacts of land into the mud, in accordance with the city code and water code a mud in is required to petition the city requesting consent to annex land.

Could I interrupt? Since this involves an sos variance, would require six votes, should we table this and go back to the waters item? my instinct that also requires 7 votes on the dais as well. My thought was frankly by the time we have some presentation, have some citizen testimony, we will have seven members on the dais. It's -- you know, a water tract for this and I think we're going to need 7 voting members for either one, and this -- and this buys us a little bit of time. So I -- so without collier, how long, approximately, do you think is your piece of presentation?

I've got about 60 seconds. [Laughter] that's no help.

I can talk slow if you'd like. [Laughter] well, in fact, it probably would be appropriate, frankly, for the mayor pro tem to hear the presentation. I wouldn't want to imply that some of us would vote without having some of the background. So without objection, why don't I recess the city council meeting for just a few minutes. I think we're -- I think we're ten minutes away from having a seventh member.

Can we get a confirmation, mayor? If we can get a confirmation of when he might be back.

Mayor wynn: from how far?

From oak hill? [Laughter] how about without objection let's recess this meeting of the austin city council, my instinct is for ten minutes. We are now in recess. Sorry for the delay. Shils

concerned about our water tract than hearing 103. We'll call that back up. 83, I guess little, mr. guernsey. [01:56:03] We have a motion sheet in front of us as well. thank you, mayor and council. That would take us back to 83, which is case c14-2008-0125 part. This is a third reading for the tract known as 12 a. Known as the waters property, and this is part of the oak hill combined neighborhood planning area rezonings. And we've already had second reading of this particular case, and this occurred back on december 11. At that time the conditions that were approved at second reading and have been prepared for a third reading ordinance would describe this waters property, and on your map -- let me just give you an orientation of this. This particular parcel of land is located between 1826 and escarpment boulevard just south of a tributary of item son creek. It would also be north of davis lane and south of 290. This is dealing with a contested zoning tract. I know you've received numerous emails and correspondence in regard to this, but at your second reading, you limited the property to a total of 20 units, and that vehicular [01:58:00] access would be by way of waters way, which is a dedicated right-of-way, although it's not approved, and that access -- but staff understood in looking at the council transcript and video would appear to prohibit access to another dedicated right-of-way, which is improved called twilight mesa, which is further to the west. There's also upon redevelopment of tract 12 a that vehicular access between 12 a and the waters property and hot springs drive, which is a roadway that's further to the east, would be limited to the existing residence, waters residence, and emergency and pedestrian uses only. And I want to clarify some of the issues regarding the easement. The city is not a party to this access easement, and you have the ability through your zoning authority to further limit access to public rights of way. An action by the council would not somehow expand the ability of this private easement to include others that may not have been a party to the original easement. And, for instance, if the easement as I understand limits access to the waters property and -- so you made a motion to limit pedestrian access to hot springs, it doesn't somehow open up the world to use the access from waters way -- or excuse me, from the waters tract to hot springs, for anyone to use. It would probably still be limited and would be limited by this private easement. But the restrictions of the city could limit the users of the waters property hot springs to only being pedestrian, so you could still prohibit vehicular traffic, or limit it only to emergency vicks. Vehicles. You can further limit the easement. You cannot relax the easement. I just want to make sure that's clear. So we are prepared to do third reading today of what you did on second reading. I've spoken to several of the -- of your aids, executive assistants. I know of -- I think there are about five or six attorneys that are working on this from one side of the subdivision representing the waters or representing other property owners individually, and it may be appropriate, mayor and council, to actually ask some of the people that you've received direct correspondence to to come forward. It is subject to sos. Your proposal right now on the second reading, as i said before, would limit the number of units to 20 units. If council wanted to prohibit access or limit access of these units to certain rights-of-way, we can probably do that. Depending on how you craft your language tonight, if it is very clear and not -- i get correspondence from our law department, we might be able to do third reading tonight and finish this tonight. But staff would need to be absolutely clear on what your actions are if we were to do that and modifying the existing ordinance. So I may

come back and ask you if you're saying -- if you mention waters way and you mention hot springs but don't mention twilight mesa, I might ask that you clarify that access is or is not allowed to twilight mesa, and I may ask is the intent when the property is redeveloped or not or is it only emergency access or not, or pedestrian access or not. So we'll be listening for your words, and if you have any questions I'll be more than happy to answer them at this time, and this is the only zoning item remaining on your agenda this evening. thank you, mr. guernsey. So staff -- staff is prepared is reflective of what the staff believes is action we took on second reading.

Guernsey: that's right. before we perhaps call anybody else do you want to just open it up for council comments, suggestions, and even motions. You of course have the right to ask questions of staff or any of the attorneys or neighbors or property owner. Council member cole? I would like to ask a question of probably greg guernsey and jerry westhoven. There has been some discussion about the 20 units that we dictated on first reading and what would impact those units, and I'm trying to determine whether any limit of uses on waters way would have an impact on the 20 units. if access was taken to waters way, they would have to provide additional street pavement, or driveway pavement to access that. And so every-square-foot of impervious cover that they add would take away from the remainder of the property. There is an attorney here, actually, this evening that showed me a drawing by the name of mr. robert cleeman. I'm not sure which party he's representing, but he actually showed me an exhibit that showed, i believe, five lots taking access to waters way, and the remainder of the lots taking access to the original twilight mesa. I don't recall what the access was, if any, to any easement, but that might be an example of something that has been drawn. I could not, you know, speak to how easily that would be drawn because a lot of times as it -- done in subdivision, but he did have an example of the drawing that showed access that was limited to waters way. And so adding access you could do both streets, but it would limit the amount of impervious cover that would have on the remainder of the site. It would be more efficient to take access solely from one street, such as twilight mesa or solely from waters then because then they wouldn't be using pavement to try to get to two different streets.

Cole: okay. Why don't we hear from mr. cleeman on this. I believe mr. jeff howard. and then we'll hear from mr. howard.

Is the represent from the waters family on that particular property, just for your information. cleeman, if you could also identify who you're representing as well. Thank you.

My name is robert cleeman. I'm here on behalf of the estates of loma vista, which is the neighborhood. I represent the estates of loma vista which is the subdivision to the -- with twilight mesa is the collector of that neighborhood. Earlier today -- we've had a lot of discussion about whether or not 20 units was achievable on the property under an sf-1 scenario, if access -- or the number of units on waters way is limited to five. Earlier we suggested an offer to the property owner, how about sf-2, which would allow smaller lots, more flexibility, incentive looks more like a clustering of the project. And this is twilight mesa that comes in here, which is the neighborhood collector, which is where my clients would prefer the majority of the traffic to go. This is waters way. What you see here is the existing waters house, and four additional lots that would access by waters way. The remainder of the lots would come off this street. To get into a little detail, this is 11.3 acres. Based on the sos 25% net site area, we're estimating

about 123,000 square feet of impervious cover. What I'm told is that when you calculate the pavement bot cul-de-sac and for the street, it's approximately 26,000 square feet. So you still have a lot of impervious cover left over. Because understand, this is right-of-way. This isn't the actual pavement of the road, and this is reflecting a 60-foot right-of-way, which could also be 50 feet. So we believe these lots -- the waters property obviously is going to be pretty big because it's a large house that exists, but under this design scenario you have room for a pond, room for reirrigation as required under sos when you have this density you're going to have to do retain and water quality approach. So this represents 20 lots, five lots only on waters way, and it would appear to be more than sufficient room and impervious cover to achieve 20 lots. And these -- these other lots, other than the waters property, would average somewhere around 7800 feet. That's an average. So some can be bigger or smaller. But the reason that we proposed sf-2 is the limiting the number of units in waters way is really the most important issue for the neighborhood, and even if there is a scenario where you couldn't get 20 lots under the sf-1, they'd rather trade and allow the 20 lots to make sure there's fewer lots on waters way. That's the trade -- trade-off that's embedded in the offer, in the suggestion of the estates of loma vista. And so we offered this as a demonstration of under sf-2 you could get 20 units on the property. thank you, mr. cleeman. mayor, I also want to hear from jeff haussmann. can you draw as good as mr. cleeman?

Yeah, I will. Thank you, mayor and council members. My name is jeff howard. I'm here for the waters. A couple points. First of all, I was -- ron thrower drew this an onionskin right before -- over an aerial right before this zoning case. I was joking with ron that, you know, I could probably get onionskin aerial of the li-pda case you just heard and probably do a doable commercial design standards layout. Anybody can pull an onionskin paper over an aerial and draw something and say it's doable. The point is, however, this is nothing new. At first reading you restricted access to waters way. On second reading, after we provided information to all of you about layouts and about designs and about the impact that that restriction had on this development, you all voted 6-1 to put waters way back without any restrictions. It was the same argument that was made to limit -- eliminate waters way is being made again. And so this is -- this is nothing new. And, in fact, the trade that robert spoke about was a trade that was on the table at second reading. 20 Units sf-1, just don't put any access on waters way. Again, that trade was on the table. That was rejected 6-1 last time. This layout does not work. As you can see, its drawings on an onionskin. There's no curb distances calculated. There's no impervious cover calculations. There's no water quality calculations. There's no survey data. It's based on an inaccurate location of where the improvements are. The house is actually much closer to the northern property line. It's approximately 70 feet. To fit in a 60-foot right-of-way in between the northern property line and the house is not feasible. There's no building setbacks. There's no public utility easements shown on this that austin electric would require, and in short, our engineer -- we've had an engineer, garik -- andrew with garrett enan has looked at this, and this is an extreme roadway line, would have to take this road all the way to the property line close to this existing home that's here, and then have an extreme turn back to the center of the property to have the layout. We determined it's not feasible. And, in fact, you know, you have to ask yourself the question, if it were feasible, why would my client build a longer road off of waters way that's more impervious cover, more expensive. If it were just feasible to just go around the house. Well, the answer is, it's not. And so what this proposal does is puts us in the same boat we were in at second

reading. We either take our access off of waters road to save the house or we take access off of twilight mesa and we loop the house. Lose the house. And that's the same choice that was presented at second reading and was rejected 6-1. All this does, instead of saying no access, you can have five units accessing waters way but it still creates the same access problem, and that is the access off of twilight mesa to save the house. So respectfully, I appreciate the sentiment behind the proposal, but for the same reasons we couldn't take that proposal on second reading, we're unable to take that now, and so we're hopeful is, given the concessions council has already made to this neighborhood, sf-6 sf-1, 30 units to 20 units, access that was allowed on road 10 to no vehicular access on road 10, that those considerations -- that's more than anybody else has given the neighborhood, staff, steering committee, neighborhood contact team, planning commission. Council has done a lot for this neighborhood, and the one thing that my client really would seriously ask you to consider is that unrestricted access to waters way. With that I'll be happy to answer any questions you might have. Thank you, Mr. Howard. Council member Cole, do you still have the -- Mayor, I'm ready to make a motion unless there's some other comments. There might be some other -- yeah, further questions of -- Council member Leffingwell?

Leffingwell: Thank you. Waters way, can you confirm this for me, I understand is a neighborhood street and twilight mesa is a collector or main street?

Both of them are public rights of way. I'm not sure the classification. I imagine they'd both be classified as local as they empty on to this property. George Zapalac is here, probably speak to that. I think that's the rationale I've heard for preference to using twilight mesa, that it is a neighborhood collector, Zapalac can confirm that.

Mayor, I wanted to tell you, there are people here representing the subdivisions of the estates of Shady Hollow -- or the estates -- yeah, Shadow Ridge, excuse me. And then also Shadow Ridge crossing neighborhood is here. I think you've heard from one of the subdivisions, if you wanted to hear from the other two, there are representatives that probably one could come up and kind of speak to the issues how they relate to those other two subdivisions. Zapalac, could you help answer Council member Leffingwell's question?

Yes. To answer your question, twilight mesa was intended originally to be a collector street serving this residential area and it was designed that way and approved that way in the subdivision. However, when it was actually constructed, it was -- it was constructed a bit narrower than the normal standard for a collector, so that it really is more -- built more like a local street. But there is not much difference in the drinking water protection zone. There's not much difference between a local street and collector width, only a couple feet of width. It was built to the narrower width. But the radius and curvature are designed for a collector. On Twie Lies Mesa?

Yes, on twilight mesa.

And what's the width of twilight mesa?

I believe it is 24 to 26 feet of pavement.

In waters way?

Waters way does not currently exist. It's -- it's just a dedicated right-of-way, but there was no pavement there. well, I mean the road that goes into -- waters way would be extended.

I believe it is 24 feet. so they're both the same?

No, it's slightly narrower. slightly narrower, but the right-of-way on twilight mesa apparently exists to widen that road; is that right?

It -- yes, the right-of-way was dedicated for a collector street.

Leffingwell: okay. Thank you. mayor pro tem? this is probably a question for staff, because I think we're -- actually a technical question. The technical question is, is it possible to build 20 homes with it divided up, five on the waters way and the other 15 on twilight mesa? Because I think that's where we are. It would be helpful that if -- maybe if george zapalac or greg guernsey or some o professional staff could give us an assessment of whether that's technically feasible. I don't know if pat --

I don't know if pat murphy is still here, i might ask him a little bit. It's difficult for staff on the fly to answer a question like that because of all the different issues that are involved and the street access that's involved. I can't definitively say that you could get the 20 units on there. You could certainly make the accommodation for 20, and then they would have to go back and do the design and depends if the waters house is there or not, because i think that has a lot to do with whether or not you can get the street radiuses to be straighter. If jeff had come forward and said there was concerns about that. Jeff had come forward. I can't give you an definitive answer. I could bring it back a couple days and try to figure out a couple different alternatives that staff could come up with. They may not necessarily be all right with the waters family but we could do that.

We have a choice here, one of which is -- if it's just not feasible or technically possible to get the traffic to feed on to twilight mesa, that's one issue. It was clearly intended that was the road that was going to be used for traffic to come and that waters way -- it strikes me that waters way was not intended to be the road to carry the future load of traffic from this land. That said, if it's not technically possible to achieve what we've intended, then we have to deal with the real world. I just don't feel comfortable that we have actually gotten a good answer about whether this is technically possible to do the division of traffic that's requested by the neighborhood here tonight. If it's possible, we should do it, I think, but if it's not, then we can't try to jam that through. council member martinez? I agree that i would love to have, you know, the ability to figure out whether or not we can do this, but quite frankly, we didn't have -- we still don't have the ability to know whether you can do 20 units with access to waters way and twilight mesa. We don't have the impervious cover calculations. We don't have the subdivision filed. We have no idea, but we granted them 20 units with access to both. So if we grant them 20 units with five units having access to waters way and twilight mesa, it's something. It may not be 20. It may be 18. It may be

17. But even under what we've already done, we didn't have any definitive information. We do not know to this day whether or not 20 units can be built there. We don't know if it can be more than 20 units, but we limited it to 20. So I think, you know -- I think it's a judgment call. You know, I'd love to have, you know, a subdivision platted that lets us know exactly what can be done but we haven't known it since the beginning. And so, you know, I think it's a fair compromise, it's a fair request just to be a little more compatible with the neighbors than what we -- you know, what we previously adopted. So I would certainly be supportive of limiting the number of units accessing waters way and moving forward with still allowing 20 units. I'm, you know, not happy with it but that's where we ended up. And I respect this body's decision, whatever we make as a final decision, but I think it's a fair compromise if -- you know, if it doesn't work out to where 20 units can't be built or where five units can't be built out to access waters way, then maybe it's only four, but I think it's a fair compromise.

I spoke with Jerry Rusthoven and Pat Murphy and George Zapalac and I think there's a general consensus, if you own 11 acres you can get 10 units, and we're 10 units to 20 units, that's where it gets down to a design issue, and certainly if you want us to look at that, we can try to lay out something, but it would take more detailed study than for us to just shoot from the hip here this evening. Council member Leffingwell? I'd like to try a motion, and the motion would be for SF-1 zoning with 20 units maximum, with vehicular access for all new units. That would not include the existing unit, limited to waters way and twilight mesa, and no more than five units with access to waters way. So we have a motion by council member Leffingwell, well stated, second by council member Martinez, 20 units, limit of five unit access to waters way. SF-1 with a conditional overlay, limited to 20 units, with access to waters way and twilight mesa, with a limitation of access to waters way not to exceed five units. Well, just to clarify, vehicular access, period, is limited to those two roads. It has the effect of eliminating vehicular access to the other old right-of-way.

Guernsey: okay. So no -- there would be no vehicular access, no emergency access -- except for all new units, vehicular access would be limited to waters way and twilight mesa.

Okay. So -- for all new units.

So the existing waters residence could still maintain their vehicular access to hot springs?

Leffingwell: correct.

And then is there any limitation by not mentioning it, can I assume -- is staff to assume that vehicular emergency access, pedestrian access is prohibited -- vehicular access for all new units is limited to only waters way and twilight mesa. That means fire trucks, ambulances, whatever.

And then no pedestrian access to hot springs, or not -- yeah, hot springs. No, vehicular access is limited. I didn't say anything about pedestrian.

Okay. So pedestrian access would still be allowed to hot springs, waters way and twilight mesa, and then vehicular access for anything new limited to waters way, twilight mesa. The existing waters

residence, if it's not redeveloped, it could remain hot springs.

Leffingwell: yes. council member martinez? and just for further clarification, the easement to hot springs -- the limitation to the easement to hot springs would be triggered upon redevelopment, as a further clarification. Upon redevelopment of the waters tract, that's when the limitations occur. on the waters property if there was one additional dwelling unit added to the waters property, then vehicular access to hot springs would be eliminated.

Martinez: yes. if you're proposing that as a friendly amendment -- the intention was, the way it was worded would -- if the existing units stayed there forever, they could continue to use hot springs forever. Because the limitation only applied to new units. But are you offering a friendly amendment to that? yeah, I'd like to limit the access to hot springs upon redevelopment, that it's only emergency vehicle access use only, and it's my understanding that the easement -- we cannot expand the easement, even if we wanted to include pedestrian. The current easement is not drafted for pedestrian access. So pedestrian access is off the table. We as a council can't further entitle the easement that exists. We can limit it. that's correct but we can't expand it. I'd like to limit the hot springs access to emergency access only upon redevelopment. so as the maker of the motion, council member leffingwell, is that -- I'll accept that.

Martinez: thank you. so we have an amended motion and second on the table. Council member shade? I'd like to get some clarification on these regs again, I'm sorry. But mayor pro tem mccracken made a comment about twilight mesa was -- could you repeat what you said? You said twilight mesa was the road that was intended for this?

I was actually going to ask for a clarification. I need clarification on that. I don't know if jeff howard answers that or staff answers that.

Thank you, council member shade. Yes, I heard mayor pro tem speak to twilight mesa being designed as a primary roadway. That's not correct. The plat that was recorded in 2000, which was prior to any of the residents on dark valley road buying their lots, showed it as a public way for access. It has been planned since 1999, for over nine years, as a public right-of-way access to this subdivision. In fact, this - loma vista subdivision was granted a balance of the tract waiver. In other words, it couldn't be legal unless that waiver had been obtained. What made that waiver possible was waters way, 50-foot public access, right-of-way, expended to the waters tract, made this subdivision legal. So waters way has always been intended to be access to the waters tract. It was planned in 1999 in the palestinian plan that way. It was platted in 2000 -- preliminary plan, platted in 2000 prior to them moving in. It's always been planned as an access. Because it's got two turns and a stop sign at twilight mesa, it's actually safer. Traffic goes slower. Twilight mesa, we've heard, has got sight distance problems. So I would agree that twilight is intended to be the primary access. Waters way has always been for over nine years, an access has been promised to the waters as a public right-of-way access. I just wanted to make that clear. further comments, questions?

I think -- I'd like to hear the staff's read of what was intended there. I m --

waters way? yeah, I'm trying to get some sense, as one of my colleagues said here, we're having to shoot from the hip here. That's not the best situation to make a vote on and we try to avoid those situations. I'd like some sense of staff, what was intended of this area from the time it was built out, from a traffic engineering and a planning standpoint.

Well, I'll have george zapalac address the planning and subdivision issue that you've raised. I've got a copy of the shadow ridge crossing section 12 subdivision that might be helpful to display.

Council, when shadow ridge crossing was originally platted, twilight mesa was designed as the main collector street for the entire subdivision. And the first portion of it, it was built 26 feet wide. This is my answer to council member leffingwell's question. The first portion of it was built 26 feet wide and then it narrows to 24 feet as it continues on through the subdivision, and, [indiscernible] which comes in and ends in a cul-de-sac is also 24 feet. Waters way then comes in off of twilight valley coffee -- dark valley - cove, dark valley cove and steps up to the waters property. The waters property has two access points, one to dark valley cove through that existing dedicated right-of-way, and another one down to rotan drive through the easement that runs behind the other houses. The cul-de-sac up at twilight mesa originally -- although it touched the waters property, didn't extend the full width on to that property. The waters family acquired some small little segments from the adjoining two properties to give them enough width there so that the road could be extended at a future date. I think from staff's standpoint, really both streets were set up so that they could access the property, that the access can be taken from the waters tract to both of the streets. There is the complication of the house and the location of the house and trying to build a street that goes around the house and still meets all city standards, could be a problem. We have not really analyze thad in detail. We haven't looked at whether that is feasible or not. So that is a limitation. But I think actually both streets were set up to provide access to the property. zapalac, it's interesting to note that that seems sort of intuitive, that the fact that the waters had to purchase some additional property in order to make that potential northern connection work. I'm just curious as to how -- that sort of implies that somehow either the staff process -- the subdivision process, the transportation review, it almost implies that waters way was intended to carry more if -- if ultimately it took the waters family -- action on their part to have to buy additional property outside theirs in order to access that northern cul-de-sac.

I think it was an oversight, that there wasn't sufficient right-of-way provided for the cul-de-sac to extend on to the property. It wasn't recognized when the subdivision was laid out that the cul-de-sac turnaround -- just --

-- the waters property. Normally when a road like this is designed, it's intended to be stubbed out and there is sufficient width left there so that the street can be extended.

Mayor wynn: right. Further questions of mr. zapalac or staff? Mayor pro tem? and it is a question of -- zoning or sf-2 and limited to 20 units, if it were that, would that make it feasible from a design standpoint

to get 20 units and also get what the neighborhood's goal is for an outcome?

By going to sf-2 it would make it easier in the sense that the lot size would be reduced from 10,000 square feet to 5,700 square feet, so they would be able to have lots shallower in depth than they would for the 10,000-square-foot. They'd be wider and deeper. It wouldn't change the requirements of sos. You'd still have to comply with the watershed regulations but they would be able to make the lots and probably fit them in easier just because they're allowed to be smaller in size. Earlier today you had the resolution that you passed directing staff to talk about sf-1 and looking at smaller lot sizes. You know, this might be a situation where this lot could actually take advantage of an amendment, because you might actually have lots that maybe are smaller than 5,000 square feet and still be compliant with sos and have a larger tract that might offset that. What you're suggesting by doing sf-2 is actually kind of going in that direction where it would provide more flexibility but not necessarily allowing more density. council member morrison? I apologize if you've already answered this question, but when was waters way dedicated as the right-of-way easement?

Guernsey: 2000.

Morrison: 2000? And it was at the same time that twilight mesa was -- was -- the preliminary plan was --

council member, my recollection is that it was actually dedicated as right-of-way after the subdivision was platted, but there was a strip of land shown there to provide access to the waters property. That is a requirement of the subdivision ordinance. But I don't believe it was actually dedicated as a right-of-way until a later date. howard just indicated -- the land was actually dedicated with the final plat. That's what he indicated. with the final plat of loma vista? the twilight -- oh -- yeah. Jeff will explain that. It was dedicated with the plat and was dedicate explained later it was with the same subdivision that had twilight mesa and waters way. further questions and comments? Council member leffingwell? just a comment, on the 20 units as set forth as co as a maximum, I don't think there ever was any intent that we would construct the zoning ordinance in such a way that guaranteed they could lay out 20 lots. So 20 is a maximum. I think it's up to the applicant or the engineers to go through the layout process and see how many lots they can lay out, up to -- up to the maximum of 20. But I don't think that's our responsibility here in the zoning process. That's more of a site plan issue. council member shade? I'm sorry. Further comments, questions? I'm sorry -- that's right. We have a motion and a second on the table. Sf-1, 20-unit condition, new units could have vehicle access to waters way and twilight mesa with a limit of five units having access to waters way, and a further clarification on the timing of the access on the existing easement, based on development. Have I stated that correctly, mr. guernsey? Other comments? Mayor pro tem. I'm going to stick with the vote I made on second reading on this, and my reason for it is i don't think that the applicant, just to be -- would want to try to put all the traffic on to waters way. This is in everybody's interest to get distribution of traffic, but if we create a zoning outcome that's impossible to achieve, at site plan stage, then we haven't -- I think we have a responsibility to try to actually make sure that our votes actually are achievable. So -- so should, in fact, we end up with the sf-1 zoning that we had on second reading. I urge the applicant and staff to work together to try to get traffic distributed over to twilight mesa and waters way in some different configuration. But based on the information I have now I don't see that we have enough information to say that we can conclude that it

is feasible to try to do the distribution requested by the neighborhood representatives, which I'm very sorry about. If we had more information I could be persuaded, but not based on what we have tonight. So further comments on our motion for third reading? Guernsey, if you can help me, my instinct is I was certainly prepared to also support our action on second reading, remember me supporting that. Can you help me understand the difference between our action on second reading and what we have now as a motion for third reading? We still -- second reading we still have the 20 unit limitation.

Right.

Still step 1, comp, as far as the zoning. What the difference might be is in second reading access to twilight mesa was prohibited, and the motion I understand on the dais now allows access to twilight mesa. There was not a limitation on the number of units that would take access to waters way. On second reading. There is on the motion I think you have on the dais right now, is no more than five units could take access to waters way. And then there's an additional limitation on the emergency vehicle access regarding redevelopment in the hot springs. And so before the access to hot springs was limited to the existing residents, emergency and pedestrian uses only. Those are the differences that I see. Council member Cole. Mayor, I'm prepared to make a substitute motion and it might make it a little clearer, which essentially sticks more with what we did on first reading, but it does lay out a little more about the street accesses. In step 1 zoning, up to 20 dwelling units, vehicular access for all new dwelling units on the properties limited to waters way and twilight mesa, a vegetative buffer or other screening on waters way, and the flat line at the point of subdivision. I think there was some discussion about that, and access to hot springs easement limited to emergency vehicles and pedestrians, only at the time of subdivision. And I believe that was also part of the original motion. So we have a substitute motion by council member Cole, seconded by council member Shade, and Guernsey, can I get --

can I get a little clarification on where the buffer is located? on waters way in the flag lot at the point of subdivision. There's houses that back up to that. Stephanie might want to go over there and show it -- do you want to -- the houses that are on the end?

Cole: yeah.

Mayor Wynn: -- drive. There are eight lots on [indiscernible] drive that back up to the --

on this slide -- so the buffer that's being discussed is along the northern boundary of those lots that front on Rotan drive and on hot springs. Is that correct.

Cole: yeah. Guernsey, although this -- my understanding is this is far more similar to the action we took on second reading, it is, I think, more defined -- refined, is that enough clarification for staff [indiscernible] ordinance on third reading.

And it was a 25-foot buffer? What was the width of the -- the vegetative buffer? No. vegetative buffer 25 feet?

Cole: is that standard? well, when we did that on second reading we didn't have a buffer, and a vegetative buffer -- if you're talking about redevelopment -- it was just meant to be a buffer -- or a screening device. We weren't going to set an amount, because the neighbors want that.

Guernsey: okay. So either be a vegetative buffer or like a screen fence --

cole: screening fence. 6-foot solid fence?

Cole: exactly. and the width of the buffer -- I know you didn't want to specify, but if they propose an alternative to the fence buffer, it would be helpful to be more specific than that. this is only for existing homes. so the buffer would only be as it borders an existing residence as it exists today?

Cole: yes. and then the vegetative buffer width, if they propose that, being 25 feet, 20 feet.

Cole: 20 feet.

Guernsey: 20 feet? Okay. I think, mayor, we could codify an ordinance, sf-1, co-np, 20 units, limiting access for all new units to waters way, twilight mesa, that there would be a 20-foot buffer or a vegetative screen which would be like a solid fence. I don't know the amount of right-of-way that's left, so can we leave open the amount of the vegetative buffer? we'd have to specify something in the ordinance. We could give a range.

Cole: okay. Well let's give a range. but then they would have the choice of taking probably the minimum amount of that range. well, that would be fine. I don't want to say something that's impractical. I'm really kind of shooting from the hip here. 10 Feet? 10 To 20 feet?

I think the neighbors talked about 25 feet. , Vegetative buffer. is that what they said?

In some correspondence i --

mayor, could we ask this gentleman here who actually lives on the easement to hot springs -- please come forward.

Mayor wynn: welcome. Please state your name for the record.

I live at 6733 hot springs. That's the home with the old easement on it. The big concern with waters way coming in is it's going to basically touch the back corner of my neighbor's yard, so we are looking for that 25-foot vegetative setback so that the road doesn't just wrap right on the corner of her yard and right down all my neighbors' back yards. So 25 is what we were looking for.

Cole: 25.

Thank you. make sure that makes sense to staff, legally and in the field.

I was getting clarification on the easement width is 40 feet, and what was being described to me -- behind me just now was that there was still a desire to be 25 feet for the buffer. that's what we just heard, yes. and so there would be a vegetative buffer that's proposed of 25 feet or a solid fence, is what i heard earlier.

Cole: or. and that would include the flag of those lots in front of hot springs, which is located to the east of the easement, and along on the back of the lots on rotan. That takes kind of the flag piece and the easement piece. And that would be along this area, and then this 40-foot easement would be along -- that buffer would be along the hot springs side going along this area. Is that correct?

Cole: that's correct. guernsey, at 40 feet, that easement, leaving 15 feet, is that still -- and does the motion anticipate the continued emergency vehicle access on that easement? And if so, is the 15 feet remainder after a vegetative buffer allow that to work from a transportation standpoint? from an emergency standpoint you would not be able to get a fire vehicle down that. Usually there's a minimum of 25-foot width, and, you know, just doing the math, you don't want to end up -- you'd only end up with about 15 feet after you take away that easement -- or the vegetative buffer area. So it would, one, render that area, that you could not bring any emergency vehicles down there. I think it's difficult for them, anyway, to come off of hot springs and to negotiate that turn with an emergency vehicle anyway. The second point that staff just wants to point out, that if you were to put the buffer in, staff would suggest that an allowance be made for waters way because the buffer may actually make it difficult to allow the roadway coming into the waters property to connect to waters way if you had a 25-foot buffer on that corner. you make a good point. and so it would be to the minimum extent necessary.

Cole: to allow. to allow waters way actually to come into the property, into the waters property, because if you did take that buffer and you went 25 feet to the north and to the west of that -- those boundaries, you might not be able to get a vehicle -- or you might not be able to [indiscernible] to connect.

Cole: we don't want that. So let's say to the minimum extent necessary -- making an allowance for waterway to connect into the waters property for motor vehicle access. yes, for emergency access. emergency or motor vehicle --

cole: motor vehicle. motor vehicle access. council member shade, as the second, have you sort of followed this and you're still --

shade: yes. That's the purpose of also talking about the screen of some sort? I didn't hear the --

the screen of some sort or the vegetative buffer.

Guernsey: that's right. They could narrow it and put --

that's why you have those options. But yes, I'm supportive of this. so we have a substitute motion and

second on the table. Council member leffingwell? I just -- i believe you're a resident on waters way.

Right. is that correct?

Yes. this has all be very confusing about the buffers and waters way and shadow ridge, all that stuff. Could you enlighten us a little bit on the what the effects of this might be.

Thank you for the opportunity. I live at 8002 dark valley cove and we are at the corner of dark valley -- cove on the the intersection of that and waters way. The waters way 65 feet as we know, it comes up, and if I'm communicating with you, actually within 2 feet and 6 inches from our driveway at the front. And the way it was laid up, I think that was probably necessary for the subdivision, but then when the subdivision was platted, the way the houses around the dark valley cove, was designed, platted and approved, it was not, apparently, envisioned to become an access street for the future development. Maybe several houses. That's what we were told by the builder. And then by then it can be dealt by a common driveway. So anyway, I'm not second-guessing what was intention, but the end result was that if this becomes -- or if the city plans this as a full right-of-way with future access street, our house, and possibly the other house on the other side, does not meet the code, and I don't think city ever would like to build a house like that. So unsafe for the residents over there of the existing houses. So the whole discussion of this access issue from twilight and mesa drive or from waters way, it boils down to the safety of the local existing residents. And the mesa drive now has 60 feet right-of-way, and the reason it was, i believe, in our mind, was dedicated was to resolve flow of traffic without having to weave through this odd configuration of waters way and dark valley cove, putting the residents in danger, and so there was a safer and that was dedicated later on for all the reasons, which is quite reasonable reasons. And I respectfully ask the council to consider those facts. I observed earlier on today that you were discussing the 79, and was it 80 or 81, of how attentive you were to the one owner, issues of having signage on the arterial road and all those things, and I think that we -- I would appreciate similar and due attention to the safety of the existing homes, which are probably permitted by error if the route waters way was indeed intended as an access street. So I respectfully ask that george zapalac already kind of touched that, but any engineer would design a straight shot, and as a matter of fact, obviously this is all opinion, but the city's own engineer once mentioned that he would never design a road like waters way. And I understand it. But since the city's approach is already to -- it was dedicated and our house and the other house is so unfortunately situated, so there is no code which can remedy other than wide zoning. So I really respectfully ask you to recommend a really wide zoning, which considers the landowner's right to develop. They need -- they are entitled to profit as much as they could, but at the same time we would appreciate if you consider the safety of the existing homeowners at the intersection of dark valley cove and waters way, because as I understand it, when the subdivision gets developed and reviewed, that intersection is not even going to be considered or looked at because it's not at the boundary of the property. The boundary of the property where the water -- gate is now, that area, that point is reviewed, but the intersection of dark valley cove and waters way will not even get reviewed, so we will just kind of fall through the crack, if you will.

Mayor wynn: thank you.

You have the opportunity, and I appreciate it. thank you, ma'am. guernsey and/or zapalac, can you talk to the subdivision site plan process when it comes to access? I mean, council can make some broad statements about access, but -- and/or even attempt at restrictions, but zapalac, sort of the technical and engineering parameters and requirements that you and your department require.

Council, the subdivision ordinance does require two access points for any new subdivision unless certain conditions are met, in which case a waiver could be granted or a variance might be approved by the planning commission. So the normal requirement is two points of access. We would have to look at the minimum width of the street that serves these tracts. We would need to have streets that are the same width as the existing streets, 24 feet wide on 60 feet of right-of-way, 50 to 60 feet of right-of-way. And they would have to meet the geometric standards for minimum curvature in order to extend into the property. Have I answered your question? that certainly helped, yes, sir. And do you look at contributing factors off-site? That is, if for some reason there was a significant bottleneck, if you will, on either of the streets, you know, 500 feet away, does that play into the sort of engineering approval dynamics of your department?

It does not directly enter into the subdivision approval. If there -- in fact, if there is -- if there are streets that are stubbed out to the property, they're required to be extended unless a variance is obtained by the developer. In terms of off-site conditions, that might be something that would affect a staff recommendation, but if the streets are present, the developer is allowed to use those streets regardless of off-site situations.

Mayor wynn: thank you. So again we have a substitute motion and second on the table, and I believe guernsey and staff are comfortable that should there be council support for that, that ordinance could be drafted and executed. I'd like to read it one more time just to make sure we have it correct.

Mayor wynn: thank you. on the substitute motion, if I may, and that would be to the sf-1, with the conditional overlay, in the neighborhood planning combined district, that new development of property would be limited to waters way and twilight mesa, that there would be the provision that there would be a 25-foot buffer or a solid fence that would be constructed behind or to the north side of those lots that are on rotan that would run east-west generally and then along the easement running north and south behind those lots that are on hot springs, that the access to hot springs would be limited to only emergency and pedestrian access upon redevelopment. And the screening that's provided is only -- only extends to those residences that exist today. council member cole and council member shade, does that characterize you-all's -- oh, and the maximum of 20 units.

Mayor wynn: all right. So again, it's substitute motion --

mayor. council members leffingwell? just to clarify the procedure, we vote on the substitute motion. If the substitute motion should fail, we automatically revert to the main motion. Motion. but with still a vote on the main motion.

Leffingwell: yes, sir. so we have the substitute motion, a second on the table. Further comments?

Council member morrison? for me this comes down to really trying to figure out what was the intent of the use of waters way, and with the testimony that we just heard about the actual configuration, as well as the fact, as i understand, I just found an ordinance that it wasn't even named until 2005. So to me the -- I know it's difficult to actually get the facts here, but the indications to me are that it really was intended to be limited. [One moment, please, for]

Mayor Wynn: Further comments on our substitute motion. Councilmember leffingwell.

Leffingwell: I'd just say likewise I'm not going to be supporting the substitute motion as a maker of the main motion. I agree with councilmember morrison that it's obvious to me at least that twilight mesa was meant to be the main access, and with waters way, I had not heard that before, it was only named in 2005. That kind of reinforces that to me. And in addition to that, I'm frankly one reason I'm not going to vote for it is that I really don't understand the buffer language yet either.

Mayor Wynn: Further comments on the substitute motion? I will say I will be supporting the substitute motion and I happen to believe that just the transportation review, the subdivision and site plan review will very much lead to the obvious majority of access being up on twilight mesa. But I want to allow for the flexibility to get those 20 units as best they can be laid out. Further comment on the substitute motion? Hearing none, all those in favor please say aye. Opposed? The substitute motion passes on a vote of 4-3 with councilmembers leffingwell, martinez and morrison voting no. Thank you, mr. guernsey.

That concludes our zoning items this evening.

Mayor Wynn: Thank you and your staff. So council, that leaves us 10 3, which is to conduct a public hearing regarding essentially the senna hills m.u.d. And welcome back ms. virginia collier. Thank you for your patience, virginia. Sorry, for folks could please take your conversation out to the foyer, we would appreciate it.

Good evening, mayor and council. My name is virginia collier from the neighborhood planning and zoning department. The senna hills municipal utility district item we have this evening is relate the to the annexation of 7 acres of land into the m.u.d. is located out on bee caves road, also near state highway 71. Per the city code and the in the located is required to petition the city requesting consent to annex land. Senna hills mud requested to 07 acres which includes the portion of a 2-acre partial, the balance of which is rnt currently in the m.u.d. The tract in red is the area has requested added to the and then the portion just north of that is the portion of the tract that's already in the m.u.d. Similar to requests we received from other municipalities for release of austin's extraterritorial jurisdiction, this request went through interdepartmental review and then on to the water and wastewater commission and the planning commission. The city evaluates these types of requests to ensure that the annexation will not negatively impact the city's interests and in this regard staff finds that due to its geographic location, utility service and general municipal services cannot be provided except for through the m.u.d. Second, the subject tract is currently in the city's and will remain in the city's e.t.j. Third, the city is not giving up any tax base with this request. Fourth, the subject tract will not require any debt and will not create any additional impediment to the city's annexation plan to the m.u.d. itself. And finally, pat murphy will

discuss some environmental considerations for this action.

We're here this evening because there's a legal dispute between the city, and the landowner over this .7-acre tract. has requested the city's consent, as you've 7 acres of land as part of the settlement between the m.u.d. and the landowner. And annexation of the .7 acres into the m.u.d. Removes the development from the application of the s.o.s. ordinance. A little bit of background relative to this dispute. The senna hills m.u.d. Covers about 322 acres in austin's e.t.j. It's located in the lake austin and the barton creek water supply watersheds. was actually created in 1988 and the is a party to a consent agreement which includes a land use plan. will ultimately be annexed into the city upon payment of the debt. The consent agreement, the parties to the consent agreement are constituent, and the developer. It includes as I've said previously a land use plan which governs land use within the m.u.d. properties are required to comply with the barton creek watershed ordinance, the comprehensive watersheds ordinance by consent agreement. The agreement can be amended by agreement of the parties, and the proposed third amendment updates the land use plan consistent with the lever property. As for the weaver property 2 acres in total with a homestead development existing prior to the city's watershed regulations that is grandfathered. 5 acres of the tract is already part of the m.u.d. 7 acres, which we're discussing for annexation this evening, is proposed for annexation into the m.u.d. The site has been used for a landscaping business and a metal sculpture fabrication business. Additional unpermitted development occurred on the tract of approximately 2,000 acres which including some paving for parking and access and a rock wall. The existing impervious cover is approximately 39% and would comply with the impervious cover limits of the cwo, but not of the s.o.s. ordinance. Just a little history of the dispute that I think is helpful. In 2002 the city red tagged the property for development without a permit of that eash that I just discussed with you previously. sued the landowner over the use of the property. In 2005 the city intervened in the lawsuit to enforce the consent agreement and to address development without a permit. In 2006 the landowner pled no contest to city code violations at municipal court and was ordered to pay fines. In early 2008, mediation resulted in an agreement and the landowner, but the city's issues were not resolved. This is an aerial that you probably can't see very well, but the area that is bordered by red is the .7-acre tract that we're discussing for annexation this evening. The tract directly behind is the tract that's already in , and as you can see on the upper center part of the photo is where there are residents living in the m.u.d. itself. The recommended action is to resolve the dispute. Consent to the m.u.d. Annexation and third amendment to the consent agreement, and approve a site specific amendment to to the .7 acres. The reason for the s.o.s. Amendment is because the consent agreement itself provides for land to be able to be developed under these older watershed regulations. There's also a provision in the consent agreement which specifically states that any land that becomes part of at a later date through annexation would also be subject to those standards. So that is the reason that it would not be subject to if annexed into the , and that's the reason for the site specific amendment to s.o.s. Excuse me real quick. If the city does consent, the dispute between the parties will be resolved. The weaver property will be subject to two restrictive covenants, one would regulate the uses of the weaver property, would limit those uses on the weaver property with no industrial uses. The weaver property will be required to comply with the comprehensive watersheds ordinance, plus additional water quality controls and to follow the site plan process so that we had a legal enforcement tool. The landowner will abandon the existing on-site sewage facility and connect to

the m.u.d.'s wastewater system. If the city does not consent, the existing dispute will continue. and landowner settlement is contingent upon annexation into the m.u.d. may seek approval of the annexation from tceq, which is a process that is allowed for under state law if the city were to deny the annexation and if we were not to be able to provide wastewater service to the tract. The land use on the weaver property will conflict with the consent agreement that currently exists and unpermitted development would not be resolved. That concludes my presentation. If you have questions, we have lots of staff here to answer you.

Mayor Wynn: Thank you, mr. murphy. Questions for staff, council? Comments? We do have a handful of folks that had signed up earlier to give us testimony. Let's see if I can get to that. Let's see. Steve bauers. He signed up wishing to give us testimony. Welcome. You will have three minutes, to be followed by bill bunch.

Thank you, mayor, councilmembers. My name is steve bauers, I'm the attorney for the senna hills municipal utility district and have been involved in this matter since its origination back in 2002. To highlight on a few things murphy brought up, the whole reason that we're here tonight is because back in 19 -- back in 2002 a new owner required this property and started using it for industrial-commercial purposes, specifically a metal fabrication business. And that business is extremely incompatible with the surrounding residential neighborhood uses. murphy said, there was some city red tags and municipal court actions involved, and then finally in 2004 the district brought a lawsuit against the property owner seeking to in effect enforce the provisions of the consent agreement with respect to the back half acre tract. In 2005 the city specifically at the district's request, and i can specifically call councilmember mccracken was nice enough to come out to the district and participate in some public meetings that we had back in the old days. The city agreed to join in the lawsuit. Also seeking to enforce the provisions of the consent agreement and the land use restrictions contained therein as well as addressing the city's permitting and land use issues. In early 2008 we conducted a mediation of this matter. As a result of that mediation, we did come to an agreement between the district and the property owner to settle the matter. The key component of that is the annexation of the property into the district, and subsequent to entering into that settlement agreement we then turned our attention to the city side of the lawsuit and negotiations with city staff and the landowner's counsel and have arrived at where we are today where we're asking the council to approve the annexation of this property into the district and in effect give approval to the settlement of this litigation. The primary advantages of that, mayor, are that the -- first of all, you will get the settlement of what's been protracted litigation which has been expensive and it's been quite contentious between the parties. And that's the settlement that the district views as very favorable outcome for the district. You get the confirmation of the validity of the consent agreement and its application to the back half acre tract, which is , and the front .7 acres. [Buzzer sounds] then you have the imposition of a set of restrictive covenants on the property, which prohibit further industrial uses of the property, and limit the uses of the property to uses which are very environmentally friendly and also neighbor friendly. The landowner will abandon his existing septic system and will be connected into the district's water and wastewater system. And the landowner will be required to comply with the city's cwo and their additional enforcement water quality monitoring mechanisms built into this second restrictive covenant that is to be filed at the request of the city. In closing, mayor, we are a property owner board, have been for quite some time. All of my board members are very much in favor of this.

And as a matter of a formal request and also as a matter of accommodating between fellow political subdivision of the state of texas, we would ask the city council to look favorably upon our annexation request. Thank you very much. I'd be happy to answer any questions if anybody has any.

Mayor Wynn: Thank you. Questions for steve, council? Actually, I've enabled bauers to continue his testimony because kenneth fox had also signed up in favor, but not wish to go speak or here to answer questions if we needed that of him. Thank you, sir. And as I mentioned earlier, bill bunch signed up wishing to speak in opposition, but bunch left earlier. We'll note his opposition for the record. So council, that concludes all of the testimony of this public hearing item tun 3. Comments? Questions of staff or our neighbors? If not, I'll -- councilmember morrison.

Morrison: I do have some comments, taking a little bit of wrestling to try to understand what's really going on here. And I do appreciate that resolving a long-term dispute and getting rid of a nuisance suit is an important issue. The concern I have is the practical application -- practical consequence of doing this with regard to future development, redevelopment of the land. Because right now it's, as i understand it, please correct me if I'm wrong, , it's limited to if it were to be redeveloped to 20% impervious cover, and with this annexation into the and going under the comprehensive watershed ordinance, it would -- if it were to be redeveloped, it would be allowed to be 40%. Currently it's 39%, but so for me the concern focuses on redevelopment and adherence to our s.o.s. In the future if we annex it, does it then go back to being subject to -- once the is paid off, does it then go back to being ?

Upon annexation at some point in the future, the consent agreement would go away as part of that annexation. So then it would be subject to whatever regulations applied at that time.

Morrison: So it would have the window in time where it's allowed to redevelop at 40%, or in fact I should say if it were in , under the redevelopment ordinance, councilmember leffingwell can correct me if I'm wrong, but I think that redevelopment could occur probably at 40% if there were mitigation or dedication of lands are paid into a mitigation fee.

That's correct.

Morrison: So we're really giving up that future control over future development, which concerns me. And it's a little bit like a relief from the e.t.j. I understand it's not technically a release from , but I do know that council passed a resolution last year, i think it was, or in 2007, saying that if we were going to release any land from the , it would have to adhere to our water quality standards. So this definitely doesn't comply with that, so I start looking at, well, what is the alternative if we don't agree with this and don't approve this variance to ? And it goes to tceq, they can go ahead and allow annexation into the m.u.d. The question for staff is does tceq have the authority to release that land from ? Compliance?

Mitzi cotton, assistant city attorney. Indirectly yes because tceq could make it part of the m.u.d. consent agreement takes it out of -- out of , it would indirectly the tceq does have that authority. Does that answer the question?

Morrison: I think so.

I wouldn't say that tceq has the authority in general to take people out of , but in this particular situation, because their action would in fact take a piece of property and put it in the , and because we gave , this consent agreement taking them and putting them under cwo, it does in fact take them out of s.o.s.

Morrison: I see. Okay. I understand. Thank you. So I guess my frustration is that I wish that we had just been more enthusiastic in our negotiations trying to deal with this future situation and see if we could have incorporated that into the agreement for -- about future development, that it would as opposed to what we're left with now. So for those reasons my preference would be that we see if we could get folks to the table and actually make that agreement a little bit stronger with regard to future redevelopment. Complying with s.o.s. So that's why I won't be able to support this.

Mayor Wynn: Mayor pro tem.

McCracken: Mayor, I'm going to move to close the public hearing and approve the ordinance consenting to the annexation. I've seen the place and it has been just a persistent problem, so I think this would be a positive way to have city land use controls over something that's really been a nuisance property, an industrial property. The city controls will actually I think make a very positive difference on getting some environmental controls over an industrial use that's been a persistent nuisance in the area.

Mayor Wynn: We have a motion on the table to close the public hearing and approve the ordinance, I guess this is, as presented by staff. Seconded by councilmember cole. Further comments? Councilmember leffingwell.

Leffingwell: Yeah. I really appreciate councilmember morrison laying this out so clearly. It's very convincing. But I think if you looked at it from the perspective of even though it technically release, it's tantamount to an e.t.j. Release. And we have several pieces of guidance in place for e.t.j. releases. One, sort of the threshold criteria, is it has to be a piece of land that the city would never annex, that we never contemplate annexing. And I know we don't contemplate annexing this property for a long time, but certainly it's not blocked out in some way such as some other properties we've seen and have approved releases for so that it would be totally infeasible to extend utilities, which would be necessary for that release. In addition to that, for releases, again, knowing that it's not technically that, we have a policy in place by council resolution, and I know we don't always follow our own resolutions, but that resolution says that the water quality imposed in that released land would have to be secured by some legal instrument to ensure that the water quality is equivalent to what would -- what the property would be subject to if it rld within the city's control. So even though it's a small piece of land, I think it's a precedent setter. It violates several pieces of existing city policy, and so for those reasons I'm also going to oppose.

Mayor Wynn: Thank you. Again, we have a motion and a second on the table approving this item. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of four-three with councilmembers leffingwell, -- ah. So the motion passes on a vote of four to three with

councilmembers leffingwell, martinez and morrison voting no. So therefore the ordinance is not adopted because of the super majority requirement. Is that fair enough? Can we get legal concurrence about that?

That it fails without six votes. The annexation cannot occur without the s.o.s. Amendment, so that it fails. There is no annexation. Without six votes because the annexation requires the s.o.s. amendment.

Mayor Wynn: That's my understanding as well. So again, so the motion passes, the item; however, does not pass because of the super majority requirement. There being no more business before this meeting of the austin city council, we stand adjourned. It is 8:24 p.m. Thank you all very much.

End of Council Session Closed Caption Log