

## Closed Caption Log, Council Meeting. 3/12/2009

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good morning. I'm austin mayor will wynn. It's my privilege to welcome our friend tom spencer who tom as you probably know is the executive director of the austin area interreligious ministries who will lead us in our invocation. Please rise.

Mayor and councilmembers, thank you for this invitation, as the ceo of aim, a group that tries to harness the goodwill and compassion of 30 different faith communities, I have learned to do prayer in a rather unorthodox and ecumenical way, bear with me just a moment. I'm going to focus today on gratitude, whenever I speak with civic leaders in any different capacity, I find that most often they serve out of the sense of gratitude. They want to give back to the blessings that they have received their life. That's something leaders in the non-profit, business and government all understand. One of my spiritual teachers, once said if the only prayer that you ever say in your entire life is thank you, it will suffice. So this morning I want to focus on thanks and I want to remind as leaders of a fractious a saying from the bahai position, a grateful person is grateful under all circumstances, a complaining soul complains even in paradise. Bear with your complaining souls in this paradise. [Laughter] today we are grateful for this beautiful city that we live in. We are grateful for the creative and compassionate people that share this city with us. We are grateful this morning for rain. That refills our lakes and replenishes our souls. May all of our gratitude remind us of our obligations and our responsibilities. That the next generation remember us with grateful hearts. In closing, I would like to quote, again in that ecumenical spirit, a buddhist interpretation of the first psalm. Blessed are the man and woman who have grown beyond their greed and put an end to their hatred and no longer nourish delusions, but they delight in the way things are. And keep their hearts open day and night. They are like trees planted near flowing rivers, which bear fruit when they are ready, their leaves will not fall or wither. Everything they do will succeed. Let us be thankful and let us succeed. Thank you so much.

Mayor Wynn: Thank you, tom. For those of you y'all who remember, when we opened this building, actually when we had our first city council meeting in these chambers, we worked with the austin area intermention ministries, the leadership -- interreligious ministries under the leadership then of tim, we had a multi-denominational blessing. Tom thanks for being here. Also, council, before we get called to order here, I do want to point out over here on your right, we have a little easel set up where we are displaying this morning's designation from the national wildlife federation, certifying austin as a community, city-wide, as a -- as a community wildlife habitat. We are the largest city -- there's 31

communities in the country who have been certified. We are the largest city, by far, to be certified by the nwf and the first city in texas. We accepted this challenge about two years or so ago, actually in a ceremony here at -- at city hall when the city hall landscaping had qualified for an nwf wildlife habitat designation and now two years later on a scoring system, needing to score at least a thousand points, the city of austin scored well over 1500 points already. Hundreds and hundreds of individual back yards, city facilities, our faith community, businesses, have essentially gone to -- to native and wildlife friendly landscaping. That supports wildlife. Of course while doing that, you are also inevitably reducing your water consumption, you are reducing your need on maintenance to mow and edge and leaves and those fun things that folks do, reducing carbon emissions because of the lack of maintenance. Very proud that austin this morning was designated, officials from washington and this morning we are designated as the first city in texas and the largest city in the country to as a community-wide is a -- is a community wildlife habitat certified city where people, our economy, our environment and wildlife in our environment seem to -- to be able to get along. So I'm very proud of the designation. [ Applause ] so having a quorum present, at this time I will call to order this meeting of the stay with us city council. 27 we are here in the council chambers of the city hall building, 301 west second street. Council, before I walk through just a -- just a few changes and corrections to this week's relatively brief council agenda, we right to take this opportunity each week to -- to alert colleagues and community and staff as to any upcoming items from council. Or perhaps some initiatives that we anticipate over say the next month or so. Councilmember shade?

> [indiscernible] process and -- and over the course of the last few weeks and actually I guess it's been a couple of months now, it's become more complicated and the interest that we have is actually councilmember morrison and myself and mayor pro tem mccracken are going to be sponsoring something next week at the next meeting on the 26th asking that we withdraw that proposal. I want to say thank you to all of those on the staff and on the boards and commissions who took a look at that. I think we're all cognizant of the fact that we're in really tough economic times. As things are getting slowed down and projects are having trouble with financing, et cetera, I think the important thing is that we recognize that some relief needs to be considered but we actually do have a process for extensions and we think that's probably the best route to go. At this point. Secondly, I think it was -- I don't even remember what it was, but we had an item recently with the issue of home office signs on core transit corridors, we are working on something to address that issue so people can have small home office signs if they are on a core transit corridor.

Thank you, councilmember. Again, future items or initiatives? To be alerted to? Thank you all. So then council I'll briefly walk through a couple of changes and corrections to this week's posted agenda. Before proposing a consent agenda. Our changes and corrections 2 that this comes recommended by the water and wastewater commission. As part of the proposed consent agenda we will be postponing item 3 to -- to THE MARCH 26th, 2009 Meeting. And then we'll just note 45, which is 00 public hearing, the staff will be requesting a postponement of this item to -- to our april 23rd, 2009 MEETING, BUT Technically we can't take that vote to postpone the 00 p.m. -- time certain. Our schedule today after we get through our consent agenda this morning and we might have a discussion item or two, we may go into -- i guess we don't have a closed session agenda, so there won't be any executive session agenda today. So at noon we will take up our general citizen communication. we will take up two s briefings.

Sorry looks like one staff briefing, special districts within our desired development zone now that the legislature is in session, we believe there's going to be pending legislation regarding special districts. 00 we take up our zoning matters. 30 as usual, we break for live music and proclamations, our musician today is steve bernal, hope I'm pronouncing that right. Stay tuned for that. 00 we will take up the discussion about postponing our one posted public hearing. So very -- in the scheme of things, a relatively light agenda. So far, council, only items 4 regarding our downtown plan and item 6 which has been requested to be pulled by staff, have been pulled off the consent agenda. Again, only items 4 and 6 so far have been removed from the consent agenda. Further items to be pulled? Or added back? Hearing none, then I'll propose a consent agenda numerically. It will be -- to approve 1, the minutes from OUR MARCH 5th, 2009 Meeting. To -- from our austin water utility, approving item no. 2, Per changes and correction. We will be postponing item NO. 3, TO OUR MARCH 26th, 2009 Meeting. From our economic growth and redevelopment services we will be approving item 5. From our purchasing office, we will be approving item 7, 8, 9, 10, 11, 12, and 13. From our solid waste services department, approving item 14. From our telecommunication and regulatory affairs department, approving item 15. Item 16 are our nominations to our board and commissions. And I'll read those into the record. They are to our community development commission susana almanza, representing the montopolis neighborhood as councilmember morrison's nomination. And to our residential design and compatibility commission, beth england is councilmember shade's nomination. 16 on the consent agenda. We will also be approving item 17, well -- folks will be allowed to speak on items on the consent agenda. We will also be approving item 18, 19, 20, 21, 22, and 23. And we will be setting the public hearings by approving items 24 and 25. Council, I will entertain a motion on that proposed consent agenda. Again that includes all 4 and 6. Motion made by councilmember morrison, seconded by councilmember martinez to approve the consent agenda as proposed. Before I ask for council comments, we do have a handful of folks who would like to give us testimony on items that are on our consent agenda, that is items to be approved. As a point of sort of personal privilege, I would 21, which was a joint resolution from the joint city, county and aisd committee that some of us serve on. This is a -- this is regarding developing policies and recommendations supportive of children's and families and neighborhoods and schools and I'm pleased to acknowledge and welcome aisd trustee karen dulaney smith who is here with us. Karen, you are welcome to come give us testimony and appreciate your presence.

Good morning, mayor wynn and councilmembers, as mentioned I'm karen dulaney smith, I serve at large on the aisd board of trustees. Our board approved the resolution on monday evening. Before you today for consideration is this joint resolution of the city of austin, austin independent school district and travis county. Several years ago, aisd appointed the community committee on neighborhoods in schools and you appointed the families and children's task force to provide recommendations to address a variety of concerns. In the process, it became clear that there were common problems that begged for common solutions. The joint resolution before you is an iteration of the common concerns and a proposal that we use the common power vested in our joint subcommittees to address these common problems. Let me acknowledge the excellent work of the ccns and the fac and that of our staff, particularly bert lambreras and mel waxler and also mention our good fortune to have the good thinking of housing works during our collaborations. Aisd, the city and county have worked together for decades with good will to solve a host of common problems. As our area continues to grow and we see

increases in diversity and socio-economic need, the past practice and very good approach of addressing need on a campus by campus or a neighborhood by neighborhood basis in response to needs as they arise is no longer the best way to continue. A more systemic, evaluative process is called for in order to address the scale of our problems and be proactive rather than reactive. Increased accountability for academic results has brought aid to this realization and our own board is keen for longer term, system-wide planning and a better understanding of the programs that are useful and ways to replicate those. Since the city and county generously provide funds for a number of our best programs, we believe you will be pleased to approve an arrangement that will allow flexibility to maximize our work together and also maximize the use of the dollars that you are committing to our common work. This joint resolution will provide for institutional memory over election cycles, give more direct staff guidance, focus our energies on more effective solutions to problems and assure quicker and better response from us as elected officials. I look forward to your affirmative vote on the joint resolution and working with each of you as we move forward. If you have questions of me I'm happy to answer them at this time or at your convenience.

Mayor Wynn: Thank you, trustee smith. Questions? Councilmember morrison? I would like to thank trustee dulaney smith for her leadership in really trying to bring this to fruition. I think it really has the opportunities to usher in a era of collaboration. I know the county will consider it on tuesday and i plan to be there to express my thanks for their work on it, too. I can't really say it any better than you have, karen, but we need to thank our staff for supporting this and all of the citizens that worked on the task forces and the committees that really helped to bring this -- this to light and to give us a foundation. Fundamentally, it gives us the opportunity on the joint committee, which -- which i sit on with the mayor and councilmember cole. It gives us the opportunity to work together with the other entities to -- and staff and citizens to come up with recommendations to bring to our -- our individual bodies for approval. So I'm really looking forward to moving forward on that work.

Mayor Wynn: Thank you, again, further comments? Councilmember cole?

I would just like to reiterate some of ms. waterson's comments. We certainly -- ms. morrison's comments. We certainly appreciate working together. We know the citizens expect us to work together where we actually accomplish a concrete document that i think praise should go out, especially to the other entities, so I want to thank you for your hard work and councilmember morrison.

Mayor Wynn: Further comments on item no. 21? Thank you, karen, so much. Just note for the record that kathy tovo signed up not wishing to speak in favor. She served on two or three of our working committees regarding this broad issue. So thank you all. Let's see. 5 is on our consent agenda. This is regarding the city -- amending the city's economic development policy gus pena signed up wishing to speak. Welcome back, mr. pena. You, too, will have three minutes.

Mayor, councilmembers, mr. city manager, gus pena. Believe it or not, this -- 5 has been a topic in the community because of the -- in their perception they -- they say well we need a more improved accountability process and other accountability processes, ongoing businesses and transactions within the city and the community. Having said that, I will say something positive, i appreciate the new

incoming chamber of commerce president who extended an olive branch to the community, the grassroots community, to meet with the chambers to create a more positive and friendly meeting of the two groups to communicate as to further development and the sentiment of the grassroots community as to how they feel that -- that some of these projects should proceed. We're not here to tell anybody out to do it. They are the experts. Sometimes some of our grassroots community leaders and residents are left out of the process. Accountability process, number 5 is very important. But I will add on to that -- I -- I want to -- to express our appreciation to representative jim dunham the chair of the select committee of federal stabilization fund, otherwise known as the stimulus package. Having said that as economic development. One of the things that we're going to be discussing, we have a tentative meeting with jay kimbrow the chief of staff of governor perry, it's an only nor, I'm proud to be an east austin night native to be invited to speak to the governor's office, especially his chief of staff, also rob johnson, lieutenant governor dewhurst's chief of staff, to discuss economic development and funding that comes in that will help our small businesses to retain -- rather create economic development, job retention is very important, create jobs and help small business owners continue to thrive instead of close. Today's stimulus package on the public hearing is on the health and human services issue. It is compatible with this item on the agenda. I urge anybody to go to the state capitol. Extension 1.014 at 2:00 p.m. Because I believe this is very important for the city of austin and travis county and its economic development and prosperity. Thank you, mayor, appreciate your time, thank you very much for the hard work that you all do.

Mayor Wynn: Thank you, mr. pena. Let's see, also, council, 14 is on our consent agenda. Regarding the city's private solid waste haulers. ron torre signed up wishing to give us tore acres welcome. You, too, will have three minutes. mayor, councilmembers. I've been involved in a process to change this ordinance for over years. I've spent tens of thousands of dollars trying to effect a positive change. This is a good step. I have been informed by holly with the legal staff that the swac commission has taken steps to address what is not here before you today. So -- so I give this about a b plus. The -- the one thing that i would like to see in the final ordinance is goals, what are the goals of the ordinance. It's a simple thing proposed by both my firm and texas disposal. While this is going to be a long process, in the interest of keeping austin weird, I don't give up. And I think a positive change will be effected for the benefit of citizens of austin and the professional hauling community. Thank you.

Mayor Wynn: Thank you, mr. torre. And for your work. Let's see, council, item no. 17, Is on our consent agenda regarding the city's noise ordinance. Perhaps we have a couple of two or three folks who would like to give us some testimony. I think for and against. I'm not sure if staff is here and able to perhaps do a very brief summary of this item or presentation. Sorry for the short notice. In fact I think we're going to have a couple of speakers. It's on the consent agenda. A little bit of council dialogue it might help to -- to -- frame where we believe we are.

[Indiscernible] we are working on this together with the austin police department. As you know, they enforce them. The audible sound. This ordinance is -- i to -- amend and add a new section to read that - - that an application for outdoor music venue would include information required by the accountable official who may adopt these rules and a certified list of all property owners. What we are looking at is -- we will review an application for an outdoor music venue under these requirements and permit outdoor

music venues with regard to the following criteria. We would -- the official would approve or deny an application for an outdoor music venue based on these criteria. Proximity to existing land uses, size and capacity of outdoor music venue, sound mitigation would be provided by the operator of outdoor music venue including but not limited to building design, landscaping and buffering. Additional limitations on the hours during which sound equipment may be operated beyond the limits required under section 9 to 12. We would also consider the criteria of the history of noise complaints regarding outdoor music venues as verified by the chief of the police -- chief of police or the accountable official. We would use in this assessment the opportunity to approve an application and impose potentially conditions that might mitigate any adverse negative impacts to the residents within close proximity with regard to single family and multi-family properties within the vicinity of the proposed outdoor music venue. We are -- we have as that -- I'll go ahead and summarize there, leave it right there.

Mayor Wynn: Thank you, kathy.

You are welcome.

Mayor Wynn: Questions of staff, council, before we hear a small bit of testimony?

Councilmember morrison?

One of the issues that has come up that's -- that's addressed in the new ordinance is the accountable official who will be in charge of signing off the permits and I wonder if we could ask staff to address who that accountable official might be or the kind of person they might be. Now before we have the music director and once we do have a music director.

See edwards, assistant city manager. Councilmember, we have -- we are going to put together a team that will be reviewing these applications and that team will -- will consist of about four people, one being a perming person, one being someone with the expertise in noise and sound attenuation and possibly the fire department and the police department all looking at this would be a very -- I think efficient way to look at it on a temporary basis. To answer your question specifically, I in the interim will be that individual.

Mayor Wynn: Congratulations, ms. edwards.

Thank you.

She's promised to send me flowers every week [laughter]

Mayor Wynn: How many years did you have to work in the city of austin before you finally get designated as the official accountable person for our noise ordinance.

Way too long. [Laughter]

Mayor Wynn: Further questions of staff? Before we again take a little bit of testimony. Thank you, sue. Let's see. So a couple of folks who want to give us testimony. Danette camente. I saw danette earlier. Welcome. And also kathy tovo signed up not wishing to speak in favor as has danette, then rob lipencott.

Thank you, mayor, councilmembers. My name is dan yet camente. I am president of the austin neighborhoods council and i just briefly wanted to say that i'm very supportive of this ordinance and thank you guys for your efforts here. I think this is a big step forward in improving the process, allowing the public to have some say in the process and I think the -- that both the music communities and the neighborhoods are supporting this and that is -- that is a really big step. I do want to say two things about this. And that is to strongly encourage the creation of the music department and having somebody in the music department who is -- who is in charge of the permitting process. And I think that initially the austin neighborhoods council was a little leary of that, kind of like the fox guarding the hen house kind of thing. But in working with folks in the music community, especially lately, I have come to see that they are very passionate about making this work. And nobody has more at stake or a greater need to make this work than the community -- than the music community themselves. There is a one-year review period that's allowed for in this ordinance and I think that's a great thing. And in order for this to work and for you guys not to be hearing from the neighborhoods at the end of that review period, this does need to work and so -- so the -- the person in charge of the permitting being somebody associated with the music community would be a good idea. The second thing that I want to talk about is enforcement. Enforcement has been severely lacking. We have -- we have not had a whole lot of help from -- from the city, the community -- the police, fire, et cetera, in terms of enforcement. But actually the music community has stepped to the plate and helped with that. And I want to thank councilmember martinez and councilmember morrison's offices for that lately. But the music community wants us to work and -- wants this to work and i would strongly recommend that the permitting person be from that office and that you guys look closely at enforcement and what can be done. The neighborhoods are getting folks from a.p.d. Coming out and telling them, sorry, we can't do anything about enforcement of the decibel limits because decibel meters are only available to downtown austin police folks. So something needs to be done about that. Or this will not work. Thank you very much for your efforts. [01:54:55]

Mayor Wynn: Thank you, ms. camente. Also rob lipencott has signed up to give us testimony. Welcome, rob, you, too, will have three minutes.

Good morning, my familyon owns guerro's taco bar on south congress. We got that 15 years ago and a traditional commercial corridor. The oldest commercial corridor actually in austin. In south congress. In trying to track what's been going on on this thing, I didn't know whether I was going to be for or against it until about 15 minutes ago when you signed up. Finally got a ruling I guess that i'm thinking might be right. 30 from staff, telling us that -- that we'll effectively have to shut, close our music venue. They are saying through investigative staff, through police, with everyone, it was an 85-decibel limit. Now it looks like it's 70 for us. Since we're a restaurant. It's louder than 70 down there right now. I have decibel meters, i've had them for 10 years. We've had music there. We've always been good about keeping it at the correct decibel levels. We have let the police use our decibel meters to check us. Now, since it's 70 right now, this morning, not opened, it's 70 on south congress. It's always 70. We'll have to just not have

amplified music anymore. We paid \$80,000 into the music community last year for austin. They won't get that anymore. We'll have to fire some of our employees who work in that area. It seems unfair, I guess to me, that -- that we would be told for 14 years one thing and then starting last week something new. I don't know how to -- how we will react to it. Except if we comply we will just have to shut down. It's a -- it's a great place for our customers who are waiting to be, it's a great communities gathering area. We've never -- we've never 30 at night. We don't do it except for on sunday afternoons before 6:00. [01:58:14] [Beeping]

I guess my time is up. That was close to 70 just then. Talking is 70. So anyway -- those are just some thoughts.

Mayor Wynn: Before you get away, so the -- so you say as you came down this morning you weren't sure whether you were for or against because you apparently needed some clarification from somebody.

Two staff members of the city clerk's office and one of the other staff members told us yesterday it was 85. So I was happy with that. I was going to come down and be for it. 30 last night after days of calling, someone claimed they knew what they were doing told us no and now they have produced the stuff that i have been able to follow through from the city attorney's office that, yes, we're -- we're a restaurant and so since we're not a club, we have to be under restaurant rules and the old restaurant rules that have now been dug up are 70 decibels. A car on congress avenue is higher than 70. Any time -- like right now down there, thursday morning, nothing going on, no one in the garden, at the property line it's over 70. 72, 73. So -- so someone was -- if someone was in there with a microphone turned on, we would be in violation.

Mayor Wynn: Well, this --

you know, we have music booked for the year. We're going to have to fire employees. It's --

Mayor Wynn: I don't think anybody up here wants that.

Well, you are going to cause that to happen.

Mayor Wynn: Well, we want to make sure that we understand what it is that we're doing with this.

Do you all know what 70 is? Have you all ever used a decibel meters.

Mayor Wynn: I have seen police officers use them.

Martinez:.

Hang on, let's see.



Martinez: One of the things that we found out in the process, mayor, is that the code has always, always from day one been 70 decibels for restaurants. A restaurant use is a self designated use. lipencott, you know, I'm happy to work with you and keep -- guerrero's is a great place. It' you know, it's an institution for south congress. It's about your use, that's all. All that you have to do is change your designated use to having a music venue and you will be able to go right back to 85 decibels.

What would that entail.

That would entail going through a process. This is not an intention to -- all this is a test to try to clarify the language and so what we found out in your case is that there -- it wasn't clear to you and it wasn't clear to staff that 70 was the rule of the day for any and all restaurants. It's never changed. And the recommendations from the live music task force didn't change that. It just clarified it. Nothing -- nothing has changed.

So I need to change my restaurant use to club use?

I don't know that we need to designate it as a club use. But you need to put it in a use category that allows you to have a live music venue and continue to operate as a restaurant as well.

What would that be?

Mayor Wynn: I see -- i see what our city attorney is approaching the podium. Which I appreciate because i would like to make sure that it's -- as simple as we are trying to make it out to be.

Mayor, brent lloyd, city legal department. I just want to say on behalf of a the law department and city manager's office, that we will work with the gentleman from guerrero's to explore the possibility of a use change as councilmember martinez suggested and find out if there's a way to sort of recategorize the use and allow for decibel limits of 70 to be exceeded. We have generally permitted outdoor music venues under this section of the code, so this will require kind of looking at things afresh and seeing if there's another way to categorize this use. We would also just indicate that what we said earlier is correct, the 70-decibel limits for restaurants has applied throughout time. What you did at your last meeting was simply adopt an ordinance that clarified the laws that always existed but made it a little bit more clear. The ordinance before you today really doesn't get into the issues that have been discussed in the testimony. It deals with new permitting criteria and kind of a new system for processing permits and appeals and those kinds of things. lloyd again, guerrero guerrero's as an example, where I have gone to listen to music frequently is outside. It's sort of separate, if you will from the -- from the inside restaurant where I frequently dine. Could it be as simple as, you know, the restaurant inside the building as we recognize it is characterized as a restaurants use, but they have this affiliated use there outside on their adjacent property, it could be characterized as a venue or something other than restaurant?

I -- I understand where you're going with that. I am predisposed to not speak off the cuff, I need guernsey in the zoning department and look into this. As I mentioned earlier, outdoor music venues have generally been permitted under this section of the code which has previously been interpreted as

having 85 decibels. We have realized in working with various council offices that the 70-decibel limit is really what should apply and what has always applied. But we will explore the potential for a change of use as you suggested.

Mayor Wynn: Mr. Guernsey?

> I'm Greg Guernsey, neighborhood planning. In the past when an establishment wanted to be something other than a restaurant, they serve more alcohol than food, we have typically classified them as a cocktail lounge, bar type of use that would then take them off the 70-decibel limit. Those outside of the central business category and areas along Lady Bird Lake in the waterfront overlay district it would typically require a change to CS-1 zoning hearing, there will be a hearing before council and back to council and then a conditional use permit. The conditional use permit requirement requires a site plan by commission appealable to council. Typically in the past we have a lot of neighborhoods that are reluctant to embrace cocktail lounges or bars in areas where there are restaurants close to residential. So if that were the case in this particular case there are residences that are pretty close, maybe a block or two away, there may be resistance to the acceptance of a cocktail lounge. Now, staff could go back and look and see if we could somehow distinguish the live entertainment use from the restaurant use, we have not done that in the past. We can certainly look at that as an issue. But then the concern comes up with the alcohol. Because we have venues where you have live entertainment where alcohol has been introduced like South Park Meadows, really not a restaurant, mainly a live entertainment venue where spectators are listening to music and alcohol was introduced, we have called that a cocktail lounge and there I think -- Mayor I think that you are here when we zoned South Park Meadows the largest CS-1 zoning case that we've had in the history of Austin. Covered several acres of land. So that was a challenge in and of itself. But we can look at that issue, but right now our interpretation would be that -- that restaurant with outdoor music would be a restaurant, if they want to classify themselves as a cocktail lounge they could have music as well, but there would be additional steps to go through in order to achieve that use.

Mayor Wynn: I'll just say I doubt, I can't speak for the council, but I doubt it's anybody's intention here to cause -- great spots like Guerrero's to -- to shut down the music aspect of that business. So I would greatly appreciate staff looking into this sort of definitional issue when it comes to -- to venues versus cocktail lounge versus restaurant because -- because it's just simply I don't believe it has been the intent of this task force to take existing high quality, well-done, supportive law-abiding venues in this case like Guerrero's and have them have to cease operation. So I don't know if I -- if legal is comfortable that if council were to -- again, technically, we didn't even take up this issue as part of the task force. All this is a test apparently on the books forever restaurants have had 70 decibels as their maximum limit. If -- if legal can help me with the action we would be taking today, what's posted for and what would be happening today and then how -- in the real world down on South Congress and other places perhaps, there's some -- there's some time period by which our zoning staff helps us understand and legal helps us understand, you know, use categories and I -- I don't think it's the intent to also -- if only to shut down some good places but to have -- make, you know, make a place have to jump through a lot of hoops, including zoning changes is a major -- major hurdle for so many property owners. I would just like to hear some -- some assurance that -- that this action isn't at least in the near term shutting down

guerrero's outdoor music venue.

Mayor and council the action that is before you today, ordinance before you today does not get into the issue of decibel limits. That's been addressed for restaurants in the zoning code for many, many years and your ordinance from the last mechanic simply clarified that. So what's posted for you today would not -- would not affect these issues one way or the other. I think we all hear loud and clear council's concerns and I would work the law department will work guernsey and zoning staff to find out if there's an interpretational way to address these concerns. If there is not, I'm frankly not in a position this morning to expand upon what mr. guernsey said. But if there's not a way to address this administratively through an interpretation, we can certainly craft a recommendation for the city manager and for council to consider as well. Further questions for mr. Lloyd, councilmember martinez?

I don't have any other questions, mayor. I do want to reiterate that absolutely was not the intention of this. In fact in this proposed ordinance it states that -- that live music at restaurants is permitted and the accountable official cannot deny an outdoor music venue permit. So I mean the ordinance speaks to us wanting to maintain the live music venues that currently exist. And continue that moving forward. In this case, you know, i think part of guerrero's issue is more about -- about it's proximity to congress avenue and that the ordinance says where you take a reading is on any property line. Well, he's right. I mean if you stand at any bus stop, capital metro drives by, it's over 85 decibels. Anywhere in the city. Not just at a venue. So this I think is really speaking to -- to the actual live music and we need to do more work on how we measure that, where we measure that, what point we measure that from. That discussion did take place. We talked about is it the points of complaint, the front of the restaurant, any property line? Those are -- those are issues that we're trying to address and continue to address the movement forward, there's many discussions and many meetings, over a long period of time and I feel like we have -- we have not only the music venue owners and -- and places that have live music but we have substantial agreement, unanimous agreement at least, consensus with the neighborhood groups as well. I think it's an important first step to keep moving forward. Then try to address this lipencott is facing.

I should just go on and do it illegally? [Laughter]

Mayor Wynn: Can we turn the cameras off for a couple of minutes. [Laughter]

if you want to that that lipencott, the fact of the matter is that you have been took it illegally, you don't have an outdoor music permit right now.

Your office, the police offices and city clerk's --

I'm not asking you a question, mr. lipencott.

I'm telling you. I have been told --

you [multiple voices]

Mayor Wynn: Let's let the councilmember finish his comments. I hope -- I know that you are frustrated. But I hope that the dialogue that you have seen, the comments specifically by councilmember martinez and i and a couple of others will send a signal, I think sending a signal to staff, i think staff is empathetic and wants to figure out how to enable this and appropriate easiest legitimate way. I assure you that I will continue to work to see that that happens. Councilmember martinez?

Martinez: I don't know how I can offer any more assurances that I want to help mr. lipencott. Not just him but all of the other venues in our community to continue to operate, continue to have live music. You know -- I don't understand -- I understand your frustration, but i don't understand why you don't seem like you want to help us get to that point. Your comments don't speak to that. But I'm glad to work with you. My office has been more than open to working with anybody that's come forward. I don't know if upper part of the link music task force meetings that took place and brought these concerns forward to dib rate them, but -- deliberate them, but again we will continue to work forward and work with you and bring these issues up and try to address all of the concerns laid out.

Mayor Wynn: I will do my best to finish the meeting early tonight, we will all run down to south congress and enjoy some good music we hope at guerrero's, thank you, we will continue to work through this. Councilmember morrison?

I wanted to reiterate what we are doing today is really about process, not adding new regulations, i know that there's work to be done. With staff, figuring out rules of how this is going to work, including enforcement and where measurements are going to be taken. One of the important things will be to have the police department at the table because they are the ones that can point out how frustrating it is to not know exactly where to be taking the measurements. I also wanted to mention that as part of this process, within the past month, some folks went on a field trip with some decimeters, my office, councilmember martinez's, the music community they visited clubs that are operating at 70-decibel. So I think that -- that there's a lot of avenues to explore. We do know that clubs can exist operating at 70 decibels because they are doing it by choice in some places. We're only talking about restaurants. So I'm certainly on board with everybody up here in terms of finding a way to make it work for guerrero's and everybody else to keep live music vibrant in the community and again I want to thank everybody for the -- for the really months long conversation that's been going on because I do think that it's a great progress that we have got today.

Mayor Wynn: Thank you all, technically we still have a motion and a second on the table for our consent agenda. Then finally regarding citizen testimony -- mayor pro tem?

McCracken: I think it's important to note also while we are moving forward, part of the process, this is also where this week we start south-by-southwest. Which alone has an estimated 110 million-dollar economic impact for the city. And in addition to being part of our national brand that we have more foreign press come to austin this week than any other time during the year. This speaks to the value of our creative economy. Which is -- which is also the soul of our community. When we found that we were

needing to move forward with the film sector one of the things that we did was created a film office. One of the things that i think we're learning from the entire live music task force is the value that we are going to have from having a music office, major music centers around the city take this seriously. Both as a business and as a partnership with creative artists, whether it's nashville or seattle or chicago and so -- so I think that it's important that austin demonstrate and actually practice a similar seriously of purpose in promoting music and making sure that this is actually a great place for musicians to live and work.

Mayor Wynn: Thank you, mayor pro tem. Further comments? Actually, before I ask for council comments, on the consent agenda, excuse me, 18, which remains on the consent agenda regarding -- regarding cemetery use and construction activities, we have 15 folks who were kind enough to sign up not wishing to speak but all in 18, we will just note, we will note that for the record the folks here in support of 18 which remains on the consent agenda. Again, council, we have a motion and a second on the table. Further comments on our consent agenda? Councilmember martinez? [One moment please for change in captioners]

exceptional to work alongside each other. But there's a couple of caveats that we have. One of them is minor. It's procedural dealing with while a permit is getting appealed to make sure that it doesn't lapse. I think that's pretty easy and manageable, but the second one, a little bit more substantive, deals with this accountable official, and what I'm about to say, I'm speaking not only as the chair of the live music task force and a member of the austin music commission and an owner of live miewtion venue and a manager of artists but someone who's speaking on behalf of a large contingent of the music community. This accountable official should be the head of the music department. The problem is the music department hasn't been created yet, and the music community has since november, when the task force made its recommendations -- has been pretty diligent in following up with me and seeing where are -- and our fundamental recommendation was the creation of this music department. And I've been sensing an increasing frustration and anxiety from the music community, and why hasn't this music department been created yet. And I've done a fair job of keeping them at bay and letting them know that what we're struggling with is probably, and I assume this is true, is budgetary issues. But I want to -- I want to underscore that what we're asking for in this music department is, of course, not a bricks and mortar department. Something that we're asking for is relatively small: One staff to not only balance what we just saw lippencott -- and by the way, I've got artists playing at his venue in south by southwest so I'm going to reach out to him today and make sure that we -- that he somewhat understands what's going on, because I sense his frustration, and I can't tell you what -- what a great illustration of a need for a music department to handle issues like this, because there's probably a dozen other venues that are scratching their head right now and wondering whether they can be open for south by southwest in light of all this. So the -- and I know -- this is a recurring theme every time I get up here. I'm talking about this music department and getting it created with some speed, but to answer your question, council member martinez, yes, we support this, provided that, and the big caveat is that the music department gets created and the accountable official that's in this ordinance is either the head of this music department or someone under. In the interim, I know we just talked about ms. edwards managing this. I just want to kind of inject that the person who is dealing with all this has not only a sense of the neighborhood interest but a sense of the for profit effort of the community too. And that's it. Does that answer your

question?

City manager? ofacy, I guess I want to respond to your comments about the timely -- the timeliness of the possible creation of a music department going back to when we were asked and directed to look at that particular issue. I gue I want to assure you and all of the other members of our music community and other interested parties that staff has been working very diligently to do the very complicated and substantive work associated with, you know, determining the feasibility of creating a music department. I might remind everyone that that is not the only creation that we were asked to look at. We were also asked to look at the feasibility of creating an arts and cultural department as well, and so we have been attempting to do both of those simultaneously. And it is a lot of work, and we've made considerable progress. I believe my last update to the mayor and council came in the form of a memo back february 20, as I recollect, and I even think subsequent to that that I was asked a question by council member morrison as to you know, what was the target in terms of a date. I misspoke at that time because I think I said by the end of april, and actually it's -- we promised to come back by the first week in may, may 7, actually, with -- with our determination to the mayor and council. But I appreciate and understand the fact that you might be feeling some pressure from your associates in the music industry, but please help me by way of assuring them that we are working very hard to get it done and we are committed to bringing back a determination to the mayor and council by the date that I've indicated.

Thank you.

And if I may, very briefly, I think that -- specifically I think the biggest source of frustration for the music community is there's some sense of what you just said, that it's likely to get to move forward. I think the issue is who's going to man it, and if that individual has the interest of the -- of, again, the for-profit sector of the muse community and the stakeholders and somebody that has a deep understanding of all of those issues.

Absolutely. And we're sensitive to that. Let me also just say one other thing, because when people talk about this, and before I say this I want you to know that we all understand that the ultimate decision makers are sitting on either side of me, but, you know, folks talk about this in terms fait accompli and I need not remind everyone of the economic circumstances we find ourselves in and just based on the preliminary efforts that we've undertaken so far, there will be a cost associated with this. And so I think, you know, this legislative body will have to evaluate that in the larger context of the full range of priorities associated, not only with this fiscal year but with the next as well. So I just need everyone to be mindful of that, you know, fairly harsh, you know, financial reality that the city of austin and cities around the country find themselves challenged with.

Mayor wynn: understood. Thank you again, paul, for all your work.

Thank you. mayor pro tem? paul, this might be helpful, my understanding is at least the recommendation of the task force was simply to establish the department with the existing personnel able to perform the duties, but as -- as we grow more successful and our economy rebounds, we can have a more robust effort in the department. Is that what the sense is in the music community and the

task force also?

Absolutely. yeah, I think perhaps with that understanding it suggests that there might not be an initial cost to set up the department, that it is simply -- in the same way -- creating a music department would be similar to creating the film office, which was simply focus the efforts and provide a single point of contact, but we have seen those efforts expand in our creative economy sectors and emerging technology sectors over time, that we can have a similar ability to ramp up as our economy improves, but not with initial cost. I think that's what I'm hearing as a possible outcome. thank you, mayor pro tem. So again, council, we have a motion and a second on the table approving our consent agenda, and that is all 4 and no. 6. Further comments on our consent agenda? Council member shade. I wanted to make a comment about no. 18. You know, it's been -- this is the issue related to our city cemetery, and something that I've learned in the process is that cemeteries are obviously very emotional for lots of people and for good reason. Statute forbids new cemeteries from being built inside the city limits, and so it's a very important process that we go through in the city to protect our cemetery and the few, you know, cemeteries that we have inside the city limits. And I just wanted to make a point that I know that there's been a lot of emotions on this. We've had incredible help from staff, from people at the parks department, as well as inside of city manager's office, and I also want to say that this is a time where we can -- we're doing this to clear ambiguity going forward. This in no way is directed at covenant church, which has had a lease in the past to use some of the cemetery, but they've, you know, fulfilled their promise and our goal is to move forward. And so I just wanted to say that for the record, that we've had a good history of public-private partnership with covenant church and we're really pleased that we can remove ambiguity and move forward, and we've had a lot of citizens who have communicated with us, both in favor and against this issue, and just really pleased that with my colleagues we've been able to come to a great conclusion. And I wanted to echo my thanks to the parks staff as well as city manager's staff to help us resolve this matter going forward. thank you, council member. Again, further comments on our consent agenda? Congressmen marts? mayor, item 19 is a resolution supporting the legislative filings of the austin firefighters pension fund. I just want to make it explicitly clear that this does not oblige the city in any way financially to increase our contributions. This is merely a language cleanup that the firefighters pension fund goes through during each legislative session. But I also want to add to it, though, that I want to make sure that we look into the pension fund's policies and that they are in line with our policies as it relates to domestic partner benefits. Statutorily, I'm not sure -- I don't know what specifically the benefits speak to, but I know here at the city of austin we have clear policies that speak to domestic partners being able to be covered by our benefits packages, and so i want to make sure that the firefighters pension if it's not in line with that, that we request of them that they also come into compliance with our similar values and policies. Thank you, mayor. again, further comments on our consent agenda? Which includes all items except for item 4 and 6. We have a motion and a second on the table. All in favor, please say aye.

Aye.

Mayor wynn: aye. Opposed? Motion passes on a vote of 7-0. Thank you all very much. Appreciate your patience. So let's see, council, that leaves us with a couple of potential discussion items, 4 and 6. Folks, please take your conversations out into the foyer. We'd appreciate it. We have a couple of items to try to

get done here before lunch. 4 is the negotiation and execution of an amendment to the existing professional services agreement with roma design group regarding -- what's generally known as the downtown austin plan, and perhaps if a staff member could give us just a brief summary as to -- and a reminder as to sort of where we are, you know, the time that we have committed, the funds that have been spent. Everybody is looking at each other. just a summary. Because we've a few folks that would like to give us testimony, but I think it would help if we can, to try to go back and set the stage as to what we have been accomplishing with our downtown plan.

Happy to do that. I can give you a very brief look back to tell you what we have accomplished and a very brief look forward to tell you what we propose to accomplish via the item that's on your agenda. In terms of what we have accomplished, and we've tended to use the term (phase 1 and phase 2. That terminology sometimes breaks down and is overall overly confusing. One of the major deliverables was the issues and opportunities report. We stood before you on valentine's day of 2008 and presented that to you. That was the document where we essentially took a look at what are the challenges facing downtown, what is our community vision for our downtown, and combining those vision and challenges, what are some strategies, proposed strategies, for moving forward. One of the things we were immediately charged with by the council after that is two weeks later we came back and on february 28 the council approved us and directed us to negotiate and excuse a contract specifically looking at transportation -- downtown transportation in general, but also a large component of that was what culminated in the urban rail connection study. That, of course, was a study we presented to the council, I think on july 26 of 2008, which moved the ball forward on our community's examination of what might be the role of fixed guide way rail in connecting key destinations, not only within downtown but within the central city. Another component of the work that was authorized by council on february 28 was the -- what we are calling the downtown transportation framework study. We have been careful to note in all of our conversations with the public that it is a draft document. We do anticipate that as we move forward on the downtown plan, it will be modified and refined. We made a lot of suggestions in it, and if you look at it, it's available on the web site, it's publicly available, it does get into some specificity as to what different roadway sections within the downtown should look like, but it's not meant to be a document that you then turn into a cip project and start doing work on. We recognize that when we get down to the specific issues, perhaps taking, for example, conversion of a one-way street to a two-way street, you want to get into deeper detail on that to understand the implications of that. The final piece of what's been called phase 1 is actually ongoing today, and that's the work that you also directed us to undertake in 2008, and that's the affordable housing and density bonus work. That work is ongoing today. We anticipate coming to council in the next couple months with that. It in some ways the density bonus piece of it, springs from the work of both the design commission's density bonus task force as well as the council created affordable housing task force. And so the two of those together resulted in, i believe, the council directing us to undertake that work. As I said, we'll be coming back to you within the next couple months with our recommendations on both the density bonus portion of that as well as the affordable housing. That's the look sort of past. In terms of what we would -- what we would propose to do with the items that's on the agenda today, that breaks down into several components. One -- the first component is there are a few key issues we felt like we needed to take a bigger look at. For example, and it came up just a moment ago, the live music task force was wrapping up its work in late 2008, and



we really propose to take advantage of that moving forward in phase 2 and really look at -- continue to look more deeply at the role of live music in our downtown. Also, ongoing efforts like create austin and so forth, wrap together a body of work we believe that we can incorporate into the plan and really look at the role of music and cultural arts in the downtown. Then one particular component, which actually was the subject of a council resolution, directing us to move forward on a downtown parks and open space master plan. So that's one of the items that would be included within -- were we authorized to move forward per the item on your agenda today. Another piece of that, and this was one of the key recommendations of our issues and opportunities report, was that we ought to look at our downtown as a series of districts. We identified tentative districts, but what we propose to do moving forward is further define what are those districts, what are their boundaries, but even more so look at what are the priorities for those districts, what are the salient characteristics of those districts that our community believes are worth preserving. Are there things we actually ought to encourage to happen in certain of these districts? We would propose that we would do this throughout the downtown and develop a much more refined district approach to our downtown. What we also would do within this work is within two of those districts we would dig much deeper and develop district-specific plans, and this would get into recommendations on are there infrastructure shortfalls within these districts that are obstacles between where we are today and where we want to be. It would be an opportunity to really refine and move forward on transportation district issues within those districts. The other piece is we would -- we would propose to develop an infrastructure improvement strategy for downtown as a whole. In other words, looking at basically a gap analysis and looking forward. So what are the infrastructure obstacles towards accomplishing our downtown goals. We would continue to refine the transportation framework plan I've already alluded to. All this, then, would be wrapped up in the document that we would hold up as a community and say, this is our downtown plan. The phase 1 issues and opportunities report essentially identified what are our challenges and opportunities. The document, though, when somebody came to town in three years and said, i heard you did a downtown plan, can I look at it, this would be the document, and all pieces that I've talked about would that plugged into that and wrapped into a synthesized whole. So I hope that satisfies you. that does, jim. Thank you very much. albert son before we get some testimony? Council member leffingwell? could you reiterate for us the costs of the various phases of this plan and give us some kind of analysis if there's going to be further additions to the plan, or is this -- is this the final phase or are there more ahead of us?

The work that i identified as either completed or ongoing, that being the density bonus and affordable housing, has been accomplished for \$700,000. The item on your agenda today is for roughly \$840,000, and it includes all the things that I just talked about as to what we would propose to do moving forward. We would be serve at your will in terms of whether you think there are additional important issues relative to downtown that we ought to undertake moving forward. One, for instance, would be if the community and if the council's will were such that we felt like there are other portions of our downtown we need to dig deeper on in terms of issue district-specific planning, then we would do that, but we would have a downtown plan at the end of this -- of what I've summarized for you this morning. is historic preservation a part of either one of these phases?

Yes, it is. I didn't hear you mention it.

Yes, it is. In the interest of trying to summarize I left it out, but when I talked early on about some of the early policy analysis we would propose to do moving forward, I talked about arts and live music. Another piece that we would -- would look at that we specifically identified for further investigation is historic preservation, not only downtown -- not only throughout downtown. One issue of particular concern to a number of people that we've heard from, both policy makers and stakeholders, is the status of the warehouse district, and we don't come to this with any bias one direction or the other as to where we ought to go with that, but that was -- that, for example, would be an item that we would seek input on and direction on and come back with recommendations. but that's not a part of this. That's possibly a future --

no, that would be part of this work that I'm proposing. That is -- that would be part of the work that would be done within the items that are on your agenda today. for the 840,000?

Yes, sir. and -- i guess that's all I have for now. further questions of jim before we have some testimony? Council member morrison. I wonder if you could speak to the timeline on this in terms of making the decision today or if -- if it would -- if the work would be impacted if we were to delay it for two weeks, a decision.

We're looking at a -- for the work that I've described, that we would do moving forward, were you to authorize this and direct us to do that, we're looking at, I would say, probably about a 16-month time frame. I can't think of any reason why two weeks would be a fatal flaw in being able to accomplish that.

Morrison: thank you. mayor, I have a couple questions. council member cole? I just wanted to make sure that we are clear about all the things that are included as part of this. When you talk about historic preservation, are you talking about the suzanne dickinson house and the bullman house?

We would be coming forward, were we directed to undertake the work that's the subject of your agenda item today, we would be coming forward with broad historic preservation recommendation for our downtown, not limited to just one or two resources but really looking at -- I'll give you an example. The scope of services that we -- that we have, you know, ready to go on this would look at what are best practices. I mean, are we really doing -- are we up with the rest of the country in terms of historic preservation? As I mentioned, we would be looking specifically at things like the status of the warehouse district, but of course absolutely we would also be looking at those particular assets that you identify there. I should mention, since you well know, some of these historic resources are located within our downtown parks, so they would also be addressed through the downtown parks and open space master plan that is part of the work I've described. well, I wanted to ask you some specific questions about the downtown parks and open space plan. How many parks are included in that plan?

I want to say about 12 -- any downtown park or open space -- or excuse me. Any park or open space that is in our downtown boundaries, as designated by council when we first -- when you first initiated this process, is part of that study.

Cole: okay.

So -- I think it's roughly 12. It includes the three remaining of the historic squares, town lake park, palm park, duncan park, waterloo park, et cetera, et cetera. you also mentioned that there is some transportation framework planning work that is yet to be done. Can you explain what that is?

Well, what we've done, the work that has been accomplished already, we have a -- it's roughly a hundred page downtown transportation framework plan, and once again, i emphasize that we're calling it draft because we know it's going to be an organic document, and it goes into a lot of detail and makes very specific recommendations for modifications to our downtown transportation system. But we also recognize that we as a city probably would not move forward, using the example I used a few minutes ago, on converting an exiting one-way street to a two-way street without working in greater detail, for example, with our transportation department, to say, okay, what exactly would be the implications to making this change? Do we need to do traffic modeling, for example , to for example to make sure we understand the ramifications of these changes. We did not do, for example, modeling as part of the -- modeling as part of the framework as it exists today but we know that we would need to do this before they became real projects we would implement on the ground.

So you would put some of the work modeling for example, whether sixth street would be a one-way or two-way street.

That would be an example -- short answer is yes, let's just say that. That we would do that, and we would be working with other departments. Obviously that's not a stand-alone -- either only the consultants and only my department neighborhood planning. That would be something where we the city, public works and at least the transportation department, would be looking at greater detail where we to move forward on that particular example.

Cole: okay. Thank you, mayor. further questions? Council member leffingwell? could you talk a little bit about the funding sources for this study? Because there I think there have been questions about that.

The funding for all of the -- all of the funding that is within the item that's on your agenda today is from the -- the capital metro quarter cent funding. I would defer to others, greg or somebody else who's here, perhaps, if you get into detail on the history of that, that goes back quite a bit before my time. But it is all of this funding that is on your agenda for the item today, comes from capital metro quarter-cent funding. If there are further questions -- is it bracketed for -- maybe leslie wants to answer this question, but what specifically can this funding be used for?

In the quarter-cent program there are a number of funding categories, and one of those is planning studies. That is the area that this funding is included in. It covers a number of things, such as street maintenance, street reconstruction, sidewalks, bikeways, pedestrian improvements, I believe, anything that's [indiscernible] related or has a transportation tie. thank you, leslie. Again, further questions of staff. I have one final question for leslie. Because this funding comes from the quarter-cent sales tax, is it true that it cannot be used for the general fund and can you just tell us basically what that would not

include?

Well, again, as i mentioned, it needs to have a transportation-related purpose, and so it's primarily infrastructure geared, but it can also be for planning as well. But just for general operations of the city, and I think the example that greg guernsey cited in his memo was general fund purposes. It cannot be used for that. so it cannot be used for general fund purposes.

For operating -- operating expenses of the --

cole: operating expenses. Okay. council member shade? while leslie is there. Sorry. I just think it's -- you're almost as eager to leave the podium and ms. edwards was earlier. because of confusion with the authorization language that's on the backup that was posted to the site, i was wondering if you might be able to explain that -- I'm not sure if you know what I'm referencing, but it was pretty confusing and I've seen it widely reported in media that there were several additional authorizations in phase 2 --

yes, I believe what you're referring to, and stop me or feel free to ask me follow-ups if I'm not speaking to what you're talking about. There is an authorization -- what's called an authorization history in the backup, and I'll apologize and be happy to take the blame for that, but it recites as separate items in the authorization history a first -- 600,000 dating to october 5 of 2006. And, in fact, council, on that date authorized us to negotiate and execute an agreement up to \$600,000. What's confusing is that the next two items in that authorization history, 250,000, which was the authority council authorized for the transportation and rail planning I alluded to, and 200,000 for the affordable housing and density bonus studies, those are in essence subsets of the 600,000. Those are not in addition to. The only caveat I need to add to that is that the affordable housing and density bonus work was co-funded by the downtown plan, 100,000 from the downtown plan, and 100,000 from the neighborhood housing and community development department. So the caveat I give you is that 100,000 of the 200,000 for the density bonus and affordable housing actually came from outside the downtown plan. So it is not technically part of the 600,000. But half the 200,000 -- all of the 250,000 are in actuality subsets of the \$600,000 authorization.

Thank you. any further comments or questions before we take up some citizen testimony? Then with that we do have a couple of folks who have been patient. They're looking forward to giving us some testimony. Josh allen is here to answer questions if we have them up. Josh, he's supportive of this item, as is robert hill, who signed up not wishing to speak but also in favor. Tom stacy is signed up to give us testimony. Welcome, tom. You'll have three minutes to be followed anderson.

Thank you, mayor, mayor pro tem, city manager. Thank you for having me this morning, and thank you for your service to our community. We really appreciate that. I'm tom stacy. I'm the volunteer chair of the downtown austin alliance. As you know, the downtown austin alliance is our public improvement district. We attach ourselves to make downtown cleaner, safer and more economically vibrant. I want to share a few interesting statistics that you may think about as you deliberate on this issue that I think are pretty enlightening. In 1993, actually when the pid was formed, the tax base for downtown was \$700 million. In '08 it finished at \$4 billion. 465% Increase, which is pretty remarkable, even for a city of our size, and

we've got some terrific things going in our downtown. It has obviously become a much more complex place than it was 15 years ago. We have much more interest at heart. We have 70,000 people working downtown in our office buildings and we now have 8,000 people living downtown. And we -- in the past we've not really had residential neighborhoods and had to take their interests into consideration. Some other interesting information that I think you'd like to have is downtown generates 500 -- over \$520 million of taxes each year from property taxes, mixed beverage receipts and sales taxes. Of that over \$22 million goes to the city of austin, and also an interesting fact is that 80% of all the taxes that are generated downtown leave downtown for services outside of downtown. So the downtown is truly the economic engine that drives our community, and we have a great downtown, but we also have a lot of concerns about downtown, and the downtown plan is addressing a lot of concerns. We have a lot of uses that are oversaturated in downtown, and we want to find ways that we can encourage other uses that may be more conducive to growing that tax base, to growing the good parts of downtown that we have. The downtown plan has already helped us in a lot of regards in the draft that they've had. I've never been a big fan of plans and studies. They take a lot of time, take a lot of money and usually end up with more regulation, and what I do in my private life, more regulation is usually not a good thing. This plan is not just a downtown austin alliance's plan. It's the community's plan, and it creates a community vision, and I think it's very important. A lot of the plan -- the downtown austin alliance probably disagrees with. We've worked closely with the roma group and we think that the conclusions and recommendations of that plan are good for the whole, and the recommendations, and we support this to a great degree and I think we think it would be a shame not to be able to complete the plan. If we postpone that we kind of lose what's been done to date. If we go back and revisit, it's like an appraisal, the data is old and you have to spend that money again. In the downtown, it's a good time to get prepared for what's coming in the future. So we hope you'll support this and continue on this plan. I'll be glad to answer any questions. thank you, mr. stacy. stacy, council? Great. Thank you, tom. Let's see, and also greg anderson signed up wishing to give us testimony. Welcome, greg. You too will have three minutes.

Hi, mayor, council. I'm nowhere near as eloquent a speaker as tom stacy so please bear with me. I work downtown. I live downtown, I play downtown. I don't drive. I don't use the roads. The services were already here when I moved here. As you spoke to our building and the residents and the businesses, we create a lot more taxes than we use downtown, so we're subsidizing suburbs. That's fine, that happens, but we do ask this plan moves forward. When you take a big plan that's already well under way, 700,000, I think jim said, that's already invested in this, you don't get all that back if you try and get it later, try and come up -- bring this back around another time. And -- I don't like speaking in front of crowds. So -- I think I'm -- the most sustainable part of the city. I think you know that, mayor wynn, you always talk about this. My fiance and i, we have one car we hardly ever use. She drives to manchaca elementary school during the week and that's it. When the boom comes back, let's have the plan ready instead of trying to have the plan under way when we're trying to get the boom going again. So thanks. Any questions?

Thank you. Questions for greg, council? Thank you, greg. Council, that's all the folks that signed up to give us testimony in this item no. 4. So additional comments, questions? Council member morrison. thank you, mayor. I certainly appreciate that work that has been done on the downtown plan. It's been

great work and i appreciate the fact that downtown is a piece of the city that belongs to everybody. We have thousands and thousands of people that work here. We have almost 10,000 people are moving up there and the number of people that live here, we have people that come down here for intrainments. And less we forget, we have a government downtown. We have all these folks coming to city council and to the legislature, although maybe that gets confused with entertainment sometimes. I'm not sure. But my concern is whether we're doing this plan as efficiently as possible. We're talking about a price tag total of over 5 million at this point, and I would -- I would definitely foresee continued work that we would want to do under this -- this umbrella to move forward with more detailed district plans, because they sound to me like the nitty-gritty that we get into when we're doing neighborhood plans. The fact that we're thinking about moving -- that we are moving forward with our comprehensive plan in the near future for the whole 3 million just really raised the flag for me that maybe we need to take a look at whether there is a way to in some way minimize the costs that we're going forward with. Are there ways that staff can back-fill some of the effort? And I would just like to have the opportunity to sit down with our staff to see if there's a way that we can do that. I understand that if we don't spend this money on the neighborhood plan, it's not going to go into the general fund. It's not going to keep libraries open, but there are other opportunities that we can spend this money on that are also in great need, sidewalks, street repair and all of that. So I think that from my perspective it would be the responsible thing to do to take a couple of weeks to take a look at is there a way that we can minimize the cost and still get a great project. I'm not interested in deferring the downtown plan altogether by any means. I understand how important it is to move forward, so with that I would like to make a motion. I'm not sure it's going to be seconded, to postpone this item for two weeks so that we could have an opportunity to work with staff and perhaps a consultant, I'm not sure, to see if there's a way to save some -- some of the cost in doing this plan. so motion by council member morrison to postpone item 4 for two weeks to our thursday march 26, 2009 meeting.

Mayor, I may second it but I actually had some more questions to ask before i thought -- I thought we were going to have on a chance to ask before any motions were made. I may not second it, though, depending on the answers to the question. with that objection as the maker of the motion, can we table - - I'll leave the motion on the table without a second while we continue dialogue. Okay. So council member martinez. yeah, I just wanted to ask about the phase 1 part of the plan that's already been done, and even phase 2 as we finish it out. What is a typical shelf life for a plan like this? And let's say council doesn't delay and we move forward and in 16 months we're done with phase 2, but the economy hasn't come back and there's really nothing we can embark upon because we are not financially in a position to move forward with some of the recommendations in the plan. What is the shelf life? At what point do we need to start over, that we've grown too much or we've moved too far forward down the road without having enacted some of the plan.

Before I answer I want to make sure I understand. Do you mean the shelf lif er the pause button right now and move forward -- that was one of the question, and then part 2 is if we complete the whole plan, how much time do we potentially have after that before we need to start moving forward pretty seriously with some of the projects that are recommended?

Well, one of the sort of ongoing mantras from the project and we take our cues from you, our community

is not interested in non-implementable plans. Our mantra to ourselves has been the products we produce are designed to be implemented, in other words. So in trying to answer your question about sort of shelf life issues, if we were to go ahead and do the work as proposed today, for example, I'd probably have to answer almost a little bit component by component. On the parks and open space master plan, what we would be doing is a detailed evaluation of not only our existing downtown needs but our projected downtown needs for downtown parks and open space. In other words, given the vision of our city for a 24-hour residential and mixed use downtown, what are the demands that will be placed on our parks. And then looking at, okay, what are the existing resources we have and what's the difference between what we expect we'll need and what we'll have, and then we will produce recommendations for parks improvements, parks programming, parks maintenance, parks funding and so forth. That's probably a combination of a lot of -- of a large number, both big ticket and small ticket items, some things we could probably put in place immediately without major funding consequences. For example, continuing on the example of parks, governance of our downtown parks and how we manage them and what is the role of the private sector and the public sector. A lot of those things I think could be put into place regardless of necessarily the influx of a whole lot of additional -- additional money. And probably each -- and on the transportation front, using that as an example, moving forward on that I anticipate that we would be able to start moving forward on an incremental basis on implementing some of the transportation recommendations we've made. As a broad generalization of the transportation framework plan, the recommendation is one, that we ought to think of our downtown streets as multi-purpose spaces and not just spaces for moving automobiles but for pedestrians, bicycles, rail, buses and so forth. And then the second major piece of that was that we advocated the prioritization of certain streets for certain of those uses, and I think in a fairly small-scale incremental level we could begin as a community to implement the recommendations that we have on the table today along with, you know, having done the additional study that we propose to do. So I don't -- I don't know that completing the plan would -- you know, if the city's financial situation and the overall economy were not to turn around, that we'd still have a stale product. I think it would produce lots of products that we as a community could begin to implement. I hope that answers your question to some extent .

martinez: I may follow up. I don't know that shelf life is apropos. I think what jim has indicated, depending on the financial circumstances in particular, there would be some things that we could pursue. Also because of the financial circumstances there may be things in the plan we would have to defer, and obviously as a planning document, you know, we're going to be talking about a vision that pertains to -- you know, to the future as well and our ability to, you know, you know, to accomplish that provision as a function of the circumstances over time. We should all be mindful that we are talking about a planning document and not something that's etched in stone, and like with a comprehensive plan, ought to be the downtown plan subject to some periodic update because circumstances change. So shelf life probably not apropos here. It's a dynamic document and not a static set of circumstances. I would characterize.

If I could just append a comment to the city manager's plan. I have come to view the downtown plan as really -- while we assign it the name the downtown austin plan, it is really a vehicle for moving forward on our community's multifaceted vision for our downtown. Different pieces are of different sizes.

And, in fact, ultimately in terms of a comprehensive plan I would imagine that the downtown plan would be adopted as part of a comprehensive plan by way of reference, not only the downtown plan but various other master planning documents that we have, park and recreation master plan, cities that have master thoroughfare plans, cip's, all of those things fall under the general heading of comprehensive plan and are included by reference. All of them planning documents, all of them necessarily subject to periodic updates, correct?

Correct. partly my second question was what city manager was addressing. Let's say we move forward with the comprehensive plan. How does that mesh in with what's already taking place in the downtown master plan?

Greg guernsey. I think the downtown plan, or when you're talking about neighborhood plans, because that seems to be a popular topic of late too, these are plans that are looking at, maybe 3,000 feet looking down. You'll get more detail of things that need to go on at more of a level that would be local. Downtown is a neighborhood. Not unlike all other neighborhood plans. So I kind of look at that as maybe a little bit more complex, maybe a lot more money flowing in and out, but it is in a sense a downtown plan -- a downtown plan is a neighborhood plan, just like all the other ones. And so the comprehensive plan looks at all of these together, and you're looking at more broader policy statements when you're looking at a comprehensive plan level. And so as has been said many times, maybe all of these are little patches in a quilt. Well, a comprehensive plan is maybe a backing to that quilt and links it altogether, so it gives it some context of how the downtown operates within our region, and within our e.t.j. going further out. And so it's one part of a much bigger piece, and we haven't talked about the bigger piece yet, but it's just as important because you're looking at a more detailed level.

Martinez: thanks, greg. Thank you, mayor. so then we have a motion on the table by council member morrison to postpone item 4 for two weeks to our march 26, 2009 meeting. Motion dies for lack of a second. Further questions, comments? Council member cole. I think council member shade had a question. council member shade, excuse me. I wanted to make a comment to say that although I didn't second the motion, I think that some of the points that were certainly made in the motion are worth noting and that the staff should do what it can to leverage the strengths of this, as specially as we go into our comprehensive planning process. There are ways to find economies in spite of the fact that we're -- you know, that we might approve this today. council member cole? yes, I just wanted to reiterate that once we understand that 80% of the revenues generated downtown are spent outside of our city, it becomes abundantly clear that downtown is an economic engine from which our whole city is driven. And with that I'd move approval of the downtown master plan. so motion by council member cole, seconded by council member 4 as posted. Further comments? Council member leffingwell? obviously I've expressed some concerns about this whole process, and I'm going to support this motion, and the reason is because I think here in phase 2 we're actually beginning to get into the meat of it, the most important part. I frankly am not sure that we got anything -- or much at all worthwhile out of phase 1. We basically got a reiteration of things that other task forces within the city had recommended, and it's kind of -- kind of hard to come to that conclusion, but I think with the importance, especially with the downtown park system, which is -- I co-sponsored an effort to initiate this over a year ago with mayor pro tem dunkerley and council member cole, and also with regard to historic preservation, you know,



I've heard over and over from various people in the community that they felt like that was left out of phase 1. And so I think we need to put an extra focus on that. But I think with the addition or presumed approval of this phase 2, I think we ought to proceed with phase 2 with an act towards wrapping this up because we're a mill and a million and a half dollars so far into this study, and I think that's a whole lot of money to spend on one part of town, although I certainly realize the importance of downtown, as has been pointed out, the revenue sharing that flows to all other parts of the city. We need a vital downtown. So I'm going to support this study, this phase 2 with those things in mind.

Mayor Wynn: understood. Thank you. Council member Martin? Thank you, Mayor. I'm also going to be supporting the motion. I did have some concerns moving forward. Most of those concerns have been addressed, but I do share Council member Morrison's comments that I think we should proceed with as much caution as possible in trying to minimize the cost impacts whenever and wherever possible. But I'll be supporting this motion. Again, we have a motion and a second on the table. City manager?

If I may, just let me in response to Council member Morrison, let me make a commitment that we will, in fact, go back and scrub the project to see if we can find some savings. Council member Morrison? I'll be supporting this motion too. I certainly want to see it move forward, and I appreciate the manager's commitment, and also I just wanted to raise two other points that occur to me. I know that -- maybe this has already been addressed, but in the past I had heard some concern from a couple of stakeholder groups downtown. The churches as well as the lodging industry, and just to make sure that they're an integral part of the conversation this time around. Thank you.

Mayor Wynn: thank you. Again, motion and second on the table approving item no. 4 With additional thoughts. Further comments? Hearing none, all those in favor please say aye.

Aye.

Mayor Wynn: aye. Poapped? .

Poapped?

Motion passes on a vote of 7-0. That takes us a little past noon. This takes us to general citizen communication. We have a full roster of folks wishing to give us testimony. Our first speaker this morning is Neil Carmen. Actually, there is -- actually there are several folks who signed up to give us testimony on pure casting. Without objection we might as well take them together. So looks like Neil Carmen, Susana Almanza, perhaps Paige did he Shong would -- DeSHONG WOULD LIKE TO GIVE US testimony on pure casting, so we'll let those folks go in whichever sequence they prefer. While they set up, if you don't mind -- yeah, just -- just try to make it a little more -- flow a little better. Our first speaker, then, will be Ronnie Gjemre. I'm sorry if I mispronounce that.

Thank you. Howdy, you-all. Frankly it's Ronnie Gen Ray. That's how you pronounce my name. And by the way, the ob-gyn, Ron Paul for, revolution for love and liberty and our sacred constitution keeps on keeping on. And I'm here today to celebrate, the gift of peace and freedom guaranteed by our sacred

constitution, which both the republican and democrats have been psych pathically shredding, like the 9/11 deception, the kennedy mlk assassinations and the most recent rash of shooting. Even here and now, the austin city council, has meetings with rules that defy our sacred constitution. In my thorough examination of the first amendment i cannot find anywhere how political free speech dismandz demands a two-week reservation and waiting period. For your information, people, the austin city council begrudgingly allows no more than ten people like me to speak in tiny segments of no longer than three minutes and only if we surrender to their nonsensical scheme demand of two-week prior notice, reservations to speak here. Again, nowhere in our political constitution is political speech like this limited to only three-minute segments with two-week prior authorization to be authorized. Power corrupts, as demonstrated by these austin city council limiting free speech rules. For your information again, people, freedom of political speech has been ruled to be without limits many times by our other supreme court. However, to accommodate the busy schedules of these so-called public servants here, we the public have dutiy fully obeyed the city council's scheme of limiting the public's freedom to guy -- the public service the public. Who thought of up this hogwash and why? Could it be that this city council fears listening to our input and perhaps expansive ideas because they insist that they don't have to after winning an election? No, city council members. Your election does not grant you the power and authority to limit the public's freedom of political speech only to your self-serving convenience, as so-called public servants. You should celebrate and accommodate any and all public input into any and all decisions and discussions that you have on, quote, our behalf. In my humble opinion. Meanwhile here in austin we are all blessed with the option to participate every 1 fm radio talk radio with various call in political talk shows. My favorite shows include those of austin's allen jones, which broadcast every to , with exciting and scary information to help save our world and also 4 to 6:00 p.m. sunday afternoon. 1, The communication usually has insightful helpful, sometimes challenging radio broadcasts that I cherish and appreciate virtually every day. For example, everyone must say no to our continually counterproductive war an islam, and the war on our constitution. Thank you so much.

Mayor wynn: yes, sir. Thank you. Ronnie? So I think the folks who wanted to give us testimony on pure casting have organized their presentation. Neil, welcome.

Yes, mayor and council. Thank you for the opportunity to speak. My name is neil car man. I'm the clean air lone star director of the chapter. The texas commission on environmental quality has conducted testing, ambient air monitoring at pure castings. Out of the 24 metals they detected during nearly two days of testing, 12 are highly toxic metals. If we can pull those up. Let's see. How do I get this to -- okay, the next slide. Okay. 12 Of the toxic metals detected out of 24 were aluminum, and imony, arsenic, brifium, come ballot, lead, nickel and sleenium. You can see the minimum verizon the maximum values in micrograms per cubic literature per hour detected in the air from being detected from pure castings, so these 12 toxic metals have a range of human health hazards such as carcinogenicity. The car sin gist, ars i don't know, come ballot, lead and nickel. Basically when you talk to toxicology experts and medical doctors, trained in toxicology, they will tell you there is no absolute safe threshold of exposure to carcinogens. And this mi carcinogens at pure castings is very difficult to evaluate because it's basically a toxic chemical cocktail. The next slide, please. Let's see, there's another slide. If you compare the peak hourly values for the car carcinogenic called an epa concentration, which is different than tceq, arsenic on the far right shows it was 88 times the risk-based concentration value for the

highest one-hour level measured at pure castings. Barium on the far right show it was 5 times above the risk-based concentration that EPA would recommend. Cadmium was 24 times its peak one hour level. Chromium 6, which was the -- basically the subject of the movie Erin Brockovich. That was 3,965 times over the one-hour inhalation screening value that EPA uses. Cobalt was 178 times the risk-based concentration. Lead, what the experts say Phil Landrigan was here in Austin, studying it for 20 years in children, basically says there is no safe threshold for adverse health effects such as learning disabilities, memory impairment in children. And yet, it was measured every hour being emitted by pure castings. Finally nickel was 90 times above the risk-based concentration. I think there's one more slide. Okay. Basically what we have at pure castings is a toxic chemical cocktail consisting of the 12 metals, the particles and been so alpha pie rein, the TCEQ didn't test this but admitted in a meeting it expected to find these polycyclic air -- in the particles which were confirmed out there, but they did not actually collect and speciate these in the particles. Finally in the last slide what we have is a toxic chemical cocktail of the various metals, and polycyclic aromatic hydrocarbons. This is not what children should be exposed to, attending elementary schools, playing on the school grounds or living in the neighborhoods. Thank you very much. Thank you, Neil. Let's see, Susana or Paige, to be followed by Susana and Aircrafta.

I'm Paige, and I live across the street from pure castings and I have the map up there, what's outlined in the red is it's an open-air facility 40 years old. The men working there on wearing masks. The green happy face is the kindergarten playground. The other yellow is University of Texas elementary school and the purple happy face is their playground. I know firsthand that the air pollution from air castings is causing health problems for our children. The children at Zavala are complaining of it. My 5-year-old son has problems, he breathes the air. The 12 toxic metals that the TCEQ found December 4 and 5 definitely are a health risk, which is not what the TCEQ says. They are a health risk, and the guidelines used by the TCEQ to establish safe levels of exposure do not take into account the vulnerable developing minds and bodies of young children. There are no guidelines of acceptable exposure levels for children as -- to expose them to known carcinogens and other toxins, shouldn't do that but that is exactly what we're doing. The test results found 6 suspected or recognized developmental toxins. Cobalt, cadmium, 12 Reproductive toxin, aluminum, antimony, chromium 6, hexavalent, cadmium, cobalt, lead, and still less thanium. Aluminum. Cobalt, lead, and as Neil said, these were in the air throughout the testing, so it wasn't a freak finding. Every day they operate fine particulate matters. East Austin residents have been complaining about pure castings for the 40 years it has been there. There are situations like pure castings in Zavala all over Texas. Austin as a progressive city needs to blaze a trail, lead the way and show the cities and our communities and particularly East Austin that we can protect our children, and clearly the TCEQ is there to protect the industry. All right. Thank you. Thank you, MRS. DeShong. Sue Susana ab Almanza to be followed by Erica Gonzales.

Good afternoon, Mayor and City Council members. I'm Susana Almanza with Poder, people organized to defend earth and her resources, and we want to thank Councilman Mike Martinez for putting together the stakeholders meetings that has helped move us forward and also we want to thank Councilwoman Laura Morrison for getting the health department to move and get TCEQ at least to get out and do an investigation, and yesterday we had the privilege of sitting down and having a discussion with TCEQ and members of the department of health and human services, Poder, and the Sierra Club and community

member paige DeSHONG. As you can see, the tceq, why it released a report saying that they were safe, if you look, like they always say the devil is in the detail. Well, the devil is in those reports, and it shows, as neil carmen has stated, all of these dangerous metals that are in there. What we'd like to do is we've gone before the bond committee and they passed a recent resolution to look at if -- resolution to look at if this site was purchased how much affordable housing units could be put in this site, and we're also waiting for the report, if they purchase it, what type of cleanup might have to be done in this particular area. Now, if for some reason the affordable housing bond people are not able to purchase this, and we don't know why not, there's 9 million made available and this is one of the parts of austin that's really struggling for affordable housing that has the need for affordable housing, but to look at different avenues where different funds might be used to purchase this, and as we said before, epa did say there's brownfield money, there's also money for training for job development for the community to actually do the cleanup. So there's a lot of funding that's available. But the bottom line is whether they're chemicals and how high or low because you have scientists arguing all the time, there are still scientists that say there's no global warming and there's scientists that say, you know, we're heading for a very -- we're in a crisis already. So we're going to have tceq, who is supposed to be protecting the health of residents, protecting, really, developers most of the time, and we see that all over. But right here is -- that we have children, we have an elementary school, and I can tell you that none of those tceq people have their children going to zavalva elementary or living in east austin. So we really need to move this forward to protect the health of the children in east austin, so we ask you, with expediency to do whatever it is that you have to do to make sure that we move this forward to protect the children. Thank you. thank you, sue san a council member leffingwell. one of the carmen majored was pah's, polyaromatic hydrocarbons. That's all right. You don't have to -- I just want to mention that that was the toxic agent that is called in coal tar-based pavement sealers that this council banned a couple of years ago, and in the process of going through that the city has compiled a lot of research on that particular substance. So you might want to inquire as to information that the city has already developed that might be helpful to you. thank you, council member. Let's see, I think erika gonzalez also wanted to give us testimony. Welcome back, erica.

Good afternoon, mayor and ski council members and good afternoon to the baby. My name is arca consist. I'm with poder. The campaign for safe cosmetics. Today is a very important day because it is a national day of awareness in action and organized by the coalition. Today thousands of people are calling on the removal of toxic products from baby and products that contain toxic chemicals. The campaign for safe cosmetics, commissioned 48 products tested for die objection een and 28 products tested for the presence of formaldehyde. 68% Of them tested for -- 82% tested positive for formaldehyde and 17 of the products tested contain both contaminants. Due to holes in federal law it's perfectly legal for cosmetic companies to use unlimited amounts of virtually any ingredient, including chemicals linked to cancer and other adverse health impacts with no premarket safety assessment. As a result cosmetics sold contain ingredients and impurities with known health hazards. I'm here today to ask that you support legislation to strengthen fda oversight and regulation of the \$50 billion cosmetics industry to ensure that cosmetics do not contain ingredients or things linked to adverse health effects. I urge you to ask congress to do the right thing to protect children and future generations by requiring that cosmetic ingredients are safe for long-term use before they show up in everyday products. Babies

across america are sitting in bubbles tainted with cancer-causing chemicals and other toxins linked to serious health effects, and I am also sad to say that children in east austin, particularly area the pure casting facility near sa sal a sa value a elementary school are playing in playgrounds with tainted area with also release toxic metals linked to serious health effects. Children are getting double expos through products and community environment. A child's exposure is greater than those of adult. Children are able than adults to detoxify and excrete chemicals. They are more vullable to organ damage. They have more years of future life in which to develop disease triggered by early exposure. Please support efforts to change federal law and mandate the fda to exert real authority over the safety of personal care products. Please support our products to relocate pure casting out of east austin and build affordable housing. We need to get rid of tainted bubbles and tainted air in our neighborhoods. Help protect the health and safety of our children and communities. Thank you. thank you, gonzalez and all of our speakers. Let's see, I think that now brings us to jimmy castro. Council member morrison, of course. I want to thank everybody for participate in the meeting that we had yesterday. We had, I think, maybe five tceq folks come and meet with my office and poder and the sierra club and the community and senator watson's office was also there. And as scientists and regulators do, they talked about the standards they use, and the bottom line is that we know that there are impacts on the community that aren't captured in those test results, and I'm certainly committed to working with my colleagues. I know council member martinez is also very interested in looking at a way to find a more compatible situation for everybody involved.

Council member martinez? briefly I also want to say that I had a very productive meeting this past monday with the city manager and he is committed to working with us in any way that his office can be supportive providing information and even looking into the possibility of discussing moving the facility to a more appropriate location. So I want to thank him for his efforts and welcome him to the team that's joining on to help us in this effort. further comments on our pure casting testimony? Thank you all. Welcome, mr. castro.

Thank you, good afternoon, mayor wynn, council members. I do have some slides to show you this afternoon. I'm here to speak in my own behalf. This first slide shows I'm here to invite everyone to the star of texas prairie and rodeo at the exposition center from march 13 to the 28th. The star of texas fair and rodeo is open to college students from 254 counties within texas. This is the largest youth education fundraiser in central texas. The rodeo rumble 1 k will be 30 at the travis county fairgrounds. The star of texas fair and rodeo is one of six largest rodeos in the world. rodeo austin will also take place. The chuck wagon cook-off is set for friday, march 13 and saturday march 14. The barbecue cook-off is set for march 20 to the 22nd. Last year proceeds from the event generated over \$200,000. Kids will enjoy kids down and the petting zoo. Nearly 10,000 texas youth will bring livestock projects that they have spent countless hours working with. Over the last 20 years the star of texas fair and rodeo woorted millions of dollars to 13,000 kids. In 2008 the texas fair and rodeo road yeah woorted \$330,000. This is the climax of years of work by the 4 h members. These scholarships will help those who might not otherwise have had the golden opportunity. The young men and women of the future farmers of america who wear those blue and gold jackets wear them with pride, because agribusiness in texas is good business. Today the star of texas fair and rodeo has more than 2,000 volunteers who contribute their time and talent. Thanks to the generous support established buyers groups, area businesses and

thousands of visitors, this has made the star of texas fair and rodeo the success it is today. Thank you, mayor wynn. thank you, mr. castro. Great commercial for a reminder. Let's see. Frances martinez has signed up wishing to give us testimony. You too will have three minutes to be followed by marcelo tafoya.

Good afternoon, mayor will wynn, city manager and city council members. Today I'm here with the -- again, to let you know that not much has been done on the horse carriages that are in 300 ediac street. And the -- I have called 311, and so they have that on record. Still the neighborhood would like to see what can be done about these horses that -- they block the streets 00, and we'd really like to see something done about this. I don't know -- I know that's not the appropriate zoning that's on there, because that's residential. However, also, we also have a lot of our streets that are being repaired, or being worked on, and what it is is a -- they're left in worse -- you know, they're left in worse case than they were before. Where can we call to see? Because what it is is they're digging up the streets and then when they repair them, they're finished with them, there still remain some potholes that were not there before. So I sure would like to see something done about this. And we're having a lot of work done on our streets. Also, I would like to invite each and every one of the public to our lulac -- it's our forum that's going to be 00 at mets elementary, which is at 84 robert martinez. And I sure would like to see something done about these issues that I have come here before. Thank you, have a good afternoon. thank you, frances. And marcelo, welcome. You too will have three minutes to be followed by rae nadler-olenick.

Good afternoon, my name is marcelo tafoya. Lulac district 12 director and also the national civil rights commissioner for lulac. I'm missing the baby. I was hoping to be blg to see her. That's all right. I'm here to share with you-all the problem that we're having with sheriff's governance. The fact is that a good mike martinez will be representing 32% of our community, sheryl cole 5% of the community and the remaining 5 is supposed to be representing 69% of the community. And if you divide that by 5 it's only 14%. So a lot of times we have issues that we come up and it's always pointed, you need to talk to mike martinez. 5, Because I'm latino. Well, you know, he has a lot on his plate. We would like to see some of you-all take some of the lead on these things also. Likewise with sheryl cole. 5% of the community that comes to her and everybody points, well, if it's an african-american situation, go to her. What we need is quality amongst all of us, that we can come to speak to each and every one of you because you're all elected by us, like it or not. And I understand why sometimes mike can't answer our questions or return our calls, but likewise, when he's busy we should be able to come to one of you and ask the same thing. And at the same time each and every one of you should be able to address our issue. So I look forward to being able to share our governance amongst the community, no matter who we are, because i always find myself saying, well, if I was a german american who would I go to? If I was irish american, who would I go to? It's always seemed to be I'm a mexican or a latino, i have to go to mike. I think that's not fair to him, it's not fair to us and not fair to the community at large. So I look forward to -- as things move forward in the next year, that we'll be able to share the government amongst all of us. Thank you very much. [Applause] thank you, mr. tafoya. I've been advocating that I receive twice as much pay as everyone since --

share. no, i appreciate your comments and I take them very seriously. I will try to be as responsive as I

can, but i also share your concerns, and that's why for the last three years I've been advocating for a single member district hybrid form government. [Applause] thank you. council member shade? I don't disagree with your comments, but i also want to acknowledge that whenever you've asked for an appointment with me, we've had them, and I think that many of my colleagues feel the same way. I mean, I don't feel like you should feel that only mike is your go-to person, and I would encourage you to continue to come to my office, and we hope to be as responsive as you want us to be, and there are many people here in this room who have also, you know, had the opportunity to meet with me and my colleagues anytime they wish. thank you, council members. Let's see. Rae nadler-olenick. Welcome backs, rae. You too will have three minutes.

Good afternoon, mayor wynn and council members. For the last five months now I've been speaking here about water fluoridation each thursday. You know me as someone who comes, talks for three minutes and then disappears. Behavior for an activist, but I began speaking up because there was a serious issue that needed getting on record and to be open. I also hoped my contacts with bring me in contact with other members of the public who shared my concerns. That has happened. One of those people had the education and know-how to pick up the ball and carry it further. As a result I understand i understand there's now some movement within the city manager's office to study some of the scientific issues first brought up here as well as look at the cost saving aspect. These are very good first steps, and so I appreciate this platform, and i likewise want to thank the members of the austin water utility, who may have heard -- or heard about my talks and were willing to pay attention. Next week, march 17 to be exact, marks the mid-point of our two-year contract with lucer chemical industry, the provider of floor education for our water. It would be a beautiful \$587,500 gift to the people of austin if on march 16 of next year the contract were allowed to expire unrenewed. We're also looking for unnecessary items to slash and that one stands out. I'll bet lots of us have ideas what we could do with the extra money. Fluoridation has long been deceptively promoted as something, quote, for poor children. How about something that really helps low income children, like oral hygiene education, toothpaste, tooth brushes, visiting dentist programs where they can receive real care. That's just one suggestion than and the beauty of it is doesn't deviate from the stated mission of protecting their children's teeth. Everybody else will have suggestions of their own. The point is there are so many options that don't involve putting a needless and dangerous substance into our water. Two weeks from now an important international meeting of dental personnel will take place in san antonio. I'll tell you more about it at that time. Thank you. thank you, rae. Let's see. And paul hernandez has signed up wishing to give us testimony. And we'll note that for the record. And so council, with that one vacancy, I would like to ask -- I'm told scott kellogg is here. Scott, would you like to come forward? You're our designated speaker today. Welcome. You have three minutes.

Hello. My name is scott kellogg. I want to thank you all very much for allowing me to speak. I'm a co-founder and member of the rise [indiscernible] a nonprofit organization that's operated in east austin since 2000. The risen serves as a center for numerous austin-based community organizations, and as an internationally regarded model for urban sustainable development. The many achievement have included the successful cleanup of the brownfield site. In 2004 with the assistance of all brownfield's redevelopment agency, we were donated a ten acre piece of land in the neighborhood of montopolis that formerly served as the city of austin landfill. Along with the land we received \$200,000 brownfield

cleanup award from the environmental protection agency that we used to remove over 40 tons of debris from the site and since turned this once blighted property into a developing environmental education park. In recognition of our important work in 2007 the rising collective was awarded the keep austin beautiful award as well as their best of the best honor. Bikes across borders operates a community bicycle repair shop out of the warehouse that benefits many residents of east austin. Over their history bikes across borders have sent more than 700 bicycles to community organizations in latin america. The inside books project, a program of the rising collective, sends free literature to prisoners in the state of texas, operating on a shoestring budget and with only volunteer labor they receive over 800 requests each month for books, and succeeded last year in mailing over 18,000 books. The rising collective warehouse at 300 allen street has served as a demonstration site for numerous environmentally sustainable technologies, including gardens, rainwater collecting and composting. These collect hundreds of visitors annually and have added to austin's reputation as being a leading green city. The warehouse was among one of the first commercial buildings in the city of austin to receive the solar rebate program as well. Unfortunately, due to recently discovered code and structural violations at the rising warehouse, the rising collective and many projects are facing imminent eviction. As the owner of the blg building I accept full responsibility for the violation and am eager to cooperate with city officials on correcting the problems. We've met with willie from the codes department and have been granted an extension. I fear, however, that the process of eviction will make us discontinue our program. It's for this reason that i am here to appeal to the city of austin for assistance. The organization's currently housed as rising will immediately need more housing and any financial help would be extremely helpful. We are looking for lockable storage containers to be put on the property to temporarily store our possessions during this transition. Again, any assistance that the city could offer us would be enormously appreciated. Thank you. thank you, scott. By the way, you won't have -- how can folks contact you? Do you have a web site? Do you have --

we do have a web site and we do have an email address that I could give to you -- say it now for the television.

Okay. Our web site is [www rising collective](http://www.risingcollective.org) --

and rye soam.

Rhizome collective, [collecctive.org](http://collecctive.org). And the phone number? 385-3659 Is our telephone number that we can be reached at.

Mayor wynn: good. That's been captured now for channel 6 and as this gets replayed hopefully folks can contact you. I know matt in my office has been in contact and he's briefing me on the situation. So thanks for being here and keep up the good work.

Thank you very much. [Applause] so council, that concludes our general citizen communication segment of this week's council meeting. We actually don't have any items to take up in closed session, and so -- we do have item 6, which is a discussion item. Without objection I'd like to go ahead and recess this meeting of the city council. We will go grab lunch. We have one afternoon briefing by staff



prior to 00 zoning, and to i believe that briefing is less than 30 minutes long, 30, without objection, we can -- I will reconvene the city council 6, action item, go to afternoon briefing and then to zoning. We are now in recess and i anticipate calling us back to order at 3:30 p.m. Thank you.

Mayor Wynn: There being quorum present, at this time I'll call back to order this meeting of the austin city council. We've actually been in recess now for a couple of hours. Council, earlier today staff had requested, and we took item number 6 off the consent agenda. This is an item regarding a settlement of an e.p.a. Claim. We have an appropriate closed session legal discussion about this case a couple of weeks ago or so, so staff has posted this for action. So with that I'd like to ask assistant city attorney mitzi cotton to give us a brief overview of this settlement and see if there's any action. Welcome.

We spoke about this i think last week. This involves the disposal of some chemicals in 1976 by the city. At the time it was a licensed hazardous waste facility. Since that time it has been [02:44:01] designate add super fund site and we have been named a potentially responsible party. has offered a settlement that the law department and staff recommends in the amount of \$53,999.

Mayor Wynn: cotton, I think essentially it's safe to characterize that as being our sort of fair share. That is our perceived the percentage of the amount of potential waste being dealt with.

Correct.

Mayor Wynn: Questions for ms. cotton, council? Comments? Again, we had this appropriate legal presentation in closed session last week. Hearing no comments, I'll entertain a motion on item number 6. Motion by councilmember morrison to approve item number 6 as posted. Seconded by councilmember cole. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of six to zero with the mayor pro tem off the dais. Thank you, ms. cotton. So council, that now takes us to our afternoon briefing, which should then take us right into our zoning cases. The afternoon briefing is a staff presentation regarding proposed legislation as we understand it creating special districts within our desired development zone, patrick murphy.

Good afternoon, mayor and council. I'm pat murphy with the watershed protection and development review department. I'm here today to brief you on proposed legislation creating special districts in the city's desired development zone. Staff has been working with karma since the beginning of the year regarding proposed legislation to create special districts for the east on project in the city's desired development zone. Karma intends to file a bill this week that would create the districts and desires to have the city's support. Our briefing today will [02:46:00] cover the easton project, proposed legislation, the desired development zone sh 130 corridor goals and policy and other considerations. Staff from watershed protection, neighborhood planning and zoning, wall and austin water utility are praihl to provide additional clarification or answer questions you may have regarding the proposal. I want to remind the council there is no action posted today for this item. The karma easton project is approximately 2900 acres. It's in southeastern travis 183 and i-35. The services for water and wastewater are provided by austin water utility and electric is provided by austin energy and blue born net -- bluebonnet electric cooperative. Carma is wanting the districts to support development of this

property. The districts will provide a funding mechanism to pay for major infrastructure and to facilitate development of a high quality master plan -- master planned community in the desired development zone. This is a map of the SH 130 area showing different projects proposed in the area. The Carma Easton project is the large tract outlined in red in the lower left portion of the map. As you see the Easton project is the largest project proposed in this area. The special district proposed creates five districts that would govern the 2900 acres. It provides multiple types of governmental powers, conservation and reclamation district powers, municipal utility district powers, municipal management district, public improvement district, the ability to [02:48:02] issue 380 grants, to create a housing finance corporation, an industrial district and municipal drainage utility. The municipal type powers that would be provided include taxation authority for sales, property and hotel taxes, annexation, debt issuance, assessments, grants, tax increment financing, eminent domain and contract for services. The city's consent is required for board election of the permanent directors, and district operation, although the district is proposed to be created initially with the legislation. It would not be able to conduct business until ultimately the city consented. Addressed in related agreements include things such as district exercise of powers, continuation of districts after annexation, limited and full purpose annexation and land use and development standards for the district. This map shows the city's desired development zone in green and the drinking water protection zone in red. The desired development zone is the city's preferred growth corridor. Austin's future projected population growth is slated to occur in this area. Much of the desired development zone is in the area and with the construction of SH 130 the city is challenged to understand our ability to promote sustainable development. The cost of providing needed infrastructure in this area coupled with the city's desire to have high quality, sustainable development in the desired development zone requires creative solutions that will benefit both the city and the landowners in this area. And the future citizens of this area as well. The city's desired development zone goals are high quality development that's sustainable, affordable mixed use. Extension of public infrastructure. Land use controls, environmental protection and provision of public services. [02:50:01] The city PID policy was adopted recently by the council to address these goals, and the first PID proposal that was submitted for this by Taurus Development is nearing completion. In 2007 the city proposed legislation that would have created the SH 130 district. Although the legislation failed, the intent of the legislation was to provide land use controls and a financing mechanism for infrastructure. Since that time there have been several proposals to try to accomplish the same result, including the proposed Carma legislation. The recently adopted PID policy was intended to provide similar results to the SH 130 legislation. In consideration of the proposed Carma legislation, it is helpful to also compare it with the SH 130 legislation. There are many similarities, but there are also some differences. This slide shows some of those differences. For example, in the SH 130 district, the governing board was controlled by the city. With the Carma proposal, the governing board would be controlled by the property owners. In the SH 130 district, the districts created were created by the city and with the Carma proposal the district is created by a bill. District operation only -- would only occur subsequently by city consent. Under the SH 130 district, the debt issued and directly controlled by the city, but for the Carma proposal debt would be controlled by the districts subject to city agreements. Some of the considerations that staff and Carma have grappled with over recent weeks are included here. Limited time to review proposed legislation and proposed agreements. As I said previously, we started looking at this only a very short time ago. This is a new type of district that as far as we know is unique to the state of Texas. And we are also grappling with

potential precedent [02:52:00] setting nature of such a district. The legislative process also has cost us some -- caused some concern as to what the outcome of the bill might be as it moves through the legislative process. The composition of the governing board has been another issue that we have discussed relative to how much city participation might be relative to that board. Another thing that we have discussed is a proportion of sales tax revenue that might go to the city versus carma. Feasibility of limited district to be responsible for outstanding debt upon annexation. This is a proposal that carma has made in order to deal with one of the concerns that we've had with the district that there might be outstanding debt that would be a barrier to annexation. Under their proposal that would be negotiated later, the district would continue to operate after annexation in order to pay off outstanding debt. And of course, one of the things we're here for today is council direction. If council desires to consider supporting the legislation, the next available council date would be march 26th for that item. That concludes our briefing. We have staff available for questions. Please let us know if you have any questions and we'll try to answer those for you.

Mayor Wynn: Thank you, mr. murphy. Questions of staff, council? Comments? If not, we look forward to -- I'm sorry, councilmember morrison.

Morrison: Two questions, actually. On slide 4 and 5 you've listed out the municipal type of powers that are in this special district bill. Conservation, reclamation. It talks about the governmental powers that are [02:54:00] part of the district.

Yes.

Morrison: In 4 and 5. And then in 6 we see that some issues are addressed in related agreements. So my question is beyond these things that you've listed, what governmental city powers are not included in the district legislation? So what else can a city do that this district wouldn't be able to do?

I'm sharon smith with the law department. And we have worked to evaluate several versions of this legislation. And I would say that even carma would suggest that they would like to operate as closely to a city as possible. And so most city powers are included in this legislation. I can't identify for you anything specific that is not. Let me put it that way.

Morrison: And the other question I have is I wonder if someone might be able to give us just a sense for the relative size of this. I know that it's -- 2700 acres or something like that that we're talking about. Could anybody give us an idea of how much 2700 acres would be, say, in the center of austin?

2900 Acres, I did a very quick and dirty kind of analysis. Roughly the area from the river up to around koenig lane bordered by i-35 and mopac. That's roughly what i understand to be a similar size to 2900 or 3,000 acres.

Mayor Wynn: Downtown is -- most folks think of downtown as about a thousand acres. 7 square miles is downtown. So this is measurably larger. [02:56:00] Further comments, questions? Councilmember cole.

Cole: I have a couple of questions. First off, I know that we tried legislation last year that we were not able to get passed to try to get development in 130. And -- in the area of -- in this general area. And I'm wondering if you could just provide any type of synopsis about how this legislation compares to that or what's the main difference?

I think I'll ask sharon to come answer that for me. Thank you.

That legislation went through a lot of iterations. It was quite late in the session before it finally didn't continue to move through. There were a lot of different drafts. As it was indicated on slide -- I think the primary differences are those that are indicated on slide 9, which is in sh 130 district, the governing board was the city council. Of that district. Whereas in this case the governing board that's proposed would be seven members, four of which would be property owners initially, developers, one board member would be tceq representative, one would be county representative and one would be the city. As the development began to build build out, then the current draft of their legislation would have the city get the second board member in place of the tceq's. The sh 130 legislation allowed the city to create the district, so it set out the corridor for those, but it would actually take city action for the districts to be created, whereas this legislation does actually create the districts, however therks can't operate -- as pat said, they can't elect permanent directors without the city's consent. And essentially the way that the legislation is set up, the city would negotiate through the rest of the agreements that would govern how the district operated before they could actually become effective basically. And then thirdly, because [02:58:00] the city was the governing board of the sh 130 district, then the city had complete control over the debt. In this case, and this is something that we've continued to work with carma to try to come up with something that is the least risky for the city, the proposal, as pat said, is to have a limited district that would continue on or could continue on after annexation so that they would continue to separately impose any outstanding debt collection that they needed to in the city's taxes could go on top of that. The legislation does provide that the city has some say so in whether debt is issued or not. It depends on how the ultimate agreements are negotiated out, what those details would be.

Cole: So while we're working on this with the carma developer, we're trying to ensure that we have debt protection.

Definitely.

Cole: I wanted to ask about do we have any idea what the infrastructure would cost? I'm just trying to get a feel for what kind of debt we're talking about.

What I can talk about for the water and wastewater aspect, which is the part I'm familiar with, is for water the infrastructure for the area is about \$144 million, and the part attributable to the development for carma as i understand it would be 75 to \$80 million. And bart jennings, the person who gave me these numbers, he's at the capitol right now. For wastewater, I believe the infrastructure to serve the area and to get to the area through the corridor is \$64 million. And the part attributable to carma would be \$56 million. That's my understanding.

Cole: That sounds like a lot of millions.

That's just for water and wastewater. I can't tell you about roads or something like that like that.

Cole: So that's just water and wastewater.

They are also working with travis county on the extension of william cannon and slaughter lane. I don't have those exact numbers. I don't actually know what those numbers are for the debt associated with those roadways. That's very significant as well.

Cole: So would it be fair to say that we would be -- it's almost cost prohibitive for us to do a development like this. To provide the infrastructure to the development.

Well, the city is currently already funded, as I understand it, for a major water utility project. I know the director of austin water is here. That's 120-million-dollar project. So that project is currently underway. The city is certainly -- does not have any funding currently and being that this area is in the county, the roadways are being handled through cip's through the county. So it's a lot of money that the city currently is already planning to spend on the water and wastewater infrastructure in this area. But there's other internal infrastructure that we aren't even touching on that would be internal roadways and internal infrastructure that would ultimately be dedicated to the public at some point that would also be over and beyond just the city's infrastructure extension in these areas.

Cole: Okay. I'm just trying to make sure I'm clear. It was my understanding that the real problem with spurring development in the area is the prohibitive cost of the infrastructure, which is why we looked at the 130 bill last year. And the reason we're considering pid's and special dridz now. I wanted to make sure that that general understanding was correct.

I think that this is really a question that has to do with city control. This is in our e.t.j. Currently. There are some very specific requirements for services that cities must provide to annex areas, which would give us land use controls and would give us the ability to require development standards above and beyond what we can currently require in the e.t.j. So it is really a question of could the city afford to go out and annex this area and then serve it to provide what's needed to do this kind of development. We have not done a thorough analysis of that, but my understanding is that would be extremely difficult for the city to be able to afford and to justify given the -- all the infrastructure and the funding needs throughout the city's jurisdiction.

Cole: What is the projected annexation period that you have been discussing.

I'm going to ask virginia from neighborhood planning and zoning to address that.

I'm virginia collier from neighborhood planning and zoning department. This area is currently contiguous to the full purpose city limits, to typically the way annexations extend the city limits are as developments occur and as something is being developed we'll look at annexing the area. We don't typically jump out

ahead of development and annex prior to that. So it's available for annexation as soon as something is developing there.

Cole: Thank you.

Mayor Wynn: Further questions, comments? Councilmember shade.

Shade: Is staff giving a recommendation before --

we are not making a recommendation here today. We are basically here just to brief you on the proposal. We are still in discussions with carma, and our purpose here today was to make sure you had all the information that we have, and we would come back to you if desired by council, if you wanted to consider this item for action, we would come back to you with a recommendation at that point.

Shade: But the consideration for action would be whether or not to support the legislation?

Correct.

Shade: And the legislation -- even if passed, doesn't necessarily mean that we have to have an agreement and use the tool. It just allows the tool to be available, this new super district to be available, is that correct?

That's my understanding, yes. Basically the bill as it's written right now leaves all the negotiations on the hard things like development standards, services, annexation, debt, all of those sorts of things to the future negotiations that would have to occur for the district to elect its permanent board and start conducting business. So the bill as it's structured right now would create the district, but it would basically be a shell. And as we negotiated, assuming that we reached agreement, at that point then the district would begin to operate and conduct business.

Shade: So the main issue being controlling debt is yet to be determined?

Well, it certainly is understood that that's one of our major goals. And the bill as it's structured would allow for negotiations relative to how much debt would be created by the district, what tools and powers of the district would be used to pay for that debt. And ultimately how long the city would have to wait before it would become part of our city limits and we would annex it for the tax -- of course, for the value of the land that we've created.

Shade: With respect to precedent setting, what are your feelings about that in terms of what else is out there?

I think the only thing similar that the city has dealt with in the past have been municipal utility district, and obviously we've learned a lot of lessons working with those districts. There have been some successes and some failures. I think that we are certainl guarded and smarter than we have been in the

past in knowing what to look for and what kinds of things that we need to address through negotiations. I think certainly we would have the ability to address most of those. The things that we can't ever predict are market conditions and whether the district will develop and grow on the time frame that is proposed to be done on. That's something that's completely unpredictable and might increase the amount of time it would take for the debt to be able to be paid off so the city could annex is for full purpose.

Mayor Wynn: Councilmember Leffingwell.

Leffingwell: Pat, so the legislation would create the district.

That's correct.

Leffingwell: But actually the going ahead with development in the district would depend on negotiations with the city, is that correct?

Correct, yes, sir.

Leffingwell: So what happens if agreement is not reached? What happens to the district? Could the city say, okay, we don't agree and we're going to go out there and just annex this property into the city of Austin?

I'm going to let Sharon answer that.

Lines can differ so that, but it would definitely not go away. We did discuss our desire that if the city hadn't reached consent on this agreement after a period of time, by the time the next session rolled around, that the district would resolve. And Carma was not interested in that option at the time that we discussed it. Whether -- I personally believe that it could be a barrier to annexing to the other side of the district boundaries. It's still in existence, so I think reasonable minds can differ on that, but definitely the district would still exist. And there are provisions in the bill for the temporary directors to continue to be elected.

Leffingwell: So the city would or would not be able to say we did not come to agreement, we're just going to do a normal annexation of the property? Do we have the answer to that?

There's no provision for dissolving the district. That's all I can really tell you.

Leffingwell: So how is that different -- we have I guess some PID -- some PID's up and down the SH 130 corridor right now. So I think what would really be useful is to have a side by side comparison of how these two districts would be different and how they would be the same.

We can provide that to you. We've already prepared that sort of analysis. It's a pretty long table, but we certainly would be able to provide that to you. We've already done comparisons to the SH 130 district, the PID policy, also just comparing this to development and typical city limit development. So we could

provide that to you so you could see the differences that we've looked at.

Leffingwell: I'm hearing this comment that reasonable minds can disagree on that too. Are we going to have the opinions side by side of what these things do?

The way we've done it so far is questions that have yes/no answers, but certainly staff is here to provide professional recommendations to you on those sorts of questions.

Leffingwell: I think that information would be useful.

We've just worked so much on this. We haven't been able to tie every single thing down. That is definitely something that we would bring an answer back to you on a more definitive opinion on the consequences if the district were not created in terms of our annexation options.

Leffingwell: And one final question. As I understand it, the legislation creating the districts has been filed?

I haven't spoken to carma, but the intention expressed to us was that they would file it by this friday if they hadn't already filed it today. And they do have representatives here.

Leffingwell: So our potential action, if any, would be to either support that legislation or not.

That's correct.

Leffingwell: Okay.

Mayor Wynn: Further comments? Councilmember martinez.

Martinez: Thank you, mayor. Generally it sounds fairly good that it enabling legislation that allows us to come back with a spire or mda. Does that come back to council for adoption or is it something that's administratively done through negotiations?

It would have to come back to you for your consideration. I wasn't certain of that process.

Martinez: I'd like to ask if the legislation has been filed. It has not been filed? And pat, you said you guys have been working on this extensively. How long have you guys been meeting with carma, discussing this particular legislation and potential development?

Just over two months. Since we've received the actual draft of the legislation.

Martinez: If we knew there was going to be legislation coming forward, I would hope -- I would have hoped that we would see this sooner than the day before filing deadline in a legislative session. It almost like it reminds me of previous proposals that have come before us during legislative sessions



saying, we really need this legislation in order for this development to happen, but until this legislation is adopted, we can't tell you exactly what we're going to do out there, but we can tell you what we'd like to do and what our goals are going to be. And it just doesn't give any certainty. I realize that the legislation does still require the negotiations to take place. But I am going to proceed with caution because there are way too many uncertainties in my opinion with just a broad blanket enabling piece of legislation that would allow this district to be created and then not have a provision to dissolve the district at a later point.

I'll just say that I think the biggest challenge that staff and carma have faced in terms of being able to resolve a lot of our concerns has been the very short time frame we've been working under. As more time passes, we're getting more comfortable with certain aspects of the proposal, but I agree that it would have been desirable to have a lot more time to work on this before it was filed.

Mayor Wynn: Further questions of staff? Comments? Then we look forward to continued updates.

I'm sorry to ask. Do you desire to have this back on your agenda? That's one thing that -- one direction that we need to know. Do you want this to come back to you or not?

Mayor Wynn: My instinct is that we should just continue to through staff track legislation as we do all pending legislation that we think has an impact on us. And as staff sees fit, then to make sure that the council remains updated as to the progress of the bill and at some point if there becomes a center of gravity on the legislation, perhaps you could post that for a later presentation to council.

Thank you, mayor.

Mayor Wynn: Thank you, mr. murphy. So council, I believe that now takes us to our 4:00 zoning cases. greg guernsey, eagerly is approaching the podium.

Thank you, mayor and council. Greg guernsey with neighborhood planning and zoning department. 00 items that we could offer as -- for consent at this time. 00, item number 27, these are under zoning ordinances, restrictive covenants where hearings are closed. Item number 27 all the way through item number 32 are involving the east mlk station area plan. And we'll have a short discussion about that before we continue. Item 33 and 34 we have a postponement request by the applicant to either your meeting of march 26 or april second. And these are item 33 is a neighborhood plan amendment 02 for the 1600 block of east mlk. This is a neighborhood plan greamed to the upper boggy creek neighborhood planning area. The related zoning item for the same addresses. And the applicant's agent has requested postponement because they have drafted a private covenant and offered it to the neighborhood and they would like to see if they can work out an agreement before it comes back for third reading action. So what I can offer for consent is items 33 and 34. And they left the postponement date open, mayor, to either march 26 or APRIL 2nd.

Mayor Wynn: So council, if I -- my suggestion is that -- my instinct is that our march 26th, 2009 meeting is rapidly expanding, and my recommendation would be that we wait until the next THURSDAY, THE

2nd, FOR These two items. I'll entertain a motion to postpone items 33 and 34 to OUR THURSDAY, APRIL 2nd, 2009 Meeting. Motion made by councilmember morrison, seconded by councilmember cole. Further comment? Hearing none, all those in favor please say aye. Opposed? Motion to postpone passes on a vote of six to zero with the mayor pro tem off the dais.

Thank you, mayor and council. 00 zoning and neighborhood plan amendment items. These are where the public hearings are open and action is possible today. Item 35 and 36 deal with the north burnet gateway amending title 25-2 zoning district and also the related zoning case. Those will be discussion items. Item 37 is case c-14-2008-0242 known as the mueller austin energy substation property at 2403 east 51st street. And we have a staff postponement of this item to your april 2nd agenda. The planning commission will not review this case until their march 24th agenda. So a postponement on 37 to APRIL 2nd. Item number 38 is case c-14-2009-0002. This is our municipal court and northeast police substation for 7211 north i-35. This is to rezone the property to public or p district zoning. It's recommended to you by the planning commission and is ready for consent approval on all three readings. Item number 39 is case c-14-4-2008-0038 known as the john henry faulk house. This will be a short discussion item on this one. Item number 40, c-14-2008-0247 known as the bucket ets deli property at 2020 east cesar chavez. The applicant is asking for a postponement of this item. We know the neighborhood is opposed to the postponement, so this will probably be a discussion. Item number 41 and 42 are related. This is case npa-2008-0015 sh known as chestnut corner. This is an amendment to the east mlk combined neighborhood plan, an element of the austin tomorrow comprehensive plan to change the future land use map to multi-family for the property located at 3522 east mlk bferred. The planning commission recommendation was to approve a multi-family use designation. The related case is number sh for that same property at 3522 east mlk junior boulevard to zone the property multi-family residence medium density neighborhood plan. The planning commission recommendation was to grant multi-family residence low density conditional overlay neighborhood plan combining district zoning. This is ready for consent approval for all three readings on both item 41 and 42. Item number 43 is case npa-2008-0019.01. And the related zoning case, item number 44 is case c-14-2008-0223 known as the david heaps property at 3301 kings lane. These two items will be discussion items. That concludes the items i can offer for consent on this portion of your agenda.

Mayor Wynn: Thank you, mr. guernsey. So council, our proposed consent agenda on these cases where we have yet to conduct the public hearing is to postpone item 37 to OUR APRIL 2nd 2009 Meeting. To close the public hearing and approve on all three readings items 41 and 42. I'll entertain a motion? Motion by councilmember shade, seconded by councilmember martinez to approve the consent agenda as read. Any comments? Hearing none, all those in ? Opposed? Motion passes on a vote of six to zero with the mayor pro tem off the dais.

Thank you. That brings us back to items 27 through 32. Before sonya comes up and makes a brief presentation, this will be her last council meeting. She has submitted her resignation and is leaving us to go over seas. So it would be a nice gesture I think to approve something tonight. [ Laughter ] given all this time and effort probably for the last -- since 2005 she has been our main station area planning regarding all the tod areas. I know her immediate supervisor wants to say two or three words briefly about her. And then I'd like to go in and talk about this and maybe with your good graces it will be

approved on third reading today.

Mayor Wynn: May be. Welcome back, jim.

I'll make this brief. I know you're eager to get down to juares later this evening. And I want to get back to my seat. I'm here in my capacity as the division manager for the urban design division within the neighborhood planning and zoning department. I have the great luxury and pleasure of working with some incredibly talented people who appear before you on a fairly frequent basis, when it's for north burnet gateway. Molly will be up here in a little while. Whether it's for great streets and street scape improvement projects. Certainly sonya is just a pleasure to work with. She's been not only the heart and soul and face of the city's transit oriented development policy as well as the creation and now the beginning of the implementation of station area plans, but she's been sort of the muscle behind that too. I just wanted to take this opportunity to wish her well in her wonderful new life adventures and express i think on behalf of all of us a grand thanks for the work she's done for the city.

Mayor Wynn: Agreed. [ Applause ] so how can you vote against the plan now, councilmembers?

I'm here to present to you for third reading the mlk junior boulevard station area plan. You should have motion sheets in front of you. If you don't we have extra copies. These are for items 27 through 32. I've broken up the motion street for the station area plan item itself into three main components. The first main item within the station area plan is approval of the station area plan itself, which includes a regulating plan, which has standards and specifications for the tod zoning that has been established for all properties within the tod district. Also part of that first piece of the motion is to include all of the implementation items that we've been discussing since april of last year when we first came on first reading. And so those relate to infrastructure, parks and open space, affordable housing and density bonuses, etcetera. These are just some of the key ones that we've been discussing. There has been some action taken on compatibility standards, and I've included -- that's under letter e here. I'd like to actually reiterate what was approved for the lamar, justin and plaza saltillo station area plans regarding compatibility standards. I have incorporated what was approved for those plans into the mlk plan, but I do want to stress it because it has some bearing on 1-b on your motion sheet today. And so what we've approved thus far, what you all have approved on compatibility standards thus far is that compatibility standards as specified in the land development code today shall apply within the tod district. The height and set back limitations of compatibility standards can be waived for a property through a development bonus, meaning that there would be an affordable housing requirement, and that's an administrative waiver for a site except if that site, a portion or the entirety of the site is within the first 100 feet of a tod. Within that first 100 feet into the tod, if a property owner wishes to receive an exemption through a development bonus for compatibility standards, only the height limitations of compatibility standards can be exempted. The setbacks must remain in place. And the additional step that a property owner must go through in order to receive the exemption for the height limitations is to make sure that any property owners, any triggering property owners within 25 feet outside the tod district approve the tod. And the requirement is that 66% of triggering property owners within 25 feet of the property requesting the waiver approve the waiver. So if there are any questions about that, I know I didn't say it as gracefully as I could have, but it's a lot to say in one sentence. Okay. And then the letter f relates to identifying

funding options for implementing the items, the action items in the plan. And one of the things that we'll be working with the finance division on soon is evaluating a tax increment finance district, so we'll be hiring a consultant to do a financial feasibility study and we'll be returning to you with that analysis so that we can discuss the potential for tif's in tod's. 1-A is an issue related to a property south of mlk boulevard owned by the meredith foundation. We've been calling it alternative compliance. I believe that there have been several discussions that have been happening between the chestnut neighborhood, the representative for the meredith foundation and councilmembers. And so I believe -- it's my understanding that one or more councilmembers may have some ideas as to a motion for this particular item. 1-B relates to a property at 2900 manor road, which is to the north of manor road. And also within your backup packet or your dais packet you have a map. I just wanted to highlight where these 1-a and 1-b properties are. So you should see 2900 manor road heated at the top north owe highlighted at the top north of manor road. And that is also known as the former value sky park site. It used to be parking for the former airport. The particular issue with this property is that first reading council approved some action that would designate this property with a tod mixed use category, which is a dark brown category on a majority of the site, but a residential only category on the western portion. Currently the property has commercial mixed use zoning so the property owner has the ability to do commercial or residential or a combination on the entire site. So council's action to limit a portion of the property, the western portion to residential, was against what the property owner wished. And they did submit a valid petition. The neighborhood, just to back up a little bit, the cherry wood neighborhood had actually requested that the western portioning designated as residential only, so council's first reading action was responding to the cherry wood neighborhood association request. Since that time council on second reading designated the entire property as tod mixed use, which is basically very similar to the commercial mixed use zoning today. With the compatibility standards language that was approved for the lamar, justin and the plaza saltillo tod's. And since then the property owner and the cherrywood neighborhood have had at least a couple of meetings and the dialogue from my understanding has been very good. And it is my understanding that they've reached agreement on how this property is being designated here. The public hearing was open by council at second reading. I don't know if anyone has signed up to speak on this particular item, but one thing that I would like to clarify that both the owner and the cherrywood -- the crestview -- the cherrywood neighborhood association has agreed to is that the property be tod mixed use in its entirety. The one clarification or edit to the compatibility standards that the cherrywood neighborhood is requesting that the property owner is in agreement with is that when the 25 feet is calculated away from the property requesting a waiver of height limitations from compatibility, that any right-of-way be excluded from that 25-foot calculation. So you understand that, randolph road is on the west side of this property. There are single-family homes just on the other side of randolph. And so 25 feet from that property is eaten up by randolph road. Randolph road is 60 feet wide. [One moment, please, for change in captioners]

okay. So that is it for the presentation. If you have any questions I'd be happy to answer them. questions for sonya, council? Comments? We don't have anybody signed up on these combined items. So -- colts? Want to start walking through the motion sheet? Council member cole? okay, mayor, I'll make a stab at a motion. I would like to move that we adopt on third reading what we did on second reading with respect to the station area mlk plan, with two exceptions. The first exception is that we take

out the alternative compliance 1 a, at the reason that I'm making the motion that we take that out is because there's still continued discussion between the developer and the housing advocates and the chestnut neighborhood association, and council member morrison is working diligently on coming up with a compromise for that. And because of those discussions, the other thing that I would ask that we take out in the motion is the feather light tracts, and I believe greg guernsey actually has a copy of those tracts, but I'm going to go ahead and read them for the record. 1701 Alexander avenue, 1801 alexander avenue, 2712 east 13th street, alexander avenue, austin, texas, 78702. And all of those are 78702. So with that I'll make that motion and move to close the public hearing. so we have a motion by council member cole to close the public hearing and is staff comfortable with the detail of her instruction to -- with that motion?

Yes, and actually there is one more address that the property owner has submitted, which is on alexander avenue. 5 acres out of -- well, the legal lot description says olt 28-31 division b. So that's the fifth property that they've submitted for exclusion at this point from the station area plans. and you understand we're trying to move forward because sonya is leaving.

How far away is [inaudible]

england. so we have a motion and a second on the table. Motion by council member cole, seconded by council member morrison, for a third reading of the station area plan excluding a number of properties. Further comment? Council member leffingwell? so these properties are out of the -- out of the plan, and alternative compliance is to be determined at a different date? Do I understand that correctly? I was going to make a part of this to postpone and compliance related to those properties to april 2, postpone it. we have an amended motion and second on the table approving on third reading the bulk of mlk station area plan, excluding and postponing action on certain tracts to our thursday april 2, 2009 meeting. Further comments? Hearing none, all those in favor please say aye.

Aye.

Mayor wynn: aye. Opposed? Motion passes on third reading, including the postponements on a vote of 6-0 with the mayor pro tem off the dais.

Thank you very much. mayor and council, I'm going to ask steve sa do you ci, sadowsky, our historic preservation officer to come forward for item 39. We have been in conversation with the owner of the property and believe we can actually offer this as a consent item, and I'd like steve just to very briefly speak to this arrangement that I guess has been made between the owner and our office regarding this property. welcome, steven.

Good afternoon mayor, city council members. Steve sadowsky with the zoning and platting department. This home came to us as the home of john henry faulk. Ad stinger was a prominent builder in town and our own version of frank lloyd wright. A lot of houses are distinctive in their design, and when this case came forward I started doing a little more research on the neighborhood, because stinger had a large piece of land that he built houses on, and I was looking toward a local historic district for all of stinger's

architecture. It turns out down my research that John Henry Faulk only lived in this particular house for a short period of time and then he lived at another stinger house down the street for a longer period of time when he was in Austin. So we were concerned about having enough of a significant historical connection with Faulk, having more than one Faulk home in town. We would like to present this for historic zoning on first reading today because it was also the home of Ted and Kay Powers. Ted Powers was a world famous photo journalist that his most famous photograph was of Lee Harvey Oswald. His wife Kay was a prominent columnist for the Austin Statesman, so we feel we have a significant historical association and this case can go forward for historic zoning. We're just not ready for three readings today. Thank you, Mr. Sadowsky. Questions for Steve, Council? Then let's see here. So we have nobody signed up here to speak, and so what you're suggesting is we could do this on first reading, as a consent item, if you will.

Correct. and when do you anticipate bringing back second and/or third reading?

Actually the ordinance I think is prepared already, so we could actually bring it back the 26th on a consent agenda then. So then, Council, without objection I'll entertain a motion to close the public hearing and 39 on first reading only as proposed by staff. Council member Shade? Made a motion? Motion by Council member Shade, seconded by Council member Leffingwell, approval item 39, closing the public hearing and approving on first reading only. Further comments? Hearing none, all those in favor please say aye.

Aye.

Mayor Wynn: aye. Opposed? Motion passes on a vote of 6-0 with the Mayor pro tem off the dais.

Thank you very much. Thank you, Mr. Sadowsky. Mayor and Council I think that brings us back on 35 and 36, the North Burnet/Gateway ordinance and the North Burnet/Gateway neighborhood planning area rezoning. This time I'll use -- she can present both of these items. Welcome back, Scarborough.

Thank you. I have a brief presentation. Guernsey noted, agenda items 35 and 36 are the code amendment and -- for the North Burnet/Gateway rezoning district. Just as a refresher, the proposed code amendment and rezonings are for properties in the North Burnet/Gateway planning area. This area is in North Austin. The boundaries are 183 on the south, Metric Boulevard on the east, Walnut Creek to the north, Mopac on the northwest, and Braker Lane and back to 183. This includes two rail lines, Capital Metro rail line beginning service soon, with the star on this map representing the Kramer Lane station, they're a commuter lane station in the area. The second purple line to the west of that is the Union Pacific railroad, which some are looking at a future potential Austin San Antonio commuter rail connection. The properties proposed for rezoning in this area are mostly low density commercial retail and industrial properties. To recap, Council action to date, on November 1, 2007, Council adopted the North Burnet/Gateway master plan as the neighborhood plan for the area. The plan presents a bold vision for growth and transformation of this area into a high-density mixed use urban neighborhood. As part of the direction on November 1, 2007, Council directed staff to create new zoning with an urban design focus to implement the land use and urban design recommendations within the neighborhood

plan. As part of that they also directed us to create a density bonus system in line with the proposed zoning and the urban zoning regulations. Last fall, October 16, 2008, council approved on first reading the north burnet/gateway rezoning and associated code amendment with a few specific amendments, and I will go over those in just a minute. If you recall at first reading we gave an in-depth presentation of the proposed north burnet/gateway regulating plan, which combines both the zoning and design standards for the north burnet/gateway zoning district. I'm not going to go into detail on that today. If you have questions, I will certainly be able to help answer those. For city council consideration today and what was approved on first reading is to approve a code amendment as recommended by staff, to create the north burnet/gateway base zoning district. This is a new zoning district, and establish the associated use and site regulations as specified in the north burnet/gateway regulating plan. In your backup you'll have a revised draft regulating plan, March 2, 2009, draft regulating plan that includes all of those regulations. This code amendment would also repeal existing interim north burnet/gateway overlay regulations that were put in place at the time the master plan was adopted. It will also amend subchapter e, design standards mixed use, to exempt development both pursuant to the north burnet/gateway zoning district regulation. Again, the intent of the regulating plan is to combine zoning and urban design standards in one location that are tailored to this planning area. And then lastly on the code amendment, to approve a collector street plan for the north burnet/gateway neighborhood planning area. The zoning case would then approve the rezonings of tracts in the north burnet/gateway area to the new north burnet/gateway zoning district. On first reading council approved that motion, and in addition directed staff to add staff recommended revisions to the regulating plan that were brought forward at first reading. Another amendment was to have proposed expenditures of funds from the north burnet/gateway development bonus community benefits fund to be brought forward to planning commission for approval. And then another amendment was to revise the density bonus section to clarify that a few would be officiated with the affordable housing option, not the collector street bonus development option. And so for today for second and third readings, staff is bringing forward the revised regulating plan that does incorporate these amendments. Regarding bringing the expenditure funds from the community benefits fund to a commission, the staff recommends bringing forward to the planning commission, since the priorities for the density bonus were established in the master plan, the planning commission was made aware and involved in the master planning process along the way. We felt it was appropriate to bring our proposals for expenditure of those funds back to the planning commission. Regarding the other amendments in restructuring the affordable housing fee in lieu -- or bringing the fee in lieu under the affordable housing section, we did do that in this revised draft to make it -- to clarify that it's for affordable housing, not for the collector street. And then lastly there are some other staff recommended revisions that are incorporated in the March 2 draft. Some clarifications of standards. Another revision included removal of UT owned NCC parcel from the rezonings. This was a request by UT. Their parcel they consider MCC parcel part of their western tracts. And if UT were to decide to open the western tracts up for private redevelopment in the future, then they would request rezoning at that time. So at this point we've pulled the MCC tract out of the rezoning -- proposed rezoning. And then another staff recommended revision was some adjustments to the collector plan to address property owner concerns that were raised at first reading. And so we worked with property owners and made a few revisions to address those concerns. And then finally this is just a map indicating the tracts that are being proposed for rezoning. This is also provided in your backup. And that's it. And I'm

available to answer any questions. thank you, ms. scarborough. Questions of staff, council?  
Comments? I don't think we have any --

excuse me, mayor, I did forget to mention a public hearing is still open for these items.

Mayor wynn: right. But I don't think we have -- this is 30 -- 35 and 36, correct?

Correct. so we have no speakers signed up, council, just fyi. So questions of staff, council? Comments?  
Motion -- council member morrison? one of the specifics here in this plan is -- one of the goals is to get the collector streets put together, and so there's incentive to -- as i understand it, the property owners can get the bonus density by donating collector street right-of-way in certain circumstances, right? I don't know if I said that well.

There is a density bonus option for a limited number of properties to get a density bonus if they build the collector street, a, if those properties are located on our collector street plan as showing a collector street running through it. Secondly, if those properties are smaller than five acres in size, because that - the five acres in size is the threshold in which we would otherwise require them to break up their streets to meet our maximum block size standards, but for properties that are less than five acres in size we would not require that. And so as an incentive to build the collector street -- to actually build it, not just dedicate the right-of-way, we are offering a collector street density bonus, yes. and what was the rationale for not requiring it for less than five acres, not require requiring --

we do require the right-of-way dedication at less than five acres. The density bonus is if they also build the street and actually construct the street as part of their development proposal. and so I want your advice on this. One of the things that's a little troubling to me is that I don't have a sense of whether or not that sort of donation, if you will, of building the street in any way equates to sort of a fair and balanced density bonus, because I think sometimes the -- some of the few properties that are in this situation are going -- are able to go from, like, 60 t I think one of them is even able to go from 60 to 300 feet. Others are more limited. It's more like 60 to 120, or something like that. So I wondered -- so it seems like it's a little unbalanced. You don't really know -- it's sort of a -- you know, a shot in the dark kind of thing. We don't really know that everybody is having sort of the same responsibility or given the same incentive. Did you-all think about that?

Yes, that is correct, and all the different properties in which the collector plan runs through are different shapes and sizes and the location of the collector plan are different. The intent behind the collector street bonus is not only to get the collector streets built but also to provide an incentive for those properties to simply redevelop so that we do get that step further to getting those collector street rights-of-way along the way. Again, these are smaller properties, many of which -- for instance you gave the example in the tod subdistrict that would really gain the greatest delta, if you will, with the density bonus, it's a very small property in size. Most likely if that property were to redevelop they would be assembling property in the area and develop together, and if so they would probably no longer become eligible for that density bonus because they would together provide a property greater than five acres in size. But that is a very specific example. Again, the intent -- one of the things that the consultants did in



developing the master plan is a traffic analysis, and in that traffic analysis we discovered that it is very important before we bring in the -- or as we bring in the density into this area -- increased density in this area, is that we do create a finer network of streets and that we do create some of these continuous streets along the way. The area was originally built as an industrial area, and so there are very large expanses between streets and the area. There's not a great network connection of streets, and so in order -- that's one of the biggest challenges of this area. And so one of the ways that we are approaching that in the regulating plan is twofold. One is having our maximum block size standards, which [indiscernible] properties greater than five acres in size would require them to break up their site with streets, interconnected streets. If they're on the collector plan one of those streets would have to meet the collector plan alignment specifications, and then providing this bonus for the smaller streets. So I'm sort of talking around the question, and the reason for that is because I think the importance is getting that street connection more so than the potential difference in benefit for any particular property owner. I think the benefit for the city in getting those connecting roadways, from our perspective, outweighs potential imbalance of some getting more density value than another.

Morrison: okay. I think I get it. And while I generally like to have things neatly analyzed and packaged and all that, I guess this is a situation where it's just sort of the overall goal that we're just diving in and doing what we can to get it done.

Exactly. And that does remind me of another point, is that this is considered an interim density bonus system. The intention all along, this bonus system follows in line with interim downtown density bonus system. One variation, of course, is this collector street bonus, but the general framework follows the interim downtown density bonus. The intention is as the downtown density bonus structure and system is further fleshed out and developed, that we would take the wisdom learned in that and the structure learned thp and then apply it to the north burnet/gateway area. So at that time there is an opportunity to revisit and maybe look at -- a finer range or a more detailed analysis of cost versus benefit versus market value.

Morrison: okay. Thank you, and I have one more question, and that is, I believe that we have the fee in lieu currently set at \$6 per -- is it set at 60% of whatever the downtown is?

Currently it's set at a flat \$6 per-square-foot.

And this is the tod, and our other tods we've just set it at \$10 per-square-foot. So do you have any rationale as to why it would be different from our other tods?

The rationale for setting it at \$6 per-square-foot was to be in line with the pud ordinance, which is \$6 per square foot or as you said, it was 60% of the downtown, which essentially at this time equates to \$6 per square foot. It was our feeling that land values in north burnet/gateway are not the same as downtown or even the three tod's that have been adopted, station area plans that have been adopted thus far. We're concerned that setting a fee that is too high could have the unintended effect of discouraging participation in the density bonus program in the north burnet/gateway area. Another thing to remember about this area is that it's 1400 acres in size. The tod subdistrict is just a subdistrict within this larger

planning area. Most of the tod's are about a quarter mile to a half mile around the station. We're looking at a two-mile radius for the north burnet/gateway area. One -- I think one thing to keep in mind is there's not the same shortage of potential land to redevelop in the north burnet/gateway area as there is in downtown, or even in the tod's, which are very concentrated and surrounded by a lot of single-family development around them. In this area there's a lot of land. There are not -- there's not the same limitation on redeveloped properties. One of the things I noted, roma stated in her phase 1 report for downtown regarding density bonus that I think is important to think of, and that is that the market value of the density bonus to the developer dictated by the developer's next best option. So if it's cheaper and easier to buy land next door and develop horizontally rather than go through the density bonus program to develop vertically, then that's what they'll do. And so if we set the -- it too high or set requirements that cost an inordinate amount of time or money, then they may not opt to take advantage of the density bonus at all. And from our perspective in the north burnet/gateway area in particular, where we have relatively little opposition to height and density, which is fairly rare here in austin, i believe that would be a lost opportunity. And so we believe that if we want to -- we want to encourage use of the density bonus system in this area so that we can provide more housing over all, a greater supply of housing overall and provide growth. So that's the rationale behind it. I understand your point. I think it's well stated. I think the balance we need to find is if we set the fee in lieu too low, then everybody will opt to pay the fee in lieu, do the density bonus, and we won't get any affordable housing in the near area, especially in the tod. So I hope that we can find some way to balance that. further comments, questions of staff? If not, I think staff -- and again, we have no citizens signed up to give us testimony on 35 or 36. I think staff has prepared a motion sheet for us, not nearly as big as lopez's motion sheet. [Laughter] any comments, motions?

Cole: mayor. council member cole. I would just like to thank you for the tremendous work that you've put into this. This north burnet/gateway came before land use and transportation at least two times that I remember, and I'd just like to thank you for the work that you put into making the decisions that are included in your recommendation, and with that I'm going to move to -- I think the public hearing is closed, and adopt on second and third reading the north burnet/gateway plan.

The public hearing is open for second and third reading currently --

I'll move to close the public hearing. so motion by council member cole that i will second, to close the public hearing and approve on second and third reading this north burnet/gateway zoning district code amendments and associated rezonings, items 35 and 36. Further comments? Council member morrison? I'd like to ask the maker of the motion if you would consider adjusting the fee in lieu in the tod portion of the area to be \$10 per-square-foot to be consistent with our other tod fees in lieu and leave it at \$6 in the rest of the area. I have actually spent a lot of time thinking about that and looking into it because, you know, when -- well, we talked about it in land use and transportation I think even before you were on council, and the consensus at that time was simply that the land values at north burnet and gateway did not justify the higher fee in lieu, and also, the kind of very purpose that we have of trying to encourage the development and the height there without encouraging sprawl in other parts of the city and recognizing that we're getting close to built out in downtown made us adopt a lower fee in lieu. So I guess I would not be accepting of that motion. I'll just say to sort of support that thought, as a maker of

the second, again, it was just that balance is just trying to look at the likely land value up there, certainly lacking in the period of time, and to the extent that -- in a sense, if we're very, very successful, then land values up there do dramatically go up because the -- you know, the demand for that land will go up, but the fact of the matter is that the -- that swath of austin is so underdeveloped. It's still so remarkably not dense and has very few of the roads in place. Most of it is single-story -- already sort of obsolete sort of flex old tech commercial space, and i really think, I agree with council member cole, that it's just going to be realistically a decade or more before we -- decade or more before we see real land values up there that can begin to approach what we've seen in the urban core. And obviously future councils reserve the right to always go back and amend any of these individual rules or indoor zoning categories, but I do think it would be a nice problem for us to have if annul of developments, you know, swept in and took advantage of a \$6 fee in lieu, because I just think there's going to be years before there's that kind of demand up there. So I too will be supporting the original motion. Any further comments? We have a motion and a second on the table approving this north burnet/gateway zoning district on second and third reading. Further comments? Hearing none, all those in favor please say aye.

Aye.

Mayor wynn: aye. Opposed? Motion passes on second and third reading, including closing the public hearing, on a vote of 6-0 with the mayor pro tem off the dais.

Thank you. thank you, ms. scarborough. Progress, mr. guernsey. thank you, mayor and council. That brings us to item no. 40 This is case c14-2008-0247. This is the buckets deli property at 2020 east cesar chavez street. As you may recall at our last meeting there was a postponement to this meeting. The applicant would still like additional time and has requested a postponement thisng. And I think kareem is here to speak about the applicant. And I believe francis martinez is here to speak on behalf of the neighbors regarding the postponement request. And they would like to go this evening. At that maybe we can turn it It because, you know, when -- well, we talked about it in land use and transportation I think even before you were on council, and the consensus at that time was simply that the land values at north burnet and gateway did not justify the higher fee in lieu, and also, the kind of very purpose that we have of trying to encourage the development and the height there without encouraging sprawl in other parts of the city and recognizing that we're getting close to built out in downtown made us adopt a lower fee in lieu. So I guess I would not be accepting of that motion. I'll just say to sort of support that thought, as a maker of the second, again, it was just that balance is just trying to look at the likely land value up there, certainly lacking in the period of time, and to the extent that -- in a sense, if we're very, very successful, then land values up there do dramatically go up because the -- you know, the demand for that land will go up, but the fact of the matter is that the -- that swath of austin is so underdeveloped. It's still so remarkably not dense and has very few of the roads in place. Most of it is single-story -- already sort of obsolete sort of flex old tech commercial space, and i really think, I agree with council member cole, that it's just going to be realistically a decade or more before we -- decade or more before we see real land values up there that can begin to approach what we've seen in the urban core. And obviously future councils reserve the right to always go back and amend any of these individual rules or indoor zoning categories, but I do think it would be a nice problem for us to have if annul of developments, you know, swept in and took advantage of a \$6 fee in lieu, because

[00:02:01] I just think there's going to be years before there's that kind of demand up there. So I too will be supporting the original motion. Any further comments? We have a motion and a second on the table approving this north burnet/gateway zoning district on second and third reading. Further comments? Hearing none, all those in favor please say aye.

Aye.

Mayor wynn: aye. Opposed? Motion passes on second and third reading, including closing the public hearing, on a vote of 6-0 with the mayor pro tem off the dais.

Thank you. thank you, ms. scarborough. Progress, mr. guernsey. thank you, mayor and council. That brings us to item no. 40 This is case c14-2008-0247. This is the buckets deli property at 2020 east cesar chavez street. As you may recall at our last meeting there was a postponement to this meeting. The applicant would still like additional time and has requested a postponement this eng. And I think kareem is here to speak about the applicant. And I believe francis martinez is here to speak on behalf of the neighbors regarding the postponement request. And they would like to go this evening. At that maybe we can turn it over to the applicant's representative, kareem, and he can speak and you can hear from the neighborhood side. yes, council, so we have an applicant owner postponement request, so again, these initial comments are going to be based on this argument about a postponement. So again, we're not -- we may yet conduct the public hearing here later today, but for the time being our [00:04:01] comments and testimony is regarding the need for postponement and/or the desire to hear the case tonight. So welcome.

Thank you very much. My name is kareem ha jaj. I represent buckets dell any regards to a motion for a postponement. Put the presentation up. When we were last year, the overwhelming request was to show some progress on buckets deli, and in that time we heard -- we'd like to see some of those things that you've promised that we would do in order to show that we're trying to comply with our current zoning, and I'd like to run through just some of those quickly and then discuss the reasons why the postponement is so necessary. First thing was the installation of a very large sign that says do not block the neighbors' property. Do not litter. Let's be buckets friendly. That's a very large and affirmative statement towards all of the customers of buckets, which is just the first of many signs, as you come into buckets, that come back to being respectful neighbors. In order to bring their food sales up they started opening for lunch. It isn't very well attended, which is why they stopped serving lunch to begin with but it is open for lunch and slowly but truly the anticipation is sales will come up. They've begun advertising for it on their web site and on myspace and throughout the neighborhood. So we're trying to make some progress in food sales during the lunch hour. They've overhauled the menu in order to add more items. Their biggest seller since its inception a few weeks ago has been wings and people seem to like the wings a lot. They order a heck of a lot of them. So that's been something that has been an unexpected surprise for them. They've got very large menus on the front and back door so that you can see that this is a food establishment and is not a drinking establishment. Inside there are menus [00:06:00] everywhere. There's five large ones inside, snack menu. They've got medium menus. Even menus above every toilet and sink in the bathroom. You can't miss the fact that this is now a place to eat. It would be nice -- I don't need to continue any more with that one. They purchased a point of sales

system which was glossed over in the last one and I think it's really important to talk about what these things do for efficiencies. In that time they had ordered it but it's been installed, employees have been trained. It allows them to reprise things so they can gain the maximum amount for the item sold. Inventory is being managed much better and as a result the food sales have increased. This is a day by day through the 8th of their food sales. You've got days that are still below 50% but you've got six out of the nine that are above 50% -- or 11, I'm sorry, above 50%. 45 a day which I think is a remarkable improvement considering we were at 25 two weeks ago. One of the concerns that had been voiced was we've got people littering. So as a result they have installed some signs in trash cans on the exterior of the property to encourage people to drop bottles in them, and it's been somewhat successful. There's always two or three in there. The applicant maintains that the bottles out there are for the most part not theirs, but they've seen a number of people walking by just throw their own trash in there so they're happy to keep the east side clean any way that they can. Finally, they attended a business start-up orientation and are exploring other classes in order to try to help their business plan become more effective. They went on march 10 for the orientation and the follow-up is to use their software as well as to meet with the counselor. The number of tools, as council member morrison directed us to, are, in fact, quite extensive, and most business people should look at it. It's pretty impressive. [00:08:00] we're trying to debate whether or not to postpone this case. I'm not going to allow any of this testimony if we have a public hearing here in the next five minutes. You're not going to be allowed to give this testimony.

Understood. Understood. this is making me want to or not want to postpone this case -- isn't making me want to. What it does is perturbs me that you're not talking about why you want -- or your client wants to postpone this case because a bunch of folks are here that want to hear a case tonight, and they're going to tell us why not to postpone it or why to conduct the case, and you have just wasted your opportunity to do that.

The point I'm getting at is a significant amount of progress has been made. At this point we would like to postpone it for one significant reason, and that is that we're working with the city attorney's office with regards to the citation that we agreed to receive so that we could work on a plan with the city in order to become in full compliance. At this point our first date for appearance only is march 31. One of the things that is most common when you deal with the city attorney's office for an issue like this, one of the criteria that they often ask for is for a valid zoning in place so that you have a possible remedy should the deferral period be unsuccessful. They usually ask for a valid zoning change to be initiated. We've already initiated ours and we're here before council far ahead of our time. The request that I would like is a postponement till april 23 because I know that by that point we will have met with the city attorney's office so that we can have a deferral date set and at that point we can ensure that that is not a criteria for the deferment. And at that point should we have that, we can withdraw the zoning case. So the point of showing you all the other things was to show that progress is being made to be in compliance and I think it's a significant amount of progress. The reason for the postponement is so that we can come in full compliance [00:10:01] and ensure that as we come to an agreement with the city of austin, we don't have any -- we don't get caught beten a rock and a hard place where the city wod like a certain thing and we're unable to provide that remedy because we've already exhausted that remedy before. thank you, mr. har jar. Hajjar. Questions for kareem, council? We have an applicant or agent request for

postponement to april 23. And I do know that there are a number of folks here, i believe neighbors here, who are, generally speaking, have been in opposition in some form or fashion to this business, and we're told that they do not want to postpone the case. francis martinez is one of our first folks who has signed up. martinez, would you like to -- if you can't help us think through the pros and cons of a potential postponement or not, and if the council decides not to postpone, then we will conduct the actual case, but if you could help us understand the rationale for why we would or wouldn't want to postpone for approximately six weeks. Welcome.

My name is francis martinez, and I am chairperson of the neighborhood association, and at this time we have talked about it with the neighbors. We have also pictures that we'd like for you-all to see that people have been parking here on the -- where castillo lives, I'm just going to pass these pictures -- it might help the crowd as well and even the applicant, if with our technology, I think our -- we could display the photographs for everybody to see, if you don't mind that. Just using an overhead [00:12:03] projector.

These are some of the pictures of the residence. castillo's backyard. And this here is where all the traffic is, where buckets sports bar. And this is again all the traffic saturdays and sundays that take place on there. This is where the police was called to the residence there, a then we have the wrecker that is taking the car that was parked in one of the residence's backyard. Right here again, some of the traffic that is there on the street by buckets sports bar, and this is again on the side street and east second. These are still some of the trucks and again some traffic on there that take up space. And this is at night where the people, you know, park, and they see all the beer trucks. As you can see, there are cones there where castillo lives and they still continue to park there, and there's another one there, and of course these are during the day. Again, another one -- another beer -- and this one here is almost blocking the driveway. Here's some more that are [00:14:00] still blocking the driveway again of a residence, ms. castillo and others. As you can see there, there's right there on the driveway. Another one there, the same truck, I believe. And there is the back of the truck. castillo's front yard. And this is the backyard where continuing to be bottles that are there in the residence. and so, ms --

as you can see, not much has really been done other than a sign that was -- that I saw there this past monday that they are open for lunch. However, there's nothing much that has been changed. And if -- the discussion was before right now, a few minutes ago, what he's doing selling the -- selling food, why would he need a cs-1? And also, I do have a letter here from one -- from a student teacher that was read the last time that we were here, the postponement. And now we have an additional letter here from castillo, she lives there, the area that we just talked about. And her blood pressure here is -- a letter from the doctor. I would just want to pass this. And yes, someone else is here also and we also have residents here that also want to talk regarding this issue here. well, again, we do have -- there are -- [00:16:00] there are nine folks here that would like to give us testimony in opposition. Three folks to give us testimony in favor, but what we're trying to do now, martinez, is determine whether or not to postpone the case. We do have a request, and so --

yes -- before we hear the pros and cons of the actual case, we're trying to determine, based on people's

availability, based on perhaps some additional evidence, whether it's fair or not to postpone the case.

Okay. As we said the last time, that we do have a valid petition. We have not heard from the attorney. We have not been -- we've not been contacted by anyone, as was said the last time.

Mayor wynn: right.

So at this time the neighborhood will not support the cs-1. As you can see, all the evidence that we have on here, and also it can be checked with the police department's record, and they could -- what we're deciding is our postponement, we're not deciding the case right now.

Okay. so the neighbors are in opposition to postponing the case further?

Yes, we do not want to postpone. We just want you to act on it based on all of the findings that you have there and the teachers as well and there's children here that also would like to speak. there's about nine folks. So council, questions of any of the neighbors or of our agent or of staff regarding our decision about whether or not to postpone this case at all?

Cole: council member cole? haven't we already had one postponement by the agent? guernsey, if you could help us remember the history of the case itself. at your last meeting about two weeks ago, we did have a request for postponement by the applicant, and there was a request actually I think to the same exact date of [00:18:00] april 23. And so his request has not actually changed. But there are there were a lot of people here at the last meeting, and they spoke to they would like to go forward. After a discussion from both sides the council decided that they would postpone it to this evening, and then there was some conversation by council saying, we would like the buckets folks to come back and show us some evidence that they are working towards compliance, and I think that's what hajjar was going through and showing you all those exhibits, mayor. I think he was trying to show evidence that he was trying to do some things with the property before he came back today. And I think frances was showing you that maybe they haven't. And so I think that's where it brings us at this moment.

Mayor wynn: all right. Thank you, mr. guernsey. Council? Council member martinez? yeah, i distinctly recall the last time that we were here that we agreed to postpone this, but we made -- we made it very clear that if we felt like there was something compelling to extend the postponement further, that we could surely do that as a council and as a body. For me the issue is the cs-1 zoning and whether or not it's compatible in this neighborhood. So what I think the owners have demonstrated is that on 6 out of the last 11 days just in the last two weeks, they've been able to exceed 50% of their sales through food. So I think they're on the right path, and I think the point that's made in that they have their preconference trial on march 30 or whenever it is, if at that preconference trial, if staff -- or if the city attorney says we'll continue negotiating with you but we want to you strike an appropriate zoning case just in case we can't come to an agreement, if we vote this case down now, he's virtually in limbo for 18 months, even if our city [00:20:00] attorney says we want you to go file a zoning case. They won't be able to do that. So I certainly understand some of the concerns the neighbors are bringing up. I think they're working to address those. But if these property owners were able to comply with foot sales at

50%, 6 out of the last 11 days, just in the mere last two weeks, i think we see that they understand their business model was probably not the best and that they've worked on it and they're going to continue to work on it. But the issue of traffic, the issue of parking, it would be there without a cs-1 zoning. That is -- you know, those issues and concerns have to be addressed, but they're not a symptom of cs-1 zoning. It's going to happen simply because of the nature of cesar chavez street, because this is a commercially zoned piece of property. And so because I believe there is substantial compliance in the last two weeks with the directives we gave two weeks ago, I am going to move that we continue the postponement and that we allow the owners to go through their court hearing, and I have also been given assurances that they will withdraw the cs-1 zoning case if they can come into compliance with food sales and show that they stay within that compliance of 50% of their gross sales receipt from food, and we won't even have to have a zoning case. They'll voluntarily withdraw it. So I'm going to make that motion.

Cole: second. <p

So motion by council member martin, seconded by council member cole, to continue the postponement of this case to thursday, april 23, 2009. Further comments on the motion to postpone? I guess I just have one technical question about the case. I think -- I think I must have been off the dais the first time we heard this. guernsey, it does seem that the owner [00:22:02] here is making improvements, and as council member martinez pointed out, almost half or so of the daily sales now comply with the 50% food rule. What is the city standard -- I mean, surely there are restaurants in town that randomly, you know, a couple days a month or something for whatever reason, there's some event and their food sales might be down that day, right? Do we have some type of standard that we try to maintain? we usually look at more than a couple days. We look at a couple months. And I think hajjar can probably think to the request that's made by solid waste services department to get receipts going back. The difficulty was that they weren't able to produce receipts that could definitively show what was a food sale and what was alcoholic beverage sales, and I think that was the reason why they ordered and installed the more - or the fanier cash register, i guess, for tracking the food sales. And so I don't know where they are as far as services with their investigations of the past receipts, but i think what was being shown to you is since the machine has been installed in this brief time, that there was compliance, I guess, for those six days. but again, for -- for the owner to be able to drop the zoning -- the need for the zoning case, need for cs-1 zoning, what standard will you and your staff hold them t to -- gersns I think part of that is -- I think part of that is a little bit of finesse when it comes to trial, because now they have a way of actually tracking it and if they show records coming up to -- let's say if you do postpone this to april 23 and they can show evidence of their sales -- or I should say the court [00:24:01] date, if they can show the court that they are making good-faith effort, then they might get to stay that time to show more proof. So I won't say definitively because I think part of that is going to be negotiated when we get to that point. But usually what we would ask for is like three months of receipts to show evidence of alcohol compliance. And we had cases in the past, I think there was actually a restaurant that was exceeding its alcoholic beverage sales on anderson lane, not too far away from northcross mall, and that establishment was actually closed because they failed to comply with our alcoholic beverage requirements for a general restaurant. So in this particular case, since they are operating and a court date hasn't been set yet, I think it's going to be more of a case -- in this tick case, of looking at that. But in the past I think it's been



three months.

Mayor wynn: thank you. Further questions? Again, we have a motion and second on the table for postponement. Council member leffingwell? so what is the purpose of the pretrial conference? Is it to determine whether or not they comply with the 50% rule or what? well, I think they're showing -- and i might actually turn this over to our attorney to go into a little bit more of that detail, but we try to make sure that people are in compliance. We're not out in the city of austin to close businesses down. And so if they're showing a good-faith effort, I think the court will stay that and to allow the amount of time to show actually compliance. I might turn it over now to ted shaw and he can talk a little bit more about the details, because I'm not an attorney in that regard. may I just add one other thing to the discussion. I'm kind of failing to see what this has to do with the zoning case, because if he comes into compliance, then the zoning case is kind of moot, isn't it, because he doesn't neat --

guernsey: that's right. He could withdraw the case [00:26:00] and it's not necessary -- if the case were denied, then the option of making this request is no longer available to him, and they would have to comply or close -- have to comply as a restaurant, have a menu, have their food sales exceed 51%. They would no other choice in that regard, to either continue as a restaurant or seek a change of use and do something else on the property. again, we have a motion and a second on the table postponing this case to thursday, april 23, 2009. Further comments on our postponement proposal? Council member shade first and perhaps -- I'm sorry, when was the out of compliance noted? I mean, when was it clear that you were out of compliance? I just don't remember. I don't have my notes from the last meeting. I'm sorry. the citation was -- we had a meeting at the city of austin, and we received it in the meeting -- in the meeting we voluntarily accepted it so that we could come to this issue on january 30, was the day that they chose arbitrarily, because that was the date of the meeting.

Shade: okay. I thought I remembered something from the fall. There wasn't a compliance issue in the fall? You've been selling liquor since the 30th of january.

No, no, no. I'm sorry, they've been operating since august. A complaint came in, someone filed a complaint, called 311, and code compliance came out and interviewed the owners of the establishment, and at that point they started to go through their sales, and as was said earlier, they had two buttons on their cash register, \$2 and \$4, and it [00:28:00] was really difficult to try to figure out what that was. So as a result the applicants knew that they weren't in compliance at that point. They just sort of knew. You know when you work there every day. So at that point there were subsequent phone calls and then finally a meeting with code compliance where we said, okay, look, guys, we really can't tell you. Here's our gross sales we've made but we don't know for a fact what our food -- we can't give you those. Here's paper receipts. And so they said, okay, let's cite you. Would you guys be okay with that? And then let's go through the process of -- essentially it's a misdemeanor case.

Shade: okay. council member shade, I think you may be recalling and it's in your backup as well, but there were some other violations that were brought up in the fall dealing with site plans and parking lot and operating without certain permits, and they have come in and they have remedied those, and those items have been cleared. But this particular issue about whether it's operating as a restaurant or cocktail

lounge remains outstanding, is a newer issue as opposed to the previous ones of operating without a site plan and without the proper building permits or permits before, but those issues have been addressed.

Shade: okay. Thank you. so again we have a motion and second on the table to postpone. Ma'am, if you have a brief additional piece of information about our thought about postponement.

Going to the heart of the issue, and that is that from the very beginning we live in this neighborhood, watched the house change from a single-family residence to a business establishment without one permit being sought. Everybody understands that if you're going to do something in austin you have to go to the city and you have to request a permit. It has to be approved, and then you move forward on the development or the change. They cut down protected trees. They asphalted the entire backyard. They cemented the front yard. There was complete renovation to the property, [00:30:00] all without a permit sought. And all they did was get a slap on the hand after the fact. [In spanish] for never once having followed through with the permitting process. Okay? They opened a bar. They hide it by saying it's a sports bar/deli. They did not have the 50% sales as they were supposed to. This complaint that had been filed, there were many people that filed complaints. I myself am one of them, because we watched that house change from a single-family residence to a commercial business without approval and without -- it appeared to be without city citing them. The city did come in. They did -- they did cite them. They did apparently, i thought, take them to court or were going to take them to court. As to whether or not they did or something was settled out of court, I don't know. I wasn't sitting there in the court case when they did that. But this is our neighborhood, and our -- well, again, we -- ma'am, what we're trying to determine is whether or not to postpone the case.

Our comprehensive plan states that the one thing that we were not going to allow occur on south lake travis cesar chavez, not only was the east cesar chavez plan, there was a holly neighborhood plan, is any additional changes from cs to cs-1 zoning. It was not appropriate for our area. This is not west 6th street. This is not downtown, and for them to have one more day, one more week of being allowed to allegedly negotiate for whatever reason is putting the neighborhood, again, in distress, allowing them the ability to operate when they never once went through the permitting process. Okay? So they're not getting slapped on the hand for any [00:32:00] reason. That's not fair and that's not right. This would be the precedent precedent-setting case, precedent setting case for any future cs to cs-1 zoning change. I understand that. I respect that. This vote right now is about a postponement.

A postponement of an entity that never once got the permit -- this is about cs-1 --

that was the law. and if we have a cs-1 zoning case, i promise you you will have your chance to be heard and make, you know, all of those extended points. And I apologize for folks that are here both for and against that want to testify. You know, there's pros and cons and rationale for why you try to get as many of these things lined up at the same time, legal and otherwise, and there's a motion and a second on the table to postpone the case for five or six weeks while there continues to be legal --

there shouldn't be any consideration of that. It should be heard. The case should be heard and let it

stand on its merits. The persons who are making changes to that building without city approval or city permits knew what they were doing, and they did it anyway. Okay? It's not fair to our citizens to allow somebody just because they're -- something in court for them to have to put everything on their lives, and the quality of life on hold until that gets done. thank you very much ma'am.

Thank you for allowing me to speak. you're welcome. You have a motion and second on the table. Council member martinez. I'm sorry to bring this up. But if we said this earlier maybe we could have avoided -- not in all cases, when we have a valid petition and a cou me from the dais, we don't take those up. We try to allow the full uncil to make that decision, that's what we have tonight and I'm sorry for not bringing that up further.

Mayor wynn: good point. Motion and segd on the table postponing this case to april 23, 2009. Further comments? Hearing none, all in favor [00:34:00] of the postponement please say aye.

Aye.

Mayor wynn: aye. Opposed? Motion passes to postpone on a vote of 5-1, with the mayor pro tem off the dais and council member shade voting no. Thank you all. So council, that actually takes us right to our 5:00 -- hi, there.

May I speak for a second? we've just decided to postpone this case, but as a point of personal privilege, I always appreciate young people being in the council chambers, so why don't you take a minute or two --

I'd just like to say that their noise there, it's really too loud because they're supposed to be closed like around midnight or something, but they don't close at that time. I've been there and it's 00 in the morning and I wake up and I hear like people out there, and they're just screaming and yelling, just making a lot of noise. well, we should add that to the list of issues and complaints, and if there is going to be a cies here in about six case here in about six weeks, I hope you can come back after school and give us testimony joo thank you. council, that 30 break for live music and proclamations. Our musician here is steve bernal. I hope you pronounced that right. So stay tuned. Technically we are now in recess until shortly after live music and proclamations. okay, folks, welcome back to our weekly live music gig here at the [00:38:01] thursday city council meeting in austin. Joining us today is soloist, bassist and composer steve bernal. He's been honing his craft since childhood and spent the last 35 years in rock 'n' roll and a classical musician. He's played on 54 albums and collaborated with many other musicians. His neoclassical solo studio album, called decibels, i have a copy upstairs, was released this past month. Please join me in welcoming steve bernal. [Applause]

thank you. I'd like to share with you today [inaudible] [music playing] [music playing] [00:44:05] [applause] that looked very tricky. [Laughter] all right. So remind us, so the new solo album, decibels, how does one get a copy?

They're available at waterloo records downtown here, and also on-line on itunes, rhapsody, napster and

amazon. I think that's right.

And you have a web site?

I do, steve bernal music.com. It's chock full of stuff about what I'm trying to do here, and et cetera, et cetera. At the moment I'm in the process of booking some stuff and I was hoping to be included in south by southwest this year, but i was overlooked, I guess, which is okay, because in my vast experience with this great festival of ours, the focus is on rock bands and vocalists in general, so i was afraid I would sort of get lost in the mix, as it were. But for the record I'm compelled to boast the fact I've participated in south by southwest as performer in every conference, except for the first one in 1997 and now this year. So I'm going -- you can take this one year off and --

seems like about every ten years or so. [Laughter] and so -- all right. So the web site one can access your gig schedule, one could buy the cd as well as going over to waterloo.

Yes, sir.

Mayor wynn: well. Great. Before you get away I have the official proclamation that reads, the city of austin is blessed with many creative musicians whose talent extends to virtually every musical genre and whereas our music scene thrives because austin audience support music by legends, and newcomers lake, and we're pleased to showcase and support our local artists even here in [00:46:01] city council chambers. So now therefore i, will wynn, mayor of the live music capital of the world, do hereby proclaim today, march 12, 2009 as stee bernal day here in austin and join on all citizens to join me in congratulating this great talent. (Cheering). [Applause]

thanks, everybody.

And so while steve breaks down on that side of the room we'll use this podium to issue our weekly proclamations. We just have a couple this week. We try to take advantage of this opportunity each week to raise awareness about an important issue, to say congratulations sometimes. Sometimes to say good-bye to retiring employees, a job well done. But my first proclamation is regarding social work month. Here joined by a couple social workers. As soon as I read the proclamation michael gianotti from the association of social workers, will talk a little bit about their work. You'll probably recognize it as a state capital, not only, city, county, state, even some federal social [00:48:01] health and human service type departments are headquartered here in austin. There's a significant number of social workers in town, the vastly more than in our peer cities and there's always desperately more need in towns like austin than we have the professionals who struggle to try to deliver on that need. So I'm very pleased to read a proclamation regarding social work month. We have a great school, the university of texas has a remarkable program, of course, in the social work. So very proud of that. So the proclamation reads, social workers have the right education and experience to guide individuals, families and communities through complex issues and choices and connect them with available resources. And whereas social workers are compassionate and positive professionals who dedicate themselves to improving the society in which they live through delivery of services, research, education and legislative advocacy.

And whereas we join with the national association of social workers in celebration and support of social workers and the social work profession. So now therefore i, will wynn, mayor of austin, do hereby proclaim march 2009 as social work month here in austin and please join me in thanking not only john but all social workers in this town who do so much for this entire community. John, do you want to say a few words? [Applause]

thank you very much. mayor, we appreciate and are very honored that the city of austin recognizes the value that social workers contribute, not just to the city but to the county and the state and also nationally as well. Many of you know through the toil that we went through with hurricane katrina and rita and then ike most recently here in texas, many of our colleagues, both jean and myself, were assisting with a lot of city workers, county workers, all over the state but most importantly [00:50:00] here in austin to help these people find resources, even get reconnected with family, get them medications that had been lost, identify where they need to get to connect resources. Day care, counseling and pastoral care, just a wide range of issues that as you well know affected everybody in austin, obviously responded in just a fantastic way and we are very privileged to be connected with that with the city to provide those services. During this legislative year as you well know here in austin, it's the hub of activity and we're very involved at that level. People at the university as well. So we are privileged to be recognized. We are there to support you, the city of austin, the people of travis county, as well as throughout the state. So we are there to help. We are everywhere and we are continually growing so we appreciate it and thank you for your recognition and acknowledgment of what we do. Thank you. thank you again.

Thank you. [Applause]

okay. So my final proclamation, sort of social work in uniform, I guess, a number of our ems professionals are joining me as I am about to read a distinguished service award for jim allday. [00:52:00] I'll say before I read it, i made the mistake once of going to career day at a local elementary school, and they had different people in different careers, and of course somebody from star flight shows up in the uniform, and so, you know, the kids couldn't care less if there was a mayor over here and there was -- you know, there were engineers over here and doctors over here, lawyers over here, they all wanted to check out the uniform and talk about flying around in helicopters around austin. In all seriousness, we're very honored to issue this distinguished service award. I'll read the award. My instinct is before jim comes up to say a few words about his 30 years with the city, ernie or somebody might want to step up and say a few words about jim in addition to the distinguished award. So, the official city of austin distinguished service for more than 30 years of dedicated service the citizens of -- to the stfns of austin, first as a member of the austin emergency medical services, then star flight and the austin-travis county ems system, jim allday is deserving of public acclaim and recognition. His ems career has been marked by defecation and a vision of life, health and safety. His leadership has been instrumental in strengthening the bonds within our community and bringing an enhanced sense of professionalism to emergency medical service providers. This certificate is presented with our admiration and appreciation for his exemplary service, this 12th day of march, 2009, signed by my mayor will wynn, acknowledged by the entire city council, the distinguished service award, mr. jim

allday. [Applause]

I am not going to talk too much because one thing we have learned about jim is he has a lot to say. [Laughter] and we're going to let him. [00:54:00] And a lot of the stories that we really want to share we're going to do in private because we probably can't do them in public. But there are some important things that jim is leaving us with. Jim is a pillar of our organization in this community, and he's helped build the foundation that we walk on right now. And we've learned some important things from him that are incredibly important that I do want to share. One of them is always, always, always put the patient first. It doesn't matter if you're a doctor, if you don't know what you're doing, jim is going to tell you. That's a good thing. The other is that there is no question that is worth not asking, and if you're not sure, jim will ask it for you, because he -- he's very good at that. He's always curious, always wants to learn and grow more, and that's an important example for our organization, is that we should never, never stop learning. And the last thing is always, always pursue a deeper level of knowledge and always ask yourself, did I do well? Because if I didn't you've got something to learn. And those are the important lessons that jim has brought to us, and it's a foundation that we walk on today and will walk on into our future. So with that I'm going to get out of the way and let jim talk a little bit. [Applause]

yeah, it's really hard in a short amount of time, as everybody knows me, and i look out and see james brings brings company, brisco who taught me to be a paramedic. I want to say that the 30 years has brought a lot to me. It's been a incredibly fun ride. The department has stood by me in thick and thin in a lot of things -- there's a lot of policies at ems that would have my name on them if we named policies for what people shouldn't do, and I've always tried to pass that on to everyone. But as ernie mentioned, for [00:56:00] me it always has been a calling that I think it's an honor and a privilege that we have to go into other people's homes and to touch their lives on what may be the worst day of their life and our day is filled with that. And we should hold that sacred and take care of the people and hold them in our hearts. I think a lot of times, unfortunately, with the technology that we have, we get real hung up in it, and we want to let the technology tell us what's going on with the patients, and frequently if you just sit down and talk to the people, you will discover what's going on. And what you'll find out, just as you were talking about the interesting people we have in our community, you will discover how many interesting people we do indeed have in our community. That's all I'll say for now. Thank you very much. Thank you. [Applause]

mayor wynn: Congratulations. Thank you. And so the council will be back after a very short break. Thank you.

Mayor Wynn: There being a quorum prept present, at this time I'll call back to order this meeting of the austin city council. It's approximately 6:10 p.m. We've been in recess for about 40 minutes mostly taking up live music and proclamations. Earlier today council during changes and corrections, i note that had on item number 45 this evening's only public hearing technically that staff would be requesting a postponement. Is that true, mr. guernsey?

That is correct. Mayor and council, item number 45 is to conduct a public hearing and amend an ordinance of the city code to allow sidewalks in public areas. The planning commission had sent this

back to the subcommittee and they will consider this item next week on the 17th of march. Then they have postponed this item and it will come back to the full planning commission on april 14th. So staff is requesting a postponement of this public hearing to your april 23rd agenda. And it will be the same time at 6:00.

Mayor Wynn: So council, I'll entertain a motion to postpone this public hearing, item number 45, to OUR THURSDAY, APRIL 23rd, 2009 Meeting.

Second.

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

Thank you, mayor and council. That brings us to our two remaining items under our zoning and neighborhood plan amendments portion of our 4:00 agenda. Item number 43 is case 01 for the property located at 3301 kings lane. This is an amendment to the central austin combined neighborhood plan element of the austin tomorrow comprehensive plan to amend their future land use map. The flum map from single-family to neighborhood mix used for the property located at 3301 kings lane. The related zoning case is case c-14-2008-0223 known as the david heaps property at that same address to change the property from limited office neighborhood plan combining district zoning to limited office mixed use neighborhood plan combining district zoning. The planning commission's recommendation with regard to the neighborhood plan amendment was to recommend denial of the neighborhood mixed use designation and the planning commission's recommendation on the zoning change was to grant single-family residence small lot neighborhood plan or sf-4-anp combining district zoning. This is only about 50 feet 6 of an acre. The property is currently paved. It's been used as a parking lot for many, many years. The property currently is in the central austin combined neighborhood planning area and is designated single-family, even though the zoning on the property is lo, limited office. The site to the north is developed with offices and zoned lo-np. To the south are apartments zoned mf-2-co-np. To the east is single-family with single-family residences, sf-3-co-np. And to the west is mixed use or lo-np and used for medical facility and offices. The zoning case as i mentioned before was recommended by the commission for sf-4-a-np. The vote was on a vote of 8-0. The staff recommendation with regards to the zoning case was to grant lo-mu-co-np or limited office mixed use conditional overlay neighborhood plan with a trip limitation of 2,000 trips. The adjacent property owners within 200 feet have filed a petition in opposition to the zoning change request. It now stands at 32.2 percent. Both the neighborhood plan amendment and the other case, the zoning case, are only ready for first reading this evening should you decide to grant these applications. I believe there are representatives here on behalf of the neighborhood phil macada is here on behalf of david heaps and will be making the applicant's presentation. At this time I'll pause. If you have any questions, I'll be happy to answer them at this time.

Leffingwell: I have a question, mayor. The valid petition is against what?

The valid petition as it's been filed by the neighborhood -- let me flip over it. It says we the undersigned

owners of the property affected by the zoning change are opposed to any other classification in its current zoning or the zoning zone on future land use map for our neighborhood, sf-3. Our reason for protest is that the zoning change does not conform to the current neighborhood plan and the mu is inappropriate for this lot and the mu should not be used to avoid set back requirements -- should not be used to avoid set back requirements or avoid negotiations with neighborhood associations on the setback requirements. And as I mentioned before, 2 -- at 32.2 percent.

Leffingwell: The reason I ask is I have an e-mail here that outlines the valid petition by the heritage neighborhood association which says that that group will request that the council zone the lot sf-4-a.

That may be correct with --

Leffingwell: And they would support that if the council chose to zone it sf-4-a, the neighborhood association would agree to withdraw its valid petition. Is there any way to deal with that?

There probably could be if you were to grant that request prior to coming back to second and third reading. We could speak with the property owners because it's the property owners who had the petition. I'm sure through the neighborhood association, I think Mary Ingles and others will probably be coming forward or there may be speakers here tonight that could withdraw their names from the petition or alter the petition.

Leffingwell: So we'll find that out.

We'll find that out in a few moments.

Mayor Wynn: Further questions of staff, council? Comments? Rusthoven has indicated to me that we are actually ready if you were to move forward with the sf-4-a ordinance this evening, we could actually approve that this evening because we have an ordinance prepared based on the commission's recommendations.

Mayor Wynn: Thank you, Mr. Guernsey. Again, questions for staff, council, before we take up our public hearing? Here none, we will conduct our public hearing and set the clock for five minutes and allow the agent, Phil Moncada to give that presentation. Then we will hear from folks in support of the zoning case, three minutes at a click, then folks in Moncada would have a one-time rebuttal. Welcome, Phil. You have five minutes.

Good evening, Mayor Wynn and councilmembers. I'm Phil Moncada. Heaps property at 3301 Kings Lane. I apologize for the prompt e-mail. I was under the impression that I was actually scheduled for the 26th of this month for this hearing. I briefly want to state that we did go back to planning commission on the 10th requesting a reconsideration because I don't believe that all the information was provided to them. The memo I've provided I'm going to go ahead and state what I believe was some confusion. Mace, who was in the audience and lives directly behind this property stated to the planning commission that there was a wastewater line and easement that ran down the middle of the property that would prohibit



the construction of any type of structure. I did the research and found that information to be erroneous. In addition, I was hearing the presentation right before me this evening and the -- I've got an e-mail here from victoria craig and clark patterson's staff with the neighborhood housing and planning, and as far as setbacks, the setbacks are the same on the lo-co-np are the same. And I want to just show this real briefly this exhibit, I'm sorry I've drawn on it, but have you a copy in your backup packet. We met with the neighborhood group last december on this project to start looking at what we could do to come to a meeting of the mind. And one of the things they can requested, and I believe godfrey who states he's an architect. We did a brief rendering to show what the proposed house would look like that we want to build on this house. It's a very small lot. The setback we showed are five feet all the way around. I know that the one in the front needs to be adjusted. We're allowed 65% impervious cover on this lot. It's currently 100%. We're going to be reducing that to about 56, tbech%. In addition, there are structures directly behind us that are in the rear yard set back that this neighborhood is so adamant that they believe we should have 10 feet. They actually have structures sitting in that set back on the other side of the fence at this time. I'm available to answer any questions. Thank you.

Mayor Wynn: Thank you. Questions for our agent, council? Comments? If not, then we will now hear from folks who are in support of the zoning case. I don't think there are any. Mary ingle has signed up in favor of one and opposition on the other. I think probably in opposition. She's here to answer questions if we have any. So now we'll hear from folks in opposition. It looks like robert mason and al godfrey have signed up wishing to give us testimony. Either gentlemen may come forward. You will reach have three minutes. Welcome.

Thank you, mayor and council. My name is al godfrey. I'm a member of the steering committee of the heritage -- on the heritage neighborhood association and also a co-chair of canpac, which is the planning organization that was the author with city staff of the neighborhood plan that includes heritage, but also several neighborhood associations and neighborhoods surrounding heritage. We're here -- I'm here this evening to state our opposition on behalf of both organizations to a change in the flum and also our opposition to the requested zoning change to mu. I suppose I should start by explaining the difference between the existing zoning, which is lo, and the flum map zoning, which is sf, and it goes like this. It's traceable back to when the neighborhood plan was created, and there was a strong motivation to not rezone any property into noncompliance. And since it was a parking lot, we chose to indicate our future ambition or aspiration by making an sf-zoning on the flum map while leaving the lo zoning the way it was. A couple of things to say, since we're talking about botd these issues at -- both these issues at once, it has been mentioned that the planning commission voted unanimously for sf-4-a, and further to deny the change to the flum map. And it has also been mentioned by staff that the neighborhood has a valid petition. And I will also mention that the neighborhood has extended a proposal to the owner that if the -- we would favor an sf-4-a zoning with an additional -- moving the rear set back to 10 feet, and we would mutually go to the board of adjustment to adjust the front setback to also 10 feet. That's five feet in the owner's favor. And that proposal -- if the owner would accept that proposal proposal, we would be willing to withdraw our valid petition. We know that this body cannot make -- do a conditional overlay that would make a condition more permissive, that that needs to happen at the board of adjustment. So we're not asking this body to change the front set back. We are requesting that the council vote to change this zoning to sf-4-a with a conditional overlay, moving the

rear setback from five feet to 10 feet. I'm available for any questions, and if none, robert mace is here to elaborate on an issue or two.

Mayor Wynn: Thank you, mr. godfrey. Questions for al, council? Thank you, sir. Robert, welcome. You too will have three minutes. mayor, members of the council, my name is robert mace. I own property next to this property along with my wife who is here with me today. We've lived there for more than 15 years. I live in a nice house. The main part of it was built in 1885. If you go in the heritage home tours you may have been in it. Our house was on that tour. We're concerned about the request of the owner of this property, heaps and associates -- heaps and associates to get mixed use zoning for this property. We support the positions of the neighborhood association and canpac with the additional setback of -- with the additional conditional overlay of 10 feet. Our neighbors are concerned about a structure being built right on the back of our property, pretty much concerned about privacy. We're also concerned that what ultimately will go in on this property is a rental unit that will get rented out most likely to clemg kids. A 10-foot conditional overlay or setback gives us a little more privacy. Might be a chance that that 10-foot rear setback saves the trees on the property line and the trees also help promote privacy. moncada says we have a structure built within that 10-foot set back on our property line and that not true. Our structure back there is 10 feet away from our rear property line. We think that the offer from the neighborhood association is reasonable. Heaps and associates says they want to build a single-family home. They're concerned about keeping the current use for a certain amount of time until they build that structure, sf-4-a. It's actually I think more permissive than mixed use. And also city staff has told us that the nonconforming use would last for 10 years. And so heaps and associates could leave it as a parking lot until they decide to build. And also the neighborhood association, I don't know if al mentioned this, but the neighborhood association has said that they would work with heaps and associates on getting a front re-- relief on the front setback. moncada showed the structure of the house, but he has to go to the board of adjustment to get relief on the front to actually build what looks like to me five feet from the property line. Thank you so much for your attention. I appreciate the opportunity to speak.

Mayor Wynn: Thank you, mr. mace. Questions for robert, council? Councilmember morrison.

Morrison: I'm not sure if this would be for you or godfrey or for mr. guernsey. And the question is with lo-mu, what additional use of the property might -- going from lo to lo-mu, what additional use of the property might we see besides the single-family house like -- I think everybody is talking about?

Well, the mu would allow for a range of residential uses. It may allow for like a duplex or a secondary -- or two family residential like a garage apartment, multi-family uses. Things within the possible. They would still have to design it for parking and setbacks. And in the case of a multi-family structure, compatibility standards and an extremely small lot, but those would be within the realm of poact. If you went to sf-4-a, it would pretty much only allow a detached single-family home.

Mayor Wynn: Further questions of any of our neighbors or staff before we moncada again in his rebuttal as we call it. I'll also note for the record that mary ingle and wendy wise are here not wishing to speak,

but in opposition as well. So mr. moncada? Yes, councilmember leffingwell.

Leffingwell: I think ingle would like to speak.

Mayor Wynn: Technically she signed up wishing to speak if there are questions. And you have one. So welcome, mary. You too will have three minute.

Thank you. I'm mary ingle for the record and the co-chair of canpac. I'm sorry, I didn't want to speak on this issue tonight, but I couldn't restrain myself. This is a particularly small lot. It's a little over 3,000 square feet. And the front of it is on a former alley. It's not on a corner. It's right in the middle of a neighborhood. This zoning sf-4-a is the most reasonable, sensible zoning for this property. It makes sense for the flum, it makes sense for the future development of this property, and I love saying that makes sense and that are reasonable. Thank you.

Mayor Wynn: Thank you, mary. Again, now we will hear from phil moncada. Set the timer for three minutes. You are welcome to expand on anything you heard, phil or use the minutes however you want.

Thank you, mayor and councilmembers. First of all, to address mace's concern about privacy, there's currently a six-foot privacy fence existing along the rear and side of this lot. The other thing is planning standards historically dictate how staff makes a recommendation. And city staff when heaps first approached them before he approached me is that it would be good if he went down and got the plat with the element that would allow a single-family home. In addition I do site development and processing and been involved in that for over 25 years. Based on the lot size of 3750, it would be next to impossible to build an office here with the requirements associated with parking, setbacks. In addition to that, the ordinance y'all passed deal with McMansion only allows a structure of 32 feet in height to be built here. I need for all this information to be provided to y'all. In addition, the original flum did note this and the neighborhood had always wanted this to be a residential lot with the mu element added, that is what we would have. And that is all that my client is requesting. We have no interest in building a commercial office there because the street is narrow and there's not any parking. Thank you.

Mayor Wynn: Hang on, phil. Councilmember leffingwell.

Leffingwell: The sf-4-a that was recommended by the planning commission, that doesn't fulfill the objective that you have of building a single-family home on this?

Councilmember, my client had a fear that if we went to the sf-4-a zoning, that has been used as a parking lot since the 30's when zoning actually came into being at the city of austin. And right now he has an existing nonconforming use with the zoning that's currently in place. If it went to -- I'm still a little unclear. The sf-4-a zoning, I don't know how long, especially in light of the economy at this time, how much time he would be able to still use that while he gathered funds and actually drew up and saw what kind of a house he could actually build because we do still have to address the front yard setback with the board of adjustments.

Mayor Wynn: Thank you. Additional questions of our agent, council? Comments? Motions? This combined case 43, 44. guernsey, if you could help me out. I was writing some of it down. If you could remind me, the planning commission and staff recommendation on this case.

Let me take each one individually. Item 43 is the plan amendment. And the commission just recommended denial for the mixed use. And to leave the property designated as single-family as is shown currently today on the future land use map. Staff recommended neighborhood mixed use. On the zoning change, item number 44, the planning commission's recommendation was for sf-4-a-np and that would allow for a single-family home. The staff recommendation was for lo-mu-co-np with a coastal limiting -- with a conditional overlay limiting the vehicle trips to 2,000 vehicle trips a day. I understand the neighborhood would be accepting of the planning commission's recommendation with a conditional overlay that there be a 10-foot set back from the rear property line. That would be opposite of kings lane. Which is currently five foot. So it actually increases the setback from five feet to 10 feet. I understand the applicant would like to go with the staff recommendation.

Mayor Wynn: Thank you. Further questions, comments? Combined case 43, 44. Councilmember leffingwell.

Leffingwell: First i have a question because technically there's a valid petition. And I believe you said you were ready with all three?

If you went with the planning commission's recommendation, it was a very simple ordinance so our law department actually created an ordinance for sf-4-a-np. If we were to go tbartd with the sf-4-a-np, although there is a valid petition, and we don't have the signatures of -- we don't have the individuals here tonight that could remove their names from the petition, although there are six of you here, if you all voted the same way with regards to this -- if you all wished to approve it with a conditional overlay that just spoke to the 10-foot set back as the neighborhood asked, that could be done this evening. moncada wants to have all three readings tonight. He may want to speak for himself in that regard. He may only wish to do first reading and go back with his owner and discuss the matter a little bit more. Those are your options if you want to take action this evening on the planning commission's recommendation or something modifying it.

Leffingwell: Well, i guess the question is does the valid petition apply if hypothetically the motion were made for the planning commission recommendation with the addition of the co for the 10-foot rear setback?

Yes. The petition still remains and you would need all six votes to approve the planning commission recommendation with or without the 10-foot setback.

Leffingwell: I guess there's sort of a-- maybe you can answer this. Is there not a standing policy that we don't vote on a final road reading with a valid petition in place?

Yes. You have historically in the past deferred action on your final reading if you have not had a full

council. Heavy leaf so I will move to --

Leffingwell: So I will move to close the public hearing and approve on first and second reading the planning commission recommendation with the addition of the 10-foot rear setback co.

Mayor Wynn: So we have a motion by councilmember leffingwell to close the public hearing, approve the planning commission recommendation with the additional co of the 10-foot set-- rear at the time back?

That's -- rear set back?

Leffingwell: That's on first and second only.

Mayor Wynn: Seconded by councilmember morrison.

That would be denying item 43, approving --

Mayor Wynn: The flum will stay the same.

The flum will remain the same and then approving the zoning change on second and third reading -- first and second reading with the conditional overlay of 10 feet rear yard setback.

Mayor Wynn: Agreed. Here's a question for you, mr. guernsey. So by denying item number 43, does it go away because what if the council were to change their mind and on third reading approve something other than a single-family designation after a bunch of dialogue obviously and all that? Would 43 need to be revived or at any time can the flum be --

staff would recommend that if there's the possibility that you would reconsider what you approved on first reading and go with the original applicant's request of lo-mu --

Mayor Wynn: Or anything else for that matter.

Or anything else for that matter, that you would probably postpone item 43 perhaps to a meeting at least a period of two weeks and then we could bring back that item and you could still have second -- first and second reading on the zoning item and that would give you the flexibility of doing either one, either closer to what the applicant has requested or what the planning commission recommended.

Leffingwell: See, I was thinking that all along. [ Laughter ] that's why I didn't mention item number 43 in my original motion.

Mayor Wynn: Thank you very much.

Leffingwell: Postpone item 43 and item 44 as previously stated.

Is there a particular date?

Mayor Wynn: Depends on when you think staff could bring back for third reading?

We could probably come back in two weeks because we already have the ordinance drafted. If the only part is to add a conditional overlay of 10 feet, that's very simple and that could be easily added to the ordinance.

Leffingwell: Bring back both item 43 and third reading on 44 on the 26th.

That's correct.

Leffingwell: Okay.

Mayor Wynn: So we have a clarified motion and second on the table regarding both items 43 and 44. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on first and second reading only on highway 44 on a vote of six to zero with the mayor pro tem off the dais and the postponement vote on item 43 is also a 6-0 vote. Thank you, mr. guernsey.

Thank you. That concludes the zoning items this evening.

Mayor Wynn: Council, i believe there being no more items before this meeting of the city council, we can now stand adjourned. It is 6:40 p.m. Goodnight.

**End of Council Session Closed Caption Log**