

Closed Caption Log, Council Meeting. 2/26/2009

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Good morning. I'm austin mayor will wynn and it's my privilege to welcome pastor george holcombe from asbury united methodist church who will lead us in our invocation. Please rise. Pastor?

One quick word.

Wynn: Please.

I'm jealous of mayor wynn because the only time our church was full to overflowing was when you spoke. [Laughter]

Wynn: (Indiscernible).

I want to give kudos because asbury accessed your austin energy program and replaced all the lights with energy efficient lights. You probably don't know but a small church it was about \$9,000 for the bill. With the rebate it was about 3,000. And some people heard about it and we finally ended up paying 2,000. And the kids in the preschool had those fluorescent shields on there and they're special needs kids and they all function very, very well with the new lights. Let's pray. Oh thou who is known by many names, who created the stars, set them on their course and set us on earth for this short time, we thank you for austin and the whole creation that has had a hand in making it so. We pray your blessings upon this important hall where the future is contemplated and acted upon. Bless us with the awareness of the connectedness of what we do here, especially on the lives that we will never see. Help us to hold respectful dialogue, so that at the end of the day this city built on a hill may continue to be a light for the future and the river that runs through it may be one of justice and peace. Amen.

Wynn: Thank you. For those of you who don't know asbury methodist is on 39th street. I've never attended services there, but I have attended a number of community functions at the church like so many of the members of our faith community here in austin, asbury serves as a remarkable role on a community level in addition to its religious pursuits. So we're pleased to have a continuous pip with asbury. And pastor, welcome back. You look well. So there being a quorum present, at this time I'll call to order this meeting of the austin city council. It is thursday, february 26, 2009, approximately 10:30 a.m. We are here in the council chambers of the city council building. Before I walk us through some

very brief changes and corrections to this week's posted agenda, council, at this time we tried to take an opportunity to alert the public or colleagues as to potential upcoming items from council or other initiatives in the relatively near term future that we might expect to be discussing on this dais. Any upcoming items from council, initiatives or other issues? So the changes and corrections to this week's agenda are as follows. As part of our consent agenda here this morning, item number 11 regarding the selecting the firm to help us with our comprehensive plan, that item will be postponed to thursday, APRIL 23rd, 2009 THIS IS For the valve replacement process a for what otherwise is a complicated post bid construction phase project. On item number 25 we should note as part of the consent agenda as we said the public hearing, the suggested date and time will be changed to march 26th, 2009 at here at the city hall. On item number 50 we should insert the phrase resolution approving a, so the brief summary will read, conduct a public hearing and consider a resolution approving a request by martex barbecue llc, the owner of property at 9207 north lamar boulevard. And item number 51 technically is a 6:00 p.m. Time certain, so note that staff will be requesting a postponement of item number 51, but technically the council can't take up the vote to even postpone it until after the six p.m. Time certain posting. So speaking of which, so our sort of calendar this meeting, after we conclude our consent agenda here in a few minutes, there may be a discussion item or two. If not, we'll likely go into closed session for a brief closed session agenda this week. Then at noon we come back for our general citizen communication half hour. we will have our afternoon briefings. The first of which is a briefing on the staff recommendations related to regulatory, operational and enforcement requirements for outdoor music venues and live music at restaurants and consideration of related ordinance, including temporary moratorium on the issuance of renewal of permits under section 9-2-12 of the city code. So the staff briefing on those recommendations. Also, we will have a briefing on our sidewalk master plan. 00 we take up our zoning matters. 30 as usual we break for live music and proclamations. Our musician today is randi weeks, so stay tuned for randi and/or tune in. 00 we conduct our public hearings. I'll just say and i apologize in advance, I will be out for most of the afternoon and early evening. I have to attend a private meeting in dallas and i apologize for that, but i couldn't reschedule it. So sometime late this morning after our consent agenda, I will run over to the airport and get to dallas and hopefully get back. And should there be zoning cases that go into the evening, I'll be back for those. I think in part based on that, staff has put together a relatively light agenda for us all, so perhaps this might be an early evening for everybody. So far, council, I think we only have one item pulled, that's item number 15. Pulled by councilmember morrison, but there's been several councilmembers wanting more discussion on that. So at this time all we're showing is item number 15 pulled off the consent agenda. Additional items to be pulled? And I'm told as part of our changes and corrections, i should also note that item 25, where we're setting a public hearing, that in addition to changing the suggested day and time to march 26, 2009, we should note it's to be reviewed by the planning commission and/or potentially the zoning and platting commission on february 24th, 2009 AND MARCH 10th, 2009. Not, of course, march of 2008. Thank you, mr. bailey. So again, council, we have one item so far pulled off the consent agenda, item number 15. Additional items? Councilmember leffingwell.

Leffingwell: Item 11, i would like to leave it on consent agenda, but as a postponement until APRIL 23rd.

Mayor Wynn: Yes, sir. That is our current consent agenda item. Again, further items to be pulled off the consent agenda? So before I take up some potential council comments about our consent agenda, i

want to make sure we give any citizens who would like to give us testimony the ability to do that. On item 16, these are items that we're taking potential citizen comment on items that are proposed for our consent agenda this morning, item number 16 is regarding acceptance of some grant funds from the texas department of housing and community affairs. gus pena would like to give us testimony on this item. Welcome back, mr. pena.

Morning, mayor, councilmembers. Mr. city manager, gus pena. Item number 16 is a very important item in that it deals with case management basic needs, something that we've been discussing for many years. As you well know, the stimulus package that is proposed by the current administration to filter through to different states contains a small component of -- it's called the health and human services agency, but also includes basic needs funding, which is very limited and dependent on who and what states are willing to accept this type of assistance by the federal government bearing the strings attached and red tape. I think it will be very minimal now. We have been discussing the stimulus package and the impact on the state of texas, the legislature, the school district and also at the travis county commissioners court. I want to commend judge sam biscoe for making the statement that he's willing to work with the city council and mayor on related county and city issues. They're very prevalent to the basic needs of the people. And councilmember morrison, thank you very much for your input. You and I have been discussing it along with barbara on issues. If at any way possible, maybe more funding could be procured for this type of situation for basic needs. A laura garcia of the texas association of counties has been very helpful in trying to determine and define the parameters of the stimulus package coming in from washington. I don't know what the city council has in regards to support like the county has, but if you do, reach out to your resources out there and they will help you find them. Thank you very much for this ordinance and item, but in the future if we could get more help from the state or federal government regarding basic needs, it's needed out there with these tough economic situation and recession. Thank you all very much.

Mayor Wynn: Thank you, mr. pena. And council, on item number 22, which technically is a resolution directing the city manager to then prepare an ordinance for council consideration regarding an enhanced public process for review and enhanced analytical review of economic proposals, we have a number of folks who have come down not wishing to speak in favor. We'll certainly note those for the record. As a point of privilege, i do see paul bury has signed up for potentially give us testimony. bury i think is serving as chairman this year of the greater austin chamber of commerce. Welcome paul bury for brief comments.

Thank you, mayor. I just wanted to say thank you to councilmember morrison, councilmember shade and councilmember leffingwell for working on this revision to the incentive ordinance. As you know, we've had a long history of working with the city and it's extremely important that we're all holding hands and working together as we try to improve the economy in austin, texas. So I think the changes for transparency and given the right amount of time to make sure we are doing that appropriately is extremely important. So again, I think it's been a great process and we've ended up in a place much better than we were before. So thank you very much for that.

Mayor Wynn: Thank you very much. Councilmember morrison.

Morrison: I wanted to bury and the chamber, the folks that participated as well as the community folks that were at the table. It was really a good process in terms of struggling through a little bit to find common ground, but I think everybody had the same goal in the long run. And so we came out with a really good product that will allow us to balance the needs we have for transparency in the process and making sure that we have an opportunity for public input, but on the other hand remaining competitive so that we don't tore pediatrician dough any projects from the very beginning by overdoing it. So I appreciate the chamber and the community folks that participated as well as councilmember shade and leffingwell, who were really helped to move this along.

Mayor Wynn: I'll chime in as well that it was really important to have the chamber folks, who are on the vanguard when it comes to austin trying to figure out how to help existing businesses grow and encourage businesses that are considering satellite or even relocated facilities to consider austin. Obviously the economic situation is paramount right now both in austin and across the country. We here know that fundamentally our city budget boils down to job creation. Job creation not only fills up empty office space, it then allows for the commercial assessed values to rise, not residential assessed values to rise. It allows more folks to of course be gainfully employed and then go out and purchase things that increases the city's sales tax revenue. So on several different fronts, fundamentally, job creation is the driving factor of our city budget. You probably know that essentially only new construction, that is, new tax base added each year, is that additional ad valorem property tax base revenue that is available to cities. Because as existing real estate values, if they increase the assessed values increase on existing real estate, you simply reduce your tax rate correspondingly. It's a state law that establishes that dynamic. So when you see tower cranes and construction around town, know that means a modest amount of additional revenue into our general fund for councils to then figure out how to judiciously fund all of the different services that sit citizens expect us to fund. So no matter how you measure it, fundamentally it's about job creation and it's about this -- this delicate balance we have of how we continue to help existing businesses grow, retain existing jobs that we have, and encourage new job creation so folks can continue to move forward here in town. So I think we're going to have a little discussion here on item number 15 that is somewhat related regarding project based economic development programs, but I was really pleased to see the leadership of my council colleagues working with some advocates out in the community and the business leadership here in town to make sure we don't lose sight of what is a fundamental goal of our local government, which is to improve the economic viability of the city and its citizens. Thank you all very much. Councilmember shade.

Shade: I would just like to add to give people a sense for really how collaborative this process ended up being, not only among the colleagues here, but also community folks, liveable city and the chamber. Not only the greater chamber of commerce, but also our greater chambers, our other local chambers also participated. It's a pretty drawn out process that our staff goes through to evaluate. It's been five years, i guess or maybe almost six years now since the mayor's taskforce on the economy met and came up with what became our economic development policy. I think it was very appropriate for us to five years later evaluate what was working and what's not. Of course I appreciate the efforts of the folks from the greater austin chamber from capcog, from our internal staff as well as, as councilmember morrison said,

you know, her efforts and councilmember leffingwell's efforts. But it was -- there are a lot of people that have a very big interest. Austin interfaith is another group we've spoken to. There really is a broad, broad, amount of interest in this community for economic vitality. I'm glad we were able to find a sweet spot that as councilmember morrison said balances transparency with the need to be competitive.

Mayor Wynn: Actually, with that, council. It looks likelike those are all the citizens who wanted to give us comments on the items on our agenda. So I'll open it up to additional council comments on any of the items on the consent agenda. Councilmember leffingwell.

Leffingwell: Items 6, 7 and 8, which have to do with travis county health care district, I want to leave those items on consent, but at the appropriate time i would like to get a quick briefing and explanation for the public about what these items really are.

Mayor Wynn: Well, without objection perhaps we could ask staff -- I see assistant city manager rudy garza coming forward to give us and the public a brief summary of these items. Welcome, rudy.

Welcome, council. Items 6, 7 and #, council, are our health care facilities over to the health care district. As you know, we've previously briefed you. By state statute we are required to transfer our health care facilities to the health care district once they obtain federally qualified health care status. So we'll be deeding some of those facilities. The other facilities where we will maintain a presence there for our services will be entering into lease agreements with the health care district. And that includes several -- those that are noted there. Rosa zaragoza, the arch clinic, ak black, montopolis, which will have a long-term lease, as well as the rj office space which will have a five-year lease. The other facilities outside of the rbj in montopolis that has a 99-year lease, the other facilities will be leased out for 25 years once council aproves this.

Leffingwell: And item 25-acre remnant, direct transfer of land, could you also explain that?

Yes, sir. That was land that was previously set aside in trust for brackenridge hospital. There was a total of five tracts. Four of those tracts are being transferred over to the health care district, again to maintain the use for a public health facility.

Leffingwell: Okay. And the reason this is coming about now is because the transfer of city employees, who will soon be former city employees into the health care district or one of its subsidiaries.

Yes. Beginning march 1st that transition will begin.

Leffingwell: And the reason it didn't happen in 2004 when the district was created instead of now is because of the problems with the retirement system, transferability of retirement of city employees into the health care district. That problem was able to be addressed by legislative change that enabled proportionality of retirement, so now we're able to actually follow through with our legal obligations under the original creation of the health care district.

That's correct. And as a matter of fact, we will be coming back to council either the next meeting or the meeting after that with the item for transferring the actual employees and addressing specifically the retirement discussion.

Leffingwell: Okay. Thank you.

Mayor Wynn: Thank you, councilmember. Further comments? Technically I haven't yet proposed the consent agenda. So far it's going to be all the items except for item number 15. I'll continue to ask for council comments before i then actually propose the consent agenda. Councilmember morrison.

Morrison: Yes. Item number 11, which is selecting a consultant for the comprehensive plan which we have on consent to POSTPONE UNTIL THE 23rd, I Wanted to comment that clearly this is a critical decision and I know all of my colleagues on council understand and are looking forward to the challenging work ahead. We have -- we had a short period just a few days for public comments, and I think what has -- what I and i believe others have come to understand is that we really do need to have an opportunity for more discussion, more public input for the council to take into account before we make our decision. One of the things we need to keep in mind is that it is a very formal procurement process, and so we'll be strictly adhering to all the requirements of that. But we will have an opportunity for council to ask additional questions of the consultants if need be. And I and I think some others would like to host a meeting in the near future, probably march 4th, and we'll try to get that word out as soon as we get that solidified, so hear from the public about additional information that might be helpful in making the decision. And then get that information from all the consultants, have another opportunity for public input once people are more informed. And then move forward with the actual decision. So I want to say that i appreciate everybody in the community and their passion and understanding for how important this is. And I think that we'll have, you know, a timely process. I want to thank staff for working with us on trying to figure out how we can do this in an appropriate manner. And I think that we'll come out with a better solution in the end.

Mayor Wynn: Thank you, councilmember. Councilmember cole?

Cole: I would just like to add that the changes that we have made to the procurement process allows for more public input, but i believe that we only had five consultants that responded and now we're down to two -- I mean to three. And that we are not making a major change in the procurement process, so they can still count on our normal procurement process procedures to be in place and that they can also still count on the fact that the rules that we have at the beginning we are not changing those mid stream, we're simply asking for a little more time for public input.

Mayor Wynn: Councilmember shade.

Shade: Yeah, we are not changing the procurement process. We are in fact adding time. And we didn't come to the decision, the proposed idea of postponing to april 23rd came from working with staff to determine how can we reasonably get not only more time for public comment and for comment to be taken and then synthesized by councilmembers so we can make a better and more informed decision,

but also to give the opportunity for more access to information throughout this process. So I've already talked to staff even just as recently as a few minutes ago about new items that are going to be posted on the website and I want to compliment them as councilmember morrison did for the quick response to community input that we heard loud and clear, and so I would expect that we're going to see a lot of additional materials. There has been a tremendous amount of work that's gone on from the subcommittee of the planning commission that's been looking at this for now over a year. Staff has done a pretty extensive amount of research to compare what like sized and other sized cities have done. So this is -- there's a lot of additional information that we discovered has been gathered in relationship to how we might make an informed decision and we wanted to make sure that the public had access to the information that we will also be having access to. And it will all be on the website shortly. And as councilmember morrison said, we'll have additional community meetings not only to obtain additional public comment, but also later to be able to get further information once we might ask questions of the finalists, etcetera, and then to be able to share their responses. So we've built in purposely about eight weeks so we'll have plenty of time to do that.

Mayor Wynn: Again, further council comments on items that will be on our proposed consent agenda? If not, -- I apologize. Earlier when I walked through our schedule today, I failed to mention a very important morning briefing whereby the city manager will be presenting the action plan for this current fiscal year budget, potential budget amendments and/or the city manager's plan to frankly reduce spending to make some cuts from our current approved so please do stay tuned for that important discussion and analysis. So council, so far we only have item number 15 pulled off our consent agenda. So therefore our proposed consent agenda this morning will be to approve item number 1, minutes from our previous meetings. From our contract and land management department, approving items 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 per changes and corrections. And 12. And from our economic growth and redevelopment services department, approving item 13 -- I'm sorry I misspoke. It's item 14 that won't be on our consent agenda. From our health and human services department we'll be approving item 15, 16 and 17. I'm looking at my screen versus the hard copy of our agenda. And my electronic version on my screen has item number 14 as our project based economic development program item.

I don't know why, mayor, but your numbering is off by 1. It is actually number 15 that is being pulled.

Mayor Wynn: That's interesting. Mine still hasn't switched. Excuse me, folks, while we try to work through some technical difficulties. I want to make sure --

when I refresh my screen, mayor, it did the same thing yours did. It has dropped an item somewhere, but it is actually item 15 that is being pulled and that is the only item on consent.

Mayor Wynn: But I want to be careful we do this correctly. There will be an electronic version, a record, I trust, of this meeting, and it seems to me we should be -- somehow we've lost an item between 1 and 14. Can I just read through --

Leffingwell: Mayor? I don't think I heard you read 13 as a consent.

Mayor Wynn: Regardless, 13 is on the screen, but I'm just saying that now item 14, at least on my screen under economic growth and redevelopment services, is our project base economic development program that is to be pulled. I apologize folks, but we have a light agenda today. I want to be sure that we have the right one read into the record. Mayor we're going to try this again. Council, without objection I'll read from the hard copy although I might need some gentry, because a number of these items have been changed and/or corrected. I'll need to note that as I read off the hard copy that doesn't have those notations on there. Okay. So I apologize, folks. Again our proposed consent agenda this morning, again we believe will be -- should be all items except for, excepting our item as posted on our hard copy as item 15, which is the city's project base economic development program. Therefore our proposed consent agenda this morning should be to approve item 1. The meetings from our minutes from our previous meeting. From our contract and land management departments approving items two, three, four, five, six, seven, eight, nine, 10, 11 per changes and corrections. Which is the postponement of our decision regarding the professional services agreement on our comprehensive plan. Approving item 12 per changes and corrections. And approving item 13. From our economic growth and development services we'll be approving item 14, which are professional services agreement regarding our combination skate park and bmx park. Item number 15 regarding the city's economic development program related to project base economic development incentives will not be on our consent agenda, but we will be approving from our health and human services department items 16, 17 and 18. We'll be approving from our public information office item 19. From our transportation department approving item 20. We'll be approving item 21, which are our board and commission nominations that I'll read into the record. We just have one. That is to our board of adjustment. I will be nominating heidi gable as an alternative member of the board of adjustments. That's item number 21 on our consent agenda. We'll also be approving item number 22. Then we'll be setting the public hearing by approving items 23, 24 and 25 per changes and corrections. I believe that is now our proposed consent agenda. I apologize, folks. I'll entertain a motion on that proposed consent agenda this morning. Motion made by councilmember cole, seconded by councilmember morrison to approve consent agenda as proposed. I want to make sure ms. gentry is good to go. Legal is good to go? Again, any additional council comments regarding our consent agenda, we now have a motion and a second on the table. Thank you all for the patience. Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of seven to zero. Thank you all. So now, council, that takes us to this morning's briefing, which as I mentioned is a presentation by our city manager regarding the cu year's -- I apologize, folks. We probably should take up item 15 first. We do have one discussion item. Which I don't think will take that long. [One moment, please, for change in captioners]

after looking that the further, we have since distributed a revised ordinance that more closely matches the 2008 resolution as adopted by council back in december.

Mayor Wynn: Apparently, here on the dais we have -- we have staff's amended backup for this ordinance, item no. 15. Councilmember morrison, comments? back in december of 2007 the council passed a resolution that would have prohibited the city from participating in project based -- large scale project based incentives that involved retail. There was one exception in that resolution, that was on publicly owned property when there were community benefits involved and there was a list of community benefits. So that resolution had one exception publicly owned property. And in -- december

of 2008, gonzalez referred to, we passed a resolution that -- that the intent was, states that the intent was, to put the december '07 resolution into an ordinance and some of the language about that exception got a little bit modified. It didn't come directly from the '07 resolution, there was some changes in the -- some ambiguity introduced at that time. And so what we have here, following the -- following THE DECEMBER 8th, WHERE The ambiguity was introduced, what we have here in draft in front of us actually introduces several exceptions, not just the -- the way I read it, not just on publicly owned property, but it also includes exceptions for -- for 's, affordable housing, revitalization of downtown, in fact the '07 resolution we're using those as examples of community benefits on publicly owned land. All to say that while council may like to have another discussion about when we are banning, when we are not going to go forward with the project based incentives and have more exceptions, it's my feeling that our full intent with this action was to codify the december '07 resolution, which only has one exception. And with -- and I believe that if we -- if we look at part 2 of what we're -- what we have on -- on the yellow sheet on the ordinance for this, what I would like to suggest, make a motion to this effect, that is that the sentence that starts: The elimination of incentives from large-scale mixed use projects does not prohibit the city from developing publicly owned property in ways that promote community values, including historic preservation, and then strike "or incentive programs for". And then continue on and in that way we would really, i believe, I would love legal's opinion on this, i believe we would accurately reflect the '07 resolution which I have right here in case anybody would like it. So it will really say the elimination of incentives does not promote the city from developing publicly owned property in a way that promotes community values and then there's a list of community values and the am ambiguity is removed. The elimination of incentives from large scale mixed use projects does not prohibit the city from developing publicly owned property in ways that promote community values. Including historic preservation, revitalization of downtown, affordable housing and transit oriented development, notwithstanding that stuff developments or programs may include a retail component. And that does line up with item 4 on the '07 resolution, which maybe I'll the city will continue to develop publicly owned properties in ways that promote community values, including historic preservation, revitalization of downtown, affordable housing, transit oriented development, protection and enhancement of the tax base. So -- so maybe we can get a comment from our legal staff about that.

Mr. smith?

Yes. We will be happy to comment. As I understand your question, it's whether by strike the language -- striking the language, the four words on the bottom of page 1 of the proposed ordinance, item 15 today, whether that takes the -- in essence takes it back to the 2007 language. Lloyd to address that.

Comparing the 2007 resolution, I'm looking at section 4, subsection 4, and it -- the proposal is simply to remove our incentive programs for, that's it? Then I believe it does reflect what's in subparagraph 4. Of the 2007 resolution.

Mayor Wynn: All right. Try that one. Thank you. So thank you, mr. lloyd. I guess that -- then begs the question, council, is that in fact what, you know, our current attempt is with the ordinance. So -- so I'll entertain that as a motion, so we have a motion on the table, because I called that up -- that's not an amended motion. We have a motion on the table taking our draft here before us regarding the

ordinance item 15, again striking the -- what happens to be the last four words of our first page, or incentives programs for. We have a motion on the table from councilmember morrison. Seconded by councilmember leffingwell. Further comments, discussion? Councilmember shade?

I'm curious about the source of the ambiguity. I understand the ambiguity and I have the 2007 and the 2008 resolution right in front of me. I -- I mean, was the intent for the -- what -- I guess the question that I have is why was 2008 slightly different than 2007? Who would speak to that? Was there some reason for that? In other words the 2007 was clearly the one exception being publicly owned property, the current language that we have here in the most current version is exactly the same as the wording in the 2008 resolution that we passed in december.

Yes.

I guess that I'm confused.

The 2008 resolution we worked with the councilmember's office, we had recognized at that time that the bre program was in existence and that we would be bringing that forward to council. The bre doesn't deal with publicly owned property. It is a revitalization program for downtown austin. That deals with private property and there are retail components. So we didn't want this ordinance before you to necessarily counter act the program. Then we also recognized that 's don't necessarily deal with publicly owned property and so those were incentive programs that could be enacted.

So a -- affordable housing project that we are a partner in that has a coffee shop would be excluded at this point unless we took some other action at another date to include that type of thing.

Yes.

Shade: okay. I got you. Bre would be similarly impacted, it's a downtown revitalize addition economic development program specifically for a particular part of downtown, but they may be retail and they are small. Revitalization.

I'm sorry, let me make sure that I understood that. So because -- so the bre we believe is not -- [indiscernible]

would be impacted by this is what you are saying?

Yes. The ordinance -- the ordinance has -- as we had written and posted on friday, it looks like the bre would be impacted. Is counter active to what the 2008 resolution was adopted by council, so we rewrote it, that's what's before you.

The current what's in front of us is exactly the language from the 2008 resolution.

Exactly.

Identical to what was passed in december of 2008. But the reason why the december 2008 resolution is slightly different than the resolution from 2007 where this ambiguity occurred is because you were advising on how to protect the bre?

Yes,.

Are there other ways to solve the bre problem? In other words removing the ambiguity and supporting what's currently been proposed by councilmember morrison then in a separate action perhaps on a separate day we with actually address that issue? That's something we can do? In other words, if we pass the resolution as councilmember morrison has amended it, it's -- it's questionable as to whether or not bre is impacted and we can address that at another date.

We could -- yes, getting the nod from legal, yes, we can.

I would like to point out one other thing, I talked to staff, I appreciate, I think it's important to recognize, on part 3 the other change from the original version that was posted is -- is compliance review and for future and existing economic development agreements will be verified by an independent party rather than should be. Which is in the original version which would be -- so it's not a permissive, but a requirement. And then likewise that the results of that independent review will be made available rather than should be. Those are two other changes from the version that you had last week. So I thank you for making those changes, too.

Yes, those are changes that are needed in the ordinance.

Thank you.

Mayor Wynn: So we have a motion and a second on the table -- any other comments? Mayor pro tem?

McCracken: Well, i guess this may be for rodney or for legal. What are we defining as incentives other than chapter 380? It's --

you know, the bre is a chapter 380 covers grant and loans, we have captured that as incentive programs. You know, it could be something where we enter into an agreement with business where no chapter 380 or grant or loan is provided but there's some sort of an agreement, a partnership, if you will. It just leaves that term open.

McCracken: Well, that's not very satisfactory.

Maybe we should redefine it, then chapter 380's grants or loans, so that way we are very specific.

McCracken: I don't want us to run into some sort of -- trying to solve one ambiguity and creating a whole

new wave of other ambiguities, like our utility reimbursements and incentive, even if they are required by state law. Which many utility reimbursements are. So -- so my preference would be let's get some specificity on this and -- and if it's going to be beyond 380. Let's say it. If it's not beyond 380, let's make that clear, too.

Just briefly, it is intended only to address economic development programs. The chapter 380 statute authorizes grants and loans and use of public personnel to -- to promote economic development. So it isn't intended to address -- something like you described, the utility reimbursement contract. But -- but certainly we can -- we would like to -- we would like to propose additional amendments or ask for more language addressing those issues, we can that. Either postponing this item or taking it up at a later date.

Today, is it your opinion then as currently drafted this applies only to chapter 380 agreements?

It applies to the city's economic development program. That is -- that is chapter 380 programs, there are for example programs for -- for use of federal funds, which -- which it is not intended to address or limit. It's only has to do with the programs that cities engaged in through egrso. To create incentives for businesses to develop or relocate to austin.

So my question was is this -- does this apply beyond 380 or not?

Well, the answer is if -- if there's an incentive that were enabled to use through state law, that -- that maybe that doesn't refer to 380, it might be included in that description. But generally -- in general the answer is no, it's about chapter 380 programs.

If I could add and david -- if it is a majority of council's intent that it be strictly limited to chapter 380, that's easily -- that's easily doable by putting the appropriate language in the ordinance.

Yes.

I would -- I would answer the question -- would that be something that we could do quickly so council could act today if they choose?

Currently we can add a phrase to this ordinance today. That addresses that question. If that's what the council's desire is.

McCracken: I think the sponsor may have an opinion on this. well, I'm not actually the sponsor, this is just an ordinance that came from a resolution that we all passed. If we are going to adjust edwards can talk about how significant the adjustment would be to sort of clarify specifically -- I prefer to take our time so we can think about it carefully. And make sure we don't have any unintended consequences.

Sue edwards, assistant city manager. I think in response, councilmember, to your question, that the economic development program that you are addressing today is chapter 380. If you had ownership

incentives and you wanted to use those other incentives, in ways that are described for affordable housing, 's downtown, that -- could be a separate issue taken up at a separate time on an individual basis.

I have a question for staff. The -- the first section under part 1 where we reference chapter 380, it says that we have adopted economic development programs under the authority of chapter 380 and other statutes. Do you know right off the bat what the other statutes are because it seems like we are really talking about other economic development programs beyond perhaps the 380 agreement.

Well, we have used in the past the city has used regular tax abatement under chapter 312 of the tax code and of course we have recently used tax increment financing under chapter 311.

Questions?

Leffingwell: It's on now. Seems like there is a little bit of confusion, there certainly never was any attempt to impede or impair the vre policy, especially as it is amended now, which is a loan program. I agree with councilmember morrison's statement, we have to make sure to get this right and we don't have any unintended consequences. So I am the second of the motion for discussion. But if it's an order, and the city attorney can tell me to, I believe that i would make a substitute motion that we postpone this until next week and iron out these ambiguities and make sure that we get it right.

Mayor Wynn: Okay?

Cole: Mayor, I have a comment.

Mayor Wynn: We have a substitute motion and second on the table on this item for one week until -- THURSDAY, MARCH 5th, '09.

I support the postponement and I just also would like to add that -- that the -- to give directions to staff as they work on the language that -- that, you know, would be my intention that this only apply to 380 agreements and then we make that very clear and that it not apply to -- to chapter 311, 312 or tax increment financing agreements and/or utility reimbursements.

Again, so we have a motion and a second on the table to postpone. My suggestion to all of us is, you know, we have this week to make sure that we get some specific comments to staff, you know, to our other -- to our colleagues and hope that we find a good definable understandable center of gravity next thursday. I appreciate staff's work on it. The motion and second on the table to postpone item 15 for one week to thursday, MARCH 5th, 2009, FURTHER Comments? Hearing none, all those in favor please say aye.

Aye.

Wynn: Opposed? Motion passes on a vote of -- most to postpone passes on a vote of 7-0. Thank you

very much. Council, that take us to our morning briefing. As I mentioned earlier this is the city manager's presentation, discussion, of -- regarding our comment year's fiscal budget and at some point here soon, again I apologize, I'll be stepping off the dais for the remainder of the midday. Thank you. Is it on now? There we go, technical difficultys.

Thank you, mayor, we appreciate the opportunity to talk about our action plan for 2009 and before i get into the specifics of that, I think that it's appropriate certainly for the public consumption that we put our remarks today in a bit of context. Much of which you already know about. You will recall when I first arrived here at your city manager, our challenge initially was to find ways to -- to continue to serve our community with high quality service and do that by living within our means and that required us in 2008 to -- to reduce our spending by about \$8 million. In addition to that, or on the heels of that, we obviously had to close a fairly significant budget gap for 2009. You will recall that amount was \$25.3 million. We were successful in both regards. Certainly due to no small way to the efforts of city staff. We appreciate that and wanted to acknowledge that this morning. As we all know, unfortunately, the national economy continues to struggle and as a result of and notwithstanding our -- our initial efforts to adjust our budget and reduce our expenditures. We continue to be faced with that and so we have been challenged over the past couple of months or so, several months, so -- to look at and develop an additional reduction and i think everyone understands now in the amount of some \$20 million. As you also know, I had asked the departments to -- to develop a potential reduction plans for many to consider. In addition to -- to departmental efforts, I have taken, as you know, several actions at the organizational level to curtail our spending, including reduced employee pay increases under our pay for performance program. We postponed the employee salary adjustments, which of course are designed to keep our workforce in sync with the job market and as well we also placed a hiring freeze on filling vacant positions in the general fund and in our support services departments as well. Together, all of those efforts are estimated to result in reduced cost of some \$20 million, enough to close the gap for this fiscal year. I want everyone to be mindful in the event that revenue shortfalls continue in their downward trend, we will certainly advise you of that and any significant adjustments that may be necessary in regard to the plan that I'm going to yowl outline -- going to outline today. During the past couple of weeks, I have asked several of my department -- departments to revisit their cost reduction plans to address some of the overarching themes that we heard during the meetings that we had throughout the community about funding priorities and I want to talk about some of the changes that we have made to the menu that we presented to you back on february 11th. I wanted to begin by talking about libraries or library hours, to be more specific. As you will recall our libraries have already been closed for one day a week in the previous budget reduction plan. That cut will be maintained. However, our initial plan to reduce libraries by \$285,000 5 hours per week and library hours, we will not be implementing that recommendation at this time. Having anticipated hard times ahead, our library director has been juggling work loads since the beginning of this fiscal year with a combination of staff and temporary workers. As a result, she was able to hold open approximately 10 positions that would have enabled her to reduce library hours beginning in march. She will continue to hold these positions open, but will fill workload needs with temporary employees for the remainder of this fiscal year. By utilizing temporary employees, the library department will still be able to reduce spending in this area by \$80,000 for 2009. This and I hasten to say is not a permanent solution but will allow the library to sustain current service levels for now I want

to emphasize that I cannot guarantee that we will not need to reduce hours as part of the 2010 budget development or if we see continued downward trends in revenue this current fiscal year. I also wanted to focus on social service contracts. As you may know, the city is funding over \$18 million in -- in terms of our social service providers who -- who, you know, obviously provide services for those with the greatest needs in our community. The proposed reduction plan includes \$80,000 of unallocated youth services and child care funding. My final action plan today restores this funding and will allow programs such as the youth -- youth summer camp and parent support sessions to be funded. You will recall when we had our work session with the mayor and council we had no specifics with respect to the fire department. I want to talk about that today. Recognizing the need to -- to manage her budgets effectively, our new fire chief went straight to work on an effort to manage the overtime budget and to bring the fire department under budget. I applaud her for her efforts given that she's very early in her tenure as our chief by implementing flexible standing -- excuse me, flexible staffing, her plan is expected to produce approximately \$200,000 in reduced costs. This flexible staffing will not impact, and I want to emphasize this, response times, no stations will be closed, and no units will be out of service. This plan utilizes several staffing strategies to -- to determine when overtime will be paid. The chief's command staff will identify certain shifts in units where three firefighters instead of four will be sufficient to staff each unit. In implementing this plan, they will take advantage of the existing station overlap and the fact that a majority of the incident calls required on -- require only a one unit response. Last year, and you will recall this, the austin police department implemented similar staffing changes resulting in significant overtime cost savings without -- without impacting service levels. This flexible staffing will allow chief kerr to manage overtime costs effectively, we believe. The chief will continue to work closely with her management team to reduce costs in all areas as we begin to develop our budget for 2010. We have also managed some reorganization and -- in our purchasing office. Our purchasing officer has proposed a plan to me that will allow him to consolidate two work units under a single manager. Resulting in an additional vacancy not included in our initial cost reduction plans in generating savings of about \$86,000. Because the work units, the two work units are relatively small, the supervisory span will be manageable and is not expected to compromise service. As you know we invested a lot of time relative to seeking out community feedback. I felt that since significant budget reductions impact our community, it was important to seek out not only council's input on our cost reduction plans, but also to get community input before arriving at a final action plan. As I just mentioned, a series of meetings in january and february were held to hear from the community about funding priorities. I would remind you that on JANUARY 28th, WE MET WITH The austin neighborhood council, on february, we met with presidents and board chairs of downtown austin alliance, the chamber of commerce groups, the real estate council of austin and the community action network. ON FEBRUARY 5th, WE MET With chairs and co-chairs of the city of austin's boards and commissions. ON FEBRUARY 13th, WE MET With the full membership of , with invitations to other local social service providers to attend and to provide us with additional feedback and then finally on -- ON FEBRUARY 19th, WE Held a town hall meeting and invited anyone who wanted to participate in that to attend. One of the principal themes that we heard from our community was how highly they value library and parks. While residents indicated that preserving public safety budgets is very important to them, as it is to all of us, they made it clear that parks and libraries play a key role in what makes our community special. Our residents understand that we need to focus on core services during hard economic times and another theme that we heard was

that the cost reduction efforts should be considered as an entire prioritized package, one that does not sacrifice core services in the area -- in areas at the expense of one another. The revised 2009 budget action plan that I just described reflects, I think, council's feedback that we got during the work session on february 11th as well as the community feedback that we received from the various forums that we held. The adjustments that I have made will allow us to still cut spending by \$20 million, while responding to one of the principal themes that we heard from our community and again that was not to reduce library hours. That's what we intend to do. Looking forward, I just want to emphasize that this will not be our final challenge. We are going to be facing some difficult decisions, budget decisions for 2010. Which -- which in essence we have already begun to talk about. In spite of the difficult decisions and actions before us, I see nevertheless this as a great opportunity for city government. This city council has set the vision for our community. It is clear that you want austin to be the most liveable city in the country. You continue to set policies to -- to guide our steps toward that reality. My job as your city manager is to implement those policies and to get the job done and we intend to do that. To accomplish that clear yet challenging task, I have set the bar high for my staff so that -- so that we'll know exactly where we're going simply put we are on a track to become the best managed city in the country. I began that process of developing the road map to our best managed goal, the first day that I walked into city hall. That has been my goal from day one, simply because it is the right thing to do and shooting for anything less would not be worthy of our great city and the people who call austin home. When I arrived here i certainly did not expect to have to deal with all of the economic challenges that we faced this last year, but frankly it makes our goal even more important and clarifies the need. As we face greater demands for quality service with -- with constrained resources, we must manage the valuable resources that we have extremely well. So although the best managed city goal was not set in response to these economic conditions, the current climate provides us with a very clear motivation. Therefore, I am watching the next phase of developing the road map for this best managed journey. First, I am launching an overall organizational assessment for every city department. We have started with solid waste services and we will use that assessment model throughout the organization. We will be looking for efficiencies and other structural issues. We will be asking ourselves if we are aligned correctly, if our services and programs are effective, and if the departments are organized and resourced in the way that makes sense for the long term effectiveness to help us achieve our best managed city goal. The organization that I just described, the reorganization that I just described in the purchasing office, is an example of working more efficiently while it may seem small, those kinds of efforts in the end add up. Along those lines, I have challenged my business executives or the department heads to begin developing their own plan to become the best in their field. For example, I will ask the public works department to describe what the best public works department in the country would look like and develop a plan to get there and then surpass that standard. I will ask the library department what the best library system in the country would look like and how they can achieve that and so on throughout all of our city departments. Because the only way we can become the best managed city in the country is if every department, the sum of all of our parts, is the best in their field. A tall task indeed, but I'm confident that we can get there. It won't happen overnight but I'm absolutely confident that it's the right thing to do and that we will in fact get there. As I have said before, and as we are seeing today, our relatively high reliance on sales tax, which is a volatile funding source, limits our predictability, limits our predictability in terms of -- of our operations. So I have asked our chief financial officer to reassess the

city's existing policies to identify areas where we can improve with an eye toward better positioning us for the future with significant fluctuations when we have significant fluctuations in the local economy. So, mayor and councilmembers, I wanted to take just a few minutes today to emphasize the biggest picture goal and not just focus on this -- on the reduction plan that -- that I have outlined for you today. We certainly need to work through this current effort, but I wanted to keep the city staff focused on the brass ring as we work on our everyday challenges as daunting as they may seem. Nevertheless I think that the days in front of us are better. I'm absolutely confident that with your support our future is certainly as bright as we choose to make it. The staff has available to you these remarks and other details associated with the action plan that we will be taking -- that will be taking effect immediately. All of that information as we have throughout the course of this effort will be -- will be made available on our website for -- for austinians to review. So with that, the staff and I would be happy to entertain any questions that you might have.

McCracken: Thank you, city manager. Any questions, colleagues? So, councilmember leffingwell.

Leffingwell: [Inaudible - no mic]

McCracken: Apparently we will have to recycle the microphone system, which we will do when we go on a break here in a few minutes. Rather than take a five to 10 minute recess to do the microphones we're going to work through this.

This will not be a persistent problem all day.

[Laughter]

> come speak at my desk. [Laughter] might be easier.

Test, test, this one works.

I swear this is not a conspiracy, lee. [Laughter]

Leffingwell: Thank you, councilmembers, I have been talking for a long time about some of our -- some of our projects that are currently funded as social service contracts. That in my mind are really not social service contracts. They are economic development projects. Such as -- such as american youth works, such as capital idea. And I believe one of them that's on your list to have their funds cut on your list is skill point. Which is also engaged in job training, job information. I would strongly suggest that we move these economic development functions into the economic growth and redevelopment department where they can be funded by a source that is -- does not impact our general fund. I was planning on introducing this in the next budget cycle, but since it's come up in this one, I would ask that we take a look at transferring the funding specifically for skill point. I believe that's the only one that's involved on this list. And into economic growth and development see if we can continue to fund, I believe it's a relatively small amount of money, 60 something thousand dollars, for this budget cycle. And that for the next budget cycle we evaluate all of the social service contracts that we have to see if they are -- if their

true mission is the economic growth and redevelopment rather than specifically social service contracts. I think that would benefit the community. I think it's a strong -- with regard to economic growth -- I think it's as strong with regard to economic growth with programs that we currently fund such as opportunity austin, such as ata.

Good point. We will take that into consideration as we are developing the 2010 budget.

Leffingwell: I was also suggesting that we specifically take a look at skill point for this interim budget cycle.

Councilmember martinez?

Martinez: Thanks. I wanted to ask a couple of questions about the proposed staffing reduction in the fire department. Specifically, what -- are we talking about just a shift change covering the fourth person? Or are we talking about the fourth person at multi-company stations? That will be redeployed?

Rhoda mae kerr, fire chief. We're talking about at any time if there -- currently we have 41 engine companies and eight aerial companies staffed with four people. When there is someone not there on any given time during that 24 hours, we hire over time. We are talking about not hiring overtime to maintain that fourth person and it will be -- we're still working on some of the details, but it will be at the discretion of the shift commander as to what companies may be staffed with four and what companies may be reduced to three.

Martinez: So we're essentially going back to three person staffing on all apparatus?

We are going back to three person staffing on -- on select apparatus, depending on the number of people on duty at any given time.

Martinez: So we will maintain four as long as we don't have to pay overtime.

That's correct.

Martinez: So what are we projecting on a daily basis how many apparatus will ride with less than four?

I don't have the answer to that question right now. We are actually working on the data collection and also the execution of how we will make that plan work. But I think it's important, first of all, not only to the councilmembers but to the public and to the fire department that we make sure that everybody knows we are committed to four person staffing and that this is an interim plan and that when the budget will allow us to we want to assure everyone that we are going to go back to accomplishing that four-person staffing. I mean, currently right now we are only five companies should have [indiscernible] accomplish that four person plan but allows us to manage that overtime that allows us to get our costs in line in the budget.

Martinez: How did we come up with the estimated savings cost if we don't have an estimated number of units that will ride with less than --

we were able to do that just by the number of people that we hire overtime on a given basis. And then our vacancies and some of the other things that help drive that overtime and there are some other things that will help us accomplish that, but the primary one that's allowing us to reach that \$200,000 target is -- is the flexible staffing.

Martinez: Okay, thanks, chief. You know, I realize these are very difficult budget times and we have to consider all options. But I want council to be reminded that -- that task force staffing and enhanced task force staffing, our resolutions that were adopted by this today by a 7-0 vote. So -- so I think that -- that if we're going to go against a council directive that it would be appropriate that -- item be brought back to council. So, you know, that's just a concern that I have. Obviously we -- we are considering all options here and I appreciate the work that you have done, chief kerr, in the short time. Obviously my concerns are that, you know, when you reduce staffing in the fire department, not only do firefighters risk further injury, but so do citizens. Service is also diminished. I don't buy the argument that, you know, going from four to three doesn't reduce service. It does. If you are the person lying on the floor having a heart attack, having four firefighters there working on you with two paramedics as opposed to three is a huge, huge difference for those of you that understand the business. Secondly,, you know, I don't think that I have seen three or four week span of more second alarms and house fires since chief kerr has arrived here, you know, [laughter] she's creating job security I guess. [Laughter] but, you know, the bottom line is firefighters still risk -- take great risks. The majority of which is done on a daily basis is medical in nature and non-fire related. But you all have seen the news over the last several weeks. They are still high risk and still major incidents out there. So while I appreciate the recommendation, I would like to further consider this and get more detailed information because I think it's important if -- if we're actually going to make a proposal to start reducing services, core services, like firefighting, we're going to start cutting staffing from fire engines, I think that we owe the public the detailed explanations of how it's going to occur so that -- owe so that they can also weigh in on this. I absolutely agree with the city manager that we have heard from a tremendous amount of folks that don't want us to cut libraries, don't want us to cut parks. But if you have told them at the time that you were cutting firefighters in their neighborhood fire station, I think the conversation might have been a little bit different. So I just want to proceed with caution moving forward and get some more detailed information not just to council, but to the folks that are going to be impacted by it.

Councilmember martinez, we will be happy to provide additional information. I know that the chief has already focused on generating the specifics as she said. As soon as that's available we're happy to provide it.

McCracken: Councilmember cole?

Cole: Get the mic on for this congratulations. [Laughter] there you go.

Cole: I am especially pleased that we are able to restore the library hours out in the community we

heard that over and over again, the need to do that. Of course we heard a lot about the park amenities that people are still anticipating that are on -- in the works. I wanted to ask you about the youth programs and what you have done to maintain those.

Well, the source for that was really just -- allocated, my recollection if it serves me correctly, and unallocated. Unusually when we put out the reduction menu we were using that source of funds to help us close the gap. And through other measures we were able to not have to take that step and there be that enabled us to fund that program.

Well, I'm pleased that we were able to fund that program because as we approach the summer months we want to make sure that we are listening to not only our citizens who vote but also our youth. So I'm pleased that we have done that.

It's a positive alternative that will be available to our youths in the course of the summer.

Councilmember morrison?

Let's see if mine works. I want to thank the city manager for doing the public outreach. I think that, you know, it shows that we need to be responsive and understand what -- what -- how the community is -- is perceiving the city services and clearly it's a -- it's a huge challenge as councilmember martinez pointed out. And the tradeoffs that we make I'm certainly supportive of councilmember leffingwell's suggestion of recognizing the economic development programs that we have as such. Because we absolutely need to be investing in job training and the programs that we have because those are the kinds of programs where we get a huge return on investment. Put a little bit of money making sure that someone can get into a good career path and they become members of our community that are -- that are giving back in the way of taxes, that's always a good thing. One of the things that i think we had the conversation about before during the 2009 first process, first budget process, was that for me to understand the budget and where we're taking the cuts it's helpful to look at how much of each department's budget we are cutting back on. I like to think of it that way because I know that we're not going to do an across the board 3% or whatever by any means in each department. But it does I think help us understand if we look at it in that way, understand the -- the -- you know, how we're balancing things and i have done, I know that your staff provides me with some information -- we combined it in my office. The way it looks now from the first cuts in '09 through now, there's going to be a little bit off. We have some departments 3% and others as high as 9.7%. I hope that we keep those numbers in mind. As we go forward into the 2010 process that -- that -- that it's -- I think it's very helpful if -- different options on the table for cutting back are the full array of options are presented to council so we can -- we can as a policy decision policy decision being responsive to the community, we can make those choices and understand the tradeoffs that we are going to have to be making. I appreciate your work and look forward to -- look forward to the 2010 efforts.

We probably all want to see this. Showing what the councilmember is, neighborhood planning and zoning have 9.7% cut. Watersheds had the 8.2% cut. So -- so -- so -- so -- thank you very much. Great. I would also -- would like with councilmember leffingwell and councilmember morrison, i think it makes a

lot of sense that -- that -- to look at having the scale point alliance funding through economic growth as opposed to human services since it is -- it is into job training and -- and so that -- I think that would be a good way to go. And but also city manager i want to congratulate you and your team on making a lot of tough decisions on a -- wise leadership. These things are not easy. This organization has been through this -- as recently as -- as the last five years so -- so we're seeing the pain of the reductions, but I think that you have done an outstanding job. I also want to congratulate chief kerr, thank you, i know these cuts aren't easy. Chief acevedo took a similar approach last year which showed real leadership as well, I appreciate the austin police department for their effective overtime control that has resulted from that so I appreciate that chief kerr your team's leadership so we can get overtime situation within budget at the fire department to -- to -- so anyway city manager really good work on some tough decisions and you have my appreciations for it.

Thank you.

McCracken: With that we are at five till noon, but we probably don't have time to go into executive session. Any more questions or comments, colleagues, before we -- before we -- councilmember martinez?

Martinez: I just wanted to make one closing comment that's really not budget related. But -- but just -- just in general to the fire department. I know all of you guys, i appreciate everything that you are doing. But at the same time we still haven't secured a contract agreement with the firefighters. I -- hopefully we will be moving in that direction sometime this year. But we are asking them to really, really consider our diversity initiatives. And so when I look at the executive team that -- that sits before us, I look forward to seeing a diverse executive team as well in the very near future. I'm grateful that chief kerr is here, our first woman fire chief. But -- you know, she's not going to be the last. We need to keep that in mind at the top level as well, when we are asking the rank and file firefighters to work with us to diversify the fire department, we need to be doing it at all levels. So I -- I look forward to seeing some action and a plan very soon. 30 briefing on the action plan for the '09 budget. What we will do is give everybody a chance, maybe recycle the microphones with five minutes. I'm seeing enthusiastic nods from out front here. With that we will recess the city council meeting until our noon -- until our noon citizens communications.

McCracken: We're going to call back to order the city council meeting since we have a quorum present. We're in citizen communication. And so our first speaker is rae nadler. With a name like brewster mccracken I have to make sure I get everyone else's name right.

Good afternoon, mayor pro tem and councilmembers. The last time I said I would talk about an austin water utility document that briefly displaced by flower ride follies at the top of flower rids plus austin search. It titled fluoride in drinking water and you have it as a handout. First I want to say that i don't accuse the water utility of bad faith. They're just passing along flawed information, which was handed down to them. It's been around a long time, but that doesn't mean we can't or shouldn't question it. Point 1, quote, in the 1920's and 30's, link was made between flower ride concentrations in drinking water and a reduction in tooth decay. Here's the story on that. A colorado springs dentist thought he had found a link between flower ride and -- fluoride and reduced cavities in teeth that looked like this from drinking

local water high in calcium fluoride. However, the naturally fluoridated water his patients were consuming also contained exceptionally large high levels of calcium. And what's fame mustily good for the teeth? Calcium. It turns out that any benefits came from the calcium while the flower ride contributed the stains. That early dentist's incorrect conclusion became the cornerstone of the whole fluoridated water is good for you argument. Point 2, quote, in 1945 municipalities began adding flower ride to the drinking water, unquote. That is true. And that year with world war ii still raging, two public health bureaucrats vied to be first to get water related industrial waste into a city water supply under the banner of cavity prevention. It was actually an experiment. Grand rapids, michigan became the first urban guinea pig, closely followed by newberg, new york. And ironic by city officials in grand rapids are looking at taking the fluoride out. Point 3, follow-up studies in these communities over the following 13 to 15 years showed a 50 to 75% reduction in cavities, unquote. That statement is a half truth. The full striewth is that -- [buzzer sounds] both grand rapids and newburg showed the same rate of cavity reduction as the non-fluoridated controlled cities that they were paired with in that period of post war pros tearty when many americans were able to afford good dental care for the first time, cavity rates dropped steeply all over the country. I hear the buzzer so I will just fold this into next week's and continue then. Thank you.

McCracken: Thank you. Our next speaker is bill boulton.

Thank you, council. I don't come here very often. I was here two years ago to address the council about some illegal duplexes being built in my neighborhood from single-family homes. The resulting zoning enforcement action had the unintentional result of causing what I consider an unbalanced neighbor to begin a bizarre campaign of calling 311, 911 and using the city of austin as an attack dog for some kind of bizarre revenge program. The city of austin then became an attack dog for this person. The neighbor has made -- has filed false emergency service complaints and made false statements to the , animal control, zoning enforcement, fire department. She made 75 -- at one point I got the records from operator calls. She made 75911 calls, 311 calls in a three month period. In the -- I was laughing at the first when zoning came to my house said I had been accused showering naked with a hose, housing illegal aliens and then others continued, spray painting grafitti, vandalism, destruction of property, cutting cable tv. Following the neighbor into , restaurants, places of work, taping her with a video camera. At this point she was putting up tarps in her trees to stop this videotaping. You know, this goes on over a period of years, this is more -- I just ask you if this looks like normal behavior. And there's many, many more complaints. I've had repeat visits from , austin fire department, animal control and zoning. 30 in the morning by plult squad cars. I've been forced to false vicious dog hearing, I've been taken to court on bad citations and they are false and what really is concerning me now is that they're beginning to accrue false, misleading entries about me in city databases. I saw on one police record that I am now listed as armed and dangerous. So I've had my life interrupted and spent countless hours dealing with this. And so in 2008 I started getting the audio 311 reports and police records reports. These are just some of them. This box is full of police reports, all on false calls, false charges, every one of them. So I decided today was perfect for me because I'm coming here to address you to the cost of the services to the city to provide these false call services. I've tried to get the police to look at the evidence that I've accrued and they won't do it. They prefer to label this as a neighbor feud. And that's as far as they want to look at it. They want me to be equally culpable for what is taking place. , austin

police department, thinks I should pay for mediation to solve this problem. And to me I told them that's like telling the victim of a psychotic stalker that they're in a bad relationship and they just need to get a little couple counseling. So I've tried go through chain of command, I've tried going through police monitor, police liaison, a dozen lawyers. Apparently as long as the person isn't a danger to themselves or others, there's no legal remedy for bizarre, obsessive, abnormal behavior. All I want, and I'll conclude, I want member to meet with me here in a position to listen to the evidence that I have and come to their own conclusion, whether they believe the calls are false. Nobody has done this. If they believe as I do, I want 311, 911 services and to enter in their database that this is a problem address and the calls are probably false. Or they have a history of being false. Here's a good example.

McCracken: boulton, I'm sorry, but we have a lot of folks after you. What we'll ask is can we have -- we've got other folks speaking next, but what I will ask is that I think we have some representatives here who can visit with you next. The city manager will. And thank you for your presentation. We're going to have the next speaker come up, but the city manager will meet with you right now. Our next speaker is bill wigmore. You're up.

Good afternoon. My name is bill wigmore. I want the president and chief executive officer of austin recovery. So mayor pro tem, councilmembers, it's -- staff, it's a pleasure for us to come here annually and give a brief report on events that have happened to us over the year. Mayor wynn serves as a member of our election committee. He and our county judge, sam biscoe, elect our board of directors. And since 2003 we meet once a year with the mayor and county judge, and I am proud to say you should be as well that mayor wynn has 100% perfect attendance record at our election committee, so we have a little token of our gratitude for that on behalf of the agency and all the alcoholics and addicts.

McCracken: He's in better with y'all than he is with us actually. I'm kidding.

Austin recovery is a large nonprofit drug treatment center. We've been here since 1967. We treat over 25 hupp people a year, primarily in residential treatment services. And we just completed our capital campaign in which we raised \$5.2 million. Three million of those dollars coming from our own board of directors. So it's highly, highly committed group of individuals. I believe we are now the largest community alcohol and drug treatment center in the state of texas. The citizens of austin should be very proud of what we are doing there. Some of the key events that happened this past year, the parenting and recovery grant through judge darlene burns court, family drug court, we have now graduated our first client. That is where a woman with her children comes to us for treatment. If she has drug or alcohol issues she can bring two kids into treatment, spend 90 days receiving therapy for herself and the kids, and then go on and get housing. So the first woman has gone through the first year of that. That's a federal grant that we have brought to the community for five years. We also received a grant david's community health foundation which has allowed over 100 people to come to us for detox and residential treatment, thus relieving some of the stress on the emergency rooms in the community because of the difficulties at austin state hospital. So at the end of this summer we will have completed our construction, we will h 250 beds in this community. We've named our women's program the edith royal campus in honor of coach royal's wife because edith was just terrific in fund-raising activities for us, and we have renamed our men's ranch out near creedmore, which will soon have 110 men in

residence, that's the hicks family ranch. [Buzzer sounds] in honor of steve hicks and his generous contributions and hope to go engage some of his other family members from dallas in support of that agency. So I would really invite city manager ott to come and take a tour. We'd love to show you what we're doing. Wups again, very very grateful to mayor wynn and to all of the council for the support we've received.

McCracken: Thank you. I really appreciate your service to our community. Councilmember morrison?

Morrison: I want to second that thank you. I know that your organization provides much needed beds for whoafully under serve heard in the city of austin and to have a nonprofit operating in this realm, it means the world to a lot of people that need the help. Thank you for your work.

Thank you. About half of our people come in for free and we've devised a new business model where the other half pay for treatment, but it's affordable treatment. It's under \$5,000 for 30 days. I was just out at betty ford last week. I did a presentation to their staff. And they're charging 25,000 for 30 days. So this is really an affordable thing for the working families in our community. Thank you. Would you pass this on to mayor wynn?

McCracken: You bet. Our next speaker is gus pena. Gus?

Mayor pro tem, city manager. First and foremost I would like to thank the city manager and all the staff. Sometimes we forget to thank staff for the hard work they do and the input they do in helping the figureheads and lected officials make the appropriate decision or recommend the appropriate decision. Thank you very much for reinstating the funding for the youth initiatives and also the library. I remember speaking back before mayor butler's administration. I would also like to echo whitmire has said about the austin recovery. Back in 1993-'94, we were fighting for funding from tcada state governmental entity for treatment for youth versus treatment for adult. So we were in constant battle having to decide and help the state officials decide what is more priority. Both of them are priority, but they've done a very good job and I was supporting them as back as the early '90's. I'll read this into the record. Discuss city issues, crime is on the rise. We need all officers on the jobs. Please do not decrease funding for social service agencies. The money is needed in this bad economy. Pray for all our military veterans. They need re-entry programs, jobs, housing, treatment for mental health issues and ptsd. Do not cut funding for senior citizen and youth programs. Fully fund the youth summer job programs. Please, we want the kids involved in organized activities, not organized crime. You know in the summertime people solicit membership and that's not acceptable. The last item I want to talk about this is the morris williams golf course. overton senior was the former president of austin naacp and a person who was involved in the civil rights issue for many years. He and my dad used to know each other. May they both rest in peace. All they're trying to do is bring the awareness of the disparity and lack of neglect and need to repair issue. We know the funding mechanism out there, the funds may not be available, but remember there's a general fund and the funding of the golf course. I'm not too astute as to the funding mechanism over overton will educate you. Thank you councilmember cole and councilmember morrison and councilmember martinez overton and lending support. I know councilmember leffingwell and you, mayor pro tem, have said that you will call him. I appreciate y'all very much because golf courses on the east

side, they're always pitting east side against west side. I don't play that game, but I say there is a equity issue and need to repair. Overton junior for all the activism and advocacy you do for everything. Also for education and otherwise. I want to thank this elected body because it is truly a great body who has seen the vision and the need in the tough economic situation out there in the opportunity communit and the stimulus package, edge a indication is about this because it's important to see what's out there is not out there for the best interest of the community. city manager, mayor pro tem, councilmembers. Keep up the good work and god bless you.

McCracken: Thank you, gus. Our next speaker is pat johnson.

Morning, council, city manager. You know I talk on a wide city manager and the council has known that over the years. The issues I talk about benefit the public and the taxpayers. You know, I read in the media or made a comment during the league of women voters about the condition of our streets. There's a lot of issues that pertain to our street problems. One of the issues, some of the issues is the city inspectors. The city inspectors who go out behind these utility contractors who make utility cuts in our roadways, the streets are not brought back to the same condition they were before they cut them. And guadalupe and a lot of streets you can see the -- they make down the street. The city inspectors are not going out there because the contractors are working at times when our inspectors are not working. So when they go back and compact the cut, they don't get a good compaction on the base and then the street over time just -- it just breaks down and leaves a hole in the road. Now, another issue that we have in our city, a lot of cities around to save the life of their streets is set weight limits on roadways. Now, riverside has become a major route for these cement companies that are hauling expent for all these condos downtown, and they haul at nighttime and they put heavier loads on those trucks, so naturally they're going to tear up our roadways. We need to set weight limits on the roadways to prevent heavy truck traffic from coming down them because the highways are built to withstand 80,000 plus pounds of weight. Our city streets are not. Another issue that we're having, and I know a lot of people in street and bridge and I worked for the city of austin back in the early '80's so I know what I'm talking about when I talk about building roads. I've built many a highway and roadways. Is streets being repaved that there was nothing wrong with the street in the first place. Or the contractor that we're paying with our tax dollars on cip projects repave the wrong roadway. And just like riverside drive between ferrell and grove. That paved that street, but the inspector didn't catch it and the stretch that needed to be repaved now has come to the point where we will need to redo the whole street completely. ott, and what I'm saying is you might be saying something at the top level, but the management team within the public works and the street division is not following those guidance. We want to fix streets, and the way that we repair streets. We have the correct equipment. We have the city crews that can do these streets. So why are we paying an outside contractor when we could do more streets by saving that money and letting our crews do it? [Buzzer sounds] so what I'm saying is if there's things that's happening in street and bridge that people are not doing what you see as your vision of street and bridge, goodie, I've talked to him several times. But we have to get on the same level here. Our streets are being destroyed because, one, we don't have weight limits on our street. Two, because the city inspectors are not requiring that the contractors put the street back the way they were before.

McCracken: Your time is completed.

I know you can take care of those issues and thank you very much.

McCracken: Thank you, pat. Jill chamberlain called earlier and said she would not be participating in citizen communication today. So our next speaker is paul robbins.

Mayor pro tem, council, citizens of austin, I'm paul robbins an environmental activist and consumer advocate. I was moved by the article in last week's austin chronicle to ask you again to hold the referendum on the proposed water treatment plant 4. The austin city charter specifically allows voters the right to approve revenue bonds that funds its utility infrastructure. I'm asking council to respect this right. The proposed water treatment plant will cost an estimated half billion dollars more and increase austin's water rates by an estimated 12 to 15 percent. Our water conservation efforts have been extraordinarily successful. Every year we can delay this project. We save money and resources. If the city government -- if the city government believes it can make a case to the voters as to why this plant should be built, it should exercise the courage to do so. And while I realize that during council elections some candidates tend to be risk averse, nothing technically precludes council from putting this item on the may ninth ballot. Combining an election on water treatment plant 4 with the city council election will save money, increase vote egg turnout and allow the council to take a principal stand on the issue. If this ballot item succeeds, you will have the voters behind the decision and dispel much of the controversy surrounding this plant. If it fails, nothing precludes you from -- precludes you from bringing it up at a later time. It is quite common to combine ballot items for bonds and charter amendments with council elections, so I'm asking you all to take a stand on in issue and place the item on the may ninth ballot and let democracy take its course. Thank you.

McCracken: Thank you, mr. robbins. Thank you, paul. Our next speaker is nailah sankofa. I don't see her here. We will call you back up in a second. Mike mchone you're up next.

Mayor pro tem, members of council, my name smiek mchone, I'm here on behalf of the university area partners. They asked me to come before you today to speak in support and congratulations and gratitude for efforts made by city staff in the delivery of 1300 units at 11 different projects on time this past fall so that we could get the university neighborhood overlay, which has been a great success, a little bit more complete. Unlike many areas of town when you have a development, the university area is dependent upon having projects all completed and ready for occupancy every fall prior to the start of the university semester. This past year we had scheduled for august the college houses super co-op at 1905 nueces, which is 178 beds funded by travis county bonds as a 100% affordable housing project. We had the jefferson 26 project at 600 west 26 for 364 units. THE BLOCK ON 23rd, CWS Project, 99 units. The block on 25th, east and west, at 2501 pearl, 177 units. The block on rio grande at 2819 rio grande with 97 units. The quarters at grayson HOUSE AT 714 WEST 22nd, 101 Units. Quarters at nueces house, 2300 nueces, 235 units. The texan pearl at 2515 pearl street, 81 units. The gallon layio at 2501 (indiscernible). All of these things had to be inspected and totally inspected by every department of the city that is involved in the same three-week period. These are competitors. They do not normally cooperate. In april, seeing that we would have this, I met with the director, assistant

director of watershed protection and development leon barba and his staff and dan mcnabb and rene van netter and all of the folks, we all got together and decided the only way to do this was to bring these competitors together and say we have got to work together to make sure that these inspections occur in a timely fashion working the whole neighborhood so we had watershed protection, austin energy, fire department, the smart housing folks, just a tremendous amount of coordination. And all the inspectors. I could go on and on, but there are just so many people that this city should be very proud of who took the extra effort to make sure that this happened. [Buzzer sounds] so I want to thank them and invite -- we look forward to working with them and the council in the future. Thank you.

McCracken: Thank you, mike. Before I call our final speaker, is nailah here? I don't see her. Our final speaker is marita hayden.

Yes, thank you. My name is marita hayden, and I am disabled. I have a traumatic brain injury and post-traumatic stress disorder from repeated abuse. I'm bringing you a housing project that like your help in getting through. I ask this as accommodation for someone who doesn't understand how to work the political process. I have a few points to make. One, moneywise, \$252,000. That's how much you're going to spend to house me. This program, which is called mad woman homes in honor of dorothy turner and mentally disabled women, would cost \$18,000. Now, you would think for this quarter-million-dollars that you would -- someone would get a fairly decent place to live. Instead, we are surrounded by criminals, we live in filth, in dangerous areas. If you would support mad woman homes, we could instead of living in filth, we could plant car agains, which are both -- we could plant gardens, which are both good for our health as well as save money, which is much better looking than some of the trash we have to live with. At the end of our life, a mentally disabled person may end up on the streets. If you support mad woman homes, one 18,000-dollar home will be paid for in two and a half years. The income that it would generate after that would buy two homes. After that they would buy four homes. And so in 30 years instead of having somebody living on the street, you could end up with 4,096 homes. Some of the money that you're paying now goes to people like the ku klux klan. Instead, if this was put into a trust, we would end up with homes that we would live in ourselves. Right now there are thousands of disabled on the streets of austin. Most of those are people with mental disabilities. With this second great depression coming on, how many more homeless, disabled, alcoholic people are going to be on the streets. If you started with five of these homes, in 30 years you would have five times 4,000 homes, which would be more than enough for people who are crazy. These would be environmentally correct with solar panels, gray water, recycled water. It would involve different members of the community, some of the inventors like risome and students that build trade schools. Thank you.

McCracken: Thank you very much. Appreciate your presentation. Councilmember morrison.

Morrison: City manager, I wonder if we might be able shaw either to comment or perhaps work with hayden and get back with us? I think maybe you have some comments.

Councilmember, margaret shaw, director of neighborhood housing. I'll be happy to work with her and get back to you and send you a note. Thank you.

Morrison: Thank you.

McCracken: Okay. Well, that concludes citizen communication. At this time the city council is going to go into executive session for an item to discuss legal issues relating to the proposed boardwalk on lady bird lake, item 27. This will be for private consultation with our attorneys under section 571 of the open meetings act. So at this point we will go to executive session. We will be back at 2:00 p.m. For briefings on items 28 and 29. Thanks. Good afternoon, city manager ent lloyd from the law department here today to present on -- on the item that was just described. I want to start out providing some context for why we are here today. JANUARY 15th, '09, COUNCIL Passed an ordinance adopting a temporary moratorium on issuing permits from outdoor music venues under chapter 9 of the city code. The purpose of the moratorium as stated in the ordinance to allow city staff to consider comprehensive changes to the patchwork of requirements that are applicable to outdoor music venues. Accordingly, in addition to adopting the moratorium, council directed staff to develop recommendations regarding two items. First, enforcement mechanism for section 252808 of the zoning code, which establishes a 70-decibel limit for live music associated with the restaurant use. And, secondly, council directed staff to -- to develop a recommendation for stickers or signs to be posted at all outdoor music venues identifying applicable decibel limits and other information to help enforcement officers and citizens understand what the specific requirements are. [One moment please for [one moment please for change in captioners] with.

With any other ordinance, also, because a general matter, a more restrictive requirement is going to trump a less restrictive one. Here the zoning code explicitly provides that live music associated with the restaurant use is subject to 70 decibels and this trumps the 85-decibel limit otherwise provided for under chapter 9. For the same reason, the ordinance states that outdoor music venues located within the cr zoning district are likewise subject to the 70-decibel limits. As there's a similar requirement provided under the code for -- for all uses within the cr district. Second, the ordinance makes clear that restaurant which have music outside must also obtain the outdoor music venue permit required under chapter the. Title 25 controls in the event of a control, but otherwise requirements in the code are cumulative and here -- here requiring an outdoor music venue permit is -- is not in any conflict with the provision of title 25 and so that refresh my memory, the requirement to obtain a permit will still apply. Finally, the ordinance directs the director of watershed protection and development review to develop requirements for signs to be posted at all outdoor music venues. The signs will be required to include name and address of the venue and the venue operator, applicable decibel limits, hours at which the sound equipment may be operated, and the date that the outdoor music venue permit expires. And here is the sample slide, sign, that is being developed by watershed and consultation with staff from other departments. This essentially concludes my presentation. If there are any basic legal questions I'm available to answer those and if there are any administrative or enforcement related issues that you would like guidance on staff from several departments are available this afternoon to address those issues.

Thank you, mr. lloyd. Colleagues, any questions for staff? Mike martinez, councilmember martinez?

Thank you for listening to us on this -- on this initial step forward. With the recommendations from the

live music task force, but I also want to thank the folks, the other staff members and the folks that serve on the task force. I think they came forward with some recommendations that -- that, you know, at one point weren't easy to achieve consensus on. And -- and I think this is a step in the right direction. I want to make clear, though, that -- that by what we're doing today the moratorium is lifted today. The temporary moratorium that we put in place; that's correct?

That moratorium expires under the very terms of the ordinance that established the moratorium. Councilmembers have been provided with draft language that would amend the ordinance that's now before you, which is limited to the cmo recommendation and it would amend that ordinance to include an extension of the moratorium. But unless those amendments are moved and voted on by council, the moratorium will expire.

Martinez: Okay. But the extension of the moratorium, how does it affect potential south-by-southwest convenient jews who will be needing a permanent -- venues who will be needing a permit in the short term.

It doesn't. The moratorium is crafted such that it will not apply to any permit that would require on or before march 24th. Also makes clear that the director has authority to issue permits for a some of the period of time to accommodate those events. Normally it's for a year but it makes sure that the director will have authority to issue short term permits for south-by-southwest events.

Martinez: So any venue needing a permit for south-by-southwest waiting for the moratorium to expire, can now come forward, get their permit. But they're going to have to come back after march and get another permit that would last them a year?

That's correct.

Martinez: Okay. So I wanted to ask just generally how -- how staff and yourself in particular feel about -- about coming up with a comprehensive sound ordinance for the city. Is this something that -- are we seeing issues and confusions and enforcement problems that we believe this is going to clear up and help?

These are policy questions. I'm going to defer to sue edwards.

Councilmembers, sue edwards, assistant city manager. Councilmember, to answer your question, yes, we are seeing a number of different conflicts in the code that relate to any type of noise or sound. Including outdoor music and it would be our recommendation that we begin working on those so that we can reduce and -- actually eliminate those conflicts and also to bring some other -- other hours of -- of operation into compliance so it's -- so it's easier to enforce these different ordinances.

So, sue, when do we plan on coming back with the -- with the draft ordinance?

We are going to be doing this in steps. I believe the first step that we're going to do is -- councilmembers

are going to bring back an ordinance on march the 12th, I believe. That will address notification to -- to interested parties on some other issues. And then -- then once that is done, we are going to be continuing as staff to look at the rest of the pieces of code. To -- to bring them back into compliance. We will bring that back to you within a couple of months at least. Maybe even shorter.

Thank you.

McCracken: Councilmember shade?

Sue, while you're up there, because there has been a lot of confusion and south-by-southwest is just upon us, I would like to ask what kind of our communication plan is to make sure there's no confusion about -- about the 10 day wait and how that connects to this. Any other changes that are made I just feel like it might be confusing, those groups that are used to coming in the last minute are we reaching out any way at all marketing-wise.

Yes, we are. We will have something on the website. We also have a list of all of the individuals that participated in the past or entities that participated in the past. We have a marketing plan, a long range marketing plan that deals with the stickers that you saw, but immediately we will be getting it out. There are changes at the last minutes and we think that it's really important that all of the participants that want to participate in south-by-southwest and have that information.

I think the short-term worry is probably not as warranted as people think. I would rather us be aggressive than passive about it. Thank you. I also want to say thank you to the staff for being -- doing a lot of good work on this. Many stakeholders [indiscernible] been to meetings, say thank you for that.

Councilmember morrison?

> I think one of the issues that has also been upon us has been enforcement. Certainly getting the permits on the sticker permits up I think is going to really help with that. Could you also comment, we talked a little bit -- recently about the issue that enforcement maybe needs, we need to talk more with the police, the stakeholders, the live music venue owners, all of that. Can you talk a little bit about how we might be moving forward with that, also?

If I understand your question, the first thing that we will be doing is you saw a picture of the sticker, which -- which that information will be information specific to that particular venue, which would give the police officers the ability to see immediately what the hours of operation are and what the -- what the decibel level is. Some of the things that we have talked about that we have seen in terms of difficulty of enforcement are items such as right now in the code we have sound measured from the property line and it's very difficult sometimes for a police officer or some other individual who is out there doing the enforcing, sometimes to determine where that property line is. So -- so it's the little things that we are going to begin looking at to hopefully bring some -- make it easier to do enforcement.

I think that's great. I think that as we do our outreach in the marketing, afterwards you know there have

been a lot of people that have followed this and participated in this with different perspectives. So -- so once we get those sorted out it will be really helpful I think for everybody to understand the real ground rules of how we're going to work this because I do think that it's a great approach, people have worked really hard and there's a lot of passion from all perspectives. But I think the bottom line is that we know that live music is integral to -- to the identity of the city as is the -- you know, the residential areas in the neighborhood. To be able to move forward like this and I think -- likely this is going to really address, you know, the vast, vast majority of any issues that -- that we have on the table. So I appreciate that. And the -- what you had mentioned in reference to THE -- TO THE MARCH 12th, Which would be coming forward I think as the second stop, will -- will address the issue of permits in the long run as opposed to just these ones through south-by-southwest. That there will be notification. So -- of permit applications so that if there needs to be discussion about issues that are going on around that venue or particular situations and circumstances, we'll -- the folks will be able to in and have that conversation and hopefully get things addressed before there are ever issues. I think everybody involved in finding the common ground, I have to particularly acknowledge councilmember martinez's aide bobby garza and my assistant bobby lavinski, the bobbies as we call them, because they are the ones that really were willing to dedicate a lot of time and really helped to create the common ground as well as the staff and all of that. So I appreciate that. All of the work.

I wanted to see --

councilmember martinez, sorry.

Martinez: I saw the chair of the live music task force, I think, walk in. There he is. Paul? I wanted to see -- just wanted to ask you a quick question, see if you wanted to make a comment as chair of the task force. If this is the vision that you guys saw with the recommendations that you made and if you have any comments that you would like to make.

Let me look at that question. Are you guys -- do you get the sense that the -- that the music task force is agreeable to the path we're taking right now, allowing the moratorium to continue but -- but to make sure that south-by-southwest events -- are allowed to happen?

That's -- yeah, you hit the key point. Make sure it's not disruptive to south-by-southwest. I can't underscore -- of course there's been a flurry of activity in the music community over the past week or so. And -- and I know I'm beating a dead horse here. Not a dead horse, but a recurring theme, but the -- the creation of this -- of this music department, the need for it, with some -- with some immediacy is -- is underscored here. For a variety of reasons. Number one, the -- the miscommunication factor to the music community on things like this. It's kind of incumbent on just a few of us right now, getting the message out there. And -- and -- and I -- we were a little disappointed, we -- we were probably knee year in expecting -- probably naive in expecting a music department to be created by south-by-southwest because what an amazing opportunity for the department to get out there and interact with the world. So yes, to answer your question, the -- this does reflect what the task force -- reflect what the task force wanted and we sure could use this music department.

Martinez: Thanks, paul. With that, I would like to offer an amendment because it's not crafted specifically with the extension of the temporary moratorium. So I'll move that the ordinance that's in the backup which reflects cmo's recommendation is amended as follows with part 5 -- it's -- it is to be deleted and replaced with the following language -- part 5, the extension of temporary moratorium, one, temporary moratorium on the issuance of renewal of permits for outdoor music venues adopted by part 3 of the ordinance number 200-90-0105-[indiscernible] hereby extended until march 13th, 2009, ACCORDINGLY A Permit for permit renewal under city code section 9-2-12 shall not be issued until march 13, 2009 and, two, that -- that the moratorium does not apply to new permits or -- or permit renewals that would expire on or before march 24, 2009, which is the last day of the south-by-southwest music festival. At the request of the applicant, the director is authorized to issue permits for outdoor music venues with an expiration on or BEFORE MARCH 24th, 2009. So I will make that motion.

Second.

McCracken: So we have a motion and a second. Councilmember morrison, were you about to have a comment or a question?

Yes, I would like to make a friendly amendment to actually expand upon the amendment that councilmember martinez has put and that is to -- to add a part 6 so that we would be able to have this -- this ordinance become effective today. Because the immediacy of it is rather important. So I would like to add part 6 which is declaration of emergency and effective date. Number 1, based on the findings set forth in part 1 of the ordinance, the council finds that confusion regarding the requirements applicable to outdoor music venues, negatively affects citizens in the city of austin as well as restaurant and club owners, the council further finds that continued issuance of outdoor music permits and permit renewals would undermine the process initiated by this ordinance to review and consider revisions to the regulatory, operational and enforcement requirements applicable to outdoor music permits. Number two, that council further finds that these circumstances constitute an emergency because of the emergency this ordinance takes effect immediately on its passage for the immediate preservation of the public peace, health and safety. And then accordingly, that the title of the ordinance be replaced with the an ordinance related to requirements for outdoor music venues, amending city code sections 9-2-1 and 9-2-12; adding a new city code, sectio 9-2-34; adopting a temporary moratorium on the issuance of permits for outdoor music venues; and declaring an emergency. So that would be a -- a friendly amendment request.

McCracken: Do the maker and the second consider this a friendly amendment? Councilmember martinez is nodding affirm.

Leffingwell: I also accept it. I didn't bring my attorney with me, but I accept.

You can trust me.

McCracken: So colleagues any further questions or comments? Councilmember morrison?

City manager, I wonder if you might be able to address the issue of timing on a music department or a music director or how we're moving forward in that regard.

Well, as you will recall I -- I believe I said to you all a week ago a memo outlining the status of our efforts in that regard. Both in terms of an [indiscernible] as well as a request to look at an arts and cultural department. We have made considerable progress in regard to both. And as I indicated in that corresponds to you, we hope to be in a position, I come back to council, I believe we indicated in the month of april. So -- so we're working feverishly to meet that orb objective.

McCracken: Any further questions or comments? We have a motion and a second to -- to approve the -- the staff backup item for -- for agenda item 28, with some amendments first to delete part 5 and replace it with the language specified by councilmember martinez providing for an extension of the temporary moratorium through march 13th, 2009. And to specify that this -- this temporary moratorium does not apply to permits expiring on or before march 24th and to add a part 6, a new part 6 providing for -- for emergency passage and to change the title of the proposed ordinance to reflect these changes. All those in favor say aye.

No? The motion is adopted -- the ordinance is approed and -- was this approved on all three readings? I think the answer is yes, but I'm going to -- all three read being? Yes. Okay. All three readings, item 28 is amended on the vote of 6-0 with the mayor off the dais. We now move to item no. 29. Which is a briefing on the sidewalk master plan.

Leffingwell: Quick question, on the last motion, that was emergency passage wasn't it?

Yes, it was, yeah. Question of howard lazerus, director of public works.

Thank, this is actually the first opportunity that I've had to talk to the council in this forum, if I'm a little nervous, please bear with me, I'm going to be joined by [indiscernible] the project manager for completing the sidewalk master plan, she will get under the hood a little bit after I give a brief overview. Our purpose today is to presents the sidewalk master plan. It's really one leg of three that represent the alternative intermodal modes of transportation. We will be back shortly to -- next month to talk about the trails approach. Then thereafter the update to the bicycle plan. Those three things compose the alternative modes of transportation. Our sidewalk master plan provides an approach to planning, prioritizing, design, funding and construction of our sidewalk network. The question is why are we here? To update the 2000 pedestrian master plan by providing a renewed conditioned inventory and providing an estimate of the total cost to address gaps, repairs and a.d.a. Compliance in the sidewalk network. The plan also incorporates a transition plan to bring the city into compliance with the americans with disabilities act and finally an important aspect of the plan is that it provides an objective tool for prioritizing the work that we need to do on the sidewalk network. The methodology, we used was rational and sequential. First, the overall need was assessed through an update to the sidewalk inventory. Identifying new and replacement needs as well as those required for a.d.a. Compliance. We then -- we then developed a tool to give us an objective means to rank in order of importance using several factors which beaudot will talk about in just a few moments. Cost estimates are also prepared

for the required work. The estimates are reconciled with the available funding and also used to identify future funding needs. Finally, the proposed transition plan is incorporated into the sidewalk master plan to ensure that the city is on a path to be compliant with and make our city more accessible. Each prioritization score transition plan are incorporated into the department's annual work plan which is our basis for budgeting and for performance measure. Ment. Our analysis shows that we need to build about 4,000 miles of sidewalk to fill in the gaps in our network. The cost to address these gaps is about 824 million. Which also incorporates the requirements of the commercial design standards. The cost for repairs and compliance were also shown on this chart. Please bear in mind that these are conservative estimates and don't account for work that is done by others and are based upon a representative sampling of the network. Funding to address the needs identified in the previous slide will incorporate numerous sources. Right now, we have moneys available from city bond programs, including accessibility requirements that are part of our street reconstruction program. Some of the missing sidewalks or repair work to be coordinated as far as private development projects and we also have a program for reimbursements from other entities to fund the work. For example, we are currently working with austin energy to provide funding for accessibility issues caused by poles, power poles in the middle of the sidewalks. Looking to the future, we have to be mindful of sidewalk needs when we prepare bond programs, when we seek and allocate transportation funds, when we look to our federal agenda for project funding and grant opportunities. We will continue to look for partnerships, both internal to the city and external and require private developers to address sidewalk conditions as part of the plan renewal and approval. At this time, I'm going to turn the presentation over bodet who will address the public's participation in the plan and development of our prioritization tool.

Thank you, howard. Good afternoon, mayor, council. Monique bodet with the public works department. lazereth for the informative introductory to the plan and project. I'm going to engreat on two items which are the back -- elaborate on two items the backbone to this plan. Actual sidewalk prioritization matrix itself transition plan for the right-of-way. The matrix is an objective fact based tool for prioritizing our absent sidewalk segments throughout the city or the gaps in our sidewalk network. The plan focuses on this matrix. And for that reason, it went through an extensive public process. What you see on your screen are the major stakeholder groups which we took the matrix to, received input from, and made multiple revisions to the matrix. To assure that the matrix was representative of what the community wants to see with respect to sidewalk prioritization. We are pleased to present the plan to you today and for next week for a vote, which has the input and support of these groups. We did present the plan, also, to the city council's land use and transportation subcommittee. And did talk about details of the plan there as well. So what does the matrix do? It ranks absent sidewalk segments or as I said gaps in the system by using the following inputs or variables. Pedestrian attracters, pedestrian safety variables, whether there's fiscal availability for that segment of the sidewalk, and it has a special consideration option, which allows sidewalk segments which are not scoring well in the matrix to be given additional points as approved by the director of public works. So, for example, barton springs road through zilker park wasn't scoring very high in our matrix, but we know that that's a place where there's high pedestrian activity due to the recurring events and just due to the fact that zilker park is our major regional park in the city of austin. And the reason why it wasn't scoring well is because it doesn't have these -- the other major inputs, the high population density, transit stops, major employers nearby just

because of the vast acreage of the park. So it was an outlier, so to speak, so we wanted the council to know that there was an option there to -- to give special consideration to those sidewalk segments that were and -- no, ma'am and -- no, ma'am lee in the -- anomaly in the matrix. We have a variable to give points to absent sidewalk segments identified through the neighborhood planning process and are identified as priority sidewalks in adopted neighborhood plans. That also goes into the score. The point scale is on a 0 to 100 scale with the higher score representing the higher need. You should have the plan document on the dais and page 6 and 7 is where you can see the matrix detail. Here's a graphic representation of the results from the matrix for the entire city. This was the first step. This will be the first step in prioritizing sidewalks and developing short and long term work plans as pointed out. The red areas as you can see represent the very high walk need areas. As would be expected in central east austin where there's higher population density, high health need, active transit system, and it has good proximity to major employers, especially to the downtown area. The relative need and demand for sidewalks resonates from this area with pockets of very high need along south congress and north lamar and it's important to note that north lamar at rutland received the highest score throughout the city, which was a good check on our model in that -- is the number one location identified by the a.d.a. Community for improvements for safety concerns for the a.d.a. community. So that was a really good check on our process. Then the green and the blue represent medium to high priority and the light purple representing lower priorities, not to mean that they are not a priority, it just as we look at -- at limited resources that we have and having a plan and a schedule for implementing sidewalks, this is where we're going to -- to be looking first. In the -- in the red and green and blue and then out to the orange. And purple. It important to note as part of the scope of this project we also developed a similar automated gis tool to do priority excavation of sidewalk maintenance. That matrix utilizes a lot of the same inputs. But also includes candidate candidate take so we can prioritize where to go in not only building new sidewalk but also maintaining and rehabilitating the sidewalk network that we do have in place. I would like to pause for a moment to talk about -- about the title ii a.d.a. Required transition plan. requires that a city's transition plan do four things. It requires that you inventory your existing sidewalks for compliance with the a.d.a. It requires that you have a schedule for making improvements to come into compliance and identify a funding strategy. It requires the city to identify who will be responsible for implementing the plan. And lastly it requires input and ongoing communication with the a.d.a. community. This plan has met those requirements. I will note for the inventory, we did physically inventory 13% of our existing sidewalk network, then we extrapolated need and cost city wide from that sample. It was a very intensive process and we are proud to have done 13% of our existing sidewalk network. Lastly, because this is a gis based tool, based project, we included in the scope the creation of a sidewalk navigator which will be available to the public and -- what it will do is allow the public to -- to go online and make informed choices about using -- informed choices about using our sidewalk network. For example, if somebody had a new doctor's office they needed to get to by using public transit, they can zoom into the address and see what the sidewalk network and the condition of the sidewalk network is so that they can make an informed choice about where, which stop to get off, that sort of a thing. We're very proud of this tool and -- and I believe it will be widely used by the public. So now I'm going to turn the presentation back over to director of public works, lazereth to talk about the lasting benefits of the plan and of course we are available afterwards for any questions that you may

have, thank you.

In summary, the plan has several benefits. It updates the sidewalk inventory and then shows us where the gaps are. It helps us calculate the cost to complete and compare the network so use for programming and budget. It provides an objective prioritization tool that helps us reconcile the sources and uses of funds. It does achieve accountability through the annual work plan and does requirement for having a transition plan. Next week there will be two resolutions on the agenda that we ask the council to look at favorably. The first request that the council adopt the plan by resolution and the second asks for some additional funding to complete the user manual for the prioritization tool and for some reproduction costs for the final plan. So at this time we thank you for the time to be here and prepare to answer any questions that you may have.

McCracken: So -- colleagues, any questions or comments for mr. Lazereth? Councilmember morrison?

For both of you really great work. It's been a while. I know it took a while, it was so extensive, I think we're really fortunate to have people on our staff really passionate about their work. I do appreciate that. I do think that it's going to help us use our money more effectively, which is more important. The gis routing tool, i wanted to ask plans that your plans you might have on how to get the word out about that because it's great to have a tool, a wonderful tool, but we want to make sure that people know about it.

One of the things that we need to do is do a better job of marketing what we do, making the information available. Opportunities to do that now are really through the preparation of the budget, all of the committee meetings that we go to, but also to engage our -- our public relations staff that we have to get -- to be more active and to be more visible in the community. So -- so some things that we talked about are public safety announcements, whether on channel 6 or through other means as well as some other sources of advertising.

McCracken: Any other -- councilmember cole?

Cole: Yes, I just had a few comments. Again, great work. Details, analysis and that gis system seems pretty fancy. But -- but I just wanted to try to get my brain around the estimated cost that we're talking about to implement. I saw on page 1 the very kind of shocking number of 120 million. I wanted to talk to you about that. How do you see that planned out in phases over a time period or --

the majority of the funds that we have available right now are going to be dedicated to achieving compliance and the -- plan those out with -- with the plan shows an expenditure, estimated annual expenditure of about five million a year for the next several years. After that, as we approach the normal bond cycle, we'll -- we'll ensure that we get the needs identified as bond programs are put together in the future. We also look for other sources of dollars. We look for federal grants. It will be part of what we see in our federal funding as well as incorporating those needs into other capital programs. Whether there are architectural type of programs or they are street reconstruction program. The advantage of going to the gis based system is that it provided us with a toll to do asset management. To program what we have coming up to piggyback on other projects and programs. Not only schedule to work but

we can capture the costs that we get from other programs as well. It's a long 15 year program in here from funding source and it will take a while to achieve full a.d.a. Compliance.

We're contemplating a 15 year layout with an estimated \$5 million a year.

I'm sorry.

Then we'll also anticipate seeking federal funding to ease some of that cost.

As well as looking to future bond.

Cole: Bond package, okay.

McCracken: Councilmember shade?

Somebody who really doesn't like to speak from the dais, I want to compliment you. It's nerve racking speaking in this room. Thank you, you have done a great job. This is really impressive and I can't wait to see us market it because I think that it's something that we should be general -- really proud of. I don't see Jennifer here, but I know I spoke with her earlier, I know there's a big rally going on at the state capital. The fact that she's on record, her group is on record of supporting it I think is fantastic. So I just really wanted to say thank you.

Thank you for the kind words.

McCracken: Howard and/or Anique, I have a couple of questions. In identifying the gaps on the map, what is -- did you all identify a street as having a gap on sidewalks if it lacked sidewalks on both sides of the street?

We did.

Okay. And then I noticed that -- that a fair number of streets located on this map indicate no need for sidewalks. Is that -- is that reflect that those streets have sidewalks on both sides of the street?

[Indiscernible]

then I noticed that there is a -- that the concentration of sidewalk high priorities is -- is clustered in the urban core and so -- so can you explain what are the factors that have gone into there being a lack of sidewalks in the urban core or higher -- higher prioritization? I can speak from right here. Is this on? Yes. The project scope did include the entire city limits. And so the reason why you are seeing the -- the rankings in the urban core is because the rankings speak only to absent sidewalk segments and -- and due to our subdivision regulations and other regulations, the newer development outside of the urban core does have an adequate sidewalk system. So the gray area does have sidewalk already existing and so all of the colors represent the holes or gaps in our sidewalk system which is mostly in the older

parts of the city.

McCracken: In identifying the gaps -- are there -- how did you all judge areas that have -- like there's a couple of classic areas that I'm personally aware of. There's an area on south lamar where the sidewalk cuts down to about two feet wide maybe and then another area of -- we have a zone case recently on hart line northwest hills where it also goes down about two feet, a telephone pole in the middle of it. How did you all rank sidewalks -- sidewalks like that exist but are -- but are inadequate for use -- for pedestrian use?

I can say that -- would be a classic and great use of the special consideration score. Because the extent -- we used aerial photography to -- to -- to actually draw where all of the sidewalks are and so it was -- it was basically the inventory was basically is the sidewalk there, is it not? Then we went in teach deeper and 13% only of the existing sidewalk to look at those issues. That would be a perfect example by a complaint basis or just by general knowledge of where there's issues, a think a lot of people are aware of south lamar, just south of barton springs, that would be an example of using a special consideration score. That's how we accounted for that. Howard may have something to add for that?

McCracken: I also noticed as part of the rankings, one of the ranking criteria was neighborhood plan, what was that about?

Right. So the neighborhood plan score is actually an add on score just like the special consideration scores, so we ranked all of the absent sidewalks and we have a conglomerate of scores from very high need to very low need in a five tier system. We can add to any of those scores using special consideration for sidewalks that we just know need to be addressed for whatever reason, a safety reason, incident that we know of. And the I'm sorry I forgot the question.

McCracken: Well here's my concern --

the neighborhood plans, sorry about that. The -- because there's not adopted neighborhood plans for the entire city it wasn't an apples to apples comparison mathematically. So we wanted to recognize the work of the neighborhood planning and zoning department and the hard work of the citizens that go into those plans and we do know that they have identified sidewalks as part of their transportation components of that plan. So that will be used when we want to do a specific implementation related to neighborhood plans, we can do an apples to apples. We can do a comparison, we can run the model and rescore all of the sidewalks in areas where there's adopted neighborhood plans against each other and the way we have the matrix right now it's by age of neighborhood plan. So it's -- it's giving more points to plans that are older, that have been sitting on the shelf waiting for implementation, so to speak. And we -- through the public process there was a lot of talk about how best to do that. And in the end we had consensus on doing it that way because it made the most sense to reward the older plans that have been waiting for implementization. So -- so sorry for my mistrain of thought there -- I think that answered question.

McCracken: I think that addresses the question that I had which is there are significant portions of the

city that you point out that do not have neighborhood plans. Does this ranking in any way give an advantage to a neighborhood that has a neighborhood plan versus one that is still waiting for their chance to get a neighborhood plan.

No it will not.

McCracken: Okay. Then finally this is an issue that I know came up for us at the land use transportation committee involves sidewalk cross-sections. Just since -- for a variety of reasons, we tended to have the sidewalks be right up on the curb line when obviously the -- I think as we all recognize the preferable cross-section is to have some sort of pedestrian safety barrier like a grass strip or street trees between the curb and the sidewalk. Does this plan mandate such a cross-section for pedestrian protection?

Well, the plan is consistent with the existing city requirements. So to the extent that those design criteria require either a -- some sort of separation it's consistent with that. The cost does include compliance with the design criteria as well. So --

McCracken: I'm -- in the design standards ordinance we made a big focus to include that pedestrian safety barrier and have street trees or something like that. But we did not take up pedestrian -- neighborhood residential sidewalk standard in that ordinance. I know from personal experience of seeing sidewalk instruction from being with Mike in neighborhood meetings a big challenge all of the times is that the neighbors fight against sidewalks even -- even at the same time they are demanding it because they don't want it to go into what they think is their yard which is actually city right-of-way. That's at the expense of the public good and pedestrian safety. So if we had a stronger criteria in that area I think that would be helpful. I guess the point is that we raised this in the subcommittee, nothing adopted or changed since we raised it at the subcommittee level?

There -- there has not been change to the plan, it doesn't specify those kind of criteria. But in the practice of the department we maintain some separation where it's a planting strip or some sort of a paved strip. When you go through a residential neighborhood obviously you have to weave your way around long standing trees. The intention is not to put it up against the curb and provide a safety buffer.

McCracken: I am just telling you as a realistic outcome that's not what's happening. Like I said, I've been in the meetings, I've seen y'all are miracle workers, you have my complete admiration because I have seen the -- how there will be a very intense tug of war on things like sprinkler systems, how do you address those and people you go down the streets with no sidewalks, they have all sorts of plantings in the right-of-way that they have spent a lot of money on. How do you address those issues. But I think one of the outcomes I think that we have seen is that the pedestrians get shortchanged in the work around on that. So I think that one of the lessons that we are learning as we are doing good work to try to accommodate these maze of interests is that I think we need to look at some lessons learned from these efforts about having a stronger commitment to the pedestrian barriers. You know, as -- like I said, not a criticism. We are just -- y'all are doing great work, but we are learning from lessons from these efforts which are a lot of times what happened is the sidewalk gets shifted over to the curb line for virtually its entirety. Sounds like one of the lessons that we could learn is how to account for those

situations a little bit differently.

We can add language to the plan before it's reproduced to ensure that whenever possible we have the separation from the residential neighborhood between the street and the sidewalk.

This is fantastic work. The breadth of it and the detail is really good. And I have witnessed in my five years the -- the -- the really significant commitment and your department's commitment to the sidewalks in the city. This is the latest reflex i really appreciate that.

Thank you.

Any more questions or comments? This is just a briefing, it will come back in a few weeks.

Next week.

Next week, all right.

Thank you.

Well great.

McCracken: Thanks, with that then, the -- this concludes the -- our afternoon briefings and we have a very short zoning docket and -- and I will be 15, without objection why don't 30 and convene zoning at that point and make sure we have as close to a full council --

what's that?

4:30?

I was -- I was two 00 briefing.

I was here.

I have been here. [Laughter] 00, i don't care.

I think it's -- because we are -- this is our elected position I mean this is where we should be at 4:00. It's posted for 4:00. I think we should take the citizens a little more into consideration when we post the agenda items and we're going to take them up at that time. So I would recommend that we start at 4:00.

McCracken: We will recess until 4:00. Rhianna. Rihanna.

We're going to go through our zoning and restrictive covenant items. This is where the public hearings have been closed. The first item I would like to offer for consent is item number 30, this is case np-2008-0025, the oak hill combined neighborhood plan area for tract ag located at 4808 williamson williamson

drive. The related zoning item is case c-14-2008-0115 for that same property. The applicant is requesting a postponement of both of these items, item 30 and 31, to your march 26 agenda. It our understanding the neighborhoods are in agreement with the postponement request. And that concludes this portion of the agenda that we can offer for consent.

Leffingwell: Okay. We couldn't do second and third anyway because we don't have five members present. I'll reread the consent item. Item number 30 is postponed to march 26. Item number 31 is postponed to march 26th. That is the consent agenda. Do I here a motion to approve? Motion by councilmember shade. Seconded by councilmember martinez. Any discussion? All in favor say aye? That vote passes on a vote of four-zero with councilmembers cole, mccracken and mayor wynn off the dais. guernsey, you can go ahead and read the consent items for those zoning cases for which a public hearing has not yet been held.

Thank you, councilmember. The first item I would like to offer is item number 32. This is case c-14-2008-0159. This is for the third and colorado hotel located at 311 colorado, 301 colorado and 114 west third street. We have an applicant request for postponement of this item to your march 26th agenda. It's to postpone item number 32 to march 26. Item 33 is case c-14-h-2008-0023, the bradford nohra house at 2213 avenue g. We understand that the parties are still negotiating on this property and would request a postponement to your march 26th agenda. Item number 34 is case 03, the pediatric cardiology project at 1110 east 32nd street. This is to change the upper boggy creek neighborhood plan, the future land use map from civic to office. And the related zoning case is item number 35, case c-14-2008-0231 for that same property at 1110 east 32nd street to change the zoning to limited office historic landmark conditional overlay neighborhood plan or lo-h-co-np exiening district zoning. It was recommended to you by the planning commission for both of these items. Item 34 and item 35 are ready for consent approval on all three readings. That's again item 34 and 35. Item number 36 there will be I think a short discussion. I think we have an agreement on this, so let me come back to that in a minute. Item 37 is case c-14-2008-0250. For the property located at 112 academy this is a zoning change request to commercial liquor sales, historic landmark neighborhood conservation combining district neighborhood plan combining district zoning. It was recommended to you by the planning commission. I understand that the owner is agreeable to add a certain additional list of prohibited uses that would include a prohibition of liquor sales, adult oriented businesses and outdoor entertainment. And in addition the applicant is agreeable to no sound amplification permits to be requested on this property in association with these uses. This would be ready for consent approval with the clarification that there would be no liquor sales, no adult oriented business uses and no outdoor entertainment uses and the indication that there would be no sound permit applications requested on the property. Item 38 is case number c-14-2008-0221 known as the conn tract at 11821 to 12124 on 35 service road southbound. This is a zone change request to general commercial services, mixed use conditional overlay combining district zoning. It was recommended to you by the zoning and platting commission. This is ready for first reading only. Item number 39 is case c-14-2008-0230 for the property located at 905 east live oak street. This is a zoning change request to family residence neighborhood plan combining district zoning. It was recommended to you to grant the sf-3-np zoning by the planning commission and this is ready for consent approval on first reading only. Item number 40, case c-14-2008-0239, known as the courtyard park property at 3811 southwest parkway. This is to change the

zoning on the property to neighborhood commercial conditional overlay combining district zoning. The planning commission's recommendation was to grant Ir-co combining district zoning as a condition of zone. This is ready for consent approval on first reading only. Item number 41 is case c-14-2008-0247 known as buckets deli at 2020 east cesar chavez street. We have I guess a discussion postponement. The neighborhood and the applicant are agreeable to postpone, but not necessarily to the same day. So we can come back to that right after I finish going through the consent items. Item number 42 is case c-14-2008-0127, cantarra commercial at 3112 and one half grek lane. This is to rezone the property to Ir. This is neighborhood commercial district zoning. It was recommended to you by the plan plan and this is ready for consent approval on first reading only. Item 43 is case c-14-2008-0214, known as the tex tar waterproofing property at i-35 north. This will be a discussion item. As well as item 44. I'm not sure if there are any citizens signed up for this. If there are not, then we could possibly offer this as a consent item.

McCracken: I'll check right now, mr. guernsey.

Leffingwell: We'll go ahead and transfer the chair back to brewster.

McCracken: So we have three sit tens to speak.

This is on item 44?

On item 44 we have seven citizens to speak.

So that will be a discussion on item 44. Item case is case 8142008-0146 at 12422 and 124 twee dessau road and 1200 east parmer lane. This is to rezone the property to planned unit development or pud district zoning. The zoning and platting commission recommendations was to grant the planned unit development district zoning with conditions and this is ready for consent approval on first reading only. Item number 46 is case c 3 (86) rct known as the wells branch commercial center at 1205 wells branch parkway. There is a request to permanent nate a restrictive covenant and that was recommended to you by the planning commission. So that was recommended for consent approval of the termination. And that would conclude the items that we could offer for consent at this time on this portion of the agenda.

McCracken: So guernsey, then we have -- on the one -- so on item 36 what is your recommendation, do we hold this until after the consent agenda?

We could do that. I think it will be a short discussion. If you would like, we can invite the neighborhood, and on item 41 to speak to the postponement request if you would like to take the postponement on that.

McCracken: Why don't we do that.

The applicant is requesting a postponement to your april 23rd agenda. And I think gavino is here to

Speak to a postponement possibly to your March 12th agenda.

McCracken: So remind me first here from the applicant to speak only to the postponement request, and the applicant having ASKED FOR APRIL 23rd.

Correct.

McCracken: Is the applicant here? Is he here?

I don't see him in the audience.

We'll take it off the consent right now. So then the consent agenda will be first on item 32 what's the postponement date?

The March 26th agenda.

McCracken: Okay. So the consent agenda will be as follows. Item 32 postponed to March 26th. Item 33 postponed to March 26th. Item 34 to approve on all three readings. Item 35 to approve on all three readings. Item 37 to approve on all three readings with the additional prohibitions Guernsey of a prohibition on liquor sales, adult oriented businesses and outdoor entertainment, including no application permitted for sound permits. Item 38 approve on first reading. Item 39 --

Mayor pro tem, I understand that we do have several people that have signed up possibly for item number 38.

We have at least a couple of minutes ago one person on item 38. So we will go ahead and remove that from the consent agenda. On item 39 will be first reading. Item 40 --

and item 39 I understand it can go three readings now. We do have an ordinance that you have on the dais. And item 40 you also have a prepared ordinance on the dais.

McCracken: I see on item 40 at least it indicates that we have one person signed up to speak. Do we have someone here to protest it?

So I guess we can leave 39 on for three readings on 39 and 40.

39 All three readings. Item 40 first reading. Item 42 first reading only. Item 45 approve on first reading. And item 46 a consent on the termination of the restrictive covenant. So any comments, questions? A motion? Do we have a motion to approve the consent agenda from councilmember Morrison, seconded by councilmember Cole. All in favor say aye? The consent agenda is approved on a vote of six to nothing with Mayor Wynn off the dais. So Greg, where do we go next?

Well, if you would like we can come back to the postponement request. Both sides have agreement

grady to a postponement. The neighbors that are here have agreed to march twin -- march 12th. I don't know if kareem has -- I've been told that the applicant agent thought that this would come up at 6:00. So he's not present. This is the buckets deli, item northbound, case c-14-2008-0247 for the property at 2020 east cesar chavez street. That's the applicant's first request, and their postponement request is to APRIL 23rd. The neighbors that are here are requesting that if you postpone it to postpone it to march 12th.

McCracken: Why don't we move to the other items and then we can see where we are at the end of those items.

I believe this is a discussion item.

McCracken: We'll leave it as a discussion item. So why don't we then move to --

item 36?

Item 36 is case c-14-2007-0262, this is for the central austin combined neighborhood planning area vertical mixed use building opt in opt out process for the property located at 711 west 38th street known as tract 10 located within the central austin combined neighborhood planning area. You may recall this was postponed at your last meetings because the parties were discussing this tract and they had -- were very close to an agreement. I understand that they have come to an agreement that was handed to me just moments ago, so I might ask a representative of the neighborhood and probably michael whalen on behalf of the owner to step forward and explain the agreement that has been reached.

Well, probably now that I'm thinking about it and I'm standing here, maybe anne -- anne is passing it off. What do you need explaining? Do you need me to read it into the record? I'm not sure exactly what's required of me here.

I can read what I've been handed and as long as everybody nods their heads i guess there would be somewhat an agreement on that.

Yes. We've agreed to -- okay. We've agreed for this is lot 10, terms for the ordinance, the gr portion of the property would retain vmu zoning and the lo-mu portion would be opted out. And number 2, for the gr portion of the property that remains vmu, all bonuses except no parking reduction per (indiscernible), no head-in parking, minimum of 50% of the usable square footage above the first floor will be residential. And a minimum of 10% of the rental units will be for families earning 60% or less of the austin mfi. And also that no -- if the gr portion of the property is developed as a vmu project, then no dumpster or loading dock will be permitted on the lo-mu portion of the property within 70 feet of the south property line. There's still something that we were hope to go achieve, but we didn't, but nancy greenberg will address those.

Michael whalen on behalf of the applicant. That represents an agreement that took a long time and I'm proud to present. I know that we'll be -- there will be additional regulations, site development regs that

get developed in the next couple of months and I'm sure that will affect how the back portion of the property will be developed. The lo portion, lo portion of lot 10, and vmu opted in for the gr portion with the restrictions that were just described.

That is with the restriction -- bonuses and restrictions for the gr-mu portion. That is correct.

Leffingwell: Is that accurate?

I think the only other comment is that I know that I think one neighborhood representative has done -- has been on the property to look at the trees and measure the trees, and we've indicated that we're going to be fully compliant with the tree ordinance at site plan. We had some initial discussions about trees that -- but I think at this point the best thing is for the tree ordinance to control. I know that the tree ordinance is going to get revised here. greenburg was on the property with ann arborist, the city's arborist to study the trees. My understanding is that the tree ordinance will be modified. You all would know better than i. And it obviously would be following the rules and regulations as set forth in the land development code. That's one person in an entirely neighborhood. We have reached agreement with the neighborhood association.

Leffingwell: So we can expect a more fullsome description of all of these things coming back on second and third reading?

Yes. We've given a term sheet to guernsey that concludes all these items except for the no dumpster or loading dock item which we will get to him as well.

Actually, just to clarify, there was a lot of discussion amongst our neighborhood about the trees, and so betsy is acting on behalf of everyone who would like to see, and there is a number -- who would like to see the trees protected in some way.

As I would as well, and if there are no further --

Leffingwell: As I would as well, and if there are no further speakers, I'll move approval of item 38 as described with the --

McCracken: I think this is 36.

Leffingwell: 36, As described with the front portion of 10 being v muvmnt u restrictions that were given, and lo on the -- on the lo portion opted out. And that would be to close the public hearing and approve on first reading only.

Cole: Second.

McCracken: We have a motion by councilmember leffingwell, seconded by councilmember cole to approve on first reading item 36 with the opting in on lot 10 for vmu for the gr portions with the bonus,

the entitlements and the restrictions noted in the agreement. And to opt out the lo portion of the lot 10. Any comments? All in favor say aye? No? The motion is approved on a vote of six to nothing with the mayor off the dais. That motion did include to close the public hearing. So now let's move on to item number 38.

Mayor pro tem, i understand that kareem has entered the room regarding the postponement item, so if you would like, we could discuss the postponement item at this time. I'm sure that won't take too long. I'll ask kareem to come forward and to speak to the postponement. This is in regards to item number 41, case c-14-2008-0247 known as the buckets deli property at 2020 east cesar chavez street. And again, we have a request from the applicant to postpone this item to april 23rd and the neighborhood representatives that are here tonight would like to entertain a postponement to ma 23rd. He can explain his reasoning for the april 23rd postponement.

Good afternoon. In the planning commission hearing we heard from the commissioners that further dialogue with the neighborhoods was a priority in order to adequately judge the veracity of the zoning change. Since that time there's been a neighborhood meeting which really consisted of four affected residents and three other members of the neighborhood, as well as the initiation of an open house series of meetings between the immediately affected residents of this -- of second street. With its proximity to buckets deli coming to the deli to discuss their issues. We've initiated a number of programs in order to try to deal with these issues, which include sound and some of the parking. At that meeting we decided to postpone until APRIL 23rd. We said two months at the time. To see if we could get some successful dialogue going with the neighborhoods. We want to continue that dialogue and we're working with code enforcement and the residents to try to solve some of the outstanding issues that affect the property. I'd like a couple of months to see if we can't make some significant progress and the intention is to see if we can't bring the food sales into compliance with our current zoning and also if we can't find a happy medium with the neighborhood residents to see if we can work in harmony as opposed to in conflict with one another. Thank you. We will.

McCracken: Thank you. We will now hear from mr. hernandez.

Gavino fernandez with el concilio. For the record, we do not agree with the postponement, but we understand protocol and how that operates. So we do not want it to beyond march the 12th. Many families, many homeowners in the immediate area are going through a lot of undue stress with this issue. We have a valid petition. We're ready to have you hear the case and for us to move on. This has been an issue that's been in our neighborhood for almost five to six months. It's getting very aggravating and very tense situation around the area. So I strongly ask you to postpone it, but only to march the 12th as opposed to APRIL THE 23rd. That is too much time for this issue to be just sitting there when we already have a valid petition. Thank you.

McCracken: Any comments, questions? Councilmember martinez.

Martinez: Do you want to make a comment, sir? Can you introduce yourself?

I'm chico jones. I live directly behind buckets. We put in a petition against the rezoning change, and i agree with gavino about it. Basically it's a pressing issue, and at that meeting we did say we would do some action items over a couple of months, but immediately the same things came up in the same week. And I even left a message on kareem's voice mail on one night in particular. I sent a letter to bobby garcia from one of the teachers of a student of my next-door neighbor, and i can share that with you real briefly. It's just evidence of kind of why this is immediate to the neighborhood. To whom this may concern, christopher westter ledge, a fourth grade student is one of the smartest boys in my class as well as in the fourth grade. He is classified gt, gifted and talented, and has shown ability to make high grades. Lately I've noticed an increasingly poor performance from chris. He used to be one of the first ones to finish with assignments due to fact that most of the time they were too easy for him. Lately I've noticed him having a hard time completing assignments in a timely manner due to his inability to stay awake in dallas. He stares off into space and I have to frequently remind him to go back on task. He gets wet paper towels to put on his eyes to stay awake. I've heard him say he wants free time to take a nap. I've talked to chris 'grandmother who he lives with to ask why he's sleeping in class. She said a new bar opened near their home and now neither one are able to get a full night's sleep. They are constantly woken up long after they have gone to bed. As a teaching professional i feel this disturbance in his sleep is hindering chris 'ability in school. Children need eight to 10 hours of non-disturbed sleep to be able to concentrate and perform at the highest ability at school. I hope you will consider this seriously because a child's education is at stake. sell certify a fourth grade teacher at zavalala elementary. I really can't say anything more than that. We've put in our petition why we have problems with that. We're just trying to end the problems as soon as we can. I know kareem is working with the owners on doing that as well. We just haven't seen immediate results. We would like to see things move a little quicker. Thank you.

Martinez: Thanks, chico. Guys, this is a case that it's not unfamiliar. We've seen this before where someone opens an establishment and -- with the intention and the goal of exceeding 50% of sales from food, and then that doesn't happen. And so we're faced with the cs-1 zoning case. And in that particular case a neighborhood who has already planned and the plan actually asks for a reduction in cs-1 where possible, but with all that being said, you know, i really think that somehow we need to come up with some program that allows these businesses to try to operate under existing zoning as opposed to the request that comes forward with some of the most difficult zoning uses in cs-1. What I would like to do is offer a motion to -- to postpone this, but with some very specific instructions. And those instructions are that the owners of the operation and their agent meet with our small business development program to try to establish -- not even establish, to redesign completely their business plan and their model to try to come into compliance with the existing zoning as opposed to seeking an existing cs-1 zoning. In a case like this where the food that you're selling is sandwiches and snacks, it's not very expensive, something as small as how you're pricing your products can have a huge difference on your sales from non-alcohol. So I think we really need to look at the business models that your clients are employing, kareem. I do want to encourage you to continue to meet with those neighbors and try to mitigate the issues that they are struggling with. Regardless of whether or not you and your clients can come into compliance with the zoning category, those issues are still going to be there, and they need to be addressed. The surrounding neighbors have spoken very clearly, and I realize that there are many

others who are in support of this facility. But quite frankly, they're not folks who live right next door and behind it. So I'm going to make a motion to postpone, and I will motion to postpone until April 23rd to give you the time that you need to respond to your neighbors immediately and then to meet with some of our staff folks who can look through your client's business plan and try to see if there's a way to get you into compliance with your category.

McCracken: I guess we should perhaps first see if that's something that's going to happen, can be made to happen. Or if the applicant agrees to those conditions. [One moment, please, for change in captioners] he is more than willing to do that. It's been discussed previously and is fine.

McCracken: We have a motion to postpone until April 23rd by councilmember Martinez, seconded by councilmember Morrison, including the conditions laid out by councilmember Martinez that the applicant has agreed to meet. So all -- councilmember Morrison? [One moment, please, for change in captioners]

we need to retrain our customers to be aware that they're immediately effective residents next door, and so that's something that does take time. It's signs -- signs saying respect neighbors, that stuff can go up quickly to train your clientele to say, hey, we just need to keep it down as something that takes a little longer.

Could I ask the neighbors if they could comment on whether that sort of captures the issues you're dealing with in terms of noise? And also I wonder if we could have some suggestions about how to keep the customers at a lower sound level because that sounds really challenging.

Mostly the street that's alongside the neighborhood, buckets, it's a small street, so there's not enough parking. 8 spaces in their parking lot. So patients will park next to buckets and next to all the houses, pretty much all the way to 3rd street and sometimes on 2nd street on street -- on the other side of Elk Heart. Those patrons will be noisy all the way to the bar and after the bar is closed they'll loiter and be noisy there. The bar attracts some bikers as well who idle their bikes outside. Oh, and they'll just idle on their bikes for 10 minutes, and we'll call the police in those instances. We discussed having some signs, talking with the neighbors, the owners, and that was the Monday with the holiday, but these issues came up, no signs went up. I don't know if there's discussion. I can't assume there was or was not, but yes, it would take a long time but it's something where we have to suffer during this long period of time and it wasn't that way before they were there. So I understand you guys need us to be patient, work through things like that, but some of the issues about the noise, they might not have sound reinforcement but they have the TV and speakers on the back porch directly facing the neighborhood. Well, people congregate and watch games there and when you watch games you yell. And even if it's just background noise, you congregate there you're going to make noise at all hours of operation. So it's a continual thing and it comes to -- he's talking about the three affected neighborhoods neighbors. There are more than that behind. It just happens that two of them don't have their names -- the owners of the houses, so that didn't go into the valid petition that way. But it's an issue that is ongoing, and I don't know if there's a solution, just based on the fact there is a bar operating behind residents. I don't know if they're going to try, but that's our take on it.

Did you want to -- give your name, please.

My name is Whitney Lee. I live in a house with Chico behind buckets. The letter Chico was named -- 10-year-old who lives there -- and I have a 9-year-old who lives with us, so he's facing some of the same problems, and what concerns me is we did have two meetings where we talked about possible solutions. We listed the problems and there were 23 separate problems, noise being the biggest one. But the issue to me is it's been at least a week and a half since then and not one step has been taken in terms of putting up signs for the customers. It's been within that week that it's been almost -- more loud, even, when there 00 in the morning there were four motorcycles idling at the same time. And waking us up from sleep, let alone preventing us from going to sleep. So my issue is that I don't -- like, okay, we're having these discussions, but I don't see action happening quickly enough at all. That's it. Thank you.

Thank you.

Could I ask you a 1, would it be possible to move the TV inside?

That's something that my client is willing to do. I'll have a discussion with my client on why that hasn't been done. Signs have been ordered, they just haven't been delivered.

When do you expect them?

I'm not sure but I will check with them. I know that they've been ordered. The -- there was another -- another offer was to try to help insulate some of that noise. We've offered -- we've offered to blow insulation into the exterior walls so as to muffle that noise. We haven't had anybody agree to that yet though I'm not sure exactly why. We've discussed parking restrictions. The applicant has voluntarily agreed to fund private signs that say, don't park here. That's also not been something that the affected residents have wanted, which is understandable, but we're trying to work on ways to try to keep some of that clear.

Have they considered hiring a private security guard to control the noise and the crowds and the idling outside?

It would be -- at this point having the time to proceed forward, that's something that we discussed previously, that they've said, you know, if we're not -- if we can have the time to do that, then we can afford to take -- make expenses like that in order to try to police some of that stuff. One of the things that's a little more difficult to monitor is the complaints by some of the residents occur hours after the establishment has been closed, so the establishment closes at midnight and a lot of these issues are happening at 2 in the morning. So the question would be how long does the security guard need to be there and what exactly is his job description, what hours does he need to work. And that's something we need to try to engage on, who are these people that are there, because my clients are steadfast in their belief that we close at midnight and people are leaving. So not that this isn't happening. We just need to try to figure out who these people are and how we can retrain them.

Well, I wonder -- I mean, we really do need to get some action, so maybe you could check in with my office in a week and let us know what's happened. Because I do -- you know, I agree with -- as we talked about when you came in to visit me, the idea of if they really want to be running a restaurant, that's fine. If they're running a bar, zoning is personally not something I can support there. To foster a small business, to become a restaurant, I think that's a great idea, but they're being given a lot of leeway here and so I think they need to take that very responsibly and understand that these folks would not be dealing with these things if they weren't in this situation. So that's all I needed to say, and I will support this, but I would like -- I do hope you'll check in with me in a week.

I'd appreciate it.

I have some questions. How long has this point of contention with the neighborhood been going on since the first case first coming before the planning commission? When did that start?

I'm sorry, I'm not sure if I follow.

When did this case begin in the process? I mean, you're here at city council today but when did you start the process of this zoning case.

About two months ago, December --

January 27 is what I think I see here is the planning commission date.

That's right.

So I mean, what's happened in this last period to give me reason to believe that more -- that something will happen differently going forward? Can you give me any evidence of -- because I'm not as familiar with this case as maybe some of my colleagues are, but I'd like to know --

What progress has been made?

I'm having to make a decision here about giving more time or not, and I'm very supportive of small businesses, but the idea of retraining customers being the whole basis for your chances for success, knowing that you've had now quite a bit of time knowing that you're in this precarious situation and you haven't retrained customers, give me some reason to believe that something different is going to happen in the next few weeks that hasn't happened in the past few weeks.

For one -- for one, most of the plans will begin to be implemented. One of the -- the message since we filed the case has always been we'd like to stay open. It's never really been about we're putting our foot down, we need to be CS-1. So first things first was trying to tweak, as council member Martinez suggested, how they price items, how they sell things, so the first thing is they invest a significant amount of money in the point of sale system so they could reprise items since previously they've been

using just ticker tapes. So from a business standpoint that's something they've been exploring --

but point of sales is the cash register.

Yes, but it makes a very big difference in how you can price items as opposed to a six button cash register so this gives them a chance to track food more closely and change pricing on an hourly basis so they have different prices during the day on items so they can try to encourage customers to order more food. From a -- from an action item standpoint, we haven't had -- we've only been going since january 27, so there's been a significant amount of dialogue and -- from here forward that it's action item time. I have every belief that april 23 is d-day. That's it. There's not much more time after that. So I think they've got two months to implement the -- to implement solutions to the 23 issues that had come up, and those are really grouped into basically, parking, sound and customer training. So there's really three larger issues that everything stems down from.

Well, and having a successful business model that isn't dependent on alcohol sales, and that's a huge shift.

That's correct.

I don't -- I'm not having -- I mean, getting a point of sale, you know, system in place just -- can you give me anything else that's happened in the last month? What have they done analysis-wise about their products mix -- how many products do they sell?

It's a deli. They sell about 15, 20 types of sandwiches and another, 10, 15 kinds of snacks, things of that nature, chips and popcorn and things like that. Their food sales have increased significantly since the beginning of this process, one, because people know that they're there. When we came before planning commission it was probably 25/75. At this point it's pretty darn close. It's probably 60/40, though it's all unofficial, but they're reporting a large number of food sales at this point.

So I'm going to ask you what's changed in the business model in this last period that's made it -- it can't just be because they have a point of sale system.

No, consciousness of needing to sell more food, customer awareness that they have the food, more -- more attention given to the menu. The menu used to just be on the board. Now you can get paper menus and things of that nature, awareness by the keepers behind the counter who make the sandwiches and serve the drinks to make sure and ask, can we -- would you like -- so there's positive movement. We haven't been able to implement some of the solutions we met with ten days ago, not even, but i think you'll see that very quickly in the future. They're on borrowed time and we're all aware of it. I think you'll see it. council member leffingwell? well, sounds like we're getting a little bit into the merits of this case rather than the postponement, but what I am understanding is your intention to come back here before april 23 and demonstrate that you don't need the cs-1 zoning? Is that the countered?

The goal is to continue the dialogue with the neighborhood. If we can continue the dialogue and

implement the plans and bring everything into compliance, then yes --

I've heard you talking about techniques to increase your food sales, in which case if you do that, if you reach that threshold, you don't need the cs-1 zoning, correct?

That would be correct.

So why couldn't you do that anyway? I mean, at any point you could increase your food sales above 50% and you don't need the cs-1 zoning, so what's the point in having the zoning case?

One of -- one of the -- one of the reasons for the continuance of the zoning case is to encourage more dialogue between us and the neighborhood, and we'd like to keep the zoning case active so that there's a reason for them to continue dialoguing with us. Until the filing of the zoning change, nobody had -- nobody had any dialogue with anyone, and, in fact, it wasn't even until planning commission that the problems with the immediately affected residents came forward. If the zoning case is removed, what's the incentive for them to continue even speaking? We'd like to continue the dialogue and that's always been the intention. So I think the zoning case ends up being the predicate to a continued dialogue. council member morrison? could I ask staff, do you know, was this zoning case instigated after code enforcement came out, so under code enforcement, red tagging, whatever, to close down right now?

The zoning change was submitted in december, on the 15th of the month. I guess it was probably submitted after the red tag was issued. Usually most people upon receiving the red tag, zoning enforcement officials and solid waste services folks come out, explain the situation, in order to remedy that they would file for the zoning change. Loongs like the site plan was -- looks like the site plan was approved in june. If they got up and operating about a month later, probably in july. They were probably operating two or three months and it's probably sometime in the fall, and I'm guessing when the red tag -- it was probably sometime maybe in november or october, the red tag may have been issued. Kareem is indicating that the red tag was issued later, I guess.

It was issued in mid-february, the citation. The code compliance came out on a complaint and they asked for the sales record. My client is -- one of the reason reasons I brought up point of sale is everybody has been \$2 so it's been very difficult to figure out what was food and what was alcohol. J being there and being present they knew that they were over the 50% mark so they said let's try to calculate it and they've been literally going through tape of -- and comparing that to inventory orders to just try to get an idea of how much.

But I guess -- thank you. I think the point is that without the zoning case they have to shut their doors because they're under a red tag so there's no leeway there. So that would be the reason, as I understand it. guernsey can respond to that. I had jerry call over and talk to the case manager and the case is under investigation but a red tag has not been issued.

Okay. so as kareem had mentioned, going through receipts, that's part of what we would do to determine the amount -- ratio of food to alcohol sales, and so it's under investigation, active, a red tag

hasn't been issued, actually, for the violation.

Morrison: thank you. council member shade? but what about all the other citations that occurred then within this timeline? Can you speak to that? Doing -- you know -- working without a permit, without an approved site plan, that sort of thing.

They began work without a permit and code compliance came out fairly quickly and at that point they went back and did all the permitting things and they're fully compliant and they've cleared all the prlts. It was a -- permits, it was a case of ignorance more than anything and unfortunately they've ongoing through the process -- they had gone pretty far in the development process when that came out. But they went and cleared every violation and cleared all the permits. yes, I see that they were cleared, which is great, but I guess my question is, you know, past actions, sometimes they're good predictors for future actions, so I guess my -- i mean, so how -- do you have anything -- I mean, so knowing that they had had that kind of trouble --

city building codes, if you're not familiar with them -- I'm not saying you are not. People who are not familiar with them can find themselves behind the 8 ball pretty quickly and this happened to my client at that point and he realized this is a big problem. He went back and fixed it. The guy is really one of the most honest people I've ever met. He's a really nice and genuine guy. The intention wasn't to circumvent the permitting process and the zoning change isn't to try to push anything down affected residents. He really does care that the residents are there and that they are being affected.

But I mean did he know that he wasn't -- that he wasn't achieving the 51% and that that was a problem or he didn't know that till he got --

once code compliance came out and they started reflecting on what it is -- how much food have we ordered, how much alcohol have we order ordered, he went, hmmm, this is an issue. Our first meeting when we met in my office he said, i try to stay in compliance with everything. I didn't know. So now I need to fix it. council member martin? just one last item. When you're going through your receipts and when you're looking through how to restructure things, you can certainly consider closing down earlier because I doubt you'd sell sandwiches after 10:00 p.m. More than you sell beer.

Surprisingly -- surprisingly it's been -- lately it's been more robust later in the evening. They'd a happy hour sort of push, and then people have been ordering a little 00 as games are on and ending. So --

either way you can still consider closing early to mitigate the noise.

I tend to agree.

May I address a couple things? We met with the owners too and they do seem like nice people. Kareem talked about how they spent 15 years in the drywall business before opening this bar, and I know they're very familiar with code compliance and what proper permits they need to pull, but they did pave over their backyard, first thing they did, they did that and said, oh, got the slap on the hand. Then they

became -- then they got the permits, you know, got that cleared. They built out an awning off the back porch. I kind of agree with you where I don't know how to trust them, even though I've sat across from them and I don't know what they'll do next. But one thing that I have noticed, and this has been in public record talking to joel harden, if I'm not incorrect they are building a kitchen now. Right now they're under construction for a kitchen. They're building their kitchen now, after we've had these meetings, after this has been up. They have had no kitchen, and they told the neighborhood that they intended to be a deli. And I think the reason they haven't sold any food is because they don't have a kitchen. Their intention was not to sell food. And I can't judge that for them. It also sounds like maybe they realized how much beer sells in our neighborhood and they thought, this is great, let's just do this. Whatever the reason is, it's a disturbance to the neighborhood. And them continuing to operate as a bar is causing problems in the neighborhood. And I agree with you, council member, that, you know, if you're going to be a restaurant, be a restaurant, and that was brought up by several neighbors to kareem in the meetings, that, you know, that sounds like an alternative. If you do what you say you were going to do and be a restaurant, a deli, that's fine. And I don't know if they're willing to do that and that's where we're -- we continue to butt heads. But if we're talking about them needing time to stay open, I can understand them wanting to maintain their business and stay open. I can understand why kareem is pushing for the things he's pushing for. What I don't understand is why they are not responding to the things we're asking for for them to like make our neighborhood the way it was, and that has not been addressed.

Mccracken: yeah, okay. So members, we have a -- I'm sorry --

council members, I'm alexandra cast teal. I'm 73 years old and I'm sorry, but this man is not telling you the truth. 00 in the morning the trash man takes all those bottles, and you can hear them. If you're inside my house you can hear everything, noise, all those people laughing, all those people throwing bottles in my yard. I even had this weekend -- had to call the police to tow away a vehicle that was parked because he thought it was --

mccracken: okay, ma'am. Thank you. I want to find out something quick. We're getting to the merits of the case and this is a request for postponement, so I'm sorry --

and to me that's never been a deli. It's been a bar. Mar mar so there's a question for legal. Is it possible to bring this back for -- in two weeks for a compliance update or do we have to do a two-week postponement with the intention of, for instance, coming back again -- postponing to april 23, if there has been compliance progress? It sounds like there's a willingness in this council from a number of members, at least who have spoken, to do the postponement, but there is also significant concern about the lack of progress to date on some issues that are kind of somewhat related to the zoning. guernsey, could you address that? mayor pro tem and council, what we can do is I can contact willie rhodes in our solid waste services department and ask that they provide you a memo of the status of the enforcement action currently going on on this property two weeks from now. And so that that would be made available for you on the 12th. This item wouldn't appear on the agenda but you would be at least made aware of what actions have been taken and where that case is at the moment. if we were to do that, could we direct that the applicant -- you know, maybe it's for hajjar to bring your clients with you and

present to the council then because --

I would be open to just putting it on for the 12th.

That's what the neighborhood asked for, is the 12th.

Put it on for the 12th and if there's been substantial compliance we can postpone it again. I will consider that an amended motion -- friendly amendment, second. So with that we have an amended motion to postpone to march 12 with a compliance plan presentation rhodes of solid waste, and at that point we can consider an additional postponement if there has been progress. So all those -- any other questions or comments before we vote? All those in favor say aye.

Aye.

Aye. No? The motion is postponed to march 12 with the conditions stated on a vote of 6-0 with the mayor off the dais.

And I'll follow up with the solid waste services department getting you that.

Mayor pro tem and council, earlier you had 40 as a consent item, and i spoke with our city clerk and she indicated that I had said consent for three readings, and mayor pro tem when you read them back you you said a consent for first reading. It is ready for three. If we consider item 40 and you offer it for third reading we won't have to do that again.

Mayor wynn:

Sounds good. I'll submit a motion to item no. 40. And so the -- we have a motion from council member morrison, seconded by council member cole, to 40, all those in favor say aye.

Aye.

Aye. No? The motion is approved on a vote of 6-0 with the mayor off the dais. I will now consider a motion to approve 40 on on all three readings. Motion by council member cole, seconded by council member morrison to approve 40 on all three readings. All those in favor say aye.

Aye.

Aye. No? Motion is approved on a vote of 6-0 with the mayor off the dais.

I think that takes us to item no. 38. Item 38 is known as the contract. Case no. c14-2008-0221. For the property located at 11821 and 12124 south ih-35 south service road. This is to zone the property from unzoned. 00 item to consider a hearing to bring this into the city of austin, to cs-mu-co, which stands for general commercial services mixed use, conditional overlay. And this property is a 58-acre tract. It's

located on the east side of IH-35 at our extreme southern boundary of the city. It's bordered by county to the east, west IH-35 -- excuse me. I-35 to the west and county to the east and south. Further to the north there is some land that's actually inside the city of Austin that's zoned multifamily and rural residential. There's proposed apartment project further to the north and it's adjacent to a church. The property is undeveloped and the applicant's intent is to develop this with a mixed use project with unspecified commercial uses. Currently the property is within the Creedmoor Maha water supply area. As I mentioned before this is subject to annexation at some point in the future and the owner is making the request to bring this into our city limits. The annexation request cell intended to occur in the spring of this year and presently there are no pending subdivision or site plan applications on this property. I think at this time I'll pause and I'll let Peter see Sairo with Graves, Dougherty who is -- is Sairo who is representing the owner to come forward and comment on this case.

Thank you. Thank you Peter, five-minute.

Council members, Peter see Sairo with Graves, Dougherty. I'm here as the applicant's agent and there is a brief presentation that we prepared for this matter. As Greg mentioned it's approximately 58 acres in , and we can provide a dye gram of exactly where the property is. You'll see that it's -- it's in Austin's desired development zone and it's right where SH State Highway 45 drops the cars right in front of the property. It's not near an environmentally sensitive area and it's outside of the floodplain. Now, the owners of this CW heavily, has submitted a service -- heretofore has submitted a service extension request to be in the city of Austin and receive utility services. We're trying to accomplish council's policies and goals by being annexed into the city of Austin and obtain a zoning recommendation that confirms what ZAP had wanted. Our application is for CS-MU-CO, and the conditional overlay would permit limited warehouse and distribution in had all GR uses. It would also limit the trips to 2,000 trips per day and prohibit pawnshop services, adult-oriented businesses and commercial blood plasma centers. And you will notice in this area the type of retail services and the development in this corridor. We discussed with different traffic engineers about preparing a traffic study for this project, and they told us that the traffic flow is going to change very soon with SH 45 being opened up and the traffic coming in. And you'll see here that the property is in the desired development zone for the city of Austin. We want to be annexed into the city of Austin, and I know that some property owners who are in Travis County have concerns about site plan issues, whether it be drainage or traffic flow, and there is our request to proposal which confirms the zoning and platting commission recommendation. CO would allow limited warehouse and distribution, permit all GR uses and limit the traffic trips to 2,000 per day and prohibit pawnshop services, adult-oriented uses and blood plasma centers. We're trying to accomplish the council objective and council goal by submitting this application and wanting to come into the city of Austin. I'm happy to answer any questions that you have on this proposal. Our ser is currently being heard and processed through Austin water utility, and we have not received any problems or concerns or comments on that.

Do we have any questions for the applicant? I have one quick question. Council member Cole. You said that Travis County had some concerns about water flow issues. Can you explain that?

No, Travis County did not have concerns. Right now we're in the and we're surrounded by property that is still in Travis County and some of the landowners had concerns about drainage from our property. And

when we talked to them before, we mentioned that this would be addressed at the site plan stage when we come back with a site plan. We want to be in the city of austin. We want to increase the city of austin tax base and that's why we filed the annexation petition and are seeking this zoning on the property.

Cole: all right. any further questions for the applicant? Well, we have two speakers, so we'll hear first from carl urban, mr. urban? urban, you have three minutes.

Council members, thank you for giving me a few minutes to speak on this issue. My wife's family has been in the neighborhood for over a hundred years. They have 450 acres south of this property fronting over a mile and a half on 35. Over the years the family has looked at different ways of developing that property, and at no time were we thinking of commercial-industrial type scenarios. It was a gateway to the city of austin. You come over that hill, you see downtown, and we were interested in keeping the bar high and doing something in a timely manner. I realize that this individual has bought the land a few years ago. I know the market is a little catchy now. I know people are trying to come in with a grab bag of zoning preferences so they can move it, but at the end of the day I'm concerned on the industrial use of -- when you have services. Food service companies have a large number of trucks servicing at all ours of the day. Traffic impact analysis show that a truck is worth about 2.5 car trips. There was also on that map that was presented, it's a ramping, I don't know if you can pull that up, I'm impressed that a ramp goes out of a property that txdot -- go down -- that's not it. They kind of indicated the ramp went through the center of our property. The ramp actually gets to their property quite a ways down on my property, the exit from 45 north, it's approximately 1500 feet south -- or north of 1327, which puts it about a mile, three quarters of a mile away from their property, so there was a little bit of a misindicator there. I don't know if you can put it up or not. It was a red dotted line. And so, you know, there are traffic considerations up there that -- the ramp isn't even where it shows right now. It's being built. So there will be traffic considerations. The on ramp there is just at their property or slightly north is going to be a death trap. I get on it occasionally and I don't know how we're going to handle that, but if somebody wanted to develop near it, I'm just concerned that -- that it -- it may not be appropriate. It might not be the highest and best use, and it would be sort of a diminishing factor for the plans that are out there. Austin is bringing water, which is very helpful, wastewater is on the way. We will be in the city of austin. We're working with the water department now to get the trunk lines in, and we'd just like you to consider that there's members around and have significant holdings and we'll be here for a long haul and aren't going to sell it and move on. Thank you for your time. thank you, mr. urban. Our only other speaker signed up as neutral is justin spillman.

Hello, my name is justin spillman. Thank you four time this evening. My my family owns the property immediately to the east of the subject property. As i, you know, sketched on the map there, the reason I'm putting down neutral is the fact that the staff recommended gr-mu, and -- at the zoning and platting commission they came up with more expansive use, and i think there's still a question in my mind about what exactly that is. I've been told that they just want only limited warehousing and distribution as the only permitted cs use in addition to the gr uses. However, if you look at the platting table off the internet that you got from you-all's web site right before the meeting, limited commercial blood plasma center is not included in gr. So if it's not included in gr, then why was this specifically excluded in the items that they didn't want included in this. If they're limiting it just to gr plus the -- plus the limited warehousing and

distribution. So I think there's a question there, you know, in my mind as far as what exactly was agreed upon. Ultimately, as you can tell from the map, it's a matter of -- our family owns this 250 acres and it's been in the family since 1923. We share the your bans' desire to make sure that -- urban's desire to make sure whatever is done with our collective acres at some point in the future the be of benefit to the city. Because we have our names behind it, whether we stay in as majority owners of the property or we sell it. It's something we have to stand behind it with our name and we're not someone that wants to come in and go away. Now, if you look at the service extension request, you can see that their use -- under scr is looking for a lot more dense use than what they'll be allowed under this 2,000 trips per day because you're limited to about 15,000 square feet of general retail or 4,000 square feet of fast-food restaurant, means clearly if they want to go up for those other uses they're planning to come back to you once they get their tf, traffic impact analysis done. We feel in the greater scheme of things, with the way you use the on ramp at i-35 right in front of the property that's a death trap at the base of that hill. If you have a bunch of 18-wheelers pulling out at the top of that on ramp and then also trying to merge on to that same on ramp, it's going to pose a problem that txdot will have to address. We would like for them to be able to address that prior to granting limited warehousing distribution, which is why we are supportive more of the staff's recommendation originally as proposed, which excluded the limited warehousing distribution, if that makes sense. So that's what we're saying today and asking that, yes, we understand that i-35 is a place where a lot of business, you know, is going to be and we expect that there will be, but at the same time I haven't seen any plans from the city regarding what their long-term use of the whole property is and connectivity between our place and fox hill. Are there any questions?

Mccracken: any questions? Thank you, justin. And so we'll have a three-minute concluding presentation from mr. cesaro. Peter?

Thank you, council members. When our property is annexed into the city of austin, we'll be responsible for complying with the design standards and setback requirements in the city of austin. We've agreed to all of the gr uses based on staff's recommendation and then also after zoning -- or with the zoning and planning recommendation, and the interest in this property has been limited warehouse and distribution, because it's basically right at the intersection of sh 45 and i-35, and we -- we've talked with the landowners about -- right around the zoning and platting commission hearing and just before the owner, cw heatherly has been in austin and actually on the planning commission a while ago, spoke with one of them before the city council meeting, and we still just ask the council to approve the zoning and platting commission recommendation for cs-mu-co. And I'm happy to answer any questions. We've been asked to build a fence on the side of our property for approval or put single-family homes on our property, but we think the zoning and platting commission recommendation with staff's comments are best suited to fulfill the city of austin goals.

Mccracken: thank you. So questions, comments for the applicant or the -- or anybody who testified? I'd consider a motion.

Cole: yes. I would like to most of approval for the zoning and platting commission recommendation. on first reading only? yes, on first reading only. First reading only.

This is first.

Yeah.

Mccracken: okay. Do I hear a second? So we have a motion by council member cole, seconded by council member shade, to approve the zoning and platting commission recommendation on first reading only and to close the public hearing. Any further comments? All those in favor say aye.

Aye.

Aye. No? The motion is approved on a vote of 6-0 with the mayor off it is dais.

Question.

Yes, council member leffingwell? if I could I'd like to proceed out of order. I don't think it will be about 30 seconds but there's a technical problem that has arisen with an item we passed earlier today. That is the postponement of 15 until next week, and the problem is the law department has said that will not give them an opportunity to provide adequate notice and post backup documents on-line as the agenda is posted tomorrow evening. So I would like to move to reconsider and amend item 15 to postpone it until march 12 instead of march 5. take these in order. First let's take the more to reconsider item 15. Motion by leffingwell, seconded by morrison. The motion to reconsider item 15, all in favor say aye.

Aye.

Aye. The -- no? Motion is approved, on a vote of 6-0 with the mayor off the dais so now I will consider, council member, a motion to postpone. move to postpone item 15 until march 12. motion to postpone until march 12 item 15 by council member leffingwell, seconded by council member morrison. All those in favor say aye.

Aye. No? The motion to postpone is approved on a vote of 6-0. So that takes us, greg, now to item no. 43.

Guernsey: that's correct. 43 is case c14, 2008-214 known as the tex-tar waterproofing property at 11600 north i-35 service road. This is a zoning change request from current zoning, which is commercial, Ir district zoning to general commercial services, conditional overlay or cs-co combining district zoning. The zoning and platting commission's recommendation was to recommend denial of conditional overlay or li-co combining district zoning and the applicant has amended the zoning case to cs-co staff also recommended denial of the li-co zoning. On january 21, that's when the zoning and platting commission considered this case, and the applicant amended the request from li-co to cs-co. They would like to prohibit all permitted and conditional uses in the general commercial services district, which is the cs zoning district, except for construction sales and services, which is the use that they are operating today. Plant nursery, limited warehouse distribution, food preparation uses, and then to allow all permitted and conditional uses allowed and the in the neighborhood or Ir zoning. That's the existing

zoning that exists on the property. Also to limit the number of vehicle trips to 2,000 trips per day, to establish a 25-foot building and parking setback from the residential properties to the west of the site, to limit the building heights to three stories or 40 feet in height and to screen the property from the adjacent residential uses. Back in may 23, 2008, code enforcement did issue a citation regarding the operation of this use, which is a construction sales and service use, and which is permitted -- and which is prohibited in the Ir district. The property is relatively small. Only about 12,000 square feet or 2.73 acres in size. It's located on the east -- or west side of ih-35 and backs up to residential uses. It has currently Ir zoning further to the north and to the south. And council recently in 2005 granted Ir-co zoning to the south. The neighborhood has been working with the applicant and the applicant has been working with the neighborhood to try to come to some resolution, and the neighborhood, although they have owner agreement to many of the different uses that are proposed, believe that the list is a little bit too great of the number of uses and have asked the owner of the property to further restrict the number of uses on the property. I think the length of the list of uses that the neighborhood would like to prohibit is generally keep them Ir and then take out some additional Ir uses, and perhaps also the plant nursery use. The property is developed at this time as a one-story buildin. Located on the property -- is located at the intersection of covington drive and the frontage road of ih-35. As I mentioned before, it's a one-story brick building. I believe it used to be used as a -- a service station. The current impervious cover on the property is 80% in the Ir district and the maximum impervious cover under cs zoning would be 95%. I think at this time I'll pause and katherine loayza is here on behalf of richard johnson, the owner. phil macada with aec is here also to represent the owner. At this time I'll pause, if you have any questions. Otherwise I'll turn it over to katherine. you'll have five minutes.

Good afternoon mayor pro tem mccracken and council members. First I'd like to change the exhibit because the aerial photo you've got is not reflective of the actual use and this is from 2006 and it's not the current use either but it's closer to what it actually looks like on-site. We are requesting a zoning change for the site, which is currently used by mr. Johnson for his business, tex-tar waterproofing, which is considered a construction sales and service use triggering a need for the rezoning from Ir to cs. The site as greg mentioned 27 acres, and is located at the intersection of east covington drive and ih-35 southbound service road. The property is between braker lane to the south and yeager lane to the north. It is on the west side of the freeway. The site was previously developed and used as a fill-up self-service gas station between 1987 and through 1996. It has been various uses since then and has been vacant for some time before johnson purchased it over a year ago. It is currently served by a septic system. The property is one of the many other commercial businesses along this frontage road. In fact, this stretch of the roadway has been a long history of small businesses supporting the construction industry. This land use map, which you see up there right now, shows all the existing uses that are considered construction sales and services that are highlighted with the dashed lines but are operating in zoning districts other than that required cs zoning district. There's one tract that is zoned cs to the north, and then that is in the middle of the block, and it's adjacent to a gr zoned property, and then the other existing cs zoning is to the south, which is used for a restaurant equipment sales. The fact of the matter is that this location along the highway frontage road has for a long time been used for small construction-related businesses or commercial uses, some of which have been in operation since the 1970s. These uses appear to have been and continue to be compatible with adjoining residential uses.

The staff recommendation not to support the cs zoning is their standard response based on the basic zoning principle that is described in the staff report, which states that cs users are generally incompatible with residential environments. However, the council can consider otherwise, that this request is compatible and that you can recognize that certain cs uses are compatible with residential uses. I believe that with the conditional overlay that we have proposed, this use is compatible with adjoining residential uses. The conditional overlay, which we have amended, will prohibit all cs uses except for the construction, sales and service use. So we are eliminating the other three uses which greg originally read off, and that we'll maintain all the other permitted use that are currently existing in the Ir zoning district that has been on this property for a considerable amount of time. The construction sales and service use is compatible with the residential uses adjacent to this site because of the nature of the johnson will describe in greater detail. It is such -- it is very limited traffic generated by the use. There is no traffic going through the neighborhood because of the use, access and egress is from the highway frontage road. There's no noise and lighting is minimal and operations are typically 00 in the evening. johnson uses the site as an office supporting the business and keeps incidental materials necessary for his work on the site. The use is screened from adjacent residential properties and will comply with all compatibility standards for screening, setbacks and lighting. Furthermore we have added a height restriction of 40 feet, which is the same as the existing Ir zoning and no building can be constructed over two stories or 30 feet within 50 feet of the adjoining residential property due to compatibility standards. All the existing improvements are set back 50 feet from the rear property line, and we propose to add a building and parking setback of 25 feet from the rear property line as a condition of the zoning. We have the support of all the residential property owners adjacent to the property, and other commercial owners along the freeway. We have been in discussion with the neighborhood present, wayne trabias who represents the walnut creek neighborhood and it is my understanding they are in support of the cs zoning but supporting different conditions than others. He would like to see 19 of the Ir uses prohibited with the cs zoning and also is requesting that we agree to a restrictive covenant which basically reiterates the compatibility and other code requirements. Because of this we feel that the restrictive covenant is unnecessary and adds an encumbrance on this very small site which is unusual considering that every any violation of the code can be dealt with by calling 311 and filing a complaint. As you heard earlier, this complaint process, regardless whether it's with or without merit is very effective in getting the attention of the property owner. In summary, we appreciate your support of this request in order to allow a small business owner who also lives in the neighborhood to continue to maintain his business, which has been in operation for the past year with no complaints from the adjacent property owners. The location along the highway frontage road is an appropriate location for construction sales and service use that allows access to remain away from the residential neighborhood and creates no negative impact on the community. please conclude, katherine.

Thank you very much for your support.

Mccracken: there you go. Thanks. So we have two speakers who have signed up for the -- yes? Council member leffingwell. just to make sure I'm clear on the cs zoning, it was my understanding that the only cs use you were requesting would be construction, material storage?

Construction sales and services that's correct. and then i thought I just heard you say that the

neighborhood was asking for removal of 19 cs uses.

Of 19 lr uses.

19 Lr uses. Sorry. Did you go through those?

Yes, I did. Frankly, with the size of this property, a lot -- as far as the market would go, very few of those would ever probably come into being, but some of them would be useful and relative to the value of the property, general retail sales, there would be, for example, restaurant limited, restaurant general, service station use, those kinds of uses are ones that have been there before, and then -- that is -- those uses are all being prohibited by the neighborhood with their conditional overlay, proposed to be limited. so the neighborhood has a list of uses that they want removed, and you disagree with some of those, and I think it would be productive to focus on those uses that you disagree on.

Okay. Well, we basically feel like the lr zoning has been there for a long time, and being that the site is so small, it's under 12,000 square feet, it's very unlikely that anything that -- even if you did propose to put in a restaurant limited, it would be almost prohibitive to be able to put a very large restaurant in there because the site is so small and you add water quality ponds, parking and -- do you don't want any of those uses?

We would prefer to leave it as is because it's been like that for decades.

Leffingwell: okay. Well, we'll -- we'll discuss it more later. so the first speaker for the will be julie berg.

My name is julie berg. I live in the community of wall news creek. I've lived there for 13 years now, and - with my children, and richard just recently moved in -- into the neighborhood himself. Basically what I'd like to say is we could have created this business working out of the house amongst a lot of other people in the community that I know that personally runs roofing companies, runs gutter companies, inside the sf zoning of the neighborhood. And richard decided to purchase a commercial building on the service road of a commercial location. So I'm -- I'm for it -- excuse me, I'm nervous. I'm not a good speaker here. I'd just like to ask the community to take into consideration for richard to continue running his business and under the construction sales services, and us to continue working with the community to make sure it stays in the condition that it does. thank you, julie. We didn't bite, right? I've been there myself. Our second remaining speaker for is richard johnson.

Hello, my name is richard. I'm the owner of tex-tar waterproofing, located at 11600 ih-35 north. I purchased this property 15 months ago and prior to purchasing the property i was concerned about, you know, the homeowners by the property. So I met with wayne tobias and kind of went over what i was going to, you know, use the property for and how i was going to use the property. I've pretty much stayed to my word to him on how the property would be used. The only thing that I did not do that we discussed was, you know, fencing the property. I've had no complaints from the homeowners. There's about nine -- I'd say nine people within the 500 feet of my business. [One moment, please, for]

that's pretty much all i have to say. Thank you.

Thank you, mr. onson. Councilmember cole. Hey, richard.

Cole: I have a quick question. You mentioned that you currently have Ir uses.

Yes, I do.

Cole: And you want to keep the Ir uses. If you're changing your zoning to something that might be higher and you're only asking for the one zoning change that will keep your business going the way it's been as it was discussed before I purchased the property -- because i made it very clear to wayne on how the property would be ran, what would be on the property, and it's been that way for about a year before I had the complaint from code enforcement. What prompted it I don't know. But removing something that existing to what I need to accommodate my yard there to me makes no sense. It's taken the value away from the property.

Cole: Thank you.

Any other questions?

McCracken: So we have -- no, thanks a lot. So we have one person signed up to speak in opposition. That is wayne tobias. And wayne, you have sandra tobias. Is that you, sandra? Okay, thanks. So wayne, you will have six minutes and at that point we will be finished with the public hearing and go into our live music.

My name is wayne, I'm representing the walnut creek neighborhood association. I've been doing this for 10 years. Been trying to get out of it, but anyway. With a little bit of help, i could go to the first -- oh, it's up there. Okay. What I wanted to say very quickly is we are here as a neighborhood. We have purposes of having zoning. We have purposes of having commercial uses. Real quickly, there are 38 uses allowed in Ir. The walnut creek neighborhood consistently goes and removes certain Ir items whenever we have the zoning change. On the screen before you there are the ones that we typically remove from an Ir zoning is commercial convenient services unless it's -- excuse me. Commercial convenient services allow 24 hour services. Food sales, one of the issues we have with that again is the type of service we don't need, grease right outside our homes, and service stations. Typically that brings in a lot of traffic that we don't -- would not normally have throughout our neighborhood. Okay. All right. Zoning commercial gr, this is not gr. We are talking Ir. Gr has 25 more uses. The worst of which at least from our point of view from the neighborhood is automotive sales. The designation for an office or other commercial use and services that seives the neighborhood and community needs the generally accepted for major traffic roadways, but it is not accepted for the kind of traffic that comes through our neighborhood. As it is our neighborhood tends to be a cut-through from i-35 and lamar. Again, it is an unusual -- in fact, the city council just did a three-reading approval on dpvment r zoning. A few lots just south of the lot we're talking about today, again, we removed items that were listed in the Ir, the service station and the other two that i mentioned before. Cs, the designation for a commercial and industrial

use of a service nature that has operating characteristics or traffic services requirements that are incompatible with residential environments. We are a residential environment. The applicant is asking for a cs zoning. With that said, the applicant is asking for cs zoning on a very small lot. He does have -- we do have some concerns about what he's doing and how he's running his business. This picture you see before you is a typical cs. In fact, this is in my neighborhood. It's been grandfathered into the neighborhood. It's been there forever, for a long time. It's an electronic company, electronic warehouse and business. And right next door you might have a person who has to be willing to sit or move in next door to a cs zoning business. The noise, the mess, the constant traffic of the trucks moving in and out. You never know what you end up with, but sometimes you end up with someone who could have, old cars and hobbies that put a lot of junk in their front yard. You also have people who the next door neighbors, slowly have to adapt to that same kind of noise. You never know what kind of mess you will end up with when you are next to cs zoning. That mess that starts out now or years from now slowly creeps into the neighborhood and that's our biggest concern. Now, what you're seeing is the corner lot that robert would like to put in here. As you can see, there's not a lot associated with it and his business is probably fairly tame for this location. You notice there's already a fence around it. It's against the service road and the closest parked to you and covington is the major turn. This is the entrance to our neighborhood. As I said there's been other businesses in here. Yes, there was a plant failed business. We almost thought it would be good for the neighborhood until he brought in planning goods and started moving things around with a front-end loader. Guess what? Cs, what they're asking for, plant business or plant sales or whatever it was, is not compatible when they have that kind of equipment. One of the other issues we had with the applicant is this suddenly became a storage area for his equipment. I guess it's also his sons and friends. Again, this is something that once it's cs I don't know that there's anything we can do about it, but he's considering it his property. You see the trash can there located just outside the fence. He says he has that taken care of. We did get him to put a barrier on his fence. It's not a wooden fence, but it's adequate to screen most of the material behind there. Something else -- by the way, our pictures from google street, these aren't things I drove by. I wasn't even aware until i came by, google street went by and caught him unloading there at his facility. Okay. That said, the neighborhood is willing to allow robert to move in. There are a few more items that we do want to include. What we are asking for in the prohibited uses that we're asking for actually are part of what is considered a wlo zoning, which is more appropriate for a neighborhood. The problem is wlo has a lot more items that will require a variance. And it's a lot easier for all concerned to go ahead and just put a prohibited uses on this property. Another thing that we're trying to do is get a restrictive covenant. The city does require the applicant to put a fence between the property and the homeowner, but it does not require a fence along the street. This is again the entrance and exit to our neighborhood. The first thing you see as you come in and the last thing you see when you leave would be this type of zoning. [Buzzer sounds] not to say that this applicant wouldn't keep his lot nice, neat, the way we saw it in the picture. Our concern is the next person to pick up the property. Hopefully robert's business will thrive and this will become too small for him. Now we have a cs zoning in this lot with someone who doesn't really care about the neighborhood. That's our concern. Our recommendation is if you feel it proper to allow the zoning, please allow -- include the prohibited uses that you have a copy of. Also, we would like to have the second reading held off until such time that we can dprea with a restrictive covenant that will ride with the property. This should protect the neighborhood. There are some things in the restrictive

covenant that are covered by the city, but then there's other issues that we really need to make sure the neighborhood is protected upon.

McCracken: Thank you. 40 and we have actually one more speaker who had signed up after the screen was first called up. We have -- it's time for our live music and proclamations, so we will resume the public hearing after the live music and proclamations. So at this point the council will recess until we conclude live music and proclamations.

McCracken: For tonight's live music and proclamations we're fortunate to have Randy Weeks join us. Randy is a singer song writer, country rock americana style that has taken him from his Minnesota hometown now to the live music capital of the world. He spent three decades in LA. How did you do that? While there he prepared himself to provide country rock and helped launch the movement as the legendary Lonesome Strangers. His songs have been covered by Lucinda Williams and have been in several movies. Randy's latest CD entitled Going My Way has been released tonight at celebrations of Antone's and Pangea. His song that's what I do is also featured in the Austin Convention and Visitors Bureau volume 8 CD. Please join me in welcoming our own here now in Austin Randy Weeks. [Applause]

Thank you. Thanks a lot, you guys. I had to say a little prayer before I got over here today. I said Lord, please don't let me sound like Bobby King. [Laughter] I'm going to do -- since I'm in the land of the lawmakers, I'm going to do a song about some law breakers. ??? ???? [applause]

McCracken: All right.

Thank you.

McCracken: Randy, we've got a proclamation to read now that it's been known that whereas the city of Austin, Texas is blessed with many creative musicians whose talent extends to virtually every musical genre and whereas our musical scene thrives because our residents support the musicians and whereas we're compelled to showcase and support our local artists now therefore will I, Wynn, the mayor of the city of Austin live music capital of the world do hereby proclaim November 26, 2009, as Randy Weeks Day in the live music capital of the world.

Thank you very much. [Applause]

McCracken: So we are here today now to celebrate entrepreneurship week and with Annie Freerson. So if you could, tell us a little bit -- why don't we use this. It's a lot easier. Tell us a little bit about entrepreneurship week and your involvement.

Sure. Thanks very much to you and council members. Austin is many things, home of live music and sports enthusiasts, but it's also the home of many successful entrepreneurs and two successful entrepreneurs from Austin, Brothers Roadway and Bertrand Sosa founded Rise three years ago. Rise stands for relationship and information series for entrepreneurs. It's for, by and about entrepreneurs and it starts this Monday. It's a four-day unconference of free sessions led by successful CEOs all over the

city of austin. We're kicking off with a keynote by roy spence on monday and closing with john mackey at the bob bullock. All the events are completely free and open to the public and you can register at riseaustin.org. Thank you.

McCracken: Thank you. So I will read a proclamation quickly. But first austin is the city of innovators and createters and it's fitting the city that's produced video game creators like richard gary yot and john mackey with whole foods and michael dell, that the entrepreneurial spirit is alive. So this sounds like a great week for next week. Be it known that whereas the city of austin with its convergence of the academic, public and private sectors provides an ideal environment in which entrepreneurs with flurry issue and whereas for the third year in a row, a free conference series for entrepreneurs, by entrepreneurs that allows people of all experience levels to connect and exchange ideas. And whereas more than 100 sessions will take place all over the city in areas where entrepreneurs naturally congregate from boardrooms to coffee shops with the goal of helping businesses grow, now therefore will wynn, the mayor of the city of austin, texas does here by proclaim the week of march 2nd through eighth, 2009 as entrepreneurship week in austin, texas. Thanks a lot, annie. [Applause] so next we have engineers week. And we're going to be joined BY rick McMaster and friends.

And friends.

McCracken: Julie herrod. How you doing? I'll be joining you all saturday night as well. I'm looking forward to that. So I guess rick if you could start off and tell us a little bit about engineers week.

Sure. Happy to do that. And locally we started calling it discover engineering because the week confuses people. We've been doing this for over 15 years now. And every year we see literally tens of thousands of students with hundreds of our volunteers locally with companies that represent both small numbers of employees and large numbers of employees. I have a list. I guess I probably shouldn't go through it in terms of everybody that's represented. Last year we saw over 22,000 students. We went to over 80 schools. A lot of those are aisd schools, but we're in the surrounding school districts as well. We had our first discover engineering day at the austin children's museum as well. And we had over a thousand people turn out for that. So we're still looking for volunteers. You don't have to be an engineer, just willing to be enthusiastic about math and science and taking that enthusiasm and spinning it on to the kids. We did bring a t-shirt for you. What we'd like to do is wear this any time you're out running and people sthop stop you and say what's that all about, you can say go to this and sign up to be a volunteer.

McCracken: All right. This worked out pretty well for me. [Laughter] well, thanks, rick. I'm going to read the proclamation now and then I'll take my t-shirt. Be it known that whereas austin industries based in engineering and technologies feed our local economy and retain highly educated workers in our area because engineers play such an important role in our society, we need to ensure that children discover careers in science, technology, engineering and mathematics related fields and whereas volunteers from local companies, organizations and institutions begin making classroom visits during engineers week and continue through june providing hands on activities and discussions about the importance of engineers and career opportunities available. And whereas we support these efforts to inspire more

students to pursue careers, designing our future and improving our world. Now therefore will wynn, the mayor of the city of austin, texas does here by -- our whole economy is being found odd engineers. We gratefully proclaim the spring of 2009 as engineers week and discover engineering 2009 here in austin, texas. Thanks a lot. [Applause]

McCracken: So now, councilmember cole will lead us in the grateful celebration of our city auditor, steve morgan's career. So sheryl, here you go.

Cole: Thank you. It is with great pleasure that I get to present the city auditor with his distinguished service award. He has been with the city of austin for 24 years of service. And recently received the 2008 employer of the year award from the austin chapter of the institute of internal auditors. And he was the 2009 recipient of the institute of internal auditors, victor brink memorial award, and thrb attending a conference in johannesburg, south africa. Can you taking us? You're taking your wife? That's lovely. With that I'll read the distinguished service award. For 24 years of outstanding service in leadership roles in the city auditor's office where he made significant contributions to the city of austin in our entire community, steven morgan is deserving of public acclaim and recognition as performance audit manager, assistant city auditor, deputy city auditor and finally as city auditor he helped create and sustain performance auditing, integrity services, including investigations and ongoing audit initiatives in utility, police and revenue activities. These contributions have made the austin city auditor's office one of the best audit offices in the country and have directly benefitted our community by strengthening accountability, transparency and effectiveness of city governments. This certificate is presented with our admiration and appreciation morgan's distinguished service to the city of austin on this 26th day of february in the year 2009. The city council of austin, mayor will wynn. [Applause] and I also have -- and i talked to a few people in the auditor's office and we now that it's steve morgan's way. Thank you, steve, for your service. Would you like to make a comment?

I had a whole page of comments, but I think I'll shorten them up a little bit. One thing I do notice, though, and I have to say this, is that it looks like auditors are making a little more noise than the engineers were. [Laughter] in terms of remarks I want to just recognize that I've really enjoyed my career here in the city of austin. It's really the place that i intend to live as a citizen, and maybe some day I'll even get my three minutes with the council. But I do really treasure it and I did want to recognize that my staff is fantastic and does a wonderful job and will continue to do a wonderful job long after time wrong. I want to recognize taylor dudley who is taking over this weekend as acting city auditor. Taylor has also said -- promises to get no sleep for the rest of the time he's working for the city. Just like me. Finally I wanted to recognize my family, and debra morgan, my wife of 34 years, my two sons, garrett and frank, my sister-in-law anita paine and my brother kenneth are all here tonight. I just want to also say it's really been a pleasure working for the -- working for councilmember cole on the audit committee and also working for the entire council. It's been wonderful. Thank you. [Applause]

McCracken: By the way, he's wearing a tie with guitars on it. Very austin.

McCracken: We'll call back to order this meeting of the austin city council. We're going to lose two of our members, councilmembers leffingwell and martinez, 20, so what we'll need to do is move on to -- I know

we have a postponement and some of our 00 public hearings that we can move through right now because there are no speakers signed up for any of those. And then once they return -- although we could hear mr. mancada first. Why don't you do that because that will take three minutes. We will return to item number 43.

I won't take up all of the time that I'm allotted. I'll be brief. I want to clarify that the site is 2.70 acres. The only way this development could have a more intense use than what we're requesting is if there was an adjunction of the adjacent property. My client doesn't have those intentions. Tobias, the representative for the neighborhood, does not speak for the whole neighborhood because if that was the case, I don't believe we would have had letters of support from the adjacent, abutting property owner. We are not submitting any improvements other than cosmetic to make the location more appealing. This work has not been done. Johnson, if he does not get the zoning that he needs to operate his business, will be forced to relocate. In closing the only thing we're asking for under the CS zoning is construction sales and service. And we have no intention or desire for any other use. If you have any questions, I'm available. Thank you.

McCracken: Thank you. Now we'll hear from Luisa for the three-minute conclusion. Again, the issue that Tobias raised was -- raised of what possibly could happen was with the other CS uses. But with this particular use it is very minimal and the fact that -- what we're trying to do is keep the zoning case simple, which is just keep the LR as it is and just add this one use to it. He's suggesting the issue of wanting to put WLO uses, frankly WLO uses really don't make sense in this roadway. I mean, the types of uses that WLO allows are electronic prototype assembly, electronic testing, food preparation, printing and publishing, custom manufacturing, limited warehousing, communication services and so on. None of these uses really fit in with this location. He's saying that the fence should be along the frontage road of the freeway, well, there's no other commercial property along the commercial freeway that would have had a fence in front of their business, and that would be a safety issue also that we wouldn't want to screen the business from the front -- from the freeway. His restrictive covenant asks for screening of internal materials, and the wording of this restrictive covenant that he's proposing is so broad that any one at any time could say that Johnson was in violation of the restrictive covenant and we frankly don't want to go there. His concerns that he raises are I think based upon a fear of what may happen; however, the reality of it is that this property is so small that you could not possibly have a greater impact to the neighborhood and that it is really the most compatible commercial use you could have next to single-family. The picture they've shown of Johnson having deliveries to the site was a one-time event when he first purchased the property. He was getting his original materials delivered. He does not have any deliveries made to this property. Johnson picks up the materials himself. The other issue raised about the trash dumpster, that will be screened, as I said before. We will comply with compatibility standards. So basically I think that it is unfair to eliminate a bunch of LR uses that are already existing there. Johnson bought this property, like you said, as an LR zoned property. And if he was to leave this property to give it kind of a hodgepodge of uses that are in this WLO category just does not make sense considering the site size and that you're basically putting down a bunch of uses that would never be used. Thank you.

McCracken: Thank you. So that concludes all of the speakers for this public hearing, and so --

councilmember martinez.

Martinez: I wanted to make some comments. We have to make an important conference phone call for about 15 minutes, but i certainly do appreciate the efforts of the applicant. I think that the efforts have been genuine and real. When I look through the information. tobias I want to talk to you a little bit about your e-mail I sent. I don't need to ask you any questions, I'm just going to make statements. First of all, you know, i certainly am sympathetic to the neighbors concerns and the neighborhood's concerns, but it's a little bit difficult to remain sympathetic. And I'm not sure you intended it this way, but this is how it reads to me and many of us up here on the dais when we look at your e-mail. In relation to food preparation you write in your e-mail, I think it would be nice if the preparation was bread or something similar, but food preparation businesses that are springing up in this area are tamale and taco makers, a little too greasy around the residents. I think you could have used a much better choice of words. And then you stood up here at the podium and said it again. And then you said, we're johnson to move into the neighborhood. This is a zoning decision. It's not the neighborhood's decision to allow anyone to move into or out of that neighborhood.

McCracken: Okay. Councilmember cole.

Cole: I'm prepared to make a motion.

McCracken: Okay.

Cole: I move that we adopt the cs-co zoning with construction sales and services as the only cs use, and allow all Ir uses included.

McCracken: Is that the zoning and platting commission recommendation?

Cole: No, it's not.

McCracken: Okay. So we have a motion from councilmember cole and to close the public hearing.

Cole: To close the public hearing.

McCracken: I will second that motion. Do we have -- yes, mr. guernsey?

I just want a clarification. (Indiscernible) also indicated that her client is agreeable to a 2,000 trip limit, establishing a 25-foot building and parking set back from the residential property to the west, limiting building heights to 40 feet or three stories and providing screening from the residential uses. I'm pretty sure that's still part of what she's offering. You're nodding your head yes.

Cole: Yes. That is included in the motion.

McCracken: We have a motion and a second. First reading to approve the motion from councilmember

cole, which I've seconded. Any further comments? Councilmember leffingwell.

Leffingwell: I assume that's all -- the co, that's all of it?

That's my understanding. The co would be basically cs would include the construction sales and service use, which is the use in question. All other Ir uses then the additional conditions I just listed.

Leffingwell: Okay. How about the buffer in the back?

That would include the 25-foot building and parking set back from the west property line and the screening along that same property line just to residential uses.

McCracken: Any further questions or comments? All in favor say aye? No? Motion passes on a vote of five to nothing with councilmember martinez and the mayor off the dais. So we will now move on to item number -- we have some 00 here's. Why don't we get those -- i don't think we have any speakers for any of the public hearings, right?

That's correct.

McCracken: Let's do those, then.

Item 51 is to conduct a public hearing and amend an ordinance, chapter 25-10 to allow sidewalk signs and commercial areas of the city. This is a watershed protection and development review item and staff is requesting a postponement of this item for your march 12th agenda. And we could offer this as a consent postponement. That's item number 51.

McCracken: So we have a motion from councilmember morrison, seconded by councilmember cole to postpone. All in favor say aye? The motion is approved on a vote of four-nothing with the mayor, councilmember martinez and councilmember leffingwell off the dais. So I don't believe still we have any speakers signed up for the other public hearings. Let's go ahead and take care of those.

Let me introduce regina collier, our annexation planner, because these are annexation items and we need to go through each one of those individually. I'll introduce her for those three items.

Good evening, mayor pro tem and council. My name is virginia collier from the neighborhood planning and zoning department. This is the first of two public hearings for the following set of three full purpose annexation areas. Items number 47 through 49. The second hearing for each area is scheduled for next thursday, march 5th, here at 6:00 p.m. Council will not be taking action on these items at either of these hearings. An ordinance readings are tentatively scheduled for APRIL 2nd. Number 47, the barkley drive annexation area includes approximately 110th of an area and is at the northernmost extent of barclay drive it is approximately 400 feet north of the intrbs of barclay drive and wild briar pass. This is currently in the city's limited purpose jurisdiction and includes a portion of right-of-way that has been included in the most recent occurring in december 2008. This area is adjacent to the city's full purpose jurisdiction

on all four side and upon annexation the city will provide full municipal services to this area as described in the service plan. Copies of which are available this evening. This concludes my staff preparation for item number freive.

McCracken: Thank you. So do we have any -- we have nobody signed up to speak. I will consider a motion. This would be to close the public hearing.

Second.

McCracken: On item 47 we have a motion and a second to close the public hearing. All in favor? Motion is approved on a vote of four-nothing with the mayor, councilmember councilmember martinez and councilmember leffingwell off the dais. We'll go to public hearing number 48.

Okay. Number 48 is the international residence apartments annexation area. This includes almost four acres and is located in southern williamson county at the northeast corner of the intersection of copper creek drive and pond woods road. This area is currently in and includes the balance of a multi-family property that was annex understand december 2008. This area is adjacent to the city's full purpose jurisdiction on the north and west sides and annexation of this area will help to ensure appropriate emergency dispatch and increase efficiency in the delivery of public safety services to the area. If copies of the service plan are available this evening and I would be happy to answer any questions you have on item 48.

McCracken: Thank you. There is nobody signed up to speak, so I'll consider a motion to close the public hearing on item number 48.

Cole: So move.

McCracken: We have a motion from councilmember cole, seconded by councilmember morrison to close the public hearing. All in favor? Item 48 is approved. So now a hearing for item number 49.

Number 49 is the south i-35 annexation area, which includes approximately 58 acres located in southern travis county east of i-35 approximately one half mile south of the intersection of i-35 and onion creek parkway. This area is currently in and has city's full purpose annexation on the west side. The property owner has requested the annexation to facilitate zoning and annexation of this site. Upon full purpose annexation the city will provide services in the area as described in the service plan, copies of which are available out front this evening. This concludes my presentation.

McCracken: Thanks thangz. We once again have no one signed up to speak on item 49. I will very a motion to close the public hearing. Motion by councilmember cole, seconded by councilmember morrison. All in favor say aye? The motion is approved on a vote of 4-nothing with the mayor, councilmember leffingwell and councilmember martinez off the dais. Virginia, do you have item 50 or not? Okay. Have a goodnight. So we will now we have four speakers on item 50, but greg, do we have

zoning -- we have 44 --

number 44 is the only remaining zoning item. We have an ordinance prepared and there's probably a desire by applicant to go for all three readings this evening. However, it will take five councilmembers to consider this item. Perhaps you could take up a 00 public hearing, which is only a resolution, i think. That would take only four affirmative votes. It's item number 50, and it has to do with an alcoholic beverage waiver.

McCracken: Let's do that. Bf we do that, even after laura reminded me, but we have a boy scout troop here, so if y'all could stand up and if maybe one of you or one of the troop leaders to come and tell us about the troop. Do you want to do that? Does that mean we have to tuck in our shirts also?

McCracken: What's your name?

Drew.

McCracken: And where is your scout troop from, drew?

Austin.

McCracken: What part of austin?

First united methodist church.

McCracken: Well, scouts, thanks a lot for coming this evening. Everybody let's give them a hand. [Applause] good start on the communications merit badge, drew. You did well. Let's go to move on to item 50.

Mayor pro tem, I see councilmember leffingwell is back. And I just saw councilmember martinez is back.

McCracken: We have four speakers. Let's go item 50 and then we'll finish up.

Let me read it into the record while watershed staff is coming out to address it, I'll introduce it. Item number 50 is to conduct a public hearing and consider I believe a resolution to approve a request by the martex bbq, llc, the property owner at 9207 north lamar boulevard for a waiver from the distance requirement of city code section 4-#-4-a which requires the minimum of 300 feet tbeen between a business that sells alcoholic beverages and a public school. And I'll turn it over to watershed staff to address the report on the item.

Good evening, my name is kathy hall with watershed development protection and review. I have a copy of darren cain, staff representative, of the presentation he will make this morning. Right now I don't know where he is. I'm assuming there's a traffic problem. I've just looked for him in the back and he's not back there. I can certainly give you the facts that he wrote up in the presentation and then hopefully

he will be here shortly to address any questions. The owner of the restaurant proposes to sell alcoholic beverages at 9207 north lamar boulevard within 175 feet of the first door of barrington elementary school. Measurements murder from the door of the business to the door of the school along the street. The owner requests a waiver of the prohibition under section 495, which requires 300 feet from a school for the sale of alcohol. The measurement is 175 distance feet from door to door. Of course, you can't see the -- all the photos because he -- I don't have the presentation handy. Actually, the school has portable buildings and the nearest point is from one of the portable buildings, thus still part of the school. City council may consider the waiver of the 300-foot distance requirement if it is determined that the enforcement in a particular instance is not in the best interest of the public, constitutes wastes or inefficient use of land or other resources, creates undue hardship on the applicant, does not serve its intended purpose, is not effective or necessary or for any other reason the council after consideration of the health, safety and welfare of the public and the equities of situation determine it is in the best interest of the community. Based on subsection a and b of the code, and letters of opposition, I believe they're in your backup, received from the school district objecting to the waiver request, staff recommends denial of the waiver. And I believe there are some people signed up to speak tonight also.

McCracken: Yes. We have four people signed up wishing to speak. The first speaker would be jim bennett.

Thank you.

Mayor pro tem, councilmembers, I'm jim bennett, I'm here tonight on behalf of the request for this alcoholic beverages waiver. I would point out to the council if you look at the site plan, the school property is surrounded with a fence and if you measure from our door to where you can first get into the school site it's actually 508 feet to the closest point of entry, if you will. The taco gawd la hair ra is a family restaurant. We'll show you some pictures of our buildings and clientele. The -- they have been in business there for about a year and a half now. They have an additional restaurant on 620 where they do have an alcoholic beverage license. And from a police activity standpoint, that facility has no fractions and tabc has no infractions on that location. We have had none here obviously because we have no alcoholic beverage at this location. And as you can see from the photographs, the pictures of the interior of the restaurant, it is a full fledged restaurant serving breakfast, lunch and dinner. And as is quite customary with mexican food, you do have beer or margarita with your food. We're not proposing any late hours restaurant or anything, late hours permit. It is just a restaurant that's trying to compete with the other neighboring restaurants and to have alcoholic beverages. As she indicated to you, the aisd's policy, as council knows, is to not support any request for waivers. That was change bd a year or two ago where they decide that had they just couldn't support any of them. And we do have some neighbors that are here tonight to speak in favor of it if the council wishes. The owner is here to pe to you should you have any questions from them about their operation and what their intents are. But basically it's just to allow the alcoholic beverage as an accessory to the restaurant. I'll be available should you have any questions.

Thank you. Sorry my english is poor. I prefer spanish, but if you don't have somebody that speaks spanish, I can speak english. I can, that's fine. I own the business. We try to serve food -- we have

breakfast, lunch and dinner. We try to give better service, better food. You know, we don't want like a bar or nothing like a bar. We try to be nice with them because when you go out and find a restaurant, you try to find a good restaurant to eat with the family, you know, with the kids. That's what we want. You know, like for drunk people or something. In the building we have like a lot of windows where we can see outside all the people who are out, they can see ours inside. I think for me it's a good idea because we have from the police department customers police cherries all the time. In the morning they go eat some breakfast. In the lunch they go eat lunch over there. So I think it's good because they are eating, but they are vigilant or something. And then it's good for ours. So I don't know if you can try to give us an opportunity to serve the beer. We don't want to just put a bar. We don't want like nothing bad for the restaurant. We still want the same where we are right now. We only just want -- because some families, some people go to it and they say you don't have a beer or something? And we say no, we don't have it. And you know, they want just to drink one beer or two beers with their food and they leave. They just want only. And like I know the rules because I have the other restaurant and we have beer over there. It's no violations over there. We try -- like if we saw like one drunk people enter, we don't serve beer because -- the police, the last building or the last restaurant or the last whatever, they go over there, so we don't want to take our license. So we are just very, very take care of that. Like if we saw, you know, bad peoples, we don't sell beers. [Buzzer sounds] we try to just take care. I don't know if you can consider us good for ours. If you have any questions or something, I can --

McCracken: Thank you very much. Our next speaker is danielle bobadia.

My name is daniel. I just want to be very brief. My brother already said everything. We just like to have the beer license because most of the people that go over there, it's families and couples that I talking to each other and be -- you know, having a good time. We're not pretending to have any bar or any nightclub. We know the neighborhood for a long time. We've been residents in that neighborhood since 1992. And we grew up there. So we also like to keep all the neighborhood in a good standing. So I think that's pretty much it.

McCracken: Thank you very much. And our final speaker is maria martinez.

I'm sorry. She don't speak nothing english. And we didn't read the last paragraph of the program, and that paragraph say that we need an interpreter 24 hours before. So I don't know if she can say something in spanish or not. It's your decision.

McCracken: That's fine.

(Speaking spanish) clear ((speaking spanish)

McCracken: Thank you.

Martinez: Mayor pro martinez is a neighbor. She lives adjacent -- on a street adjacent to the restaurant. She enjoys the atmosphere, the service. She goes there with her family and her friends frequently, when her family comes from mexico, they gather at the restaurant and enjoy meals together, and she is

asking that we consider the waiver request and grant them the ability to have alcohol sales. She likes tacos and tamales next to her house.

McCracken: With that in mind that is our final speaker on item number 50. So I will consider a motion to close the public hearing and either approve or deny the request. So we have a motion from councilmember martinez, seconded by councilmember leffingwell to close the public hearing and approve the request by martex, bbq, llc. Any further comments, questions?

[Inaudible - no mic].

Shade: I'm going to support this, but I am curious just for future knowledge. Is there any way to remove the waiver if there were problems? I guess how does that work? Just revoke the license if there's problems? I'm just curious for future reference. This is the first case like this that I've --

councilmember, I believe if we're not in compliance with the tabc regs, then they will certainly pull the license. I think also additionally if it gets to be a facility where the combined team has to go and investigate it and they have jurisdiction over, if you would, improprieties, then I think they would move to revoke the license upon the renewal. The resolution is usually done by council. It's specific to this particular user, which is the restaurant, so if it changed hands, any subsequent user that may want to come in would have to come back before you for reapproval.

Shade: Right. But if some of the kinds of problems that we've heard others describe -- again, I'm not anticipating this, but I'd like to hear staff's response. Can there be a motion to remove the waiver? Once it granted? And if so, what is the process for that? Not tabc, but we're the on -- the council is granting a waiver, so I assume the council could revoke a waiver. I'm not talking about a change in ownership.

Councilmember, I'm not if you can do that once you grant the waiver for this particular user it's good. You may want to refer to council on it. I'm not aware of the knowledge where you would come in and revoke a waiver.

Shade: Anybody have an opinion on this? Staff might be able to answer that if --

not to my knowledge could it be revoked by the city of austin. I believe -- I agree with mr. bennett. To my knowledge the tabc would monitor compliance of that license and certainly not the city of austin.

McCracken: Councilmember leffingwell.

Leffingwell: I could also suggest there are probably other remedies that are available to the city of austin. For example, we just earlier had a case where a restaurant didn't meet the requirements to be a restaurant, and therefore was in the process of being red tagged, although they hadn't already done that. So that's one solution, if they become something else besides a place that primarily sells food and also sells a few beers, then there are remedies available for that. And as far as noise and other things,

of course we know we also have remedies for that kind of violation.

Certainly for voice and use. As far as -- for noise and use. As far as the percentage of alcohol versus food sales, i believe tabc monitors that as well.

McCracken: So we have a motion and a second to close the public hearing and approve the resolution approving the request by martex bbq, llc. Any further comments? All in favor say aye? No? The motion is approved on a vote of six-zero with the mayor off the dais.

Thank you.

McCracken: So that 00 public hearings. We have one more zoning case left, which is number 44.

That's correct, mayor pro tem and council. Greg guernsey with neighborhood planning and zoning neighborhood. Department. Earlier you took action on item 48 and I don't think i was clear enough to make sure that it was understood that that was only first reading only. I wanted to make sure that the clerk also had that for the record. Item number 44 is case c-14-2008-0248. Known as the north loop pub for the property at 100 east neck loop boulevard. This is a zoning change request from community commercial conditional overlay neighborhood planning combining district zoning to commercial liquor sales neighborhood plan combining district zoning. The planning commission's recommendation was to grant cs-1-co-np zoning, which is commercial liquor sales, conditional overlay, especially neighborhood plan with a trip limitation of 2,000 trips per day. There was additional uses that the applicant has agreed to prohibit this property. I've been speaking to vince hebanker, who is representing the owner this evening. And he's also agreed that with the cs 1 zoning that there be a conditional overlay that would specify that there be no liquor sales. So you couldn't sell packaged liquor, beer and wine solely from this establishment. That there would be no outdoor entertainment uses on this property. That there would be no adult oriented businesses associated here. And that they would also agree that there would be no outdoor sound amplification permit. You may recall this is actually some additional additions to another application earlier this afternoon, and they are also are agreeable to those. The property itself is located in the north loop neighborhood, and the neighborhood plan for this area does recognize as one of its goals to encourage a diversity of neighborhood oriented businesses, encourage a balance and a diverse mix of independently owned and neighborhood businesses, including green grocers, restaurants, coffee shops, bakeries, pubs, hardware stores. The property is adjacent to the north to existing single-family. Further to the south there's some retail uses. To the east there's the pizza pub restaurant nearby. And to the west is a two-story apartments. And it is located along 53rd street not too far from avenue f. Further to the southeast is -- is the state cemetery properties. It is recommended by the staff and the commission and I understand it's supported also I think by the neighborhood association and north loop and I think at this time I'll pause. It's a very small tract of land within an existing building. It's only about .0176 acres. And so it is extremely small tract of land, about 7 -- about 800 square feet total. We are ready for third reading, and if those additional uses that I read into the record are wished to be added we could still consider this on all three readings.

McCracken: Thank you, mr. guernsey. So do we have an agent representing --

we do. huebingeer is here to speak on behalf of the applicant.

McCracken: Okay. You will have five minutes.

Thank you. I'm representing the owner, sole proprietor, probably the chief bottle washer in this place. Here's the location basically in this -- in this haven't. She came to us asking about cs-1 eight or nine months ago. I asked her to do a couple of things first and foremost. He will it's a small location. It's just that small portion, one-third of that commercial retail building she's got listed for 770 square feet. But I asked her to go back and talk to the neighborhood association before she engaged us and went further in the cs-1. We know how difficult these things are. And she went and she made lots of contacts. She explained her business plan. And talked to them quite a bit. Showed the goals and objectives. And then she also received numerous support letter from that group. There's people that she met that are here tonight that are through that, not just friends and supporters of hers, but she basically went out and looked at the -- did the research for the neighborhood plan as well. I'm going to talk a little bit about that. This is the existing zoning map on north loop, all that red area is commercial. Blue is apartments, multi-family and the purple across the street is the cemetery. This is the future land use map right out of the north loop neighborhood plan. Very similar. Mixed use commercial. All the way through there you can see what the pub location is as well. What the neighborhood plan describes the character is funky and eclectic. It talks about the neighborhood being in transition basically in change. And the most important part and -- the most important part and feature of that neighborhood is this -- of the neighborhood plan is the neighborhood plan believes it will occur and needs a visionary blueprint and guide what form that change will make. Greg kind of mentioned about the pub, the neighborhood commercial plan shows, delineates, specifies this land use as an acceptable type. You see it there listed and greg has explained it as well. Doesn't guidelines within the neighborhood talk about close to the street inviting pedestrian environment, parking in rear, trees, awnings, umbrellas, planters, sidewalks, very similar to what you're looking at here from the design guideline. Here's what her hope and rendering of the exterior would be on that little keep the windows, open, is visible, inviting to the outside, close to the street. An interior look of what she's trying to do, which is a small pub, a tavern, a neighborhood type facility. And the land use goals, there's only five of them 2 again it goes into pub. Now, it specifies this use twice. I wanted to make sure that this wasn't a mistake, but when it specifies it twice it really is talking about what people have put hundreds of hours into, volunteers and association, approve bid a planning commission and city council in may of 2002. The neighborhood plan is there for use and a tool. It's a vision and guideline. This is what pam is. Pam is a small mom and pop. She's an owner proprietor. Basically wanting to try to do this for a long time. It makes sense as the neighborhood plan describes this, and we should encourage this as a small business, ngr, in commercial, next to cs along the corridor where the neighborhood plan encouraged her to try to reach her goals and objectives as a small business owner. One of the things for the record that we did do as greg talked about is we agreed to a conditional overlay on this property to make sure that it met some of the issues that the neighborhood group had with liquor sales and other uses. So that's been done. And also one of the things that we didn't mention, but what I will, it will follow up with the conditional use site plan. That goes to planning commission and talks about parking. We're going to restrict hours of operations. We're going to restrict music outside. I

think she's going to have a little jukebox or something like that. I think that's about it. If you have any questions let me know. There's other people here in support of as well as some of the people that I believe live down the street about 10 or 11 lots down that we've talked to before. So thank you for your time.

McCracken: Thank you. Our next speaker will be john jackson.

Thank you, mayor pro tem. I'll conserve your time. When pam first -- [buzzer sounds] that's conservation.

McCracken: You did really well, john. [Laughter]

when I first talked to pam about this, I said the last thing we need is another loud pub or bar around the neighborhood. She said that's not what I'm trying to do. I own a software company at guadalupe and el ray, so I'm in the neighborhood. I'll love for a quiet place to do the geek thing, get a beer and have some wi-fi and that's what she's looking to do. It's also an owner operated, not a chain thing. I think that's important in trying to keep austin as unique as it is. I grew up in dallas. It's nothing like this and i don't want to turn into a bunch of big box and chains and ben begans on every corner. It's a walking destination and I think it fits the culture. So I just ask you guys to consider approving this so that we can keep austin weird. I'll let pam decide how weird she wants to be. But I think she'll fit in.

McCracken: Thank you. Our next speaker is pam prichard.

For the last 15 months i have rented this space and i have tried to figure out if indeed it is the right space for me. My pub plan is designed specifically so that one person could operate it. I do intend to employ a couple of people part time as my business grows. But it's basically my life's work here. I've been to neighborhood meetings and I've presented and I've been to a total of five meetings, and I've presented three times. I like this neighborhood. As time has gone on, I felt more and more that it's a good fit for me. And my target customer is the 30 to 60-year-old in the neighborhood. There's presently no space for them to have a drink. There's more of a youth group there. But that's fine. I like both. So that's my purpose. I want to run a safe, clean establishment. And I feel like I can do that. I hope you will approve my business.

I came here to support my former classmate, one time neighbor and friend of 35 years, pam prichard. I know a lot about pam. This plan that she put together was about five years in the making. That's when I first became her sounding board, so i feel very vested with her success. She traveled all over the united states and to europe to interview successes in this business to get the best possible advice. She mentored with treppal groups, with master mind groups. She spent many, many hours in counsel with her financial advisors and she completely prepared for this move before she decided to make it. When she had formulated her plan and got it completely together, we went out looking for a neighborhood for her. We traveled all over austin and we saw a lot of kind of working places, but when we got into north loop and she entered the business, this little building, it was like this collective universal ah because pam is down home. It was just like growing up in the '70's where we came from. She had some very

specific ideas about what she wanted in a neighborhood. She wanted some diversity and she wanted business and she wanted residential, but mostly she wanted no franchise. And she found her home there. And she is invested so much of herself into this property because she believes so strongly in the north loop area. She doesn't do anything halfway. You will find her facade pleasing. You will find her floors clean and mostly you will find her plumbing in good condition because this is primary to pam. So I just want you to give this every consideration and --

McCracken: Doesn't sound like many pubs I've been to before.

She does. She will speak to every owner if she doesn't find it in good condition she will make sure they know about it. But I would like for you to consider this seriously because if anyone is going to be an asset to that neighborhood, it's pam prichard. Thank you.

McCracken: Our next speaker is scott johnson. The final speaker who signed up in favor of the motion, the applicant is janette needman. -- Freedman. Clear clear

I know there have been some issues regarding safety. I know there are a few people who have opposed having a bar or actually -- pam, she's opening a neighborhood pub where she does want to have a clientele of older customers where one can feel safe and within walking distance for the neighborhood to come in and just sit down and relax and have, you know, a friendly chat with one of the neighbors or discuss business, have a quiet atmosphere. I know the parlor would be located only a few doors down and they do have music and cater to a different generation and population. And pam wants to cater to another population. And hopefully you will all consider what she wants to do and I as a business owner would feel pam would be a great asset to this neighborhood. Thank you.

McCracken: Thank you, janette. So that concludes the speakers who have signed up in favor of the applicant. We'll now hear from the three speakers who are against the applicant. The first is augustine garza. You have enough of that. I don't know if these people are familiar with being there during some of the celebrations like the one that's just coming up, south by southwest. You get bands from all over the city roaming the streets of austin looking for places to put their little bands and make a show there. Those things go on up until 10 or 11:00 at night. Now, they cannot guarantee that the people that go to that place to buy liquor will buy their liquor and move away. A lot of them will stay there since their group -- there will be group gathering there because of the shows that are going on and there's not only those, but there's also constantly, like every maybe five or six weeks there's some kind of operation going on. You will not guarantee that people from one side of the street is not going to walk across to the other side of the street and consume hard liquor there. It already draws a vast kind of people gathering in there. At any given time if you look at the map up there wherever it was in the alleys between avenue g and avenue f, at any time you go through the alley there and you see somebody sitting behind somebody's shade trees or gaining with a bottle of wine or a bottle of beer and some of them you will barely be finding people sleeping there in the evenings or at night. Some will wake up there the next morning. I don't think allowing more liquor in this such a small space is going to help. [Buzzer sounds] I guess my time is up. But anyway, I strongly recommend a denial of change of zoning to cs-1. What pam wants to do is nice and I could see it going over in a completely rebuilt area right there, but it's not

what's there. And what's there is behind the little a is an apartment complex and then houses or rentals all the way down with people living here. One of the problems in this area is going to be parking. The areas coincide -- at 00 everything is open except for the sign shop. They're wanting to use this parking from this apartment complex because it's owned by timerman also and timerman doesn't care. And these people who park here really have no idea. Parking is very important and will be a problem. And safety, on the -- [buzzer sounds] two murders, police raid on a crack house. There's no need for cs-1 zoning and the north loop neighborhood association voted not to support it. They voted against it. Just to sum up, I like the entrepreneurial spirit of pam. I think it's great. I think it's not going to fit here because the kids rule this area. And everything there is -- it just doesn't seem like it would fit. And if it goes away and there's a cs-1 zoning there, what do we do now? I appreciate the change to keep the on-site consumption of all that. It's all very, very good, but it's a huge jump of going to cs-1 seems a little much when there's stuff there. And I've learned my lesson, the reason I'm speaking up mainly is good intentions are great, like a 24 hour coffee shop would be great. Coffee is a disaster. I see this and I think it could go the other way. I'm just -- thank you for your time. I'm open for questions. And I do want to commend pam. I think she has a good idea and she wants to do this, but I think it's a bad spot.

McCracken: Thank you. And our final speaker for the public hearing is aaron sieler.

The planning commission wasn't unanimous, it was 6-3 and their main issue was parking, and jim brought it up a little bit, but they're planning on sharing parking with an apartment complex that's owned by the same man that owns this spovment and I'm pretty sure that these people have no idea that this is about to happen to them. As well as they've also are claiming that the businesses around them would be closed when she's open so that they could use those parking spots. And they pretty much share the same hours. Again, with the neighborhood plan that everyone keeps referring to, yes, it says garcia said, we already have two bars. One of them being, like jim said, 20 feet away with no cs-1 zoning necessary. I have a whole laundry list of police calls that I can show you as far as crime is concerned. Seven of them have to do with public intoxication. There's two d.w.i.'s. There was a murder literally 30 feet away from the proposed site just a year ago. So crime is an issue. And just real quick, a neighbor that couldn't be here, I want to read her letter. She asked me if -- it really long, so I'll just read a little bit. It is with my heart that i beg of you to oppose the north loop pub. My husband and I purchased our home here 18 years ago. This was once our dream. In the past year things have changed remarkably. The quiet hans has turned to loudness. The neighborhood's charming ambiance as declined. Our neighborhood is being invaded by businesses that increase traffic, noise a and produce safety concerns. Many times we have trouble sleeping because of noise. And we voted no -- we voted against -- to oppose the bar. I had one more point, but i forgot it. So I guess that's it for me. Oh, please oppose the bar. Thank you. Here's my point. The point is we're not against pam, we're against the change of the zoning. And everyone is focusing on how great pam is and I don't agree disagree that she has put a lot of time an she's a good owner, but like jim says this is the wrong spot for this. So we're not against pam, we're against the changing of the zoning. It's unnecessary and I think it will detract from the neighborhood.

McCracken: Thank you. So we now have a three-minute rebuttal from vince huebinger.

Thank you, mayor pro tem. Support from the neighborhood was up and down. I have an e-mail that is from the vice-president sent to ms. prichard. I am one in favor of your neighborhood pub. The majority of the north hills neighborhood association shares my view. It was mixed. And I don't want to get into that. What I do want to talk about is one of the gentlemen is talking about the excessive bars. These are restaurants that we just heard a couple of restaurants come up here. They just happen to -- the pizza parlor just happens to serve beer. She doesn't want any live music. She wants a quiet place. There's a lot of time and effort that went into this plan. We can't say no a second time out. We didn't mean pub. We have to stay with something. And this is what the vision and guidelines said when we approved this a couple of years back. So thank you all.

McCracken: Thank you. So that concludes the testimony for this public hearing. So council, any questions, comments? Councilmember Morrison?

Morrison: I have a question for staff. Is pub a defined use in our land development code?

No. We have a use called cocktail lounge, which we would probably place pubs, bars, lounges, all under cocktail lounge. And basically it's an establishment. There's more alcohol than food served. But there's no definition, per se, in our code that says pub.

Morrison: Because in my experience a pub is a place where they sell food and alcohol. So I guess I have concern about jumping to the conclusion that just because pub was mentioned in the neighborhood plans that people were thinking that they were inviting bars because bars were very much different. But I guess that does bring up a question for me for the applicant and that is I wonder if you could talk about is there a plan to sell food and what kind of food, and do you envision a different -- what percent of your business would be food versus alcohol?

Yes, ma'am. I asked that question of prichard quite a bit since we have the zoning that would allow a general restaurant bar. She doesn't want to serve food. She has fare across the street. There's a pizza parlor next door. She wants to concentrate in her business the plan that -- her goal is to have a pub. And I asked the same question that you did to staff. I said what does pub mean? The websites that I looked at was just a public house. It's a British type of place where they just have -- it doesn't always serve food, but it just has a public kind of tavern on so to speak.

So she's not plan to go sell any food. So what would be the difference between a bar and this establishment?

This would be just what is in the land use code as a cocktail lounge.

Morrison: But just even in general conversation, why would this be a pub instead of a bar?

This is her -- it's just her concept of a pub. It just generally a neighborhood tavern, walk-up, pedestrian style, and it's based on the English style pubs where they serve pints and those types of drinks.

Morrison: I've been to England and the public houses always serve food. That's why I'm trying to get to nail down exactly what the vision is. I'm gathering the vision is a sort of neighborhood bar and that's why calling it a pub because it's a neighborhood bar?

It's a neighborhood cocktail lounge, yeah. We can call it tavern, pub. It's just not going to serve food. And that's one thing. We talked about it a lot being the difficulty in the zoning cases, the differences serving food. And she said, I don't want to do it. It's small, it's inconvenient. I don't want to sell bad food when people have great food across the street.

Morrison: I'm not sure if staff can answer this question or not. Did we get any official -- any official correspondence from the neighborhood association or the neighborhood plan team?

I don't have a letter, although we could check in the file. I don't believe we received an actual letter of support. I think there was some support that was expressed, but you've also heard opposition. I do want to point out one thing that within that goal statement, it also crosses out coffee shops and restaurants, so there must have been some distinction between a pub and a restaurant when the plan was done. Not considering all pubs to be restaurant. I'll point that out for the record.

Morrison: Can I ask the gentleman behind you, do you have correspondence from the neighborhood association?

I do. This is from the president, and he said in an e-mail that I could represent the north loop neighborhood association if I desired. I don't really want to, but he forwarded this to me. I didn't have him sign it or anything, but in the minutes from the meeting where it was voted against. And he put a little bit on top from him to the council members, and then has the minutes here. You can certainly look at this if you would like.

Morrison: Does it say that they support or --

It is at the very end, members voted -- they had a strange conditional use approval because there was a lot of confusion about whether the CS 1 would disappear if her business moves on. CS 1 stays, we know now, but they went ahead and voted 13 against, 11 for. And so it was -- they just took it off the board. They don't support it. So there was no even conditional use.

McCracken: Any other comments or questions? Did they include a pub animal care services and -- include a pub as an envisioned use in the neighborhood plan?

I don't know. If you want to consider first reading on this plan, I can go back and research the file and look, but as I said, there is a distinction in the plan between restaurant and pub. And whether that's one large area than the other, I'm not sure.

McCracken: Yeah. I just -- I typed in Google definition pub.

I'm using wikipedia. And it's interesting.

McCracken: And it was not unanimous in the definitions I saw about requiring food. If y'all -- scouts, if you're wondering what we're doing up here at the dais, we also use google earth quite a bit on zoning cases. So mr. huebinger.

Saw that you had a well worn document that may be a source code for the neighborhood plan.

Mayor pro tem, the only thing I can come up with, and I tried to make the same conclusion because I was checking it with greg --

they are sleeping and they don't know what they're missing. [Laughter]

I checked the land use -- I wanted to make sure i double-checked, triple checked, it says rest rawpt like greg was saying. Then the land use actions, the prohibited uses, cocktail lounge is not in there. It specifically says this location, even calls out this intersection. So I don't know. Deduction three times, four times.

McCracken: I think it would be helpful if we at second reading could -- if we would have a sec reading and have some guidance from members of the neighborhood planning team of what they meant because if this is within the definition of a -- of the neighborhood plan, then that's one thing. If this is not what was envisioned, that would be a second thing, but it would be helpful to have that guidance.

Shade: I would also like to understand about the parking situation.

At the time they are required to get what's called a cm use permit, which is a site plan approved by the planning commission. And the site plan instead of going through a staff review, would be reviewed by the planning commission for compliance with parking as far as the number of spaces, dimension. There's a reference to shared parking that would have to be reviewed. And whatever decision comes out of the planning commission if the zoning is successful by the applicant, the site plan could actually be appealed to this body, the city council, for your approval or denial of that conditional use permit. If that is appealed to this body.

Morrison: I would like to make a motion. I understand that there might be a really terrific effort that's gone on and that is very definitely a cool area that has lots of great neighborhood feel to it and all. But cs-1 zoning goes with the land and cs-1 zoning is very unique in this city. I'm very concerned that we're seeing more and more requests for cs-1 zoning in the middle of neighborhoods. We had the budgets case today, we had one on 51st street. We had one on academy today. And that actually had a restrictive covenant that it was only going to be selling alcohol to the hotel guests there. So that was a very special case. But I'm just very concerned about this. I don't believe that cs-1 zoning belongs in the middle of a neighborhood. I think that a small sort of epg lish style, warm restaurant that serves beer and wine is appropriate. That's my vision of what a pub is. But most of all I think that cs-1 zoning is not

appropriate in the middle of a neighborhood. So my motion is to deny this zoning case.

McCracken: Motion dies for lack of a second. We'll consider a motion to approve --

I'll second it.

McCracken: So we have a motion and a second to deny the zoning. Comments, questions?
Councilmember martinez?

Martinez: Thanks. I certainly appreciate the comments and sentiments from councilmember morrison and i agree that cs-1 needs to be revisited. So I will gladly join in with you on the item from council to try to clarify the cs1 uses that are permit and clear up the cs-1 for bar uses. But I do think this is an eclectic area. I love the pizza parlor down there. And of course the mediterranean food and they have belly dancers from time to time. But it is a unique area. It's kind of the -- it's kind of the keep austin weird. There's some cool little shops. And I just -- I think that in this particular case i don't feel like it would be so detrimental or harmful to the neighborhood. If we were talking about the 20-thousand square foot bar, cs-1, that's one thing, but we're talking about a small little establishment. And the folks that are probably going to come in and grab a pint are folks that can walk from the neighborhood, are folks that are waiting for a table to eat at one of the nearby restaurants. So I won't be able to support the denial.

McCracken: I think from a procedural standpoint, voting against the denial -- my suggestion, councilmember, would be if you would offer a substitute motion to approve, that would enable us procedurally -- in orders, an affirmative vote, if we vote down councilmember morrison and councilmember shade's motion, that doesn't mean we've approved it. Yeah. So we would need a substitute motion.

Leffingwell: Couldn't we also if the motion is not approved have another motion? No, if the motion does not pass, another motion --

McCracken: Okay.

Leffingwell: But the other way would work too.

McCracken: Councilmember cole.

Cole: I would just like to say that I drive down north loop almost daily going to mccallum high school and I'm very familiar with the area. Tie think it is a very ek tech tick area and I enjoy the shops and music stores and all the things that are there. So I also will not be supporting the current motion. The vote I assume now that what I'm hearing is that the actual official vote by the neighborhood was to oppose this. So I just want to explain that that's why I was willing to second councilmember morrison's motion.

McCracken: I've got another procedural question, which may not be that hypothetical. What happens if

we have a three to three tie?

Motion fails.

Martinez: Mayor pro tem, I want to offer a substitute motion on first reading to approve this item. But when it -- I want to have a conversation with staff about whether we can apply a restrictive covenant that reverts it back to its original zoning if this current occupant or establishment changes hands. I don't know if you can do that, but we need to find out before it comes back.

McCracken: I will second that motion. I'd like to suggest along those lines that we use -- if we should pass this between -- on first reading, that we do develop a restrictive covenant that reflect the vision of the neighborhood for what a pub means. I think that's -- I think that's a problem here. I think this case is a very close call. And to make this a knot close call should it pass tonight, I think we need to have some very definitive, binding covenants for this establishment to meet the expectations of the neighborhood both in the original neighborhood plan and the current concerns.

Mayor pro tem, I can answer councilmember martinez's questions right now with regard to the restrictive covenant. Typically we do not enter into a restrictive covenant that would basically tie zoning to an individual. We could tie it to the property and in many cases we've had applicants that have come forward and say should this use cease for more than 90 days that the owner would not object to a roll back of the zoning to its original classification. In thi dealing with a tenant, so I think huebinger would have to talk with the property owner in that regard because they would be the actual party signing the restrictive covenant. But it's usually not tied to the owner or the tenant. It's tied to the actual use and whether it would cease or not.

McCracken: Yeah, but it can run with the property. I think what we're hearing is a range of interests in my read of this. That is helpful information. And it sounds like should this pass for first reading only that you're hearing a range of interests about some protections so this doesn't become some bar that's a neighborhood menace and that does reflect the expectation about the neighborhood and of the applicant right now. Councilmember leffingwell.

Leffingwell: I would just say I'm going to support the substitute motion also and partly because it appears to be in conformance with the neighborhood plan. We come back on second and third reading and find that that is not the case or the intent, and then we can revisit that issue. I'm really not too excited about the idea of having a restrictive covenant aimed at a roll back of zoning. It's my understanding that a roll back of zoning, a restrictive covenant is essentially the same as a deed restriction and restrictive covenant requiring a zoning roll back would be in essence subject to a valid petition anyway. Is that not correct?

That is correct. Even though they would agree in a restrictive covenant at face value saying I wouldn't do that, it doesn't stop them. And if we actually had that, it raises an interesting situation for council when you have the current owner or 'new owner.

Leffingwell: So I think it makes for an interesting paper exercise, but it's pretty much meaningless because somebody would have to petition that to -- somebody would have to make a zoning case to roll it back and then it would be subject to a valid petition. So I think it's very unlikely. So I'm not going to -- I'm not going to support the motion with the expectation or the condition that some kind of restrictive covenant provide for a zoning roll back. I'm going to support it because I want to see what happens with a little more -- a little more information about what the intent of the neighborhood plan was and more information about the establishment itself. And I'll also just say that I've been in a couple of pubs and I think there's always food there, right, but I don't think it comes close to 50%. A definition as a pub. Thank you.

McCracken: So we have a motion and a second on the substitute motion to approve on first reading only. All in favor say aye? Opposed say no? The motion is approved on a vote of four-two on first reading. With that I think we're done, right, greg?

Mayor pro tem and council, that concludes our zoning items this evening.

McCracken: That motion did include closing the public hearing.

Does a pub have to have a dart board by definition? [Laughter]

McCracken: We're getting very meta physical by the definition of pub here, so that means it's a good time to adjourn. Without objection, we stand adjourned.

End of Council Session Closed Caption Log