

## Closed Caption Log, Council Meeting, 06/11/09

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Mayor Wynn: Good morning, appreciate your patience, sorry for the short delay getting started.

I'm austin mayor will wynn, it's my privilege to recommend deacon robert martinez, sacred heart catholic church, who will lead us in our invocation, please rise.

[Inaudible - no mic]

let us pray.

[01:24:00]

As we close the year before the start of a new council team, we reflect on our austin accomplishments.

Of continuing to strive for equal treatment, of valuing our natural resources, of supporting and maintaining a healthy economy, and we recommit to continuing to work with the spirit of love of god in our neighborhoods, in our community.

So that disions we make and serve well our whole austin community.

Not just the natural beauty of the city, but the beauty of the people to value all people, 100% of austin people are valued -- have value.

Value.

Empower, lord, this council to empower the austin community to work together for the benefit of all, even if as individuals we have to sacrifice some of our desires.

For it is in giving that we receive and in helping others that we feel your loving power.

Thank you, lord, for our lives, our families, and our 7 community.

In god's name, our creator, we pray.

Mayor Wynn: Thank you, deacon martinez.

There being a quorum present, at this time I'll call to order this meeting of the austin city council.

IT IS THURSDAY, JUNE 11th, 2009, Here in the council chambers, the city hall building, 301 west second 23 a.m.

We have a quorum present.

We will be missing councilmember cole today.

Councilmember cole is travelling, so she won't be on the dais throughout the course of the meeting.

[01:26:00]

City manager marc ott is in a meeting right now, but of course will be with us throughout the course of the day.

Council, before we get started, folks, just wanted to -- to -- I trust everybody saw the headlines this morning.

There was a tragic construction accident in west campus yesterday afternoon.

I went over to the site yesterday evening and you probably saw that three construction workers fell to their death.

As part of a scaffolding collapse.

Mishap.

And it -- you know, it was tragic by a stark reminder for all of us about, you know, take -- take for granted that we are able to witness, you know, good, tax base, good mixed use density being delivered all over town, really.

We see men and women out working in traffic in the street with utility cuts and many city employees have very dangerous jobs, climbing telephone poles and operating big pieces of equipment and, you know, we -- I think all of us probably to for granted folks' safety.

It's a tragedy and it doesn't happen often in austin.

Of course, I know you join me in sending our condolences to the family of those three men and the co-

workers were very shaken yesterday with the tragedy.

But use it as a reminder that we need to work to keep each other safe and also just to appreciate hard labor that's being done all over this town.

You know, for the benefit really of the entire city.

So -- so thank you all for joining me and sending condolences to those families.

Council, normally before i go through the changes and corrections to our posted agenda, we offer this time each morning to -- to alert our colleagues or the public or city staff as to what we think might be some upcoming initiatives or items from council.

[01:28:00]

So at this time I'll -- I'll allow any of those to be announced.

Councilmember martinez?

[Indiscernible]

[inaudible - no mic]

we do plan on coming forward next council meeting, councilmember morrison and shade and myself have been working on where we end up in terms of the potential music department.

So I appreciate all of the work that our staff has done.

[Inaudible - no mic]

Mayor Wynn: Any additional initiatives, items from council?

Thank you all.

So -- I will read into the record our changes and corrections to this week's posted agenda.

They are to note that item 4 comes recommended by the water and wastewater commission.

12 which relates to our solid waste department master plan, says reviewed by the southwest advisory commission, or swac.

Understand there's a council request to postpone this item.

12 the -- the -- technically is posted as our professional services agreement, southwest master

management plan excuse me, to be postponed until -- for ONE WEEK UNTIL JUNE 18th, 2009,  
Request of councilmember morrison.

38 is to be postponed to our -- to our JUNE 18th, 2009 MEETING AS Well.

We should note that item no.

41, That councilmember cole is an additional co-sponsor.

[01:30:02]

42, we should correct and note that -- that the waiver is the signature requirements, not certain requirements as was originally posted.

Just signature robert sitting -- signature requirement as being waived.

58 it should read that the planning commission recommendation is to grant public or p district zoning.

Then we should note that 68, which is one of our evening public hearings, staff will be requesting to be postpone -- that we postpone that public hearing for one week until june 18th, BUT TECHNICALLY WE Can't take up that postponement vote until 00 time certain.

So far, council, only two items have been pulled off our consent agenda.

Both of them relate to executive session items, 22 which relates to our board and commission 36 which relates to the property that we know as 328 hart wood, there's a number of items related to that one will be off the consent agenda and we won't take those up potentially until after we -- we have our closed session agenda later today.

Council, additional items to be pulled off the consent agenda?

Before I propose the consent agenda, our schedule is hopefully after we approve a consent agenda here this morning, looks like there won't be any discussion items afterwards, we will take up the morning briefing, this morning's briefing will be the -- the staff presentation of the fiscal year 2009-'10, our next fiscal year's budget development process, where we are in that process.

[01:32:01]

We likely will go, depending on how long that briefing lasts, we may go into closed session prior to the noon general citizens communication.

Our afternoon briings today, the first is staff presentation of proposed amendments to our tree

regulation.

And the second is a briefing on the proposed whisper valley or indian hills development agreement.

we take up all of our zoning matters.

30 we break for live music and proclamations.

Our musician today is kalu james, stay tuned for that.

we will conduct our evening public hearings.

Again, council, any additional items to be pulled off the consent agenda?

Before I propose -- pro propose one?

..

So our proposed consent agenda this morning will be 1, the minutes to our last two meetings.

From austin energy, approving items 2 and 3.

From our water utility, approving item 4, per changes and correction.

From our city clerk's department, approving item 5.

From our contract and land management department, approving items 6, 7, 8, 9, 10, 11, and again it's part of the consent agenda will be -- will be postponing item 12 for one week to june 18th, 2009.

Also noting that changes and

[01:34:00]

correction.

From our convention center department we'll be approving item 13.

From our economic growth and redevelopment services department, approving item 14.

From our emergency medical services department, approving item 15.

And from our fire department, we will be approving items 16, and 17.

From our health and human services department, approving items 18, 19, 20, and 21.

From our law department, approving item 23.

From our purchasing office, approving items 24, 25, 26, 27, 28, 29, and 30.

From our telecommunications and regulatory affairs department, approving item 31.

From our transportation department, approving items 32, 33, 34, and 35.

We will also be approving item 37, which our board and commission appointments.

I'll read these nominations into the record.

To our 2006 bond oversight committee, katrina daniel is councilmember shade's nominee.

Airport advisory commission, robert gale, councilmember councilmembermorrison's nominee, to our collective austin resource

[01:36:00]

generation planning task force, they will be kerry ferchill, sorry if I'm mispronouncing that, chris herbert, matt johnson, cyrus reed, robberson, sutton, wood and phillip

[indiscernible]

appointed chair, our new austin regeneration planning task force.

To our austin travis county health care board district -- I messed that up.

To our travis county health care district board of manages, anthony haley is the joint appointment with us in travis county.

Then to the waller creek citizen advisory committee, kathryn tovo is -- is councilmember cole's nominee.

37 on our consent agenda.

We will also be approving item 39, 40,.

41 With changes and correction, 42 per changes and correction, 43, 44, 45, and 46.

And we'll be setting the public hearing by approving item 47.

I'll entertain a motion on that proposed consent agenda.

Yes, sorry.

Thank you very much, correct.

38 as to be approved because in fact part of the consent agenda, item 38, will be postponed for one week to JUNE 18th, 2009.

Thank you.

[01:38:01]

Ms. gery?

So I'm sorry I think I heard a motion and a second from councilmember shade and councilmember morrison to approve -- I mean councilmember martinez, excuse me, to approve the consent agenda as proposed.

Before I ask for council comments, we do have a handful of citizens that want to give us comment on items that are set to be approved by council.

Our first couple of folks 14, which is an interlocal agreement with -- with university of texas.

Let's see carol hadnot I saw earlier wanted to give us testimony.

Is carol still with us?

Welcome, carol.

Three minutes to be followed by elaine johnson.

Good morning, mayor and councilmembers.

My name is carol hadnot, i am the program manager consultant for the austin black contractors association.

I'm here today to speak 14, regarding the interlocal agreement to award \$169,000 to the university of texas professional -- excuse me, professional development center.

And it carries a 212 extension for a total of \$495,000.

The austin black contractors association is currently serving as service provider for the city targeting

african-american construction contractors.

Our funding and the other three service providers total only \$163,000.

We are not opposing this item but we are saying that we are insufficiently lacking funding to provide the type of training and technical assistance to grow and develop the capacity of the targeted groups we serve to compete where city

[01:40:00]

construction procurement.

The bottom line we are needing funding to continue the development of african-american contractors that are -- that are ready, willing and able to perform construction procurement by the city of austin.

Therefore we are requesting the same financial commitment to expand and enhance the service delivery to our contractors.

We think that -- that some some respects that this is a duplication of effort.

To award this to the university of texas.

However, we're not opposing it.

Because we feel that we have people find, we have big austin, the three chambers that you are funding, over 140 some thousand dollars in each, each year to pvide that service.

We feel there should be some equity and parity in the funding.

We respectfully request that staffing back and try to find -- staff go back and try to find those sources.

We did have a meeting with

[indiscernible]

where she told us that she spoke to -- that they had no authority to increase our funding.

I asked the reason why and she said because of the budget shortfall.

We do understand the budget shortfall.

But if there is a budget shortfall, then wherever you have found the \$169,000, we are asking that you go back and look at that pool and see if you can find enough to fund us as well.



Thank you.

Mayor Wynn: Thank you, ms. hadnot.

johnson, welcome.

You, too, will have three minutes.

Good morning mayor, councilmembers, I'm elaine johnson, president of the black contractors association.

I'm here today to speak on the agenda item, number

[01:42:04]

14.

Currently you all are funding three chambers here in the city, people find, big austin, to provide the same training services to small businesses.

We're asking that you please look at all of the associations and to see that you are able to provide the same type of funding for us as well.

We did a presentation on tuesday at the m/w.b.e.

Advisory council.

I think it was strong to show that we have made a difference in the community with our contractors.

We are asking for the same type of funding.

's funding if that's what you all would like to do, we would also like the same funding to continue to build our community of contractors, thank you.

Thank you, ms. johnson.

Let's see, also on item no.

15, Related to our e.m.s.

Fee schedule, jennifer mcphail would like to give us some testimony, jennifer, welcome.

We just wanted to go on record against the original proposal for the increase in because there's a population of austinites that are served by meals on wheels and family elder care with the fans and

everything that can't afford to feed themselves or have air conditioning and those are the people that oftentimes have trouble getting around their house and are having trouble getting to these public hearings.

Oftentimes fall and sometimes just need help getting back up off the floor.

And depending on your situation, if you have a minor outpatient surgery and you fall a couple of times the first week after surgery, it could get very expensive if you don't have insurance coverage or if you're underinsured.

It all adds up.

You know, I have insurance

[01:44:01]

of my own and the co-pays when I get sick and have something rarely happen to me, it's very expensive and it's hard for everyone.

But it's most difficult for people who are at fixed incomes and have trouble surviving, even in good economic times.

So we just ask that you keep that in mind when you are trying to balance the budget and not balance the budget on the backs of the poor because that's -- that fee increase may be an obvious way to generate revenue, but it not always the -- the most compassionate.

Thank you.

Mayor Wynn: Thank you, councilmember morrison?

Thank you, I want to mention that councilmember martinez and I talked to staff we adjusted the original proposal now for those who don't have third party payors there will an discounted fee that is the same as it is right now.

Those fees won't be raised for the folks that -- the kind of folks that you are talking about that are uninsured.

Thank you.

Mayor Wynn: Also, council on our consent agenda is item no. 16.

Which relates to the fire department assistant chief positions.

Which I think morris priest originally signed up to give us testimony.

priest, you, too, will have minutes.

Yes, sir, mayor, council.

I want to first of all say i thank you, mayor wynn, brewster mccracken for your time on the board.

I know that you will be leaving us soon, we have talked many times at campo meetings I wanted to say that first.

I'm totally opposed to this ordinance reclassification of the fire department.

I've had several members of my family on the fire department, at one time my dad was a captain for almost 30 years, my brother was a lieutenant in the fire department.

I'm a native austinite, I'm 54 years old.

[01:46:00]

Totally opposed to this reclassification of the fire department.

There's a historical perspective that we should take into account.

We previously lost the fire chief here in the city of austin due to being fired by the city council or the city management and it was placed on probation.

One of the reasons I think that occurred was because it was just such quite a step up coming from corpus christi to man a big metropolitan fire department such as this.

Also, I think the same is happening now.

I think every single firefighter on the city of austin is an angel.

And this -- none of my comments or -- to be construed to be against the two people that are going to be appointed if the city approves this ordinance.

I think fundamentally the decision making process is flawed.

Due to the fact that the citizens of this city, not the fire department union, gave our firefighters collective bargaining.

And we gave our firefighters collective bargaining and i want to say this because i hope -- I don't want to run out of time and not say this, but I was appalled by our fire chief and our city council and city

management, city attorney for allowing the disparaging comments made against the brave men and women of our austin fire department.

Not a single person spoke up.

Our fire department is not an embarrassment.

They are an organization for the brave men and women.

There have been many feelings hurt in this community by the display and this ordinance.

I want to say this is an emotional topic for me because I've stated that I -- my family has invested a lot in this city.

But I just wants to say that we have collective bargaining, I think the process is circumventing the budget and the collective bargaining process.

I would implore you, I'm begging you to reconsider, pull this from the agenda, let the process work itself out through collective bargaining.

Through the city budget process.

And I just don't think that

[01:48:00]

this is something that -- that I'm -- that I'm saying that we need a consensus in the city.

I realize that the chief is the chief.

And it's her decision.

But I also know that she -- I talked to her in person, i have spoke with her on the phone and in person, I have talked to many people in the community and there is just -- just a total disconnect of the lack of process.

Contacting -- having a -- having discussions with 38 chiefs or 35 chiefs that we have, talking to other firefighters, people in the community, city-wide I have discussed in private

[buzzer sounding]

businesses there's no support for this and i would think that maybe there would be legal issues or recall issues over this.

I have never seen the -- the -- the toll roads don't even come close to how upset people are about this.

Thank you.

Mayor Wynn: Thank you, mr. priest.

Councilmember martinez?

Martinez: Thank you, mayor, I want to make a couple of brief comments that were mentioned.

Collective bargaining were mentioned in the previous speakers comments.

He's absolutely right.

We do have collective bargaining.

I was president of the firefighters when citizens granted us that right.

But with collective bargaining also comes the right for the firefighters to take action and approve a contract.

And they were given that option.

And had the firefighters voted on that contract, none of this would be an issue today.

The chief would have the ability to make

[indiscernible]

to the assistant chief, unlimited, the firefighters would have pay and benefit and other protected rights, legal rights that were proposed in the contract.

They made a personal choice.

The firefighters chose not to accept the agreement that was on the table.

And partly because of that you're going to see things that have to come to council for decisions.

And becomes a policy matter at that point.

So -- so the -- to characterize this as this council taking action to circumvent collective bargaining I think is inappropriate and inaccurate because we did offer a

[01:50:01]

contract, it was dually voted on by the -- duly voted on by the membership of the fire department and voted down so now we operate under civil service law.

Based on that many things are going to have to come before the council.

Thank you.

Mayor Wynn: Thank you, councilmember.

Mayor Wynn: Also, 20 is set to be approved on our consent agenda.

Gus pena signed up wishing to give us testimony on this item.

This relates to our summer youth interlocal agreement with the county, welcome, mr. pena.

While you're up, gus, you've also signed up for item no.

21 Regarding our truancy courts you are welcome to give us those comments, too.

Yes, sir, thank you very mu, mayor, councilmembers, mr. city manager, gus pena.

I'm going to comment on these other issues that came before y'all.

Number one, I gave you all a copy of one of my former positions with the department of treasury as an eeo investigator, discrimination claims investigator.

I would like to say to you, carol hadnot for many years, i highly respect her.

I have worked closely with the black community in many years.

In 95 and '96 these issues came up before the council back then when mayor t.o.d.

Was elected as -- mayor todd was elected as mayor.

city manager to please revisit these contracts and in my opinion let's bring a more fair and equitable parity process to the awarding of the contracts.

hadnot's comments are right on target.

I'm not saying it's discriminatory.

I want to let you know that I do have experience in investigating these type of matters.

I think we need to revisit the policy and procedures and make sure that the african-american community is in fact brought to the

[01:52:00]

table and in an equitable manner.

I do believe that.

Okay, let me talk about my -- let me talk about number 16.

I am proud of the two firefighters that will be promoted today to the assistant chief position.

I had also mentioned this before that we would have liked to have seen more of a balance in bringing up female firefighters also to this level.

I don't know what's going to happen.

I had hoped that I would see -- have seen a female firefighter elevated and promoted to this position, also.

But I'm proud of I -- proud of the two candidates that will be promoted.

Kudos to that.

It's good for the city of austin.

I will speak on my issues now.

Item no. 20.

Having to do with the summer youth employment stipend program.

I appreciate this very much.

Back when mayor jeff freedman first was elected mayor, it was his vision to employ kids and youth in the summertime, keep them out of trouble, also provide youth trips.

This was his vision when he was president of the u.t.

Student association at the university of texas.

Again I thank you all very much bringing this issue to the table and providing equitable funding for the kids also.

Very important to keep them, as I've always said, always said, I will tell you this much, the gang members are listening to what I'm saying here at the county commissioners court.

I will say it to them, i want our youth to be in organized positive activities and not involved in organized crime.

I have said this for the last 15 I'm not scared of anybody.

They can do whatever they want to.

I have friends in top positions, also, the issue is I want our kids to be safe from these hoodlums.

21, truancy, back among others from johnston high school, appointed to the aisd dropout prevention task force.

What's truancy.

When justice of

[01:54:02]

the peace, a lot of county attorneys and a lot of civil and criminal attorneys, one of the things we brought up to the table was compulsory attendance law.

You remember that mayor pro tem?

I thank you for your comments.

What you said were right on target.

But the issue is -- in the future when we have more honey in the budget to be cognizant of the fact that we need to work helpful on truancy, a lot of our kids are on the streets that cannot pass the taks test, they get frustrated, they drop out.

Economically, socially, whatever, it is something that we really have to tackle if we want to bring a more equitable process to the city, kids, youth, get them to graduate, get them educated.

Anyway, that's all that i have to say.

Another thing also I would like to thank dell children's hospital for taking good care of my son lucio, he



was there three times.

It's a good -- anyway, let's bring a fair and equitable process to all of these issues.

I than carol hadn't.

I love austin, I'm a native austinite.

Thank you all very much for the hard work that you do.

Please listen to her comment.

Thank you very much.

Mayor Wynn: Thank you, mr. pena.

Finally council, item no.

41, Set for approval on the consent agenda regarding college housing.

We have a couple of folks that wanted to give us supportive testimony i believe.

Bryan donovan followed by allan robin.

Hi, my name is bryan donovan, I'm the general administrator for the university of texas intercooperative council.

We have nine houses that are run and owned by the students who live in them.

Co-ops have been a part of austin now for over 70 years.

And we're looking to expand and we have spoken with -- with the department of education, as well as , about reactivating the college housing loan fund.

[01:56:00]

Which in the past gave long-term low interest loans to be able to expand student housing.

We're specifically asking for the department of education to rewrite the regulations to provide housing for low income students.

And we -- we certainly appreciate your considering the resolution.

We're having similar conversations with other local governments around the country.

As well as the universities that travis county did pass this very resolution on tuesday.

And I found out yesterday that we're going to get a letter of support from the university of texas as well.

Which we're going to take later on this summer.

And we'll certainly keep you in the loop as to -- as things advance.

Thank you very much for your consideration.

Thank you, mr. donovan.

Allan robinson, welcome.

Thank you, mayor and councilmembers.

College houses part of this program back in 1973 when it was funded.

We got a 40 year, 3% interest loan and that made the difference between being able to expand and not.

It added about 150 students to the organization.

So this is an important program that can provide long-term affordability to students.

And secondly, I would like to just thank the couple for -- owe thank the council for their work a few years ago in setting up the university neighborhood trust fund, college houses finalizing work with the city staff and it's also provided housing for 176 students recently with the co-op.

We just opened.

So thank you for the consideration.

On this item as well as the past help.

Thank you, mr. robinson.

Council, I believe that's all of the folks who wanted to give us testimony on items that are on our consent agenda.

Slated for approval.

Council comments?

Thoughts?

On our consent agenda?

[01:58:00]

We have a motion and a second on the table again approving all items other than the postponement of item 12 and 38.

FOR ONE WEEK TO JUNE 18th.

And noting that items 22 and 36 are off the consent agenda because we'll take those up later in closed session.

Further comments on our consent agenda?

Hearing none, all those in favor please say aye.

Aye.

Wynn: Opposed?

Motion passes on a vote of 6 to 0 with councilmember cole off the dais.

Thank you all very much.

So, council, I -- that take us to our morning briefing.

We will let folks -- who want to go back to work, do so.

Folks, if you could take your conversations out in the foyer, we would appreciate it.

Our staff briefing this morning is regarding our process of our 2009-2010 budget development.

I would like to first introduce and welcome back -- council -- I mean city manager marc ott.

Folks again please take your conversations out in the foyer.

City manager?

Thank you, mayor.

We appreciate having the opportunity to I'll just wait a minute.

Again, folks, please take your conversations out in the foyer.

Folks, can we conduct our council meeting please?

Go out into the foyer.

Thank you, mayor, councilmembers.

We appreciate the opportunity this morning to provide you with an update regarding the budget development process for 2010.

You will recall that the last time we -- we were before you was wack -- was back in april which was officially the kickoff for the development of the 2010 budget.

We've done a number of things since we last talked to you.

The budget director is going to talk to you about that.

I want to especially note the public forum that we had yesterday evening.

It was very well attended.

I don't think we could have asked for better attendance and the conversation among those that were in attendance was very substantive.

People were focused on the issues.

I thought it was really significant because I think they had been appreciation for the kinds of tough decisions that the staff and I would have -- ultimately that this council will have to make as well when we make our budget recommendation to YOU JULY 22nd.

This morning what we want to do and ed is going to do, provide you with an update taking you back to april and bringing you all the way forward right up to last night's forum.

Of course we have two additional forum's scheduled for next week.

Ed will talk about that and other steps that -- that we'll be taking in the course of developing the budget in 2010.

Ed, with that, please proceed.

Thank you, city manager, thank you, mayor, members of the council.

I'm the city budget officer.

It's been about six weeks since we last stood before you to give you a five year financial forecast that projected as you will recall a budget gap in the neighborhood of 30 to \$43 million.

It's going to be another six weeks before we stand before you again to present a proposed budget to you on JULY 22nd.

So we are roughly at the midpoint of our budget development process we thought would be a good opportunity to give you an update, where we've been, where we're going to be going.

Today's presentation will give you a short update on revenue and expenditures, to reset the table to remind you of our gap, talk about our budget process and focus on the public engagement efforts and what we have planned for the rest of the process.

I have a one slide summary of the very large document that you received on monday, our menu of potential budget reduction, we will talk a little bit about next steps.

If you will remember, on april 22nd we came forward and told you our appraisers was predicting a decline in the assessed valuations fro the previous year.

We have received new information from the appraiser, projecting a slight increase of about 1.8%.

The final roll as we get through the appeals process is going to land somewhere in between there.

What this really means for our citizens and our taxpayers is that you're going to see a lower days rate with the higher assessed valuation than you would have with the lower assessed valuation initially estimated.

But when we run through the state formula for how to calculate the tax revenues, you don't really see a significant change in the property tax revenue amount that the city would be receiving.

The impact is really more so on the rate calculation.

Then the large change there, although the assessed valuation is going to change from what we initially anticipated.

In regards to sales tax, projected a 10% decline for fiscal year 2009.

This slide is slightly different.

What you are seeing is slightly different than the handouts.

We just received literally today information on the aprilment, I wanted you to have the most recent information.

In may our sales tax numbers 2%, april down 8%.

As bad as those numbers may look, it's actually somewhat of a silver lining because the previous months it was declines of 13 or 14% over the previous years.

6% relative to the previous year.

Slightly better than a 10% we had projected back in april.

In regard to development revenue, this is the one area that we are really monitoring closely, are somewhat concerned about.

Activity continues to trend downward and dramatically, we have now seen 11 consecutive months for residential permit activity is down and down significantly from the prior year.

And as a result we may need to come back in our proposed budget with a lower projected revenue for development revenue.

Just to remind you we are pronging a \$3 million decline from 18 million to roughly 15 million this year.

Further one million dollar decline down to 14 million for fiscal year 10.

Those numbers at this point may be optimistic, but we will be watching that very closely and adjusting it as necessary.

To refresh your memory your memory on some of the key assumptions in the 2010 part of the gap we are projecting, we do have salary increases for police union members.

Who have a contract 75% increase.

All other employees in the city there is no pay increase in the forecast.

And the market study that had been planned for civilian employees has also been postponed indefinitely.

So that is not included in the 00 forecast.

We do have a project for increased health insurance costs and still working through those numbers through optimism there we may not experience the health insurance increase of 8% this year, although

that's what we have been experiencing for the last several years.

Our initial actuarials look like we're going to be able to lower that number some.

But still premature at this point in time.

We do have supplemental funding for the civilian employee retirement system and we hit on this a lot april nd, WE WANT TO Make it clear again.

This is a status quo budget.

There is no additional funding in this budget for enhanced service levels for new programs.

We're working on an unmet needs report that we're going to provide to council.

The deadline for departments submitting their budgets to the budget office is passed so we're going to be consolidating all of the unmet needs they identified as part of that process and making that public.

And as soon as we can currently targeting june 15th.

The bottom line is this slide hasn't changed any.

Since we last presented it to you ON APRIL 22nd.

Slight variations but nothing significant enough to make us want to change our forecast.

We're still looking at a gap in the range of 30 to \$43 million depending upon what property tax rate is assumed.

Since 4-22 what have we been doing?

Monitor and revise, corporate options, unpaid furloughs, suspending our service city of san antonio pay, looked at various fee fee increases you just took action on.

The most substantial thing that we did is develop this very large men crew that you have all received, we delivered it to council offices on monday.

Briefed the media on it, made it available on the internet for any members of the public that would like to take a look at it.

Comprised of 245 options for reducing the city's budget, totaling \$45 million, so we have some flexibility built into our menu of options, visavia the target or gap.

We did ask the public safety department to identify potential reductions out of their total budget totaling

3.5%.

In all other departments we asked for 7%.

We have done a lot I think more from my understanding at least, again I've only been here for four months.

From my understanding we have done more than ever in the past in regards to public engagement, getting the involvement of our stakeholders.

To date we have completed well over 20 meetings specifically talking about the budget with the various boards and commission groups.

The dollars and cents campaign that recently wrapped up -- dollars and sent campaign, to give us ideas of how to cut our costs, operate more efficiently.

We received over 1700 ideas from our employees and -- and we're projecting that we're going to be able to save upwards of two million as a result of that effort.

We have conducted six employees focus groups.

There's a number of things in this menu of options that will impact our employees who care very much about what they have to say about that, we've had six employee focus groups to gather information about their preferences.

We have completed our citizen survey, we are putting the finishing touches on that report, that will be available to council soon.

One thing we did different is we knew we had budget difficulties to work through, we specifically asked citizens about their budget priorities, we will have that information as we move forward.

It's under planned, three town hall meetings, the first of those yesterday that the city manager mentioned, two more next week monday and tuesday next week.

Additional town hall meetings scheduled or trying to spread them around the city so that there's one in reasonable proximity to everybody who might want to attend.

I did a head count yesterday, at least 150 people were there, so somewhere in the neighborhood of 150 to 200 residents were at that town hall meeting yesterday, very, very engaged.

I think it was very successful event.



Additional meetings with our board and commission groups scheduled.

We have it posted on the city's budget website.

You can see at the bottom of this page.

If you are entered in attending, go to that website and find the schedule.

Public hearing for the recommended budget.

In developing this menu, we have a number of goals.

First and foremost, transparency, inclusiveness, public involvement, employee involvement I've talked about, boards and commissions involvement, very interested in getting all of the stakeholders input into this process and consolidating that down to make it available for everybody to see.

We wanted to provide detailed budget information to the city council well in advance of the proposed budget.

So here we are, six weeks in advance of delivering a proposed budget to you.

And we have dropped on your laps a document over 300 pages long of potential ways to go about balancing this budget.

We definitely want to and i feel need to address the structural nature of this budget gap.

If you will remember, we're not looking at this as a one-time blitz where our revenues are short of our expenditures, one time.

And things go back to normal.

We look out five years, we see going out five years a gap of about that \$30 million range that needs to be closed permanently so that in six months from now we're now back before you making -- taking more temporary actions to close that gap.

So most of what you will see in this document are -- are recommendations that would result in permanent structural changes to the budget and result in permanent savings to close this gap on an ongoing basis.

That said, we do realize that, you know, we have to be pragmatic here.

In order to minimize impacts to services, we are looking at one-time savings, fee increases, there's literally nothing off the table in terms of what we are considering, but the preponderance is permanent

structural changes.

One important goal is to avoid layoffs.

We really did focus on that, there are no layoffs that will result out of any of these 245 options.

There are things that -- people being shifted from current jobs to other jobs, but no layoffs on the menu, so that was a great success.

This is the one page summary of those 300 pages that I've been talking about.

Out of our general fund departments we have 7 million of options, this is police, fire, , parks, recreation, in total \$24.7 million.

Out of our support service information technology, 1 million from those support functions.

We have a number of enterprise departments that receive transfers from the general fund instead of giving those a target we basically asked them to look at the way they are funded to look at their operations, to look at their services and see if there are things that they could do to continue to sustain their operations with the lower general fund contribution.

9 million in regards to that.

Corporate options 7.2 million.

fee increase, some fee increases to some of our development fees, and employee furlough program and suspension of the service city of san antonio pay or what we have accurate categorized under corporate optns, a grand total of \$45 million of potential reductions.

The next step june 15th we have another town hall meeting scheduled at gus garcia recollection adjudication center.

June 16th at tony burger center, same activity again.

We're going to be busy analyzing the pros and cons of each and every one of the budget reduction options and comparing and looking at the pros and cons vis-a-vis all of the input that we are getting for the proposed BUDGET ON JULY 22nd.

In august, about two weeks after we deliver that budget to you, we will be meeting with you again to discuss the recommended budget and to get your feedback and input on to those recommendations heading towards the sent -- mid sent readings and approval of the budget.

That concludes my presentation.

I would be very happy to answer any questions or comments that you may have.

Thank you, questions, comments?

Mayor elect?

[Inaudible - no mic]

Lfingwell: Thank you for the presentation, one of the big advantages I think of doing this early, beginning this public process early is identifying where problem areas are.

With regard to that, one of the problems areas that we saw early on, in the listed in the book you have just showed us, the large book, is a potential on the menu, it's a potential cancellation of a police cadet class, which would in my opinion adversely affect public safety in the city.

In response to that, I want to commend the austin police association, our police union, yesterday they sent a message to the city manager indicating their willingness to enter into discussions with the goal of renegotiating the fy '10 pay raise.

It just works out that if those negotiations are successful, the savings resulting from that for fy '10 would enable us to keep the cadet class.

I want to commend the apa for doing this and showing that they are putting the community ahead of their own personal gain.

I just wanted to say that and thanks to the city manager for again putting this process out publicly so we can begin to address these problems early and i strongly urge that we begin this process and negotiation process so that when we come back in august, we will have a real good feel of what the actual numbers will be.

Mayor Wynn: Further questions of staff?

Comments?

Okay, thank you all very much.

Well done.

So, council, that concludes, I believe, our potential discussion items or actions this morning, having no more public business before our noon general citizens communication,t this time we will go into closed 071 open meetings act, to take up potentially item 49 a -- related to vacancies on city boards and

commissions which also relates to an action 22, item 50, legal issues regarding the property at 328 hartwood, which also relates to items 36, 72 and 73 and potentially item 50 legal issues regarding an appeal by the highland skyview neighborhood plan contact team regarding a conditional use permit, which relates to item no. 71.

We are now in closed session.

Whether we complete the discussions or not, we will come out back out at noon for our general citizen communication.

Thank you.

Mayor Wynn: We are out of closed session.

In executive session we took up only item number 49 regarding legal issues concerning vacancies on city boards and commissions.

We have ended that discussion.

There's a related action item number 22 that I suspect we'll take up later in the day.

We have yet to take up item 50 or 51.

I suspect we'll do that after citizen communication.

It does take us a few minutes late to our noon citizen communication.

Without objection, council, there's five different folks who want to give us testimony about billboards, so I'm going to lump those five together as the final five speakers.

So our first speaker then will be Pat Valles.

Welcome back, Pat.

You will have three minutes, to be followed by Rae Nadler Olenick.

Thank you, Mayor and thank you, councilmembers.

I am here today to speak to you about animal services and specifically about budget issues related to animal services.

First I want to announce a website where we will be posting an email service -- animal services budget information as it becomes available.

The website is [www.animalissuesforum.org](http://www.animalissuesforum.org).

Right now there's no information on there about the budget, about the animal services budget, but we do have two meetings that we will be having on JUNE 23rd.

And I want to thank councilmember shade for your help setting up those meetings.

The first meeting is in the daytime using the free speech venue program that you set up.

That meeting will be on 30 to 12:45.

And it will be to discuss animal issues and.

30 30 we will be doing another forum for people who can't make it during the daytime.

And that one we also had your help setting up, so thank you for making that space available.

It will be here at city hall thanks to councilmember shade.

My next thank you goes to councilmember morrison.

Thank you so much for trying to get the budget process underway early, and i appreciate that now the animal advisory commission has had two meetings that have discussed the budget.

Nornltly we have not got -- unfortunately we have not gotten good information from staff.

I say we.

I'm not a member of the animal advisory commission anymore, but I've been to both of those meetings.

And the information that has been provided has not really allowed staff to do a good review.

So I hope that we can continue to get your support and the support of the other members of the council to try to get boards and commissions, especially the animal advisory commission, the information that we need, that the community needs, to be able to give good input.

I'll give an example of what I'm talking about.

At a meeting tuesday night we heard that there are going to be some transfers out of the donations fund to fund programs that the city staff would otherwise cut.

And those donations fund that are going to be transferred over are going to be helping with sterilization programs.

So essentially it's a cut to sterilization programs without calling it that because it's being called a transfer from the donations fund that will mean that there's no cut in the city program.

Well, it is a cut because those donations fund sterilization programs in the community.

The free days that are in the community, some services for low income people.

And it's very disturbing that a budget cut -- is that my beeper that my time is up.

Mayor Wynn: It is.

Take a minute or so and conclude, please.

Okay.

We would just like to request that boards and commissions get line item information on budget that affect those boards and commissions so they can make head's or tails of what's going on.

Thank you very much.

Mayor Wynn: Thank you, pat.

Our next speaker is rae nadler olenick.

You will have three minutes to be followed by lynn goodman straus.

Good afternoon, mayor wynn and councilmembers.

An interesting news item caught my eye recently.

It seems in oak ridge tennessee researcher has developed a new diagnostic tool worthy of csi or bones.

The technology, which its inventor describes as a crude sniffer, works by detecting hydrocarbon stored in the bones peesm who drink flor rinnated chlorinated water.

He says that's a difference to tell the difference between human bones and those of wild animals.

He was in the mojave desert this past spring helping police search for undiscovered victims of the murder russ charles manson family from way back in 1969.

It was a scene straight out of cold case and it was real.

Here's something to think about.

40 Years ago most people would have been consuming artificially fluoridated water for a short time, yet the accumulation is enough to be a marker four decades later.

Now imagine what a lifetime, say 65 years of constant fluoride ingestion might do to your bones.

You don't hear the american dental association talking much about that.

Another thing you don't hear talk about is how overdosed on fluoride most of us already are from other sources, especially our food.

Why?

Because fluoride is a main component of pesticides which leave a residue on food crops.

Fruit juices and cereal grains are particularly high in fluoride content.

So we don't really need more fluoride in our diets through water fluoridation.

On another subject, because of the 30-million-dollar shortfall forecast for austin's 2010 budget, the city has scheduled some budget town hall meetings to solicit citizen input.

I wish our input had been asked before the renegotiation of the current contract, which will soon bring the cost of fluoride chemicals alone to near a million dollars a year.

A cost that can only increase.

Anyway, these budget events should be eye openers.

They are set for next monday the 15th and tuesday the 30 to at the gus garcia recreation center, 1201 east rundberg, and the tony burger activity center, 3200 jones road, respectively.

I urge everyone to attend.

Thank you.

Mayor Wynn: Thank you, rae.

Our next speaker is lynn goodman straus.

Welcome, lynn.

You too will have three minutes to be followed by earnest arbach.

Thank you.

As many of you on the city council now, I live and work at Mary House Catholic Worker, which provides the only free medically supportive housing to homeless, critically ill and terminally ill adults.

About a third of those are middle class people formally too.

My work often brings me downtown at various hours of the day and night.

And it has done so for almost 20 years.

Only since Art Acevedo has become the police chief have I seen any real attempt to enforce the law equally downtown or even to enforce it at all.

And to make us all safer in the process.

For instance, in the early mornings I no longer encounter shoeless, disoriented college students who have been burned in drug deals or robbed.

Officers no longer stand around on street corners visiting with each other while drug deals go down.

There's no longer a huge open air market for drugs and sex right behind the police station on East Seventh.

Trespassers actually get arrested or ticketed.

Jay walking has been treated as a danger to all concerned and violators have been ticketed.

What that means is that drunks no longer lurch in front of our vehicles, mine or yours.

Homeless people say they feel safer.

And best of all, officers no longer tell me they do not have the manpower, as they put it, to enforce the law in downtown Austin.

Tourists, homeless people and workers have much, much less criminal intrusion in their lives downtown.

I have no doubt that Chief Acevedo's leadership and high standards have brought about this change.

All of this has happened on his watch.

Now there's talk of cutting back the law enforcement budget for downtown.



I beg you not to do this.

I beg you to support our chief as he and his officers continue to create a kinder, safer downtown.

We all not only will be safer, we will be more prosperous as a city.

Thank you to chief acevedo and his staff and thank you, council, for supporting this good work.

Mayor Wynn: Thank you, lynn.

Our next speaker is earnest auerbach.

I'm sorry, earnest, I'm going to lump you all together.

I'm sorry.

I just realized you're going to give us testimony about billboards.

If you don't mind, we'll save you for a little bit later.

Gus pena therefore would be our next speaker.

Welcome back, gus.

You too will have three minutes, to be followed by molly warnock.

Welcome, gus.

Thank you, mayor pro tem, councilmembers, the city manager.

I want to read into the record my comments.

Every time I usually have comments that are generic and applicable to the city council to discuss the budget.

Crime is on the increase, do not postpone any other police academy classes, current or in the future.

Please fund fully all social service agencies.

I had an opportunity while the governor was passing by the capitol to say hi to him and I did say you have made a big mistake in not accepting the stimulus package funding from the feds.

I know the strings are attached.

We could have worked around those issues.

Just because of unintrment I think it is catastrophic to all the cities in the great state of texas that we are now suffering because of the lack of funding there of.

And I do believe strongly that he is feeling the heat now.

Anyway, the need is greater.

Priority is more important than before.

We need help to fully fund all social security social agencies.

Please support all military veterans with their needs, housing, mental health and support.

They're not getting their needs met here or he hospital.

They don't know how to support a veteran with post-traumatic stress disorder and re-entry programs.

One item that I wanted to talk about in the budget is -- I thank you, councilmember leffingwell, for your comments regarding the austin police department's reaching out to work with the council and the city manager on these issues.

You cannot cut any police officer positions.

You cannot continue to postpone academy classes.

You want to know one thing?

You want to see crime?

Come with me.

You will see crime.

Now, where it used to be not a high level of crime, northwest austin, southwest austin, you have a high level of crime out there.

Some of them are not reported to the media, but you have a high level of crime and it's on the increase.

It will be worse than what you ever have seen.

Do not cut officer positions or academy classes.

The last item I want to talk about, I do have a problem with some of the billboard ordinances.

I was watching tv about four months ago, this gentleman who purchased a condo, whatever they call it on south lamar.

I call it an apartment.

He woke up to find a billboard blocking their view.

This is not acceptable.

We need to revisit and review the current ordinances, make sure that it does not occur.

Common sense will tell you you buy a home, you want to be accommodated with a view or whatever.

Not see a monstrosity out ere.

Anyway, fully fund all summer job programs for the youth.

This is a national effort by president barack obama, he made that comment last week on national television to provide additional funding for summer youth programs for the kids out there.

We want to -- again, I will say we need organized activities instead of organized crime because the gang members are trying to solicit participation in gangs.

Anyway, thank you very much for your time.

Have a good afternoon.

Mayor Wynn: Thank you very much, mr. pena.

Our next speaker before we hear from folks who want to give us testimony about billboards would be molly warnock.

Sorry if I mispronounced that, molly.

You too will have three minutes.

And you will be followed by -- in fact, the sequence of speakers could be up to those folks, but kelly harris had signed up first to give us testimony on billboards.

Welcome, molly.

Hello.

Thank you.

My name is molly warnock.

I am in the process of forming global harmony organization with the secretary of state.

It is through this organization that I intend to support numerous projects, focusing primarily on children and the environment.

The first project will be the interlude to inspiration.

The project location is on lamar street just prior to fifth street in the 200 to 300 block and the lamar bridge railroad underpass.

This is right by the amtrack station.

The current artwork in this location is moments by carl tramenski.

This will remain with interlude to inspiration.

What interlude to inspiration is is a mural that will encompass our city, state, country, globe, natural resources, environment, animals and many other topics upon the city's approval.

Upon the city's approval of the project, I will approach sponsors, form a team, select children, ideally with working with aisd.

The children will submit artwork on the themes approved by the city.

I will have a team of local area artists to assist me with designing the murals.

We will then present the murals to the city for their approval.

Once the city aproves the mural, the designers will outline the mural on the walls.

I then would like the streets closed so the children can come and paint their section of the mural i then would also like the street closed for a brief time so we can dedicate the mural to the city, state, country and planet.

I am not asking the city or the aipp, art in public places, for funding; however, contributions or donations would be gladly accepted.

I would prefer the city and aipp's involvement.

Global harmony organization will maintain the wall as long as it stands.

It is my hope that it will stand forever, and upon expansion of the city of austin, if those walls need to come down, the murals be transferred to another area of the city, ideally a park.

It is my hope through this wall that we will inspire the travellers who go through the underpass, possibly while they're sitting in traffic they will be inspired to recycle.

They will learn that the state bird is the mockingbird.

They will think of north korea and send hope that way that they put their nuclear arms at bay.

All areas of the globe will be touched through the mural.

[ Buzzer sounds ]

it is my hope to give students ownership of the city.

This project will benefit volunteers, sponsors, local area businesses.

I want to bring to life that austin is still united and standing eight years later and share this honor for our city, state, country and planet.

I assure you of my capabilities from my background, education and past experiences to successfully manage this project and I have references available if needed.

Thank you so much for your time.

Mayor Wynn: Thank you, molly.

Thank you.

Mayor Wynn: Councilmember martinez.

Mardi gras thank you, mayor.

Can we get somebody from staff to talk to her about the arts in public places program.

Armando, would you agree?

I was guided to go to you first and then I will go to them.

Mayor Wynn: Council, our last five places for today's citizen communication are all -- five folks that want to give us testimony about billboards, kelly harris, jury regard kinney, -- girard kinney, david edrich, earnest auerbach and rodry go gonzalez.

Welcome.

You will have three minutes and to be followed by girard kinney.

Good afternoon.

My name is kelly harris.

I'm a resident at bridges on the park at south lamar.

I'm here with fellow residents and community members to oppose the south lamar reagan billboard and request stronger oversight of open ordinances from the city.

I'd like to ask the group to stand up.

And ask to represent the folks that have come with me today in support.

When I moved back from austin four years ago i bought a home in french place.

After a couple of years such as the buy downtown and rent my place and french place, i was interesting in living in a hi-rise or don dough.

I was interested in driving less and living among austin's finest natural elements.

In french place the billboards skirting the neighborhood along i-35 were tolerable.

Certainly visible and voluminous, but tolerable.

After all, I lived a block from i-35 service road and it certainly comes with the territory.

But here downtown a well lit, looming billboard right in front of our home, should not come with the territory.

I purchased the unit in 2006 and moved in in 2007 when bridges opened the doors.

And not even two years later the impact of one single billboard is significantly worse than living a block from i-35 among a highway littered with billboards.

When I sit out on the patio at night it's like sitting underne bevy lighting.

I sleep with an eye mask on now.

What will be it like when the second light is actually lit, the one closest of our home?

I've worked in the advertising business for 15 years.

I understand the economics of outdoor advertising.

However, who in their right mind, especially in austin, a place like this, would allow a billboard to be constructed five to 10 feet from residences and 500-yards from austin's premier spot, the lady bird lake.

The primary concern here is obvious, significant property devaluation of 30 or 40 residences just like mine.

And an eyesore in the middle of central downtown and beautiful austin.

The realtor from bridges just resigned and who could blame her?

I can't imagine what she says these days as she tours the property with potential buyers.

The units along south lamar have certainly lost their appeal.

I also wonder if I will ever be able to sell my unit for anywhere what I just paid for it.

Let alone get a return on investment if I actually choose to leave.

Please, I encourage you to drive by on your way home today or visit us at home.

I've made a significant investment in this property downtown.

I'm asking that the city protect these investments for the benefit of the continued growth of downtown as well as for the benefit of the community.

To demonstrate the support of the community, I've brought a copy of 78 signatures from the petition that we've started online.

Thank you so much.

Mayor Wynn: Thank you, kelly.

[ Applause ]

as you know, I'm a lifelong austinite and president and founder of scenic austin.

The current billboard that we're speaking of is the kind of consequence that we were talking about last year that we knew would happen and that we predicted and told you about.

And it's very sad.

It's illegal in a few ways, as you probably know, the sign that was supposed to be taken down hasn't been taken down.

It is 50% bigger than that sign, but that's okay because it's under 300 square feet, so that's okay legally.

It's also illegal because the inventory has not been provided by the sign company, but of course as soon as their cited, assuming they will be, they'll produce that.

So my concern is not really that.

My children -- the other folks are speaking about this particular billboard.

And I feel their pain and support them.

Our concern, though, is the effect throughout the city.

This is just the tip of the iceberg.

We're going to see it everywhere.

There aren't appropriate places for billboards.

All billboards get relocated if they're relocated.

They represent a new billboard to someone always.

And it's a new billboard.

In many cases next to residences.

If you continue to not call mu a residential zoning -- and they're always unwanted.

There's no opportunity to -- for a person to know that it is coming and to come down and talk about it.

It just happens.

It's really, really a very flawed ordinance.



It was flawed when it was passed.

It remains flawed.

Our recommendation is number one, that there be a councilman dated moratorium -- not just an administrative one, but a councilman dated one, until certain things are done.

A moratorium on billboard permits until certain things are done.

One of those things would be to get an accurate inventory.

You have one.

Your own staff testified in 2005 that 100 billboards had been lost since that inventory was done through attrition from '99 to 2005, which is more than the state or national average of billboards lost through attrition because the only proven way to lose -- to get rid of billboard.

During that moratorium, that inventory that you're requiring of the sign company would need to be verified by staff.

And then the problems of the ordinance need to be addressed.

You need to look at carefully what has happened, whether or not the things that you did in '99 for replacement, in 2005 for relocation, for 2008 to make relocation easier, what they have actually done, what billboards have gone down, where they've been put.

You need to really know that before you allow any more permits.

Thank you.

Thank you, mr. kinney.

If you have any questions, let me know.

Mayor Wynn: Thank you.

David edrich.

Welcome back.

You too will have three minutes.

To be followed by earnest auerbach.

Thank you, mr. mayor.

Hello, I'm david edrich and I want to talk about the billboards of austin.

I have a of my remarks )

[that I will give to the clerk so you will have them for reference.

I thought the idea of this ordinance was to incite the indus to remove unsightly billboards so move them to areas they would be okay, allowing opportunity for billboard companies.

But when you allow new billboards to invade existing neighborhoods, i mean, come on.

You're just evaluating new areas.

And our tax base is forever to please probably one entity.

In looking at the locations of billboards, I notice most of the billboards around the surrounding -- most of the billboards around the city are above the surrounding structures.

Or kind of a way still viewable by cars.

They may offend for moments as one drives by, but I can fathom toleration.

The funny thing is I never noticed billboards that are at eye levels of home.

Why is this new billboard allowed to be in front of existing residences at eye level as you can see from the photos.

No one would legalize this?

Why austin?

When you consider density development, you need to be aware of such things.

I wish I could drive by this billboard, but it's there 24/7 for me.

I have kids.

Are they supposed to have to look at liquor advertisements like the one facing the southside, a sexy model as they grow up or worse?

This is advertisement designed to impinge.

I'm talking about impressionable minds.

They have no defense.

This billboard kind of makes my place unliveable for families.

It's a blight beyond anything I could foresee happening to me.

I could understand why single homes don't want billboard.

I could understand how it affects their quality of life.

I am missing why multi-family homes are excluded.

It is scrimnary.

There is a plan for denser development in austin.

Why does austin allow this when we often have such goals?

I want to say something about cost, but it's obvious.

You don't spend 408,000, the official tax value, for a few like that.

You don't spend 300,000.

I have no idea how little it's worth.

It not a joke.

I am pof rising me.

Home ownership is supposed to be an investment for your future, your biggest invest typically.

Mine is being ruined.

When I read the ordinance i see that there's really no restriction on what kind of relocation swath a billboard company can make.

They can take any obscure billboard down from almost anywhere a and put up a new one in a wide area of town.

It doesn't target making neighborhoods better well enough.

Just look at the billboard that is to be taken down for this one on lamar to have gone up.

The ordinance really amounts to just opening up new billboards.

I mean, I could go on and on about the thoughtlessness of this ordinance and the almost rubber stamp approval process, but I only have three minutes.

Anywhere, sph suffice to say you and your predecessors set this up.

You have a moral oicialtion to fix it.

Do the right thing, please.

Serve the citizens and the city and get this one down.

To understand the situation fully, I invite and would rather incest that you come down to bridges on the park sometime soon, based on the position you hold.

I think it's your oicialtion to at least s this firsthand.

Thank you very much.

Mayor Wynn: Our next speaker, earnest auerbach, who will be followed by rodrigo gonzalez.

mayor, members of the council, ladies and gentlemen.

My name is earnest and my wife and I own a unit on bridges at the park.

In my three minutes I would like to raise three questions for you.

The first one is what is the purpose of the billboard ordinance and was its purpose followed in the granting of the permit at issue?

Here's what I believe.

First, bridges on the park, which is a 104 unit condominium, was in place before the sign was raised.

Now, the balance between interests of the citizens and the interest of business.

In this question i respectfully argue that the balance intended was not met.

The ordinance failed and the city failed its citizens.

Second question, whose needs are being served by an ordinance that favors a billboard company,

which is not an austinian-based com rather than the austin citizens who elected you and who you represent?

No notice was given our condominium owners about the billboard application.

What I very interestingly -- a commercial enterprise next door that wants to have live music was required by constituent to send out notices to all the condominium owners whether they objected or not.

So we have an uneven process in the city.

More condominiums and apartments are being built downtown.

What are you doing to protect them from this type of decision?

Where is the fairness to citizen property owners?

The third question, what is the economic impact of leaving the sign up?

The first impact is that the value of many unit owners has gone down.

They have been hurt and very unfairly.

Second, after the next appraisal of property, lower appraised values will give the city less revenue.

Only an out of town sign board company is the winner.

The city is a loser and very importantly the citizens who own are the losers.

So my conclusions.

Use your council powers to persuade reagan to take its sign down and find an alternative sign location where it can place a billboard.

Second alternative, if the first one doesn't work, is reverse the decision made under the ordinance and condemn the sign.

Finally, you probably all know the phrase nimby, not in my backyard.

Ask yourselves, would you approve an ordinance resulting in this sign staring you in the face on your property?

Thank you.

[ Applause ]

Mayor Wynn: Thank you, mr. auerbach.

Councilmember shade.

Shade: As many of you know, I've been trying to work on this and be of some assistance, but I am curious that in all of the comments so far there's been no comment made by the actual property owner.

I'm curious if any of you have spoken to the person who is actually -- who signed the threes have a billboard.

It's not like a billboard company can just -- there is another person in this equation.

I'm just curious if any of you have spoken -- I've gotten the name of the gentleman, but I haven't actually had a chance yet to speak with him.

But it is his property right currently to be able to generate revenue in a number of different ways.

This is one of the allowable ways.

And I think it's clear that there are some problems here, but has anyone talked to him?

He's renting it to a coffee place and to a billboard company.

Shade: I want to be clear that he is also a resident that has some property rights.

I'm digging into this, but none of y'all have had any ability to contact him?

He's basically not interested in talking to you at this point?

[Inaudible - no mic].

Shade: Thank you.

This is a big part of the problem too.

[Inaudible - no mic].

Shade: You do not have commercial zoning to allow --

[inaudible - no mic].

Shade: I'd love to have department address that because explain that again.

[Inaudible - no mic].

Shade: Maybe you could come to up to the mic.

I can't hear you.

I believe the billboard ordinance that allowed this to go up was november 2005.

Shade: But was that allowed as relocation?

I think this is a relocation situation.

I see brent lloyd here.

Shade: I want to make sure I understand it too.

Thank you.

Morning, mayor, members of council.

Brent lloyd, assistant city attorney.

We have in anticipation of citizens communication today we have looked into a number of issues that have come up on prior agendas.

And this is not one of them, but with that in mind, our understanding is that this gentleman is correct, that the relocation provisions in their current form were adopted in 2005.

And we will explore kind of the relationship between the permitting of the structure and the time at which those provisions were adopted.

But we're not aware of -- at this point of any sort of grandfathered right that the building would have to not have a relocation process occur under code.

So I think it is within the council's authority to change relocation requirements that will have an effect on individual properties when the property -- the property as originally permitted was permitted at a time when the relocation provisions were different.

The council has authority to amend regulations and those regulations will sometimes have effects on property.

Brent, a little more specifically though, as far as you know, and your answer may just be we will look into

this, but in terms of this sign that the citizens are here today talking about, it was relocated under an ordinance passed by council as far as we know.

I mean, had we looked in to see if it was improperly relocated or did it comply with that ordinance?

We have.

And kathy is here to elaborate as well from watershed staff.

And I believe as was highlighted at the prior citizens communications, the location of the sign is not problematic under the current ordinance; however, there's a requirement that a sign owner register all signs owned by the sign owner, and that has not occurred with reagan yet.

Additionally our investigators have informed us that the sign at east 41st street was supposed to be removed as part of this relocation, and it has not.

So there are two violations related to the sign, and my understanding in working with watershed staff is that a notice of intent to suspend the permit will be issued within the next day or so.

Now, that is the initial start of an enforcement process and it will give the sign company time to comply with the applicable requirements.

But with respect to the status of this sign, that's what I can tell you at this point.

Shade: Tell me again where signs -- where the current relocation ordinance are allowed to be, assuming that they've followed the relocation rules, and i recognize it, but assuming that is -- does take place, where are signs permitted at this point.

Signs can be permitted in expressway corridors, and if they are 300 feet or less, they can be relocated to a commercial corridor as long as they are no longer than 500 feet from a residential structure in a residential-based zoning district.

In a commercial corridor, it is defined as anything that's not zoned sf or mf.

We as part of our preparation for today's council meeting we looked into prior iterations of the sign ordinance going back to 2005.

If you're interested, I can tell you what some of the requirements that were previously in play were.

Initially when the 2005 ordinance was proposed, there was a requirement in an early draft that would have prohibited relocation of a sign to any property that abuts a residential structure.



And that would be true regardless of what the zoning was.

A subsequent draft of the 2005 ordinance would have prohibited relocation to any property or site within 200 feet of a residential property.

And again, that would apply regardless of the zoning.

In -- as part of the 2005 legislative process, though, what ultimately emerged is the current requirement, which I just summarized, a thousand feet, can't be a thousand feet from a residential structure in a residential-based zoning district.

The planning commission last year recommended as part of the 2008 review of the sign code ordinance, they recommended revisiting that requirement, and specifically they recommended prohibiting relocation a thousand feet from a residential use or zone.

Shade: That's very helpful.

Mayor Wynn: Thank you, mr. lloyd.

Our final speaker, i believe, is rodrigo gonzalez.

[Inaudible - no mic].

Mayor Wynn: Okay.

Okay, council, further comments, questions?

Councilmember shade.

Shade: Somebody mentioned that the lights were still on.

And I was under the impression that the light had been turned off.

So it has not been turned off?

Is the light facing away from the bridges is on, but the light facing the complex to the bridges is off?

Okay.

Thank you.

I'm sorry?

[ Inaudible ].

Shade: Okay.

Okay, gotcha.

I drive by it almost everyday, so trust me, i know exactly where it is.

I thought the lights had gone off at night.

Thank you.

Mayor Wynn: Councilmember morrison.

Morrison: I wonder if i could ask staff, we had a meeting with some of these folks and staff talked some about getting some rules in place.

And I think that actually some -- like defining dark skies and things like that, which could in fact affect this, I guess, to some degree.

Can you tell us anything about that?

Thank you, kathy hawk with watershed protection.

As you said, the ordinance outlines some things that aren't clearly defined or quantifiable.

One would be compliance with dark skies and to be energy efficient.

We've begun conversations with austin energy who is helping us establish criteria for that.

And also, we will be looking at how to enforce it.

It's something we will probably be doing by way of administrative rule.

Hor more and how --

Morrison: And how will citizens be able to know when the administrative rules are available for public comment?

It's part of a public process, and they would certainly have the opportunity to speak out for that and give input.

Morrison: But how do they know that they're available for public comment?

Like is the city notified -- are citizens notified?

I believe they are.

As far as the details on that process, I might need to speak with legal real quickly on that.

Morrison: As far as i know there's no required notice that they're available for a 30-day comment period.

Perhaps just to post it publicly.

Let me check on that.

Debra thomas with the law department.

Under the rules process, there is a stakeholder process.

Each department has a list of stakeholders, what could happen in this particular case is the department could add stakeholders from the bridges or even neighborhood organizations and just add to that the list of stakeholders for this particular process.

That sounds like it would probably be a good idea if you could do neighborhoods in yes or no general and these folks in particular, especially defining dark skies I think would be helpful.

Mayor Wynn: Thank you.

Further comments, questions?

Council, that concludes then our general citizen communication for today's meeting.

There being no more business prior to our afternoon briefings, without objection we'll now go back into closed session pursuant to 071 of the open meetings act to potentially discuss items number 50, legal issues regarding the property at 3 consent heartwood, and/or item 51, real issues regarding an appeal by the highland sky view neighborhood plan contact team regarding a conditional use permit.

We're now in closed session.

I anticipate us being back out of closed session for afternoon briefings certainly by 3:00 p.m.

Thank you.

Briefings that we're going to conduct. I think technically that are one or two very brief discussion items that the council could take up. We then will conduct our austin housing finance corporation board of directors meeting, which will then lead us into our zoning. So I think we're -- we'll hunker down for the evening now. Appreciate everybody's patience. Our first staff presentation is regarding proposed

amendments to our tree regulations. patrick murphy. Mayor-elect?

[02:16:12]

Leffingwell: I want to recognize (indiscernible) who spearheaded the tree ordinance.

Mayor Wynn: Welcome back, margaret. Thank you.

Mayor and council, thank you for having us here today. I wanted to note one little change in the order of the slides and the powerpoint. I think you all have a copy of this. Slide number 4 has been moved back behind slide number 6. Just so you don't get lost as I get to that point. That was an oversight that we corrected. I'm here today to brief you on the proposed tree ordinances that we've been working on for quite some time in order to provide some improvements to our exiting regulations. Let me make sure I know how this works. Great. The proposed tree ordinances before -- that we'll be briefing you on today provide greater protection for our most valuable trees, provide more shade in large parking lots and provide for reforestation of residential subdivisions. Our tree policy background started in 1980 when we first passed the landscape ordinance, which required a certain number of trees to be planted or preserved on commercial development sites in the city. In 1983 we passed the protected tree ordinance, and that ordinance was one of the first of its kind in the state and certainly one of the early ones in the country thahas been on the books as you can tell for a very long time at this point. It protects the largest 19-inch and greater trees within the city. In 2005 there was a resolution that council adopted called the urban heat island resolution. That resolution spoke to the need to provide better protection, more shade and to address the types of concerns that these proposed amendments are addressing here today. In 2006 the council adopted the tree taskforce recommendations, which also were supportive of improvements to our regulations. The first amendment that we're proposing is the heritage tree amendment. A heritage tree is a tree with a 24-inch trunk diameter or greater. And is one of the following species. This is a list of species that we are considering. There may be some changes to this as it is going to go through a rule-posting process ultimately. We consider these types of trees to be our most significant and enduring large trees in our urban forest. The heritage tree amendment creates a higher bar for removal of a heritage tree than for a protected tree. It requires an administrative variance for the tree removal and has findings that are similar to environmental variances. It allows the requester to appeal a denial of a variance request to the land use commission. Just a little comparison that I think is helpful between the existing tree -- protected tree regulations and the heritage tree proposal, the protected tree protects 19-inch and diameter and greater trees. The heritage tree would kick in at 24-inch diameter. The protected tree regulation apply to all species of trees. The heritage tree would apply to the superior species like the ones that were on the previous slide. In both cases there is an exception for dead, diseased or damaged trees. For a protected tree there are criteria that are administrative that are required to be met. For the heritage tree there would be an administrative variance required for that removal request. For protected trees a tree replacement may be required, but is not mandatory. But for a heritage tree removal, if that were to be removed, tree replacement would be mandatory. As far as the criteria go for removal, we prepared this slide to contrast the differences and what I call the higher bar for heritage trees. I'll run down the protected tree list first. And under the protected tree criteria you would have to meet one of these. Prevents reasonable access, prevents reasonable use of the

property, poses a high risk of property damage or personal injury, poses a high risk of inability to provide utility service. Is dead or dying or is it represent practicably diseased or damaged. If on public property would prevent public safety improvements or utility infrastructure or requires other variance alternatives -- and also requires that if there is another variance that could be granted that would remove the reason to remove the tree, then that would have to be considered before a request would be approved. For heritage trees, the requirements would be that you would have to meet all of the following criteria in addition to the protected tree criteria that I just met, one of those. So for a heritage tree, you would have to show that removal of the tree is not based on a condition caused by the method chosen by the applicant to develop the property. And you would have to demonstrate that requiring preservation of the tree would deprive the applicant of a privilege given to owners of similarly situated property with contemporaneous development. And the variance would have to be demonstrated is the minimum change necessary to avoid a deprivation of a privilege given to other property owners and to allow reasonable use of the property. So we believe this is a much stricter standard and a much higher bar to meet for removal of a heritage tree. For parking lot landscaping, we would be modifying the existing large parking lot ordinance by requiring more medians to be provided to enhance shading in those areas. This is -- up in the top left it shows the current requirement, which is one median for every three bays of parking. The change is shown in red on the larger image that would be now required to provide a median for every two bays of parking. A bay of parking is essentially a drive aisle with parking on either side. This is a graphic to show you what the anticipated result would be in terms of providing these medians in these large parking lots. We believe we may be able to effectively double the shading in these parking lots with this improvement. For residential subdivisions, we're proposing changes that would ensure an effective tree canopy in developing single-family areas. This slide is showing the existing tree canopy, and you can see the lot lines and the right of ways and such for a subdivision. The reality is this is more what ends up happening in that area. As you can see, most of the urban forest canopy has been removed. The lots are small. There's very little ability to preserve existing trees, although some trees have been preserved in the development. This amendment would require three trees to be preserved or planted on every lot in the subdivision. It would require native or adapted species to be used so that they would be a high quality tree. It would provide an incentive to preserve trees, including understory trees, which do not grow to be protected size. In other words, you would get credit for preservation of trees even if they were smaller desirable trees. It provides alternative compliance, so if you can't get three trees on a lot, you would be able to plant some trees in a common area, elsewhere in the subdivision or in a worst case scenario, you could actually contribute money into the tree fund so that we could plant trees elsewhere within the city. I want to note that both the protected and the heritage tree requirements would still apply to the single-family subdivision in addition to this change. We have worked with numerous stakeholder groups, boards and commissions, including the tree taskforce, home builders association, real estate council of austin, austin contractors and engineers association, urban forestry board, environmental board and the planning commission. There are still remaining areas of concern that we have been working with the stakeholders on. Initially the proposal was that all heritage trees would need to go to the land use commission for approval. Ultimately that was determined that that was not a reasonable process. The current proposal would be that that would be an administrative variance, but could be appealed to the land use commission. There have also been concerns that this process does not propose notification or appeal by citizens of a tree removal request.

We are not recommending that be the case. There's some concerns about the criteria wording and the language that's being used in the findings. I want to point out again that the administrative variance findings we're proposing are some that we've been using for many years and very similar to what we use for environmental variances, and we have a lot of experience working with those types of findings. There is a concern that's been raised, for instance, about us adding language for utilities. The reason for that is there was a need to provide a very clear standard for the city arborist and the director to be able to consider when looking at service needs for areas that wouldn't otherwise be able to be served without removing a tree. So that's been added for the purpose of providing clear criteria to the city arborist and the director for that consideration. There has been a concern raised that city arborist decisions may be overturned. Ultimately the decision on a tree removal is the director's. The city arborist is the delegate of the director. And the decision in some cases and on rare occasions a decision that is made initially by the city arborist may be changed by the director based on additional information that may be provided at that time. We've rrrched our records and as far as we can determine out of approximately 2,000 different reviews in the last two years, we've only seen two of these situations where that happened. So I don't think this is a common occurrence and certainly isn't one that we take lightly. And again, ultimately the director is the one that makes the decision on these things. There's been a concern raised about the tree planting area available on small residential lots. And in other words, it may be difficult to get three trees into some of these very small lots like an sf-4-a size lot. We are aware of that and we understand the concern. That is why we provide the alternative compliance provision in the ordinance that allow trees to be planted elsewhere in the development if there wasn't enough room on the lot. So we think we've addressed that. There are concerns about the on cost and the impact on residential affordability with planting more trees. We believe the benefits of the trees long-term far out weigh the initial cost of planting them. And obviously always property rights issues come up in regard to concerns that we may interpret these findings and these determinations for removal in a manner that would prevent someone from being able to utilize their property. I think our history will show that we have been reasonable and we have done a good job of balancing property rights against tree preservation. I'll let that speak for itself. With that, that completes our presentation. Love this slide. If you have questions or what have you, this is just a briefing, so we would be happy to try to answer any questions you have.

[02:28:53]

Mayor Wynn: That photo was taken on sunday, september 16th, 2007. It was 109 degrees. The last day of acl fest. I was there. Under the tree. Questions for staff, council? Comments? Councilmember shade.

Shade: I had a couple of questions on the small lot discussion that you just talked about. Could you kind of explain how the other option exists on the lots where -- I have actually two questions really that have been brought up to me. One is what if there already is a tree on one of these kind of lots, do those get counted or is there a requirement to put three new trees? And then secondly, what are t cost expectations, I guess, from your estimates on adding the third tree if it's going to go somewhere else, if they can only fit two on one of these small lots.

In answer to your first question, yes, we would give credit for preservation of existing trees on a lot. We

initially had proposed an eight inch diameter trees that were preserved could be counted. The reason for that is those are the ones that are typically surveyed. However, after discussing it with the real estate interest, we agreed that if they were willing to survey and to preserve properly two inch diameter trees, which would basically be measured lower on the trunk with a small tree, that we would give credit for those. In terms of the costs associated with planting trees elsewhere or contributing to the funds, the cost of planting trees includes not only the initial up front costs of purchasing, which you would assume could be done in bulk, which might affect the price, certainly drive the price down, there's the labor of of course planting and then there's the cost of maintaining those trees. I don't have an absolute good figure for that? My estimate would be it would be in the range of probably two to three hundred dollars per tree for the small trees on an overall basis. It would probably be a fairly accurate representation. I've heard figures tossed around as high as 500 per tree, which may not be out of the realm if you're planting larger trees.

[02:31:17]

Shade: I didn't know how much it cost to get a tiny little tree plant under the park near me and it was well over \$600 just for the tree itself.

And that's typically a guaranteed tree, is it not? Is that when you're talking that it's contracted out to be planted or just the cost of the tree itself?

Shade: Just the tree itself. It's tiny. I just bought one for my house too. I was curious if you guys were using cost estimates like that.

We don't have an absolute cost, unfortunately, but I know that volume buying drive that cost down significantly.

Shade: Right. That's probably a good point for subdivisions. And then another kind of related question was just why three and not two? How did that -- can you tell me more about that debate and that discussion?

We started out with a sliding scale actually, our original idea was to have the number of trees to be based on how big the lots were. We thought that ultimately that was probably getting too complicated and so what we did was we just picked a number that was basically an average number. And we thought that three was a reasonable number that we thought could be planted on most lots. We did tour the mueller development and were please, sirred to see -- were pleased to see they were getting a nice number of trees on the lots there. We felt three would be a good number for a lot and thought they could plant trees strategically to provide the kind of shading we were looking for around homes. So it was basically arrived at basically as an average of what we thought would work on those lots?

My only other question I think on that is the other question was just the -- is there an impact about the root barriers? Was that considered as well, the cost of the root barriers? Because I've heard some discussion of that at mueller but I don't know anything about numbers and costs and if that should be

factored in when we consider what this adds in terms of costs to these small lots? I don't know if you would know that.

I'm not an expert on that particular cost, but I know where you have sidewalks or utilities in some cases or foundations for that matter, in some cases there's additional barriers that have to be installed to prevent those roots from growing into areas you don't want them to grow. I know that would drive the cost up significantly in that situation. My understanding, though, is on most of the lots that we have seen and in discussions with the developers, they are currently already planting trees on these lots. If it became obvious that that was just a very difficult economic factor and did not work in a particular area, we would be willing to look at alternatives to plant trees in some medians on streets or in other areas and reduce that and would want to work with the developers. The idea being that we know that shading structures is a good thing.

[02:34:15]

Shade: Right.

But we know that that's a cost. And I don't really have a good cost estimate for what that might run.

And if they're already planting trees, how many are they typically planting on these kind of lots that you're surveying?

Most developers, as I understand it, and the nicer areas, are planting two trees per lot. They may not be the species we want or the size that we want, but typically I think they're planting two trees on these lots.

Shade: The real deal is adding the third tree and how to do that.

In many cases that would be true, yes.

Shade: Thank you so much.

Mayor Wynn: Mayor-elect?

Leffingwell: Just to follow up on some of those questions, if you use existing trees -- it could be all three, right? You wouldn't have to plant any. But are we considering the species of those trees, native, adaptable trees, or can they be just anything?

No. They would have to be from a preferred list of trees. We would not want to give full credit for a tree we knew probably wasn't going to live very long. And I will add that we also would be wanting to make very sure that the impacts to the trees during construction weren't likely to kill those trees later. That's the worst case scenario. As we say, we save them and we come back in a year and they're dead.



Leffingwell: So these are all trees, whether they're existing or newly planted, that come from a list that you have.

Yes, sir. And that list will be posted as a rule -- if this is adopted, we will immediately move to post that list as a rule.

Leffingwell: Are there any maintenance requirements for newly planted trees?

There are not specifically in the ordinance maintenance requirements, but there are requirements that they do maintain the trees. Typically what that would involve is watering. And they would have to demonstrate that they were remaining in compliance, so there is not currently a provision in the ordinance regarding maintenance.

Leffingwell: I know it's common in your department, specifically for trees that are mitigation trees to require, say, a two-year warranty on trees to make sure they get through those first two critical years. I wonder if consideration has been given to a builder warranty on newly planted trees.

There has been --

Leffingwell: Is that totally out of the realm?

It's not out of the realm. It's something that it is not currently required in the ordinance and so that's something that we could talk about more if you're interested.

Leffingwell: I think it might be important because a tree's survival over the first two years, a lot depends on how well it's planted, if there's provision for irrigation and so forth. So I think that's something that we might want to take a look at before we come back.

[02:37:14]

My understanding is most of these trees that they're planting in these subdivisions have a one-year warranty from the person planting them. Against them dying. And our hope, of course, was that most homeowners would want to water and keep their trees healthy. But as you know, metimes --

Leffingwell: Yes, but a different situation than a public space.

Yes, sir.

Leffingwell: On the lot size. Currently we're talking about three lots for all -- three trees for all lots.

Correct.

Leffingwell: And there's a wide variation in lots. Going all the way, i guess, from rr to sf-4-a.

Correct.

Leffingwell: It does seem reasonable that there should be a different criteria. I know it's been suggested very strongly that sf-4-a lots, and i believe those are 3500 square feet or something like that, be only required to do two lots. It does seem reasonable to me because two sf-4-a lots would basically make an sf-1 lot.

Correct.

Leffingwell: So you would have actually more trees on the two 4-a lots than you would on the one sf-1, in the same space, over 7,000 square feet.

I understand.

Leffingwell: In process, I guess, you talked a little bit about process, but could you be a little more specific about the recommendations from stakeholders that you received that had to do with the process you currently have established?

Yes. I think that --

Leffingwell: That's kind of vague, I know.

Obviously there's a lot of people -- people love trees in austin and there's a lot of people that feel strongly that there should be a public process when a tree is requested to be removed. And I can understand the concerns and why that would be something that you would want to do. We did look at that in terms of what it would take from several different approaches. One is the notification is something that takes resources and time and it would increase the cost of a tree permit removal to pay for that service. The other thing that was discussed was a citizen having a right to appeal a neighbor's removal, for example. We believe that that would simply result in almost every tree going to an appeal. We would prefer that that not be the process just because we think it would be burdensome and unreasonable and it would take a lot of time to deal with. Now, that being the case, we also believe that we are establishing stricter criteria and stricter requirements for consideration of these reviews and we anticipate that we will have fewer requests to remove those sorts of trees that would be approved or requested as a result. So we also have accountability is something we want to have. And we want to make sure that we have the respect of the community. One of the things that we have discussed as well and we are prepared certainly to do is on an annual basis provide a report so that we would be talking about the trees that were requested be removed, what happened with those removals, the basis for those approvals. And so that we could monitor our work and make sure that council is comfortable with the way that we're enforcing our tree regulations. So that's something that we discussed that i think that we would like to do. In fact, we had already talked about doing that. Very recently, in fact, we have been very carefully quantifying these requests. Unfortunately our records from the past are not that good. So

we don't have real clear numbers.

[02:41:15]

Leffingwell: So what is the current enforcement procedure for unauthorized removal of protected or heritage -- there's not a heritage tree now, but what would be it?

The maximum fine under state law that we can assess for a miss misdemeanor, which is what this would be classified as, would be \$2,000 per violation. Obviously that doesn't sound like a whole lot of money, but that is something that we don't really have control over. So if someone were to remove a tree right now illegally, we have two choices. One is we can ask for the landowner to mitigate the removal. And that is, for instance, planting 100%, 200%, 300% trees back as a result of that removal. Typically that's the direction that staff goes because it results in a quantifiable result that is related to the initial action. In other words, a tree that gets removed gets planted back with trees, and that's a good thing. When we go through the court system, which we can do if we need to, the fine doesn't necessarily result in tree plantings. The fine that would be paid and going to, i guess, the general fund essentially. And so our -- wait that we typically approach those situations is to get as much replacement as we can planted back to compensate for that removal.

Leffingwell: If there's a verified complaint is there a red tag until the issue is resolved?

That is one thing that we can do. Yes, we would go issue a red tag and we would give them notification that they were in violation.

Leffingwell: That would stop work on the site.

Yes, sir.

Leffingwell: Okay. Thanks.

Mayor Wynn: Further questions of staff, comments? Councilmember martinez.

Martinez: Pat, i will try to be brief. It's kind of along the same lines of process and then enforcement. We hear in some cases, at least anecdotally we hear that some folks would rather scrape the property and face the fines or mitigation because they can get more out of their project. What kind of tools do we have in place if a 2,000-dollar fine really isn't enough of a deterrent? Is there a suspension of site plan until a mitigation plan can -- must be agreed upon? Is there something in the process? I think that was kind of what you just answered.

Yes. Thank you for bringing that up. The way that right now we do an extensive review of trees on site plan for commercial sites, for example. And each tree is evaluated. The trees that are supposed to be preserved are clearly identified. Tree protection measures are shown on those plans and enforced by the inspectors. And so we have very clear information regarding how we're preserving the trees on the

site. And ultimately the approval of the permit is based on that. And we enforce it in the field during construction and essentially if there is any deviation or any mistakes that may happen out on the site, we require a revision to that plan and try to make sure that we are properly mitigating for something like that. So the site plan is our enforcement mechanism. And that works very well. I mean, honestly, the violation of someone going out and clearing a piece of property illegally does happen on occasion. It's certainly not the norm. And so we don't like to have our regulations necessarily be based on something that happens rarely, but there are occasions where someone either out of ignorance or of of --

[02:45:17]

Martinez: In the zilker neighborhood we went through this arduous zoning case and part of the neighborhood's concerns were this large oak tree. We went through this zoning process. We approved an up zoning for a little bit more density in this area. And then we had people sign up for citizens communication that came down here and said that tree was cut down on a sunday afternoon and then we had the project and property owner -- the project manager and property owner come in and say he didn't speak english very well and didn't understand what i said. And cut the tree down by accident. What happens in that case?

One, we would red tag the site. Two, we would basically suspend the construction activity on the site. And really the only options we have at that point are to either go to court or to have them replace enough trees that we feel like that we're creating a future condition that will be desirable. That's the only way that we know of to approach this. And given the tools that we have, I think that we're doing the best we can.

Martinez: As it relates to an appeal, if an applicant makes a request to remove a tree and administratively we deny it, there's an appeal process that goes to the land use commission. So in essence are we making the land use commission a sovereign board at that -- on that particul decision or can they take it to district court if they don't agree with the land use commission's decision?

Well, they are sovereign for that decision on an appeal. Certainly. I looked back at our attorney because I want to make sure I say this right. There's always the opportunity for someone to file civil charges against someone and go through the district court process. That is not our typical route that we take, although that has been used for destruction of some public trees. Is there a further process that will end up at council at some point?

We have not proposed that. And that is not something that is in our current ordinance. Right now it ends at the land use commission, but that's something the council desires to discuss further, then certainly we could do that.

Martinez: Right. I think I want to think about it a little more leading into a final vote on this because I'm not sure we want to create more sovereign boards that don't end up at council. I think the public input council is extremely important, but the more policy level decisions you take away from the council's

authority, i think, creates concern in the public's mind.

[02:48:08]

I believe the land use commission would already be considered to be sovereign on a number of different decisions that they make.

Martinez: Right. Last point I wanted to ask in a scenario, a specific example comes to mind again in the oak hill area. We went through a neighborhood planning process, we had someone who owned a large tract of land and was requesting an in the neighborhood plan a zoning category that would allow for 27 units on, I don't know, 11 acres, I think it was. What precludes a property owner before submitting a zoning change and trying to plat a tract of land, what preclude them at that point from removal of trees if it's not zoned and platted?

The tree ordinance applies to all property within the city limits. And so it would be a violation even if they did not file an application with the city to remove a protected size tree. So we would enforce it in that way. Obviously we look at it in greater detail in relation to the proposed development with the permit applications that come in.

Martinez: Okay. Thanks, pat.

Mayor Wynn: Councilmember shade.

Shade: I was just curious, how many fines have we collected in this kind of arena? Do you know, have a sense for that? Is that something that we --

I really don't know. I know that we have unfortunately recently you probably saw that we tried to assess some fines on a major project where some trees were removed out in the oak hill area. And the initial case was we weren't successful. But we don't really have an accounting for that. As I said previously, most of these tree violations are resolved through agreements on tree replanting. And most of those don't go to the court for resolution.

Shade: I kind of got a little distracted and I might not have fully understood the answer to the question before about when something is in the , but not yet annexed. How does that work? Is there grandfathering in this kind of scenario? our tree ordinance currently does not apply and the heritage tree ordinance would not apply in the e.t.j. we do have environmental regulations that deal with preservation of natural character and we do have regulations that protect floodplain areas, for instance, and the natural character of those areas. But we do not have strict individual tree regulations like the protected tree or heritage tree in the e.t.j.

Shade: So if you're one of these subdivisions that we're seeing out in-- the area eventually gets annexed, but only some of it has been developed. Those new lots in the subdivision would have to --

this would apply once they were annexed? How does that work?

[02:51:09]

I see your question. There is a statute under chapter 245 of the local government code that specifically addresses tree regulations as not being -- as not being accepted from those, that statute. What that means is that if someone has a first permit in a series of permits that precedes a tree regulation passing, they would be grandfathered from that until they finished that project.

Mayor Wynn: Further questions of staff? Comments? Mayor pro tem.

McCracken: Pat, there's a mention on the heritage tree comparison, the protected tree slide where it says tree replacement is mandatory. Does that -- in the case of a diseased tree or a dead tree or dying tree, what is the replacement that is projected for that?

Good question. That would not apply. If we had a situation where a tree is a risk, a high risk because of those reasons, we don't require replacement. It would probably be accepted and would be allowed to be remoostled. -- Removed.

McCracken: There's a provision speaking to parking lot landscaping. And this brings us an inconsistency with the fundamental approach in the design standards and mixed use ordinance, which was to for the first time ever require in this city block sizes on commercial developments to get back to the way the cities used to be developed. And so the recommendation we had was that -- it was actually implemented was that on these blocks that you had to have street trees along the sidewalk perimeter. But the strong recommendation of our code writers was that we not have trees internal on the surface lots because the purpose of subdividing commercial properties, large commercial properties into blocks, was to promote redevelopment on what had been a surface parking lot. And so my concern is -- which is a reflection of the advice we received at the time from clarion, was that if we actually require more trees in a parking lot, we are retreating from a fundamental vision which was for the first time ever we required roads and sidewalks and blocks on large areas if you want a differentiated large surface parking lot. So if we start requiring lots of trees internal to these new blocks, we will be consigning these to being forever surface parking lots when one of the major thrusts of the ordinance vision was to promote a day when there would no longer be surface parking lots? I am concerned about that provision and i would urge everybody to not go down that path if it is -- if it's a block with street trees on the perimeter. I think there's a fair issue that if you had -- if you don't have it into blocks and you're maintaining the existing kind of undifferentiated parking lot, which should be rarely if ever possible, if that ever does happen, then i think it's a good idea to require a lot more trees on the surface area. But if it is subdivided into blocks or cut into blocks, with street trees along the sidewalks, which is the requirement under the ordinance now, then i think it would actually work at cross purposes for our goals after redevelopment to have any -- or even more trees on the internal surface area.

[02:55:09]

Just two quick responses to that. One is that this is meant to apply to these very large expansive parking lots which typically you would see with these big box type centers. That I know is not necessarily accepted from the concern you have, but is probably not more typical close in in the urban areas. The second thing that we have is the ability as always with landscaping regulations, which is what this is, to do alternative compliance. So if someone has conflicting issues like the one you raised, staff is always willing to work with them to try to come up with an alternative that would provide a similar or better result.

McCracken: I think that sounds like a good approach. So with those provisions, I think that would be a good balanced approach. On the trees that are listed as heritage tree eligible, it's -- most of these appear to be fairly long lived trees it's my understanding.

Yes.

McCracken: Ash trees are not long lived. They tend to be 35 -- they tend to die at about 35 years after they're planted.

Right.

McCracken: And so -- one of the reasons I know is in my parents' neighborhood one of the streets had all ash trees and about 35 years after the neighborhood was built or 35, 40 years on grant street, all the ash trees pretty much died at once. At any former house we had a ash tree that died of old age and it was 37 years after the house was built. So I think that is a tree that along with other trees -- like a sycamore that is not on this list, that may be a tree that I think it would be helpful to have a little more examination of that and any other trees on this potential heritage list that are not long lived trees. Simply because they may tend to reach their heritage size shortly before their death.

We believe that we have eliminated any trees from that proposed list that would be short lived or have disease problems. This list is not complete. This is our proposed list at that time, but we were having discussions, for instance, just today about a couple more trees that we think we need to add, but we believe there's no trees on this list right now that would be short lived.

McCracken: Yeah. I would look at the ash just because of, i guess, personal knowledge. But there may be different species of ash too. So the other ones I do know from this list, you're right, they're long lived trees and they're worthy of protection because they can live hundreds of years. I think maybe one of the ways to look at -- this gets either to one of the questions we had earlier about the number of trees and the types of trees planted on lots, that as we look at the issue of two trees, for instance, which i agree, I think it is a good idea for sf-4-a lots to do two trees and not three trees. I think one of the considerations is in looking at what kind of trees to promote that can be planted as canopy potential. Because obviously an interest that we're trying to promote is shade. I think also to the extent we can greatly ease the ability to plant trees in what would be I guess the city right-of-way between the curb and a few feet in, you tend to get shading on the street and in the yards. And I know that we may have some conflicting interest within the city of austin organization on that point, but kind of the great urban neighborhoods in

this country are ones that have trees along the curb line. And so to the extent that we may have that prohibited or impeded, we're actually kind of deviating from some really important urban planning principles. So this may be a good moment as we address this topic to make it much easier to have the trees planted between the curb and the sidewalk, if there turns out to be any kind of challenge in that area. That's it. Thanks.

Mayor Wynn: Councilmember morrison.

Morrison: Thanks. And just to follow on from all the questions that have already been asked. In terms of what mayor pro tem mccracken was mentioning, I think it surely makes sense for staff to maybe sit down with the staff that was involved in the development of the commercial design standards and make sure we don't have things that would be a good way to achieve that. One of the concerns i have -- thank you for all your good work on this. I know it's been a long haul and the slide you didn't know apparently--

I've had lots of help. Mother more the slide you didn't know --

Morrison: The slide you didn't show has about 16 meetings in all. One of the concerns i have is about the lack of appeal process for the public who might want to weigh in on a variance. It's problematic to me because the requirements for a variance are really open to interpretation. So I think that's one of the things we're going to have to wrestle with, whether or not we really do need to allow the public an opportunity to weigh in. And weighing in needs to be weighing in to the officials that are accountable to them, i presume. And that would be us. And one other item. That is that you mentioned that the tree taskforce recommendations were adopted by council a long time ago in 2006. And we have a number of the tree taskforce here and I wonder if we could get a very brief comment. John paul moore is here, I know. I'm interested to know how this jiebz with the -- jibes with the tree taskforce recommendations since that's sort of what kicked it off in the first place. Welcome.

Thank you. Thank you very much, councilmember morrison. Council, my name is john paul moore and I was on the taskforce. I was reviewing our record. It's been awhile since we've disbanded and certainly awhile since we've met. The two primary thrusts, the first recommendation and foremost to us in 2006, was citizen participation in the city's decisions as regard trees. The recommendation was headlined recognizing our urban forest as infrastructure. As a public good. Interestingly, the other recommendation was taskforce was to extend the present protections of 19-inch trees downward to 10-inch trees instead of upward now to 24-inch trees. I'll talk about that -- we can separate that out. But the point is I can show you trees that were planted 62 years ago by the gentleman who will stand next to that tree and tell you this, that are still not 19 inches in diameter. It takes 150 years to grow some of these trees, some of these what we're talking about now as heritage trees, and they represent about one percent of our urban forest, but they also contribute about 90% of the environmental services, the carbon sequestration, the storm runoff considerations, the shade, the energy savings in our forests. So I don't think it's too much to expect in this one percent of our urban forest that citizens should not have some say that all the tools and all the appeals that are in place and proposed in this ordinance are on the side of taking the tree down, and there's nothing short of staff's intent, certainly nothing in the language of



the ordinance to prevent this. Hope that answers your question.

Morrison: Thank you.

Mayor Wynn: Further questions of staff, comments? Thank you all. So I guess, pat -- thank you, pat.

I'm sorry. I meant to say this earlier. We'll be back -- this item is posted for item on your agenda next week. And this was the briefing to prepare you for that decision.

Mayor Wynn: Correct. Thank you. So thank you all and again, I apologize for the delay this afternoon. It takes us to our final afternoon briefing by staff, the proposed whisper valley or indian hills development agreement. Welcome back mr. murphy.

Now for something completely different. Mayor and council, I'm pleased to be here after a very long time and a large amount of work presenting to you the whisper valley indian hills development agreement. We're here because on may 15th of 2008, council authorized negotiation of a development agreement for whisper valley and indian hills developments. On december 18th of 2008, council approved a policy for creation of public improvement districts in association with development projects and our briefing today and at presentation and action scheduled on the 18th will be coming up shortly. The development areas that we're talking about are approximately 2300 acres. 2,060 Acres which are in whisper valley development and 240 acres in the indian hills development. , the extraterritorial jurisdiction of the city and the desired development zone and along the sh 130 corridor. This map basically gives an idea of where the projects are. As you can see, whisper valley is located on the right side of the map on the east side of sh 130. On the left side are -- on the west side of sh 130 you will see the smaller development of indian hills development. There are three main elements of the agreement that we want to talk to you about. One is zoning. This would propose zoning for the whisper valley development in order to provide for a superior development. Now, the indian hills development would be conventional zoning and would not be a p.u.d. The second element would be a public improvement district. The public improvement district as you know funds instruct and other improvement services in both the indian hills and the whisper valley development. The third element would be annexation. The proposal is to annex the 2300 acres for limited purposes in 2010, and ultimately to full purpose annex this area into the city in phases over 15 to 45 years. The agreement is a road map for the future. It tells us and gives us the terms that we will operate under in negotiations that will lead ultimately to the approval of a planned unit development zoning annexation and the p.i.d. Step one would be the zoning process, including board and commission review of whisper valley. P.u.d. And the city and developer would be working on terms for the p.i.d. financing. Step 2 would be the council creates the p.i.d. The council approves the zoning and council annexes the property for limited purposes. And the third step would be the developer request and the city issues bonds in phases as the development occurs. The agreement also sets parameters for the planned unit development and the public improvement districts. Water quality and environment are addressed by having no major floodplain modifications. This project proposed a very large floodplain area of gilliland creek to be preserved as parkland as open space. Creek head water protection would also be provided in a natural state. Superior water quality controls would be provided above and beyond what current code requires. The parkland and open space

includes a very large 600-acre public park associated with the indian creek floodplain area. Additional land is available and could be parkland at the city's option. This plan is designed to comply and support the travis county green print plan, which is -- which deals with connectivity and accessibility to these creek areas. bonds can fund park amenities and there is discussion of amenities being constructed within the parkland using those funds. assessment can pay for park maintenance and operations as well so that even though this will become a city park, it could be maintained and operated by the whisper valley development. And the citizens that live there. Developer and homeowner's association also as I said can maintain and operate the park. Affordable housing is also something that we are definitely wanting in this area. Per the city's p.u.d. Ordinance right now, if you trigger vertical mixed use, you would be required to provide 60% at 40% mfi for rental. This would require as proposed by staff that this would apply even if they do not do vertical mixed use. So in other words, all of the residential development in the area would need to comply with these standards. It includes a fire, , law enforcement site. The developer is donating a two acre site to the city. The city can lease this site to the esd that currently operates in this area and would be operating until we full purpose annex. The city can also relocate the site in the future to meet austin fire department needs or sell that site and purchase another site if we would so desire. We would own it. can fund construction and services as well of public safety improvements. There are sites that are reserved for transit stations, library and schools. These are going to be talked about in greater detail next week with briefing that you will be receiving, so you will be receiving more information on that. Grow green and p.u.d. Planned unit development green builder standards are required. There is a requirement for a dedicated team of reviewers that would have the ability to provide consistent review of this project over time since it will be occurring over a long period. As far as the regulations go, today's code as modified for the zoning at the time that a zoning occurs would apply. Vertical mixed use buildings would be allowed and grandfathering would be provided for 15 years from city code changes. The limited purpose annexation as I said previously would occur in 2010. Full purpose annexion would be preferred, but after 15 years, the city may annex any tract for bonds have not been requested or issued. bonds have been requested or issued, the city may annex the earlier of the retirement of the bonds, which is anticipated to be 30 years from issuance, or at 45 years. bonds reimburse developer for roads, drainage, park amenities. The timing of the city bond issuance will be based on phasing and performance measures. bond assessments are benchmarked to city property tax, the area the bonds are issued. There is a concern obviously that w don't want to have a huge difference between the amount of taxes or assessments that people living in whisper valley or indian hills would be paying at the time of full purpose annexion. The initial requirement would be that 125% of the city's tax rate would apply to the operties in this area, and we would be working with the developer to consider the idea of ramping up the assessments over the time, so that at the time of full purpose annexion, those two would be fairly similar. Wastewater would be city retail service infrastructure to both indian hills and whisper valley. Water would be provided through city retail service and infrastructure to indian hills. City retail service and sphruct to whisper valley is currently provided by manville water service corporation. We may be serving that area in the future, but that would be subject to negotiations with manville. As a result, no p.i.d. Bonds would be recommended for financing water infrastructure unless the city is the service provider. This map is basically just to show you the amount of water and wastewater type infrastructure that is going to be needed to serve this area. Basically everything in -- everything except the -- let me make sure I get this right -- the red

and there is kind of a turquoise blue. Those two are wastewater. Everything else would be water. Which as you can see there's a significant amount of water and wastewater infrastructure, including a plant at the lower right side, a temporary wastewater treatment plant that is to be proposed to be constructed in whisper valley that would be part of what we would need to be funded with the p.i.d. bonds. The city reserves the discretion to vary from the agreement or not approve zoning or create the p.i.d.es. This is a very important point. This does not tie the city's hands; however, it is important also to note that if the city does deviate from this agreement, then the owners would have the option of opting out of the agreement. What are the -- sorry, tongue twister. What are the anticipated benefits to the city? The city gains land use control and part of the sh 130 corridor where we would not otherwise have that. Extension of major utility transportation infrastructure would be provided. Sh 130 corridor would not be -- that would not be funded by city taxpayers. In other words, they would be paying for these improvements through the public improvement district. No major floodplain modifications. 700 Acres of parkland and open space. Public park improvements and maintenance not funded by city taxpayers. Grow green landscape and green builder we've mentioned previously. Affordable housing, donation of public safety site and sites for schools, library and transi center. The anticipated benefits to the developer are financing of infrastructure and park improvements, lowers of course their developer's capital costs, deferred full purpose annexation makes property atact tract active by deferring city taxation for years. development regulations provide greater flexibility to adapt to the market in this area. Park, open space, public safety site, etcetera, are amenities certainly for the project. Ensures high quality development investment through superior sustainable development in this area. And the grandfathering for 15 years. We are recommending this for your approval. As I said, it will be on your agenda next week where you will also be provided a briefing on the proposed planned unit development. Approval of this development agreement would result in direction to finalize financing and annexation by MAY 1st, 2010. Sorry that that took a little while, but thank you for your attention. And if you have questions, we have staff here, including me, that can try to answer those questions.

Mayor Wynn: Thank you, mr. murphy. Questions for staff, council? Councilmember morrison.

Morrison: Thanks, I've had the opportunity to talk with you all and the applicant on this. I have a few questions and I know that a lot of this you've sorted out. Just from a general perspective -- I'm in the sure if you're the right person to answer this or. no.

If I'm not, I will get the right person.

Recently there was some legislation filed about creating a different kind of district, and that was in southeast. And I wonder if you could in a nutshell just give a description of -- if we could get you or someone else, a description of how this differs from that kind of district. What we like about this district is that the city maintains control. We issue the bonds. It is not our money. The money is privately provided, but the city actually has control of issuance of the bonds. The city would have had little control over the issuance of debt and would have little ability in financing along wait and performance measures as those bonds were issued. Those are the fundamental big difference between the two proposals.

Morrison: Okay. We recently received a message from some people that live in the area, concerned

about impact of traffic on the street. Can you speak to the future plans of the roadways in the area?

We had a lot of discussion about this today. I met with the director of transportation group here with the city and we basically are willing and eager to work with the county and the state in this area regarding roadway. The major roadway issue in this area is a state roadway that runs through manor. Apparently the funding for that roadway was pushed back from 2014 to 2018 for improvements to that. In addition, though, this agreement proposes major improvements to extend and improve braker lane and decker lake and they have negotiated with the county to do those improvements. When the development goes forward, there would be a transportation impact analysis that would be required and they would also be required to either make or post fiscal for improvements out in this area to make sure the roadway infrastructure would be in place. But we certainly are willing to work with manor and the state and the county to try to make sure that the transportation network in this area is going to be adequate for the public safety concerns that have been raised.

Morrison: And the traffic impact analysis, when did you say that comes about? Is that only when they start their site plan developments, site plans?

That would come -- i need to make sure. So it would be occurring as they develop. So as they turn in development applications, they would be required to provide that information.

Morrison: Okay. And two other topics that have come up in conversation. And one is while part of the proposal is to sell some of the land -- i believe it's sell some of the land to the city for a library. The concern is that we won't have tax revenue to operate that library, and I don't know if that's something that anyone has ideas about yet or if you have some suggestions there.

Right now the proposal is as i understand it is the library site would be available for purchase for five years. It is not being donated up front. That certainly is something that I think will receive additional discussion during the planned unit development zoning for the property. But that's the proposal right now in the agreement is a five-year essentially reservation for a library to be able to be -- site to be able to be purchased. actually, as I understand it -- tom, please correct me if i say this wrong. It can actually fund construction of a library. There's been some recent legislation that I think clarifies that.

Morrison: Can it fund the operation and maintenance of a library also? like the --

I might as well get tom up here.

Morrison: And that's the same with the parks. I think you mentioned 's can actually fund maintenance at the parks.

Yes.

Morrison: And building amenities. And then something a little more complicated is the issue of affordability. One of the slides, i think one of the comments you made i found a little confusing on slide

number 8. It says affordable housing per the city's p.u.d. ordinance. And you've said -- i believe you said if you have vmu, then that's , ordinance itself on its own talks about affordable housing independent of vmu. And I wonder if maybe knuckles could give us a refresher on that.

Absolutely.

Tom knuckles with the law department. obligations that are written into the agreement, the 10% at 60% mfi for rental, and the 10% at 80% mfi for ownership, are based on the p.u.d. ordinance. And this will be a , so from staff's perspective, that was a good benchmark to use for an affordable housing requirement. But of course, under the ordinance, they only have to provide that affordable housing if they exceed certain based zoning standards like height and f.a.r. And etcetera. And I would basically characterize the issue as this. ordinance was a naval vessel, this will be the shakedown cruise for how this thing actually functions because as you're probably aware, the main driver behind the p.u.d. Ordinance and the revisions to the code 's was intended to address 's in the urban core. Well, lo and behold, the shakedown cruise for the ordinance is not in the urban core. It will be a raw land in a suburban setting. So all of the assumptions that went into writing the p.u.d. Ordinance may not apply here. And suffice it to say we're going to have to do some more figuring out before we nail this down. But staff's position is if they have vmu in the and use affordable housing to gain the density bonuses under the vmu standards , that ought not to count for the 10% at 60 and the 10% at that they're contractually agreeing to under the agreement. The developers don't obviously look at it that way. That's something we're going to have to work on some more.

So what you're saying is for superiority for a consideration, we need to start with that 10 percent. That's what you're suggesting. And then if they're looking at a bonus on top of that, because of vmu bonuses, that would be in addition.

Right.

Morrison: So that will be some more conversation.

And the good thing is zoning ordinance is basically a negotiation to change standards. So hopefully we can find something that works for both the city and the developer.

Morrison: Right. The time line for that is we'll be seeing the initial preview of the p.u.d.

Right, next week.

Morrison: Next week. But then we have quite some time to have that negotiation.

Right. As pat said, the target date established in the AGREEMENT IS MAY 1st, 2010.

Morrison: Okay. And I believe there's also some discussion to be had in terms of how we define

affordability?

Yes. That will be part of the mix. Units versus square foot.

Morrison: And you all have recommended square footage.

We recommended units.

Morrison: Units, okay. And okay.

A developer has yet to agree to that.

Morrison: So stay tuned is the message. Right?

Yes.

Morrison: Thank you.

Mayor Wynn: Further questions of staff? Comments? Thank you all very much.

Thank you for your time.

Mayor Wynn: Again, this will be on the agenda next week. I think. So let's see. Again, I apologize for our delay this afternoon, folks. So council, let's see. We do have a couple of quick items we could take of you before we then do our ahfc board meeting. Earlier in executive session we took up item number 49, which was an executive session briefing of a related posted action item, item 22 regarding vacancies on city boards and commissions. I felt satisfied with the presentation we received in closed session. Perhaps a very summary staff presentation now as we call up potential action item number 22. Welcome, debra.

This addresses some implementation concerns that was raised with the boards and commissions ordinance that was passed in november of 2007. It inadvertently created a question with regard to the continued existence of some of the board members. And this ordinance just goes back and changes the date of training requirement and then it addresses some existing code issues to allow a cure period and to allow council to weigh certain requirements by voice vote and it also creates a holdover period so that we don't have a gap in the membership of the boards. We are also recommending that this be approved on emergency passage.

Mayor Wynn: Right. Thank you, debra. Questions for staff, council? Comments? Again, we had a lengthy discussion and presentation in closed session as was appropriate.

Hearing no comments or questions, I'll entertain a motion on this item number 22. Motion by councilmember morrison, seconded by councilmember shade to approve item 22 on emergency

passage as presented by staff. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of five to zero with the mayor-elect and councilmember cole off the dais. Council, that takes us potentially to item number 36, which we also received a briefing on in closed session. This is a property 382 heartwood. I'll recognize councilmember martinez.

Martinez: Thanks, mayor. This is a case that's been gone on for some time and I think we're finally close to winding down to the end. But the appellant has asked for a little bit more time to speak to fema about a potential variance that is a requirement within this ordinance. I'm going to make a motion to postpone until JULY THE 23rd.

Mayor Wynn: So we have a motion by councilmember martinez to postpone action on item 36 until -- actually, our next -- the first meeting of the next council after the break, that being THURSDAY, JULY 23rd, 2009. Seconded by the mayor-elect. Thank you. So we have a motion and a second on the table postponing action on item number 36 until JULY 23rd, 2009. Further comments?

Martinez: Mayor, by virtue of if this potentially passes, then the remaining public hearing items I will also move at the appropriate time, which , item 72 and 73, to postpone them as well to JULY 23rd, IF THIS Motion passes.

Mayor Wynn: Correct. Again, motion and a second on the table, postponing item 36. Further comments?

Morrison: Mayor, i would like to comment that I don't feel like I'm going to be able to support the postponement. It has been a long time and as I understand the situation, independent of what the applicant finds out by querying fema to get more information, the end game is still the same. It really doesn't make any difference in terms of our decision. So with that I won't be supporting the motion.

Mayor Wynn: Fair enough. Thank you. Again, further comments on the motion to postpone? Hearing none, all in favor please say aye? Opposed? Motion to postpone passes on a vote of five to one with councilmember cole off the dais and councilmember morrison voting no. And so I will recognize councilmember martinez for a motion on items 72 and 73. Okay. Thanks for everybody's patience. That now takes us to our potential ahfc board meetg. At this time I will formally recess this meeting of the austin city council, call to order this meeting of the austin housing finance corporation board of directors meeting. Welcome back ms. margaret shaw.

Thank you, mr. President, members of the board, general manager. My name is margaret shaw, treasurer of the austin housing finance we bring before you today four items on the agenda. The first two items i will be presenting to you I will be presenting. Out of abundance of caution and consulting with the city's ethics officer, I recused myself more than seven months ago. The first is the approval of the minutes from the may 14th board meeting and the second is to approve the authorization to negotiate and execute a loan with the guadalupe neighborhood development corporation for the purchase of eight newly constructed homes that they will use to rent to families that earn a maximum of 60% and three of those homes will be for serving families at 30% of median family income. So with that

I offer those two items on consent.

Mayor Wynn: Thank you, Margaret. Questions for staff? We have a motion by board member Martinez, seconded by board member Morrison to approve the proposed consent agenda, that being items one and two as proposed by staff. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of six to zero with board member Cole off the dais.

[One moment, please, for change in captioners]

The city attorney's office, the bond counsel and a number of other staff to make sure that we were -- all the questions were answered. We also had an opportunity to meet with the housing bond review committee to answer all of their questions and to get some ideas if they had any remaining questions that needed to be resolved prior to coming back to you. I'm happy to report we did meet with three of the members of the bond review committee on June 4. All of their answers to the questions were resolved and they basically wanted to make sure that I shared with you that they were just as enthused about the project as they were previously, and I'll share some of those details with you later on. As Margaret alluded to earlier she has recused herself from this, based on a relationship with one of the partners of the project, and because of that occurrence, we really worked tirelessly, to make sure, particularly me, to make sure that I was on top of this particular project and I understood some of the intricacies related to the project. As you may recall, in February of 2007, a final report of the affordable housing incentive task force was presented to the city council. In that report the task force recommended a set of core values for affordable housing that was approved by the city council. Those values included reaching deeper levels of affordability, locating affordable housing throughout the city of Austin, and also ensuring long-term affordability. We believe that anytime that there is a fee ownership of land, we believe it insures ownership, permanent affordability and fast growing areas throughout our city. One of the things that was real important for us to assess where we've been, but more importantly where we're going in the area of affordable housing. We wanted to look at what we are currently doing, and when you look at how we've done things, it can be perceived as a traditional way of doing things. We've provided direct that as, deferred forgivable loans. Once it leaves the door, usually we don't get much of a return other than the affordability that we're buying. Mostly that goes to non-profits to create affordable housing, and from 2004 to 2009 we've actually allocated over \$12 million during that period. We also provide indirect subsidies via ground lease properties. We have a smart housing program, which provides fee waivers and also expedited review, and most of the multifamily available for use through smart housing are traditional communities that use both housing tax credit and also other governmental subsidies. We also may serve as a general partner in a tax credit development. One of the things I asked staff to do is to provide what our actual output has been in the area of affordable housing, utilizing the rental housing development assistance program, and as you can see, from fiscal year '04 to present, a total of 727 total units have been completed, and it breaks down the MFI from 30% all the way to 81%. Age of the ownership, a property is also tax exempt. State legislation establishing housing finance agencies contemplated this as a necessary tool as we moved forward in developing affordable housing. As you recall, we had a third-party consultant to come in at the beginning of the year to share with you a housing market study. That study concluded and found that the city of Austin was short nearly 40,000 affordable rental units for its poorest residents, those below 30% of the median



income. 44,700 Austin renters earning less than \$20,000 per year were identified, yet only 7,150 affordable units are available in the current market. Only one of six renters earning less than \$20,000 per year can actually find affordable housing, and that includes those -- those income levels include individuals that are senior citizens, retail, housekeeping and grocery workers and also single parents. Providing affordable house, as you know, for these income levels requires deep levels of subsidies and also multiple funding sources, and that's one of the things that we're going to talk about later on. In order to field the current growing gap that we have in the affordable housing area, austin must add approximately 1,000 affordable units per year for the next ten years. Some of the market recommendaon, the housing market recommendations included the following: That we continue to develop innovative affordable housing strategies, improve development incentives that produce affordable housing, and also to seek new financial resources for development. In the future I think it's important note that creatively financed projects will be needed to close our affordable housing gap. Hence, we felt it was a new way of thinking and approaching affordable housing in the city of austin. Fortunately for us our housing director, margaret shaw, convened prior to you hearing the housing market study, and afford housing -- an affordable housing development workshop in october of 2008. 74 House developing housers and advocates attended. They were provided information on the funding programs, development incentives and also previous development structures. The group was also challenged then and tasked to do something. They were challenged to go back and look at creative and innovative ways to increase austin's affordable housing stock. The response has been tremendous. Developers immediately began setting up meetings to discuss potential transactions. The ahc staff meets probably 12 developers a month to discuss potential development in addition to a high volume of phone calls and email traffic. As a result of the workshop three applications for funding have been received from for profit development. One of those was the village of little texas, and it was recommended by staff and also the housing bond review ce. To talk a little bit about the village of little texas. Setting aside the tax exempt benefit of the corporate goes, ahfc is buy 50 units for 99 years. This is a long-term investment where ahfc receives affordable units, affordable cash flow and the control of the property to ensure long-term affordability. The city cannot alone produce the number of units required to address the needs that I afor mention. We must look for new invait I have ways to recycle funds and as you can see this is 240 units of multifamily rooms -- or apartments, 18 of the units are at or below 30% mfi, 32 units are at or below 50 mfi. One of the key things that i also want to note is tenant protection. As you recall, we've had a number of projects that did not provide that protection for a number of folks that would be actually living in these properties. All of the standard tenant protections will remain in place for the village of little texas and housing choice vouchers will also be welcomed on property. After the housing bond review committee recommended the application for funding, as you recall, there were a number of questions related to scoring and a couple other things, so we reconvened that committee, and they asked -- they were asked to revisit the application and chose not to change their original approval of this application. That committee discussed the application a total of four separate times and on four occasions it was always supported. The final meeting was held on june 4, and while no quorum was present at that time and no action was taken, as I stated earlier, all three of the members in attendance stated that they felt even more positive about the applications than they did when it was initially approved. From a scoring standpoint we know that the scoring is not a perfect science, particularly when there is a mix of income. The scoring committee and the housing bond review

committee tried to be consistent in their scoring and review of projects. Our standard process is to make changes to the scoring matrix or process on an annual basis. Throughout the year our housing advocates, housing bond review committee and staff combine a list of issues and recommended processes and scoring changes that must or need to occur. These items are then reviewed by the cdc in a public meeting, and our practice has traditionally been to have a public discussion with the cdc, and any changes that we actually recommend are enacted on october 1. One of the things I want to share with council, if there are any concerns or issues related to any of the scoring process, we encourage you to let us know. We'll share that with the housing bond review committee as well as the cdc, and we can actually institute those changes by october 1 of this year. Another question that has been raised is the city of austin's investment. Ahfc will solely own the land in this development. The partners in the development will not have any ownership of the land. The rent and income restrictions will remain with the land for the entire 99 years of affordability, and will survive a sale of the property or even foreclosure. While an ahfc-related entity will be the managing member, it will not be responsible for the day-to-day operations of the property. A professional management company will be tasked to engage in performing that function. The llc structure will insulate ahfc and the city of austin from any negative liability associated with the transaction, and our liability will be limited to the amount invested in this development, which is \$2.9 million. As it relates to the return of the investment, because we tried to approach this in a more holistic fashion, we're guaranteed payments of \$10,000 a year annually as lease payment for the land. We receive -- or will receive 30 to 35% of annual cash flow from property, with the exception of year 1. Cash flow payments to the ahfc and the partners -- how do you -- paraposu, which means that everyone gets paid or no one gets paid at all. Funds repaid to ahfc will be unrestricted and can therefore be used to address the most pressing affordable housing needs and the time of payment, and lastly, this board will have the first right of refusal upon sale of the property, and we could either purchase the other members' interest of the property or we can receive 35% of the proceeds of the sale. In an effort to be good stewards of city funds, the financial proposal for this development has been reviewed and approved by all four of the before-mentioned parties. As being recommended by staff and the housing bond review committee, the hud staff approved a pro forma, but also they require that a third-party review the pro forma. teal company. At the staff redges, hud review and teal review, it was also reviewed by eps for a final, final review. In each instance the proposed performer was deemed to be reasonable and in some instances very conservative. So staff recommendation today, council, is to approve the village of little texas project and there are a number of reasons that we feel that that should be done. One, the affordable units that are being offered, 30% and also 50% mfi, deep affordability would coincide with the task force's original recommendation, longer term affordability, 99 years, which I can assure you this is a first, strong support from the bond review committee and the neighborhood association in that area, mixed income levels throughout the community, hud-backed loan, and I can assure you that hud doesn't freely back any projects. They scrutinize all of the loans that they receive; projected pay-back of the amount invested in this project will be paid back conservatively between 15 and 17 years. This project will provide direct and also indirect benefits to our city, and lastly, as projected in year 1, to bring about 319 jobs to the area. This project should also serve, I would conclude, as model for future affordable housing projects that achieve the core principles of the city of austin's stated housing policy, and that is long-term affordability and serving very low-income families and mixed income property and geographically dispersed areas, by leveraging

financing, and tax exemptions of the housing finance corporation. It is possible, I believe to replicate this as a model for future development. As you can see, because of the postponement from may 14, there is a very, very tight timeline, as you see before you, with the loan application being due to hud on july 1. So at this point, council, I'd be happy to answer any questions, and then at that time I would move forward trying to specifically move for the action to be approved. thank you, anthony. Questions for staff, council? We do have a hassle of citizens, six or so, that want to give us testimony, for or in option of these two items, essentially 3 and 4 are related. Questions for staff? Council member shade.

I'm just curious, what risks do you think the city has in this deal?

Well, as I said earlier, council member, really the only liability that I for are see is the amount of dollars that we put forth in the project already, 2.9. Because of the insulation of today you're going to be approving another nonprofit entity, that's the insulation that we -- as we shared, the city would have. So the only real liability that we foresee in talking 9 that we've put forth as part of the deal. But kelly hunt is here, and she's our resident expert, and she can -- if there's some additional information that she wants to share, she can.

The thing that I would add is as managing member of the llc, we have control of all major decisions. So, you know, we're going to be evaluating those very carefully, and everything -- we'll have to sign off on all of that. Additionally, this is the way, you know, traditional housing tax credit developments are done in that this particular llc will be a single-asset entity. This is the only property that it will own. We won't use this llc to go out and buy other properties or enter into other partnerships. So the only liability is on this one property, and it is snipes said, to the amount of money that we have invested. but my question is, what are the risks associated with doing this project? Do you see any risks besides the financial liability that you're talking about? Are there any other risks at all?

Not that I foresee, no.

Shade: okay. So it's a risk-free real estate development project?

Well.

[Laughter] I just wanted to be -- that's why I'm asking the question.

I'm not aware of any, council member. That's not to say that any of the deals that we deal -- there are always intricacies of that. But I think based on staff's due diligence, we believe that this is a great deal and it's very minimal related to any risk. We haven't been able to find any, but if there are, i think they'll be minimal at best. and on the control issue, I'm curious, I've seen we have the right of first refusal at the point that there might be another buyer that the -- the other partner, our partner here, would want to sell his interest. Do we have the right to veto?

Yes, ma'am, that will be part of our partnership agreement that we enter into. We not only have first right of refusal to buy their interest, but if they have to sell to another party we have to approve that sale.

otherwise we could just not let them sell their interest --

we could make them stay in, but obviously that's not the type of transaction you want to --

shade: no, it's not.

-- You want to foster. If someone wants out you want to help that happen, but we will have to approve whoever they sell it to. and are the partnership agreements already drafted and done.

No, ma'am. Since we haven't had the authority to negotiate that. I will tell you that in addition to, obviously, the city lost staff that we'll have on board with this. We will engage outside counsel that has experience not only with these types of partnerships but with other municipalities, hfc's.

Will they come back to the council before --

no, ma'am, because you will authorize the creation of this nonprofit corporation that will serve as a managing member and therefore that board of directors will be who -- and the board of directors for that is?

The way we have the other setup that we have done right now, there's a three-person board of directors that consists of the chief of staff for the city manager's office, the neighborhood housing community development director, and another staff member of neighborhood housing and community development, which is right now our community development administrator.

Shade: okay.

I assume that we've not had any change to that.

Shade: okay. And have we ever had a situation where we've set up the entity and moved forward with the authorization to negotiate but actually had the partnership agreements come back for council? I mean, we do that on other things where we separate negotiations from actual execution. Have we done that on any of the other deals?

I don't have that historical information. I'm sorry, I don't know.

I can't recall that.

No. No.

Says no. we do have a handful of citizens that would like to give us testimony, but further questions of staff or comments before we hear from our citizens? Thank you all. All right. So again we do have a handful of folks that wanted to give us testimony. Let's see. So some folks had signed up for item no. 3. 3 technically is just the -- you know, the formation of the nonprofit corporation, should there be approval,

essentially, on 4, so without objection we'll call up items 3 and 4 at the same time, and I'll just cross-reference these lists and

[indiscernible] the same people and I'll just take these in the sequence that folks apparently have signed up. Our first speaker is walter muro. Welcome, walter. Is jennifer hix with us? Welcome, jennifer. So walter, you'll have up to six minutes if you need it and you'll be followed by alice glasgow.

Mayor and council members, thank you for the opportunity to speak. I'm walter muro, the director of foundation communities. I put together a powerpoint. I think you've gotten a very one-sided presentation from staff and I really want to give you my sense of the reality of this project. Never has the city given 100% exemption on apartments that are 80% market rate. Never has the city been the sole private investor in a mostly market rate apartment complex. This really is an unprecedented, pretty extraordinary kind of deal, and I think it has major implications for all future deals, nonprofit, for profit, across the board. There has been little public scrutiny until now. No review by the community development commission or any other public committee. It has not been a competitive process. The bond review committee that's been -- referred to a number of times, they meet in secret. They're an advisory group to the staff. They get whatever information they have from the staff. They're not -- we don't know what discussions they've had, and they really are tasked to look at the bond piece of this, not the property tax exemption, which is really the lucrative piece. I think there is important questions that need to get answered out in public, who controls the sale, who sets the budget, who covers shortfall, how can the city exit if it's a bad transaction, and most importantly, can we get a better deal for the money and for the families. I see these as really critical issues. The subsidy for affordable unit including the property tax break is \$293,000 a unit. That's five, six times anything the city has ever put in. By comparison, the for profit project stone ridge got \$24,000 a unit. Sunny meade g \$20,000 a unit. Your investment, 9 million, that's the only cash equity put into the deal. The developer has nothing at stake, no cash in the deal. The loan is guaranteed by hud so there's no risk of default. For every dollar the city gets repaid, the developer gets \$2. So maybe you'll get your couple -- two to three million dollars back. They're going to get 4 to 6 million. The surrounding apartments with lower rents pay full taxes. We've heard this is really a creative approach, and i think it's important to highlight. When you look at their application the facts are that normally what banker looks at when they underwrite it is they want the rents to be the market, and these rents are about 5% higher. A typical vacancy collection lost is 7 to 10% for underwriting. They're underwriting this at 5% for vacancy and collections. That's actually about twice what the market is right now. Their operating expenses per irum normal underwriter what look at \$3,430 a unit. They're underwriting this at 3,271. In the application budget there is no construction cost contingency. Typically you would see private cash equity of 10%. That's the way these hud and short mortgages are. They'll ensure 90%. Developer puts up 10%. In this case it's all city cash. The application doesn't even disclose the debt terms. I see a lot of red flags here, no money at risk, lots of debt, tight underwriting. It's got to happen now. I think there are some things that must be fixed if you're going to proceed with this. The affordable units are concentrated, segregated into the smallest units in the property. The smaller one bedrooms, the smaller two bedrooms, and I think there's a potential for housing violation if you approve it with that kind of unit. Anthony stood here and said the scoring was right. The scoring is wrong. The scoring says 10% of the units have to be at 30% of median or you don't get those points. They're short. Instead of 24 units, only doing 18. That's six additional units for

extremely low-income families that's not there. We know something about the scoring process. Our crossroads project for homeless families went through getting rejected, rescored, scored wrong, told to fix it. There needs to be some fairness and consistency to the way these projects are scored, and this one is blatantly not right. I think if you're going to approve this, you've got to require, if you're the city owner of this \$20 million construction project, at least over level or four-star greenbelt project. Even though it's affordable housing you can't afford not to build it green. The families that have to pay utilities deserve to be able to pay an affordable utility. I know -- mayor, I know the commitment that you have that this city is a leader on green building, something I'm passionate about. I think that if you're going to invest in this project, it better really be green, not just meet the bare minimum smart housing requirement. If you're going to own this, it's got to be built right. The city should not be getting into this deal with financial guarantees, and I think the council must have a final say on whatever happens with that developer interest. For \$293,000 a unit and subsidy, take a month, recut the deal. I don't know that the staff has sat down and tried to negotiate a better deal and get more for the money. I think you could offer them go bonds or the tax exemption or if you're going to give them a double dip and give them both of those things, try to double the affordable number of units. Give up the cash flow. That's uncertain. If they're confident about that, let them have that. Probably what it means is that the developer, in a restructured deal, is going to have to bring some private equity or cash to the deal. They think there's plenty of cash flow to provide a return on that investment or put in their own cash. I think that's a much safer position for the city versus being the sole investor in the project. I'm happy to answer questions. I think this is -- this is a different way of approaching housing. It really better be done right or you're setting a precedent that's quite dangerous for the future. I think there are some other concerns I can bring up if you're interested timewise. Thank you, Muro, your time has expired, but questions for Walter, Council? We certainly reserve the right to call you back up here. We appreciate all your input. Our next speaker is Alice Glasgow. I saw you earlier. You'll have three minutes, followed by Keith Smith.

Good afternoon, Mayor and Council members, Alice Glasgow, and I'm here -- Glasgow, and I'm here because I represented the developers, although owner of the property on the rezoning of 1 acres that is described under item no. 4. I'm here to support the items that are before you, items 3 and 4, for three main reasons. Number one, the proposal promotes the need to disperse affordable housing geographically throughout the city. Currently this will be the second project west of IH-35 that is affordable in the city of Austin. Secondly, my understanding is that this project is 100% affordable under HUD guidelines. Thirdly, the proposal is consistent with the housing market study that you received a few weeks ago that was presented to you by the consulting company from Denver, which said that 40,000 units are needed over the next several years to meet the shortage in affordable housing. So the units that are proposed here I believe would at least contribute towards that shortage that is needed and as staff indicated, we need a thousand units each year to reach that goal. So I encourage you to support items -- or to approve items 3 and 4. Thank you. Thank you, Ms. Glasgow. Our next speaker is Keith Smith. Welcome, Mr. Smith. You too will have three minutes to be followed by Bill Lee.

Thank you, Council. My thing is, following up on Anthony's presentation about being good stewards of the city's money, I just think this deal is costing the city too much and the bang for the buck for affordable housing. It looks like the purchase price of the property is about \$12,250 a unit. If you look at 240 units, I'm -- I have some knowledge of this market. I'm not aware of prices approaching those

levels. You know, even about two and a half years ago before we had the credit crunch when deals couldn't get built, I'm aware of a couple deals around \$11,000 a unit, but, you know, there aren't a lot out there just based on activity, but that seems real high. I believe it also translates to something over \$6 a foot. So I'd like to hear from the staff, you know, how the purchase price of the land was negotiated versus what the market is. The -- the tax exemptions trouble me some too just as far as the overall cost of this project. So I'm not against the project. We need the affordable housing, you about I just think the price per affordable unit is really high. Thank you. thank you, mr. smith. Let's see, bill lee signed up to give us testimony. Welcome, mr. lee. And let's see, is becca doabberful here. You need to be present in order to donate your time to lee, you'll have up to six minutes if you need it.

[00:03:30]

I wonder if it's possible muro's powerpoint back up so we could kind of go through it point by point to make sure we cover the issues that he raised. well, it's mr. muro's. Walter, I'll defer to you if you want someone to have the ability to look at your slides. Okay. Thank you. So if we could cap tiemt

okay. We'll start from the top. First of all, the city does not grant an exemption. This exemption is enabled by state law, and it is -- what the city contribution to it is by becoming general partner of the partnership, the partnership is then entitled to, by state law, a 100% tax exemption. Second, the city has never been the sole private investor in a mostly market-rate deal. The project is 100% affordable for very low, low and moderate income families as defined by hud. All the rents will be capped at no higher than 80% of median income. In addition to the money that the city is putting in, one of the major inconsistencies in walter's presentation is there are actually -- there actually is a major contribution of equity by the developer. They'll be putting in about 2 million of private funds in addition to the city money, in addition to the hud loan, so the private owners will have skin in the game, if you will. 3, yeah, it will have an impact on future deals. Yeah, I think it will have a major positive impact. It will encourage outside developers to come to austin and help solve our affordable housing deficit by using all the creative tools available to the city while not relinquishing control of those deals at the same time. Could we go to the next slide, please? This is a little hard to understand. A little public scrutiny until now. This deal originally started in may 2008 when the zoning was approved. There have been multiple meetings with staff. There have been multiple meetings with the bond review board. The developer has followed the steps that the city has required of him. I don't think the developer should be penalized because we haven't gone to the community development commission because we haven't had public hearings, because those are not required. We've done what was required, and we've tried to respond to everybody's questions as we've heard about -- as they've come up and we've heard about them. The question, it's not competitive. I think that's just a fallacy. This project has been underwritten by hud, deemed competitive. It's been reviewed by staff, deemed competitive. It's been reviewed three times by capital market research, the foremost market research company in austin and deemed competitive. So we're pretty sure it's competitive. And I think that's evidenced by the owner's willingness 2 million of his own money in the deal. The bond committee meets in secret with staff. We would have loved to have gone to the bond committee meetings and pitched our deal, but that's just not how it works. Who controls the

[00:07:35]

[indiscernible] who sets the budget, who covers the shortfalls? How can the city exit if it's a bad deal. The austin housing finance corporation is general partner and thus controls the operation and management of that property. It will control the sale. It will approve the budget. It will control the question, if there are cash shortfalls, it controls capital calls, is if more capital is needed they can demand it of all the partners, both the city, which would put up 30% of any shortfall and the private investors who would put up 70% of any shortfall. So I think there's plenty of protection in terms of control of the deal. Can we get a better deal for the money and for families? There's not a better deal on the table. We worked very hard to present a deal that we think meets the goals of the city as represented by the market study, and I'm sure there are better deals out there that can be creatively done, but this one responds to the challenges as they were presented to us. Next slide, please. Subsidy per affordable unit at it \$93,000 is a gross overstatement of what the subsidy is, but I'll -- let me give -- let that stand for a second and say that if you count all the benefits, including the cash flow, including direct benefits, including indirect economic benefits, including job creation, that this project is going to create, the benefit is almost \$900,000 per unit. So, you know, you can make the numbers say anything. Stone ridge got 24,000 a unit. Sunny meade got \$50,000 a unit. We've asked for \$58,000 a unit. muro's last deal got \$63,000 a unit. Each deal is different, and this program is here to fill the gap between what the private sector can provide in either debt and equity, and what the city has to fill in. So I don't think that's germane to the point. Again, the developer does have cash in the deal, and it's \$1.2 million. Is my time up, mr. mayor?

Mayor wynn: it is. If you can, please conclude.

[00:10:03]

For every dollar the city is repaid, the developer gets repaid \$2. To date most of the city's deals have been forgivable loans which they won't get repaid anything, and in this deal they're getting -- they have the potential of getting all their money back and more, and we think that that's a radical improvement and an opportunity for the city to generate new funds for affordable housing. Thank you, mayor and council. thank you, mr. lee. And our final speaker, then, is -- looks like darren davis. Welcome, mr. davis. You too will have three minutes, and then, for the record, bill scene signed up not wishing to speak in favor, as did tucker lynch. Welcome, darren.

Thank you. Thank you, president, vice president, board members. I want to first of all thank all of you for the time that you've committed to this project. We've -- committed to this project. We've put a lot of energy and effort over the last month especially. I also want to first off thank the staff. I think the staff has done a fantastic job over the course of the last 14 months that I've worked with them. They've been true to their word in everything they said we were going to do through the process. We've worked together to get over some major milestones. They've negotiated a very good deal on behalf of the city, and I can't thank them enough for their commitment to this project. You can tell that they're very committed to finding ways -- creative ways, even, the best ways, any way that they can to get affordable housing to austin. One thing I did want to maybe separate my next two minutes, into two categories. I



hope not an affordable housing developer. I hired some of the best guys, bill lee and bill scene, at tafoya partners to help me go through this process. They have an impeccable career as multifamily builders for affordable house than awn non-affordable housing. Collectively they have 60 years. These gentlemen get what's going on. As we get into this process, and I understood how much they knew, I was very humbled by the list of people and the network of people they had in the affordable housing community. I think all of you probably received, probably, a dozen letters from very well-known people, business leaders, affordable housing advocates, and you probably got several other phone calls and other communications. But when you have people like edwina caring ton and carey farmer, terry mitchell, manny demile, paul hilgers, former director and charles hiemstaff, all have a well backed base of letters in support of this project, that says quite a bit about the people on this team, the project itself, and related direction that austin needs to be moving towards in the public/private arena and in providing affordable housing. So with that said and those two things, finally I'd like to say that, you know, it's very unfortunate that so much misinformation was thrown around out there. I see that -- you know, i welcome the debates. I welcome good fights. I welcome arguments. It brings out the best in all of us. I welcome competition, but what I don't welcome is when misinformation is deemed fact. And there was a lot of misinformation out there today, and I believe that a lot of information that has been presented to you today lee is very fact-based, very much researched, through hud, through charles hiemstaff, through george teal, through the third-party appraiser you had look at the pro forma and there's quite a bit of energy and effort that went into this, thousands and thousands of hours, hundreds of thousands of dollars have been invested into this, and I think the facts have risen to the surface. So with that said I'm going to ask for your support for this project. Thank you very much. It's been a very enlightening process to go through, and I welcome your support. thank you, mr. davis. I still have a couple of questions for you, if you don't mind. First was why wouldn't you and your team want to build a green building? Seems to me a fundamental defining characteristic of affordable housing is the cost of occupancy. We tend to focus a lot on the rent or the mortgage payment, but when you can live in a very nice house and have a 14 electricity bill for a month, you know, that comes out of the same pocket, the same paycheck that also pays rent or pays the mortgage. So why wouldn't an affordable housing developer build the greenest building practical in order to then have the overall occupancy cost of its tenants or homeowner buyers be lower, it will be reducing either foreclosures or reducing late rent payments and eviction, ripple up event.

[00:15:14]

Mayor, we are not not building a green building. We are doing -- and I may not be the expert on the green and smart housing as to the levels that it goes, but I do know that we had -- I think there's four levels, and the levels that we initially submitted in our green rating were in that one and a half range, and as we go through the process, i think a lot of the points that we'll get will actually be understood and some of the more green building, but we're going to build it as green as we can within reason and affordability. So we're building as required and as asked of us and everything that we can afford to do in the project. It may not be a four-star, which I understand is the highest, or it may not be a silver -- I'm not sure of the silver, I'm sure bill and bill could talk more intelligently on it, but we are doing everything that we can for the green building, based off of the -- what's reasonable to the project. council, that's actually all of our citizen testimony. Questions -- thank you, mr. davis. Questions for either davis or anybody else

for that matter? Mayor elect? I've got a follow-up, I guess this is snipes, really, and the question occurred to me as a result of something that was said earlier about the requirement that city facilities, and this was -- this apparently is a city-owned property. I don't know if it fits the definition, because I am pretty sure, I believe, that all new city properties are required to meet a silver lead standard. So correct me if I'm wrong on that, and again, I don't know if this falls into the category of properties that are required to meet that standard, but I know if it was a city facility, it would have to meet that standard.

Mayor elect, I don't know the answer. I don't know if the staff does, but I would say that i don't know when that determination was made based on full city ownership, , the city, full owners of that property, or if it's based upon -- in this case this was a partnership with a private entity, but I can ask staff if they have an answer for that. yeah, i think -- I think we need to answer that question.

I'm sorry. I don't mean to -- to try and parse words here, but technically it won't be a city-owned property. It will be owned by an affiliated ahfc. Now, we're not trying to make that division to try and get around anything. So just for clarifying definition, it will be owned by an affiliate of ahfc and not necessarily the city. However, I can tell you in trying to meet whatever council's direction is, we certainly would work with a developer to try to get it up to the highest standard available. mayor elect, just seems to me to build on that, I have, you know, many of the same concerns, but i do recognize this is a different model, so, for instance, the city of austin isn't hiring the architect, right? We're not hiring the contractor, and so that's where we have the -- you know, the ultimate control when we build a fire station and a branch library, we -- you know, we are that entity that -- and I agree, you know, we do have a current policy that all city of austin facilities and buildings have to meet lead certified silver or higher. Technically I do recognize this isn't that case because we aren't -- you know, we're not the developer, we're not --

[00:18:47]

but we are the controlling -- we've just been told we are the controller of this deal, so I mean, it is a very --

I think the key, mayor, is we're a controlling member, but ahfc, that's one of the reasons we recessed the council meeting because you're a separate board of the ahfc, and it's not associated with the city. So there has to be a clear delineation related to the ahfc board, and you as council members. But clearly the staff understands some of the things that you've stated, and we'll definitely keep that in mind. But I think there is a delineation between responsibilities of the board and the city council. I believe you are right on this, i just simply asked the question because it had been raised earlier, but with regard to even privately owned, where the city has no ownership, affordable housing complexes that we've invested in in the past, i think it's been fairly radio routine to require at least a two-star green standard building, and I think that ought to be the minimum that we ought to be talking about, even in this one. I realize the lead -- it's a little more difficult process, and would probably not be practical for the city of austin to oversee that in a property that we don't own and operate, but i do think the two-star green would be something we should require. further questions? Council member -- board member martinez, excuse me. thank you, mr. president. I just wanted to ask, this is a conversation that we always have as

it relates to affordability. We talk about 20% at a certain mfi or 10%. Did you guys have any conversation about actual habitable square footage as opposed to specific number of units? And the reason I ask that is because of the same philosophy that I've always if you do a certain percentage of number of units, what happens is they're built very small and not geared towards families and folks that you mentioned, single parents with children. So my question is, have you guys discussed that and, if so, will we see some three bedroom apartments at that low affordable range?

[00:21:09]

Council -- I'm sorry, board member, in this case I'm going to refer this to staff because they've been working this since may of 2008 and I've only been involved with the project over the last month, but i do know that this particular project is one and two bedrooms. I don't believe three bedrooms will be part of the solution related to this project. But it is one and two-bedrooms. Staff can, if they have any question - - I'm pretty certain it's one and two bedrooms, but I don't know the actual square footage numbers. The developer might be able to give you the specifics of that. related to that same topic, there was an issue that bill didn't get to address, which was this -- the issue of the smaller units being the affordable ones, and I know that I had asked specifically that. And I think you have an answer to that. Maybe darren can address it. But so that there's -- the issue is the fair housing claim that was made by moro, by walter, I'd like to give you a chance to address that.

I'm glad you brought that up, because of the -- the size of the units, board member martinez, are the exact same for an 80% that they would be at a 30%. So we have two sizes of one bedrooms and two sizes of two bedrooms, and the allocation by percentage says that you're going -- it's going to be equal on that. So you're not getting a 250-foot one bedroom over in the corner of the building next to the dumpster is the only one that we're providing. It's mixed throughout the community. I mean, I want to get the answer to this because this is a key issue. I mean, what are -- walter, do you want to address that?

You may know our project better.

Well, I just -- we have this going on. I want to try to get the answer here.

This is the unit mix in the application. The affordable one bedrooms are 595 square feet or 625. There are 96 one bedroom units that are market 715 and 857. On the two bedroom units the affordable ones are 939 feet but the market ones are 1,057. And it's right here in the application. So if something has changed in the unit mix in the project, I don't have that. is that based on the percentages? Okay. So the affordable units are then smaller? Okay. I mean -- council member morrison? I think it's a little more complicated than that. I have the application all letter to hud right here and it's got the numbers that walter was mentioning. There are some market-rate units at the smaller sizes, but there are no affordable units at the larger sizes, and the preponderance of the units are obviously the non-affordable -- or the 80% mfi ones and those are the larger units, so it's not a

[00:24:18]

[inaudible]. I would also like to ask, and I'm not sure if this snipes or maybe for legal, and that is what you've mentioned that shaw had recused herself from the application process but then she shows up as one of the board members of the llc, and so that seems a little bit of a disconnect, and I don't know if that would be for you to speak to or if legal could talk to whether that's a normal situation.

Board member, I'll answer that question unless legal would like specifically. One of the things that we talked about is not knowing definitively the answer to that question, so we're going to be asking a legal opinion, that once the action actually occurred, shaw would be able to serve in that capacity or not, and if so -- or if not, whether or not she could -- would actually have to designate her assistant director to act in that capacity or not. Those -- those are the questions that we're going to ask, but we didn't think that answer to the question needed to be answered for this particular action item, because indeed, that's a question that we believe legal can give us a definitive answer on, who would serve in that capacity, and then at that point, clearly when you have a hater if they're unable to be available, usually it's referred to the assistant for -- and if that's what legal says we will move in that direction.

I guess for consideration it might be a judgment call since it was not legally a requirement for her to recuse herself from the application process, it might not legally be a requirement, more of a

[inaudible] so -- but we've -- we've never -- i don't think we -- I don't feel comfortable that we've sort of answered the question about the -- you know, sort of the fair housing concept of the smaller units being the affordable ones. I mean, is there -- are there federal requirements that -- that don't allow that? And I presume that somehow our controlling interest makes sure that, you know, whatever we apply for or whatever we build follows, you know, federal guidelines, but I'm curious, is there -- it would make sense to me that there might be a fair housing issue if all of the affordable housing units are, in fact, smaller than the market-rate unit.

Mayor, what I would say to you is we can, as relates to the next day or two, begin to work with little texas and the developer in this, but I wanted to remind the board that this has been a very long process of hud on numerous occasions going through line by line, emple the pro forma, et cetera, assessing this deal. So anybody from a federal standpoint determines if there are any fair housing standards that are being violated, I assure you the federal government, in this case housing, which deals with projects like this all the time, would be able to make sure, because in essence, the next step i share with you is july the application goes to hud, and they review all of those things, and in essence, if it doesn't meet that test, that application will not be approved. So defer that to bill.

[00:27:48]

Board, I would just add that the mix that we presented in the application is the same mix that we presented to hud, and they issued the invitation letters. I don't believe that would happen if there was a fair housing question. We can get that answer very quickly and make the adjustment. During the hud final review and approval process, that will absolutely be fleshed out, and if we have to tweak the unit mix to add some larger one bedrooms or some of the larger two bedrooms, that can be done. I mean, that's not a deal breaker. It's just the way we conceptualized the transaction from the beginning. council

member shade?

Shade: thank you. So the -- so the idea, you know, is that could be tweaked and it would -- i mean, there will be a negotiation process? I mean, invitation letter doesn't mean this is necessarily the deal that gets financed. What you're saying is that it's still got to be fleshed out on their end?

Oh, yeah. I mean, the invitation letter is basically we have reviewed it, we preliminarily believe that it's feasible, and you know have to go spend hundreds of thousands of dollars to get your plans completed and submitted to hud, reviewed by an independent hud contractor, certified by the hud architect for fair housing and our architect for fair housing compliance before hud issues their final approval. and will our money be used in that planning process, then, at that point, our \$2 million?

Yes. that's what our money will be used for. So there's still a risk that it might get rejected ultdly by hud, after -- ultimately, after all that? Is that what you're saying?

No. They may make some adjustments, but they very seldom, if ever, issue an invitation letter on a deal that it won't close, and, in fact, they are pushing us to close this in this fiscal year, which ends september 30. I understand that, but during that planning process and in the re -- moving units, tweaking it, as you say, they're going to get to a yes, the likelihood is they would get to a yes, but the money that we're putting into the deal is what's being used to pay for that planning.

[00:30:10]

Council member, if you look at the pro forma, the \$2 million or the 9 million, 2 million is going towards the purchase of the land. So once we purchase the land, it's our land, so in essence, that 2 million isn't going towards, you know, to assist with application and permitting, processing. \$900,000. The \$900,000 that we main is assisting the developer with construction-related cost that they are going to incur once the project begins. 9 million that we're putting in the deal, 2 million is actually going to purchase the land. oh, no, i understand that, but the purchaser is, you know, the developer, so they'll have that cash and that's what they might use it for because they'll have to be spending -- am I missing something?

Well, I think if you look -- shade shady mean, we'll have the land, i recognize that, and that's a valuable asset, I recognize we'll victim land and in that process that \$3 million will basically be financing the planning and the efforts, that's right, right? Okay. So knowing that, I mean, i just was trying to get clarity, this is a good experience for me to learn too, so I appreciate that and I appreciate your patience with me. The other question that i have is just related to the other question. I'll assume that hud will figure this out and that we might have to tweak things. I understand that. But I guess the biggest concern that I had about this deal was the number of affordable units, the idea that we had less than 10%, in fact, which is what created the questions about the scoring. There's some subjectivity as we talked about with the way that the scoring has been allocated, because the way you read the grid, you get the points for 10% in each of the categories. 3% in 50% mfi or below. And we have 7 1/2%. And I guess the idea, is that something that could be looked at again before we move forward? I mean, I guess that's a

question -- you know, is that something that you-all contemplated as you --

if you're referring to the scoring, I want to make it clear that this wasn't just a staffing assessment of the scoring. In addition to staffing, our staff evaluating and doing the scoring, we also worked and make those recommendations to the house, the housing bond review committee. But we -- staff has looked very closely at the numbers. I mean, I think we shared with council some of the past projects that we've worked on, and this wasn't a unique application of the criteria. There are a number of other projects where we used the same type of criteria in evaluating other projects as we did this one. So I think the housing bond review committee as well as staff felt comfortable in their interpretation and how they actually reviewed and scored the application. I can -- and one other thing I want to add, none of the managers or the individuals working with the developer throughout this year process actually were part of any of the scoring. One of the things that we made clear from the very beginning, that if you actually engage or work with the developer, additional housing staff that have not been involved or engaged in the process actually do the scoring. David potter provided staffing for the scoring process, and if you want to add something to that, you can.

[00:33:39]

That's correct. When -- a little background. I'm david potter, housing development manager with austin housing finance corporation. When we began this process we had sort of a -- sort of an rfp process almost, where once an application was submitted there was no communication between staff and applicants. I think you see the memos that come every week from office of contract and land management where they there's no contact, so we're operating a process like that. It didn't work well for the applicants, nor the staff, so in january of 2008 we convened a stakeholder meeting, and one of the results of that was a great suggestion by byron johnson, the purchasing director, to sort of separate staff who interacts with the applicants to try and help them get the best application possible, separate those folks from the people who do the scoring. And so that's the process that we have used. you know, i just -- I know that this is not at all the developer's, you know, fault or anything, but I think that there is some - - as I looked through them, you know, as a new set of eyes, there seems to be some confusion in the way the guidelines are written you know, and the grid that's provided and, you know, what I can look at on a web sit which is what the average citizen would look at, and the way that scoring is allotted by taking averages or that sort of thing. It feels very subjective to me and I think it should be much more clear going forward. Again, I don't penalize the applicant here because i think he's gone -- you know, bent over backwards to try to follow the procedure, but I do feel like there is some risk associated with setting a precedent, you know, and doing things differently one time to another, and I think that really needs to be addressed and that the easiest way to have addressed it would have been, you know, to get it scored the way that it shows in the grid, which is 10% in each of the categories.

Well, council member, i appreciate that, and as i stated earlier, one of our processes currently is if there are any concerns or questions related to any of our processes, particularly as it relates to scoring, we have a process in place, a public review process, that allows us to go before the cdc, recommend those changes, and the comments that you've made today have been noted, and we'll make sure that those

are incorporated in any changes that we make prior to october of this year. vice president? Excuse me.

[00:36:17]

McCracken: I just wanted to make sure I'm reading this correctly. It says a 240 unit complex with a total of 50 units at either 30 or 50% mfi. This is something, in understanding the economics of mixing in affordable units into market -- even market rate units, is something that council member morrison and I worked on quite a bit during the affordability density bonuses in the vertical mixed use ordinance. And that's a 20% -- 21% of the units, I think affordable is a -- it's actually pretty extraordinary. It's a significant financial drain on the project. It is impossible to do, and a market rate unit, impossible. And I think even the most optimistic scenarios that we had in our stakeholder group, that the best you could ever do without some kind of direct financial participation in the public sector, the best-case scenario is 15%. And then -- and that also is -- the affordability period here is 99 years, which is more than double anything we've ever done, that I've seen. You know, when we did 40 years on vmu, that was the most aggressive we had ever been. It became the standard, but 99 years, I mean, it's a lot. I will say on the green building area, I don't obviously have all the facts, but I live in an apartment that is not green built, and I can tell you that multifamily is inherently a green building standard to some degree. Not -- you know, for instance my 1600-square-foot unit, I went and looked at my electric bills, and it was \$47, 37, 45, and \$16.35 in march. I want to know what I did in march. But they're not two-star, one star, it's no -- the triangle is not built under that, to my knowledge. But that, I think, as the electric bills and my personal experience show, there is a -- all premises, by saying I would like to see us do as much as possible, but as I've become conscious of this, there is an inherently green component to living in an area where you s walls -- you have three or four sides of the six sides, whatever it is, with other people, so that you're being inherently insulated, so that type of density is just inherently greener. So we can and should do as well as we are able to do financially, but I think that the very fact of the thing built will have some green outcomes, and it sounds like even more than in a standard apartment. And then I think finally, a major factor in why I'm supporting this proposal is that the -- it gets to what paul hilgers always used to teach us, which is, you know, there's no silver bullet on affordable housing. You got to do something this, and some of that and some of this and some of that. This is clearly not the model we will do on every project. On the other hand we are getting 50 units at a very, very deep level of affordability, 30 and 50%, and we're getting it, and if this works out like we anticipate, we'll get it and get our money back too, which is a very different area than we see in any other approach. And so while we don't want to do every one of these this way, the fact we have an opportunity to get 30 in r50% mfi for 90 years, i think for a very good probability get our money back also, which will then be plowed back in for other affordable housing projects, that is a very unique and i think attractive opportunity. It is definitely worth pursuing this instance, and if it works, this could be a very promising public/private partnership model where we could get deep affordability for unprecedented terms of duration and actually get money back to plow into future projects. So for those reasons i believe this is a project that definitely has some risk, but on balance the public interest is served in some unique and promising ways and we should pursue it. council member -- board member morrison? Excuse me. one of the issues that was raised was the value of the tax exemption, and I think that the -- the way that it was sort of assessed and computed, and part of the conversation was taking a look at what the improved value would be tax stat for 30 years or something, and the numbers came up to be about, I don't know, \$14 million or

something like that, which is how that \$300,000 first unit subsidy was suggested. I want to ask you if you can run through some numbers with me. If you had the opportunity to talk with francey ferguson about her other way, which I think was a very interesting way to think about the tax exemption, which is to say that if you're looking at, like, \$300,000 a year, that's -- you could think of that as capitalization, that it's almost like getting -- what she said was a \$4 million loan. I don't know if you -- did you have this conversation -- were you able to have this conversation with her?

[00:42:22]

One of the comments that the housing bond review committee was, you know, how can we -- based on the dollars that we receive, in this case actual dollars, 10,000, but what we estimate to receive, if we put those dollars to buy down units, and to utilize those dollars

[indiscernible] have additional or more affordability in the project. And we looked at that. But I think based on the pro formas that have been put forth and that have been approved by hud, we didn't pursue that option because it was the unknown. We didn't know definitively whether or not we'd be able to realize those. We felt confident that we would, but we were not able to move forward with those numbers. well, I realize this is a total -- this is a new model, and one of the things that francey ferguson said was that the way she was beginning to think of it was that it was almost like us having our own private tax credit program going on, which is sort of an exciting idea. But then when she rolled out the numbers, the numbers in terms of what a tax credit per unit would be getting at this point, she said 70, \$80,000 per unit, which for 50 units would be 4 million, versus if you're thinking about it as a \$4 million loan plus 9 million putting into it, that's where the disconnect comes for me, and that is that there's that difference of 2 or \$3 million between what we're putting into it versus what we would be doing if it were a tax credit property.

First of all, let me kind of just preface this by saying francey ferguson is way smarter than I am, so I'll --

[laughter]

I think she's smarter than a lot of this when it comes to this.

And the other thing, and she's exactly right, but in weighing that, another thing that we considered was the fact that we also -- while there is that 4 million that we're not necessarily recouping as part of that initial cash flow that we were talking about, we will receive a portion of the proceeds of the sale if we choose to sell the property and the rent and income restrictions would survive that sale, or we still have the 99-year affordability stay in the deal. So just because we recoup the initial nearly \$3 million investment in 15 to 17 years, we still have the rest of the life of the property to do with what council chooses. so in your assessment, that's enough to make up the difference in if we were running our own tax credit program --

[00:45:03]



in my evaluation personally, yes, ma'am. further questions or comments? If we're going to go much longer, actually, I would prefer that we recess and go ahead and conduct our live music and proclamations, but if we think we have just a question or two, let us continue. So further questions or comments? Or -- council member shade.

Shade: there we go. I wanted to commend the developer also for being, you know, a private partner in this -- at least the proposed idea, and also willing to guarantee the tenant protections that we don't always see, but you said that we've had a number of those that haven't happened, and I only know of one, so I just wanted to clarify that comment. You said we've had a number that didn't --

the stone region and sunny meade, as you recall, there was some concern about them actually having tenant protections, section 8, et cetera. And that's not in those particular deals -- ordeal. so in the deals that we've done that you show from 2004, et cetera, going forward --

on-line stone ridge.

So a number just means one.

One.

Shade: okay. And then the other question is how many private developers have we partnered with where the -- independent not for profit?

One of the things that i wanted to clarify, monroe, and it's unfortunate that we haven't had a chance to talk, because as you know, he's a permanent partner with the city of austin, and haven't had an opportunity to talk with him over the last month, and I probably would have been able to answer a number of the questions. But one of the statements that he stated was never had the city given

[indiscernible] exemptions on apartments that are 80% market rate. Indeed we have. We have a market and 80% mfi currently for units with the villas of sixth street. So we do have a precedent. but what's the percentage -- I don't think that's right, actually, anthony. Do you want to -- somebody that is more familiar with it?

What was your question?

It says never has the city given 100% exemption on apartments that are 80% market rate. It was my understanding we have -- 80% of this project is market rate. 20% is the deep affordability that we're targeting, and they're getting 100% of the tax exemption, and I think the question -- on the -- the other project is almost entirely deep affordability. I mean, that's the difference, is that -- i don't -- I don't have my chart, but I mean, when i went down the chart that you gave me, I mean, that's a pretty big difference. Let me -- I'll pull it out. But maybe somebody on the staff on more familiar with what I'm talking about. But I think most of those units are entirely 50% or below m fi.fi.

[00:48:11]

Correct. But I think the point is whether we've actually engaged with a partnership standpoint with a private entity, and we have, we have done it. Not the actual what the mf I's are for that entire project. It's just an issue of whether or not we partner with a private entity prior to this particular one, and we have done that. I just think that -- and I know we're sensitive to time. I think it's really important for staff to understand that the challenge here is about the fact that this project is 8 -- 80% of the project is at the 80% mfi level, which our market studies -- our own market studies show typically that they're market rate, and that they stay market rate, whereas -- even in your own slide presentation, where we have the real, you know, 40,000 unit shortage is in those affordability levels that are much lower. And in this particular case it's 20% of the units. So we're -- you know, we're subsidizing 100% of the project, 80% of it being that. Now, on the other hand, i see the other side of it, but it is -- that -- I think it's important -- that was a little misrepresented.

I just wanted to make sure both sides were

[inaudible] because there is a big difference. They will be protected 80%, and they are building -- i mean, those that are non-subsidized don't have the inexpensive units. I get that. vice president, excuse me.

McCracken: Yeah, and I'll say on that point, when you're having a different model you won't really have, you know, things to look at, although the miller development has a lot of public investment in it, 60, \$70 million of public investment, and it is 75% market rate and 25% affordable. So we're in the ballpark on comparisons. But when you're doing something different you're not going to really have benchmarks to point to. So I'll make a stab at this because I think that it is -- it is an opportunity worth pursuing, and if it works as I think we have a reasonable anticipation of it working, it will pay for itself back, we'll get permanent -- basically permanent affordability at a good value for the taxpayers, because bonds will be repaid back and they can be plowed back in. So I will move approval. so motion by the vice president to approve this combined items 3 and 4, item 4 being the transaction we've talked about, item 3 would then be the authorization of the appropriate nonprofit corporation. So motion by the vice president, that I will second. Comments on the motion. Council member? Council member shade? can I make a friendly amendment -- or offer a friendly amendment? Which is the notion that we -- that we -- if this were to pass, that we would -- that we would separate the negotiation and the execution of the contract. So in other words -- and i had asked somebody in legal about this, but the idea is that we could set up -- the motion would be to set up the entity, proceed with the ground lease, but in terms of executing the ground lease and the actual agreement, that it would -- that that would be postponed till next week, so that some of the issues that you had questions about could actually get worked out within that week. so the motion is -- that's my friendly amendment.

[00:51:51]

McCracken: I consider that a friendly amendment. so do I so motion to negotiate approval only of items 3 and 4. Further comments? Board member morrison. I promise I'll be brief. I don't want to rush you.

Between if we need to take time we will. I want to explain why I can't support this. I know we've talked about a lot of different perspectives on here and I really do respect the developers who have come forward in good faith. I think that fundamentally what happened is that we've gone way down a road that enters us into a new policy area without the council having set the parameters in the first place is this a good enough deal or not, and I feel like it's our responsibility to ensure, obviously always, that it is a good enough deal, no matter what kind of work we're doing. But I feel a particular sensitivity to that here with our housing bonds. You know, we're one of the first in the nation to even have housing bonds, and if there's any question that we're not using them in, you know, the most -- in the best way possible and the fairest way possible, especially when we have questions about scoring and all that, I think we risk ever being able to ask the voters to approve more housing bonds. So as I said, I really appreciate all the time the developers have put into this and the time you-all have spent talking with me on the questions and staff too, but I think we just got too far down the road and the risk is too high, so I won't be able to support the motion. again, a motion and second on the table, negotiate only -- for approval but negotiate only, with the further direction to be -- hopefully that documentation will be brought back at next week's meeting. President-elect. well, I don't want to create any problems here at the last minute, but we did have this discussion about green building, and I believe the lists committed to me -- applicants committed to me personally to at least one star with an effort to make two. So I'd like to include that in the negotiation to negotiate as high a green building standard as possible, but certainly no less than one star, if that's acceptable. it is, thank you. Board member shade? I've been through this -- back and forth and back and forth, and I actually -- I spoke with Darren yesterday and told him that I wouldn't be able to support this project. I've been listening to all the discussion. I've talked to lots of people, and one thing that's become very clear to me throughout this is that I believe that -- you know, that the policy that we have in place would suggest that we want alternative models. I believe that there is a lot of merit in this alternative model. I believe that the developer has, as you said, this isn't his usual thing, and here he's had to go through the wringer quite a bit on this. I disagree with the fact that he hasn't put anything into it. I think he's put a lot of time and effort and dollars in hiring all the various people who have been speaking on behalf of him today. I'm going to support this motion with some reservation, but, you know, I just don't like the idea -- I mean, when I was, you know, campaigning last year and talking to people about affordable housing, I think, you know, it became very clear to me that that word means a lot of different things to a lot of people. And by your own presentation from the staff, the clear area that we have dire need today is the 30% mfi. And I think that we really need to look at what we're doing here. We can't penalize, you know, this developer who's followed the rules and come forward, but I think there's been some real confusion on scoring, on why the city would have anything less than the green building requirements that we have on any of our other buildings. I think that -- you know, I plan to use this as an example to really try to think through differently how we do this. I've heard that the bond committee that is approved this three times. That's just not the case, because you didn't have a quorum vote, as you said. There have been a lot of eyes looking at it, but I just think the process on the scoring and the confusion on this -- this is what creates the distrust and the discomfort later down the road. This is -- so I again, believe that this developer and his team know what -- you know, have a lot of expertise. I feel like we'll have some comfort in taking the extra time to make sure to look at the documents before they're executed, and, you know, I'm going to support -- I'm going to go ahead and vote for this.

[00:56:35]

Mayor wynn: thank you. Board member -- actually, the fact we're voting to negotiate only, i wouldn't -- I would state that I would suggest that all of us still reserve the right to not like, you know, the final documentation. You know, I think there's going to be support here for this negotiation. I encourage both sides to make sure that, you know, the documentation that will come back to us for formal approval and execution authority next week is, in fact, you know, as good as we can all make it. So again, we have an amended motion and a second on the table, negotiate only approving -- approving negotiate only position on items 3 and 4 at this ahfc meeting. Further comments? Hearing none, all in favor please say aye.

Aye.

Mayor wynn: aye. Opposed? So motion passes on a vote of 5-1, with board member morrison voting no and board member coal off the dais. Thawl thank you all very much and I appreciate your patience. There being no more business before the ahfc board meeting. We now stand adjourned. It is 5b 5:55 obama. -- P.m. We will take our break for proclamations and live music. Sorry to keep you weighing. Our musician is kalu james, so stay tuned for that. Proclamations to follow. We will reconvene the city council meeting at probably closer to 6. Thank 6:30. Cap tiemt

[music playing] okay, folks, sorry for the delay. We've been running behind all day, but welcome to our live music -- weekly live music gig here at the austin city council meeting. Joining us today is soul, folk rock singer songwriter kalu james, a native of nigeria. He calls austin a home after making a name for himself in rochester new york. His style can be found on a second studio album called dim the lights, which was recorded with the help of the mco band. Kalu performs 9:00 p.m. Thursdays, all this month at momo's. Momo is at red river and west 6th street. So please join me in welcoming kalu james.

[Applause]

[music playing] ???? ???? ?

very good. Fabulous. Fabulous.

Wynn: I think austin will take good care of you, how long have you been here now?

I've been here for two years and two months.

Mayor Wynn: Fabulous. So this month, every at momo's at red river and sixth, I trust you also have a website or a myspace page or something that we can check you at?

It's kalujames.com. Or myspace.com/kalujames. And momo's on west sixth street.

Mayor Wynn: That's fabulous. And the new album, dim the lights, is it available maybe on your website.

Can you get it at waterloo records and other places?

You can get it on the website. It's at waterloo records and iTunes. This month it's at the listening station at waterloo records. You can go listen to it and if it's something you like, you can pick it up.

Mayor Wynn: Great. Before you get away and go prep for tonight's 00 -- sadly, we will be here at 9:00. The proclamation reads, the city of Austin, Texas is blessed with many creative musicians whose talent extends to virtually every musical genre and whereas our musical scene thrives where Austinites like you all support music by going out and listening to live music and supporting our musicians. We have legends, local favorites and newcomers alike. And whereas we're pleased to showcase our local artists, therefore I, Will Wynn, Mayor of the Live Music Capital of the World do hereby PROCLAIM JUNE 11th, 2009 As Kalu James Day here in Austin. And please join me in congratulating this fine talent.

[ Applause ]

Mayor Wynn: We'll use this podium as he breaks up to do our proclamations. We do this each week to make awareness around town, to say good-bye to folks, say good-bye to retiring employees. Occasionally we take this opportunity to be congratulated ourselves, often times by other entities. I'm really pleased to welcome folks arrested at least Brad Castleberry from the Water Environment Association of Texas, and a number of -- at least Greg and some folks from our Austin Water Utility because the city of Austin I think is going to be presented with a certificate. Please come forward, gentlemen.

Good evening, Mayor. My name is Brad Castleberry. I'm the immediate past president of the Water Environment Association of Texas, also known as WEAT. It is comprised of 1800 members across the state of Texas that are experts in water quality, wastewater treatment and reuse matters. Our members represent every major utility in the state of Texas. Our mission is to promote sound science and policy and environmental stewardship. It is my honor today to be here on behalf of WEAT to recognize Austin Water Utility for its effort in supporting WEAT, its mission and the water quality industry as a whole. Austin Water is being recognized tonight as the exemplary employee of the year because of the effort that this utility has put into supporting the water quality industry. This utility organizes and hosts a conference on collection system management each and every year. This utility has contributed a number of water quality and regulatory experts to our industry, including, but not limited to Raj (Indiscernible), Jody Slagel, or Ren West, Charlie Maddox and Heather Cook. And even, Mayor-elect Leffingwell has even come to speak to one of our young professional group at one of our seminars. So given all the resources that Austin Water has devoted to the water quality industry as a whole and to WEAT, it's my honor tonight to present this award, the 2009 WEAT Exemplary Employee Award of the year.

[ Applause ]

On behalf of the Austin Water Utility, I'm the director. We're blessed with employees that not only give their professional lives and experience to the city of Austin to have a clean, safe environment for water and drinking water, but they return that favor to the industry at large and make the whole water and wastewater industry better. We get a lot out of that too. We learn from what others are doing and it's the

kind of exchange that we really want to support in the future. We're really proud of all of you and all the other hundreds of austin water utility that make this a better place to live. Thank you.

[ Applause ] actually, this will be two in a row because next is another presentation to the city. I'll turn this over to alpha or melanie.

My name is melanie and this is alpha representing the community tax centers, which is a program of foundation communities. The community tax centers is a program that offers free tax preparation for low to moderate income individuals in austin and the surrounding area. This year we prepared over 17,000 tax returns for free, which result understand over \$25 million being brought back in to those people in refunds.

[ Applause ] so we just wanted to say thank you and extend our gratitude to the city of austin for being a great supporter of our programs. Of those \$25 million, 5 million came to austin residents. So we would like to say thank you and present this check to the city of austin for helping out.

[ Applause ]

Mayor Wynn: Before melanie and alpha walk away, I will say this has been a remarkable partnership and foundation community came to us only maybe three or four years ago and the whole concept, if you think about it, you know, with 800,000 citizens here in austin, hundreds of thousands of taxpayers that so many of us don't do the best we can each april to figure out, frankly, how much we could get back out of taxes that we pay throughout the course of the year. So in communities -- if community don't do that. The money goes to and gets dispursed all over the country and not necessarily back to us. With the help of some professionals that help folks, often times low income folks that don't have access to high quality professional financial help, they get more of their tax return back. They get the money that's entitled to them. Of course that money comes back to austin and it helps people locally. It's spent locally. It's really a remarkable thing to do.

[ Applause ] mayor and all the councilmembers. It's a pleasure to be here and we are very grateful for having june declared national home ownership month here in austin because it gives us a chance to highlight some of the terrific ownership opportunities that we as the department provide. And despite what you read in the national news, austin is still doing really well. We have an historically low interest rates right now. And I would also like to push the fact that we still have five single-family homes available off east riverside in our frontier at montana division. We also run down payment assistance programs that offer up to \$40,000 in down payment assistance for income eligible folks. As the mayor mentioned, we also have a wonderful home buyer education course. So whether -- we like to say whether you're on a slow boat, a fast boat or you're still building your boat on your way to home ownership, we actually have programs and services that can help you do that. And all you need to do if you're watch org here in the audience is call 311 and ask to speak to the receptionist at the housing department. And she can hook you up with any of our great programs or with our real estate broker -- if you're interested in buying one of those time homes. Thank you so much and again thanks to the

council for their leadership in all of our efforts. We appreciate y'all.

[ Applause ]

Mayor Wynn: For our next proclamation I will turn the podium over to councilmember martinez.

Martinez: Thank you, mayor. Father john korscmar, could you please come up. We have with us many people here today. Father john, please come up. Come up around the podium. It's my distinct pleasure and honor to read this proclamation in honor of father john korscmar service not only to the catholic church, but to the austin community. I'll read the proclamation and ask him to say a few words and we'll congratulate him. Be it known that whereas we are pleased to join with the parishioners and staff of the church for recognizing father john for his many accomplishments during his 20 years of leadership at the church and whereas we congratulate him on the outstanding work he has done on behalf of not only the catholic church community, but on behalf of the city of austin as a whole. And whereas we especially acknowledge his dedication and service as pastor in the areas of social justice and spirituality. Now therefore i, will wynn, mayor of the city of austin, texas, do here by proclaim june 14th, 2009 as father john korscmar day in austin, texas.

[ Applause ]

thank you. I'm deeply honored by this. I'm very grateful. Over the years we've worked together on an awful lot of thing and i wanted the leaders, at least some of the leaders here to be with me because were it not for their efforts and their work, I wouldn't be here because it really has been a collaborative effort with clergy, lay people, people from public schools and unions as we over the years were able to work on after school programs, capital idea, developing people who were below poverty and now are able to do very well in terms of paying taxes, putting money back in to the city and other forms of government. The efforts that we did with the summer youth jobs program and many other things. I'm grateful for opportunity for having been part of austin interfaith and capital idea. Once again I'm really grateful for the leaders who have worked with me and without whom today wouldn't be possible. Thank you.

[ Applause ]

Martinez: Now we'll turn it over to councilmember morrison for our final fienl proclamation. Final proclamation.

Morrison: We're here tonight to recognize the aisd police department and the junior police academy. It's -- the junior police academy is an elective course that is taught by the school resource officers at six of our austin middle schools. And it's designed to motivate young people to be outstanding citizens through law enforcement education. And it's also a case where we have our lady of the lake officers instead of just being police, they're being mentors and friends to the students encouraging our young citizens to be partners and not adversaries in building safer schools in the community. In 1995 austin became the first city in the nation to pilot the junior police academy curriculum and that was at martin

junior high school and it's now spread nationwide. 2009 is the 15th anniversary year of partnership between Austin ISD and the Austin Police Department. I wanted to list a few of the things that Junior Police Academy helps with. It introduces law enforcement as a career option during middle school. It makes students aware that their conduct now could affect their choices later in life. It increases the pool of qualified candidates for regional law enforcement agencies. And it bridges the gap between middle school and Austin ISD criminal justice based program. So it's really a terrific opportunity and option and I'm sure helps a lot of kids stay on the right path and goodness knows we need that in this town. I want to read the recognition. It is for the instructors and the administrators, I'll just read the certificate of appreciation once because it's all the same except for the names are changed. And the first one is to Officer Kimberly Pierce. It says certificate of appreciation for her work as an instructor in the Junior Police Academy. Officer Kimberly Pierce at Kealing Middle School is deserving of public acclaim and recognition. For 15 years the program which originated in Austin and has spread nationwide has helped middle school students become partners in building safe schools. The program allows students to develop trust and to see their school resource officer as a mentor and friend and plus they know that their conduct can affect their career choices later in life. This certificate is presented in recognition of the officer's fine work on behalf of safer schools and brighter futures for AISD middle school students. Presented this 11th day of June in the year 2009, the City Council of Austin, Texas.

[ Applause ] congratulations.

[ Applause ] and this next one is for Officer Stephanie Thompson, who is at Lamar Middle School.

[ Applause ] Officer Michelle Stovall. I couldn't tell if that was an r or a v. It's very fancy print, you can see. At O'Henry Middle School.

[ Applause ] Officer Andrew Stribus. And the middle school is Perez. Officer Steven McClarity at Covington Middle School.

[ Applause ] Officer Patricia Montoya. And certainly last but not least, we have Lieutenant Silas at the AISD Police Department. He's also your photographer.

[ Laughter ] Thank you. And I understand that Lieutenant Eric Mendez is not here with us tonight. So we thank him. Also, now, last but not least, Chief Patrick Fuller, who is not the old man.

[ Applause ] Do you want to say a couple of words? Thank you all for your service.

I was raised in West Texas, so saying a few words is impossible for me. I'll try to keep it down. I do want to thank the City of Austin and the City Council and my friends. Our friends at A.P.D. And the Fire Department and all the law enforcement agencies and first responding agencies in the greater Austin area because they help support this program through providing guest instructors and we even get a helicopter every now and then, right, Patricia, to land. So the kids can really get a hand's on feeling. That's what keeps this program viable and it's what's kept it going for the last 14 years and hopefully it will stay going for another 14. So I want to thank everyone with the City of Austin for supporting this.



Thank you.

[ Applause ]

Mayor Wynn: There being a quorum present, at this time I'll call back to order this meeting of the Austin city council. It's around 6:35 p.m. We've been in recess now for 45 minutes or so. I believe we're ready for our zoning cases. Mr. Guernsey. 00 items for consent. The first item I'd like to offer is under zoning ordinances and restrictive covenant amendments. These are where the hearings have been closed. The first item I would like to offer for consent approval on second and third readings is item number 54. This is case 01 known as the highland combined neighborhood planning area vertical mixed use or vmu neighborhood plan amendment. This is to change land use designation on the future land use maps from commercial and office to mixed use and mixed use office on select the tracts within the highland neighborhood planning area. This is ready for consent approval on second and third readings. Item number 55 is case c-14-2009-0012, known as the highland neighborhood planning area vertical mixed use building zoning opt in, opt out process, also to approve on second and third readings for various properties within this area. This is also ready for consent approval on second and third readings. Item number 56 is case c-14-2007-0262, this is for the central Austin combined neighborhood planning area vertical mixed use building zoning opt in, opt out process. This will be a discussion item. We want to give you an update on one of the tracts that had a great deal of interest by the neighborhood and a property owner. The last item I can offer for consent under this portion of the agenda is item number 57, case c-14-2008-0183. Sh. This is to approve second and third readings for the property on Pierce Lane. This is to zone the property community commercial, conditional overlay or gr-co combining district zone fog tract 1 and multi-family residence medium density for tract 2 with conditions. This is ready for consent approval on second and third readings.

[00:08:17]

Mayor Wynn: Thank you, Mr. Guernsey. So council, the proposed consent agenda on these cases where we have already conducted and closed the public hearing would be to approve on second and third readings item 54, 55 and 57. I'll entertain that motion. Motion made by councilmember Martinez, seconded by councilmember Shade to approve the consent agenda as proposed. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of six to zero with councilmember Cole off the dais.

Thank you, Mayor and council. Let me then continue on 00 zoning and neighborhood plan amendment items. This is where the public hearings are open and possible action this evening. Item 58 is case c-14-2009-10 known as the Stoney Ridge substation at 7007 and a half Heine any farm road. Staff is requesting a postponement to your AGENDA OF JUNE 18th. The planning commission did take action early this week to grant public zoning, but staff is asking for a postponement of one week TO YOUR 18th. Item number case is case 01, in the East Cesar Chavez neighborhood planning area vertical mixed use. This is a neighborhood plan amendment and staff is requesting a postponement of this item to your July 23rd agenda. The related item is item number 60, case c-14-2009-0036 for the East Cesar Chavez neighborhood planning area vertical mixed use building zoning opt in, opt out process. Again, staff is

requesting postponement TO JULY 23rd. This is really to resolve an issue where we had a property that was kind of left out of part of this discussion. That's going to come back to the commission and we would like to bring that all back to you at once on number 60 and 59. Again, that's a postponement to JULY 23rd. Item number 61 is case 25-de, known as the six two story condos on 2222. Mayor, I understand we have one citizen I think that wants to speak to this particular item, so it may be a discussion item. If you could confirm that.

Mayor Wynn: That would be -- we do have two folks signed up in opposition. So we will conduct a brief public hearing.

Item number 62 is case c-14-2009-0040, the coronado hills neighborhood planning area vertical mixed use building. This is the zoning in, opt out process for this neighborhood. The planning commission recommendation was to grant the vertical mixed use building. The v district. And to exclude certain tracts from the vertical mixed use overlay. The only tract I believe that that would be left in would be tract 67, so this would be the planning commission's recommendation, which was supported by the neighbors in this area. This is ready for consent approval on all three readings. Item number 63 is case c 02 known as the east avenue p.u.d. At 3400 block of north i-35 service road southbound. The applicant is -- would like to request a postponement to JULY 23rd, AND THE Neighborhood agrees to this postponement is my understanding. They're still working out some issues regarding that p.u.d. Item number 64, this is case c-14-2008-0234, known as the zfb limited rezoning property on anderson mill road. This will be a discussion item. I understand there are individuals that would like to speak to this case this evening.

[00:12:12]

Mayor Wynn: About five of them.

Item number 65 is case c-14-2009-0030, known as the beal 1 property at 1503 west avenue. The applicant -- I would like to make sure it's understand it's beal stubs and the agent is jim bennett for this property at 1503 west avenue. We have an applicant request for a postponement to august 20th. It's my understanding the neighborhood is in agreement, so we can offer this as a consent postponement to your meeting of august 20th. Item number 66, this is case c-14-2009-0031 known as the moore bed redbird project at 313 redbird lane. Applicants have requested a postponement to your june 18th agenda. And the neighborhood agrees with a postponement request. That's a postponement on item number 66 to JUNE 18th. And then finally item number 67 is case c-14-2009-0038, this is the property at 11609 anderson mill road. This will be a discussion item. Mayor, I understand you have a couple of people that have signed up in opposition to this case as well.

Mayor Wynn: Four folks, yes.

That concludes what i can offer for consent approval at this time.

Mayor Wynn: So check my math here, mr. guernsey. So council, the proposed consent agenda on the

cases where we have yet to conduct the public hearing would be to postpone item 58 to our JUNE 18th, 2009 Meeting. To postpone items 59 and 60 TO THE JULY 23rd, 2009 Meeting, with a thank you note from the mayor pro tem. To close the public all three readings item 62. To postpone item 63 again JULY 23rd, 2009 Meeting. To postpone item 65 to the august 20th, 2009 meeting. To postpone item 66 to OUR JUNE 18th, 2009 Meeting. Thank you. I'll entertain that motion. Motion by -- the mayor-elect. Seconded by councilmember shade to approve the consent agenda as proposed. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of six to zero with councilmember cole off the dais.

Thank you, mayor and council. That brings us back to item number 56. At this time I'm going to turn it over to the assistant director of neighborhood planning george adams, to address item number 56.

Mayor Wynn: Welcome, george.

[00:15:00]

Thank you. Evening, mayor and council. I'm george adams with neighborhood planning and zoning department. Item 56 is case c-14--2007-0262, central austin combined neighborhood planning area vertical mixed use application. Just a brief overview. On january 29th of this year the council approved first reading on all tracts within this planning area with the exception of tracts 10-a and 10-b and those were proposed to february 26th of this year. At that time the council approved first reading on tract 10-a for the vmu dimensional standards and the additional uses in office zoning districts. There were also some conditions that were applied to this property and the other vmu properties within the boundaries of the heritage neighborhood. At that time -- I'm sorry. Then on march 5th, 2009 the entire planning area came back for third reading and council directed staff to incorporate tree protection provisions into the decision for tract 10-a. Ordinance that you have before you tonight has incorporated those provisions. We've worked with the city arborist to develop landscape buffers that we believe protects the trees. And if it's the council's pleasure, i would be glad to walk through the specifics of those provisions or i can just be available for questions.

Mayor Wynn: Questions, council? Yes, I would like to hear at least some of the schematic parameters of the tree protection plan.

Okay. rusthoven is going to put up a graphic that I think will help with this. The tree protection provisions are located in part 3, section e-3 of the ordinance. It begins on page 5. The initial statement basically establishes landscape buffers to preserve existing class 1 trees along west 38th street, west avenue and king street. The buffers include a 20-foot wide buffer. And in this graphic the yellow bands are the 20-foot wide buffers. The blue bands are the 20-foot wide buffer. The ordinance establishes a 20-foot wide buffer extending east from the intersection of west avenue and 38th street as shown in exhibit. A 35-foot wide buffer begins at the corner of king street and 38th street and extends approximately 210 feet west from that point. There is also a 25 by 40-foot buffer along king street, which is to the right of this graphic, to protect a couple of isolated live oak trees on that perimeter of the property. Then finally, there's another 25-foot buffer beginning at the corner of west avenue and 38th street and extending

south approximately 20 feet. The ordinance also identifies improvements that may be permitted in the buffers such as sidewalks, driveway curb cuts, utilities and so on, but requires that review and approval of these improvements by the arborist. So with that I'd be glad to answer any questions, and Michael is also here, the city arborist.

[00:18:58]

Leffingwell: I have a quick question. On this graphic, we're talking about -- it's been awhile. We're talking about the area between what would be 37th and 38th. In other words, not the bottom half of this slide.

That's correct. That was the tract 10-b that was excluded from the overlay district.

Mayor Wynn: Questions for staff? Comments? Councilmember Morrison.

Morrison: Could you remind us exactly what our last motion was and the direction to staff on this, specifically with regard to the buffer and the trees?

And I have the transcript here, but the general motion was to look at ways to incorporate tree protection measures and it was left I believe flexible whether -- at the time there was discussion about doing it through a restrictive covenant. In the end we came around to -- that we felt it made more sense to wrap it into the ordinance. It was easier to keep track of, so on and so forth. But I believe the actual language was something to the effect of protect trees within 15 feet back of curb, with the exception of the two buildings on the northeast corner where a 35-foot buffer was suggested.

Morrison: Okay. I guess I'm wondering -- some of the folks had provided a picture of a cedar elm near 37th street that wasn't included in the buffer on west avenue. Do you know which one we might be talking about? so it's just on the graphic. It's on the left-hand side, so on the west avenue side just south of where the buffer ends. That may have been an oversight on our part. We were working off of aerials. That one is a little bit hard to see in this particular graphic.

[00:21:08]

Morrison: Do you think we might be able to extend the buffer down to include that?

I think if that's the council's will, certainly.

Morrison: Because that's a cedar elm and I was just looking at our list of trees that are going to probably be on the tree ordinance as part of the heritage tree list and I don't know how big this one is, but it seems like it would be something to try to preserve.

I have been told that it's about a 14-inch caliber tree.

Morrison: So it's getting there. And one other question. In terms of -- is our arborist here? I think I saw

him. Just in terms of protection and future health of the tree, -- of the trees that we're protecting, can you comment on -- like if this property is developed completely with dense vnu at 60 feet and all of that kind of stuff, do you think that these buffers are going to give us some hope for these trees?

Michael lambezi, city arborist with watershed protection and development review. I'm very encouraged by incorporating trees within zoning cases because it does acknowledge the trees early on in the process. Developers can work with this plan, if this plan is established, and try to incorporate those regions already without direction from staff because it's written in the ordinance. Undoubtedly the trees will be impacted when the property is developed. Impacts to root zones from not only buildings and new driveways, but utilities that are basically in the same depth of the roots of these trees will potentially impact these trees. During any review of development for the site, we will look at placing those utilities, placing those driveways in locations to minimize impacts to these trees. But the answer is yes to your question. These buffer zones give us a very large range, not only laterally, but the width is also very important to incorporate the roots to these trees.

Morrison: And just lastly for mr. adams. If I wanted to make a motion to include the other cedar elm, how might that motion be expressed? Do we have any locational information?

Yes, councilmember. This is on page 6 of the draft ordinance in section e-3-d, so that's beginning on line 4 on page 6. That is the description of this buffer on the left-hand side, so michael had looked at this, this issue and suggested adding an additional 25 feet on to that 220-foot number, so it would be a total of 245. So I think the suggestion would be to expand that buffer from 220 to 245 feet.

[00:24:21]

Morrison: Thanks.

Mayor Wynn: Councilmember shade.

Shade: How many heritage trees are in the buffer along 38th street?

From discussions with michael, I think there are three that we believe would be considered heritage trees.

Shade: And just because I'm really curious, but I mean, so this whole section that's on trees that we have here in this -- i realize that was established over several readings and over a period of time and lots of back and forth, but how would it be different if we had the tree ordinance in place that we are contemplating next week. Could you address that? It feels like from my perspective that there's a vnu tree ordinance, lots of complicated issues that make it very hard for staff to look at a policy as opposed to each piecemeal deal like this. Can you address that? And are we going to be doing something to help the situation in the future if we were to pass next week's ordinance?

In the event that the ordinance would pass, each of the heritage trees would receive additional

protection. Root zones would have to be incorporated, but we're well on our way of protecting the three heritage trees by establishing these buffers.

Shade: But if -- if the ordinance was already in place, then you wouldn't have even needed this section?

This section affords these trees additional protection from a zoning standpoint. It's my understanding development design has not occurred. And yet by establishing these buffers, it allows the development to incorporate these buffers outside of the development region. So this does give it an additional layer of protection.

Shade: So this is not related to this case, but when we look at an ordinance like the tree ordinance from a practical standpoint, it would still mean that we would do this kind of negotiation on each individual case like we had done with this. That would still be an expected outcome as opposed to that being the policy that we set here to be able to simplify the process and save people like this time. That wouldn't occur. We would still be looking at it tree by tree. Not this case particularly.

Councilmember, I was just going to make the comment that this is -- in term of vmu, this is, I believe, the only case that we focus on trees to this extent. So it hasn't been a case by case practice thus far.

[00:27:05]

This has been an unusual -- I was just thinking as we do more vmu and we have this complicated vmu policy we're trying to do a tree policy that staff still has to come and deal with and neighbors still have to come back one by one by one. Okay. Thank you.

Leffingwell: If i could, mayor, I would just say this is unusual. It's an urban setting, so it's a little more -- presents more challenges. The value of the tree ordinance is going to be more in places where there is no zoning. Just going through the site planning and site approval process. So you don't have the opportunity to impose these buffers there, but you could still protect the trees.

Mayor Wynn: Further comments, questions? Councilmember?

Shade: I'll make a motion to approve will oferg afort with will cheerve -- to approve the ordinance and with the change. Eliminating the word existing in the last paragraph of part 3, paragraph e on page 6. And changing the last word in that same section from protected to preserved. The last paragraph of part 3, paragraph e, page 6.

The first sentences is they are limited to existing curb cuts and i would take out the word existing. The first word in the paragraph is improvements permitted within the buffer zone are limited to -- i would strike the word existing curb cuts. Just take out the word existing. And then the very last word in the sentence is protected. I would change that to preserved. Amend it to preserved.

Mayor Wynn: We have a motion by councilmember shade, seconded by the mayor-elect approving the

ordinance as proposed with two word changes on page six of 12. Further comments or potential friendly amendments?

Morrison: I would like to make the suggested amendment that part d right above there, the 220 feet be changed to 245 feet to include that mature cedar elm that may have been overlooked.

Mayor Wynn: Could we call that visual back up that we had earlier? So councilmember shade, do you consider councilmember morrison's suggestion a friendly amendment?

[00:30:01]

Shade: I guess I have a question. What are the implications for the vmu if we do that? I mean, I just feel like the buffer zone has been debated so much and I can tell you -- what are the implications of that change besides the tree? I understand that.

Councilmember, if I could just real quickly point out exactly where we're talking about on the graphic and then I'll go to the other one. Although, George, when you do that, when I look at that aerial photograph, it's not the greatest photograph in the world, I don't see a tree.

And I think we suffered from the same --

Mayor Wynn: The graphic is already -- the graphic might be long enough to actually cover the tree, but it's more -- it might be the window line that we see here might already be 245 feet or something.

Lient is to -- the line is to scale for the 220 feet. I think if you look really closely at this, the aerial was probably taken in the winter. And that being a deciduous tree, it doesn't show up. You can see the outline of the branches, especially overhanging that little bit of the building there. To answer the councilmember's question, other than just lengthening the buffer, I don't see that it would have any more impact than the existing -- remainder of the buffers. It would just extend that slightly further.

Morrison: And it would be consistent, I gather, with our direction in the second reading that we passed.

Mayor Wynn: Right. So the maker and the second consider that a friendly amendment, increasing the -- that linear distance from 220 to 245 feet. Further comments on our amended motion and second? And this is third reading, I think, Mr. Adams, right?

That is correct.

Mayor Wynn: Further comments on the third reading motion? Hearing none, all those in favor please say aye. Opposed? Motion passes on third reading on a vote of six to zero with the councilmember Cole off the dais. Thank you, George.

That brings us back to item number 61. This is case 25-de, known as the six two story condos project at

2222. This is the booth family trust and the agenda is armbrust brown. This is a zoning change request from sf-6, which is single-family residential. Actually, townhouse condominium residential to townhouse condominium residential to change a condition of zoning, which is basically to delete a previously approved site plan that was amended back in 1984, which originally depicted four two story condominium units, each containing about 1,985 square feet of living space for a total of about 7,940 square feet of living space. The applicant is about to delete that and I understand they are requesting to build a single-family home and some accessory structures with that. The property to the north across lake austin and developed with single-family residences. To the south and to the west is also zoned la or lake austin and undeveloped. And then further to the east is single-family and developed or zoned lake austin. The project was recommended for the deletion, the site plan was recommended for deletion both by staff and your zoning and platting commission. The zoning and platting commission in their recommendation by deleting this would not necessarily waive all requirements in the future. If the project were developed with a use that was subject to site plan review and approval, it would come back to them for review and approval. If they proposed a project like a single-family home that's site plan exempt, it would not be subject to site plan approval by the zoning and platting commission. It is in the bull creek watershed, and I think I'll pause at this time and will let the applicant's agent for armbrust brown to come forward and make their presentation. If you have any questions, I will be more than happy to answer them at this time. You may recall that when this case came up the last time, I understand that there was an agreement between the neighborhood across lake austin and the applicant. I don't have the details of that, but perhaps the applicant's agent can address those. Address that agreement.

[00:35:25]

Mayor Wynn: Questions for staff, council? We do have two folks who signed up to give us testimony in opposition, so we will conduct the sort of traditional public hearing. We'll start with a five-minute applicant or agent presentation, then we'll hear from these two speakers in opposition. And then the agent has a one-time three-minute rebuttal. Of course, council has the prerogative to ask questions of anybody if we wish. I'll turn it over to david armbrust.

Mayor Wynn: Welcome. We'll set the clock for five minutes.

Mayor, council, my name is david armbrust, representing david and susan booth, who are the owners of 55 acres on lake austin. This is an unusual zoning case. These people planned to build one single-family residence and some accessory uses on their 55 acres. The booths are serious about green building and land conservation as evidenced by the several hundred thousand dollars they've spent to date on the property and on design of the structures. We're here tonight to merely ask for the deletion of a site plan which shows four condominium units on the bluff overlooking bull creek. The reason for the deletion is so they can continue designing one of the accessory buildings on that piece of the property. As you may recall, several weeks ago we were -- several weeks ago we were here as was the courtyard homeowners association, who objected to what was going on. After we met with the courtyard homeowners association, they withdrew their objection once they understood what the booths were planning on the property. I don't want to represent anything that they would say, but in my opinion once



they understood what the booths were planning, it's what the neighborhood wanted them to build. So we're here tonight asking for a deletion of the site plan and we appreciate your consideration. Thank you.

Mayor Wynn: Thank you, mr. armbrust. Questions for mr. armbrust, council? Thank you, david. So we have nobody here signed up in favor. We do have two folks signed up in opposition. Our first speaker is carol lee. Welcome, carol. Let's see, jeff jack is in the room. Jeff has offered you his time, carol, so you will have up to six minutes if you need it and will be followed by sharon bly.

[00:38:02]

Good evening, mayor, mayor pro tem and mayor-elect and councilmembers. My name is carol lee. I received notice of this request as an officer of a community group, the lake austin collective, which cares about the lake austin watershed. I'd like to state for the record that the purpose of the may 18th boat tour that we had planned for county and city officials to visit our city was not to cover any specific projects. And I hope my integrity will not be further challenged because i choose to offer some comments in this public venue tonight. I can understand why the city would like to rid its files of another one of these combined zoning and site plan cases. During my years of involvement with the community, I've seen a number of these plans that have aged way beyond decades of knowledge and best practices. However, when I reviewed the existing approved site plan for this case, what I found was a site plan that reflected a lot of thought and planning with plat notes that ensured compliance with the hill country roadway ordinance and the comprehensive watershed ordinance. The three articles in the statesman in the staff report present misleading and inaccurate information about this case and i would like to offer more objective presentations of the facts to you. You can see from the chart in front of you that I've shown in the first column the entitlements and restrictions for the current combined zoning site plan. The second column shows the entitlements by deleting the site plan add the third shows the entitlements if the property were rezoned to la like the surrounding properties. I would like to say that the subject of this request and your decision tonight is 8-acre parcel of land, of which two acres are considered buildable and there have been no plans submitted to indicate what alternate development is desired on this parcel or any other adjoining property that may be owned by the applicant. Your backup material showed that the access roadway to this land is located on one of the sharpest curves of farm to market 2222. As you can see from the comparison table, there are uses allowed for sf-6 zoning that could create serious public safety issues. This would not be a good location for a day care traffic or those looking for grandma or destination bed and breakfast joint. I don't have time to walk through each other, but would be glad it answer any questions about the rest of the data. The chart at the bottom of the table shows why i think it's especially important to limit the amount of impervious cover. At 20% impervious cover, water quality can remain reasonably good, whereas 40% takes it to fair to low and 60% takes it to poor. So in conclusion this 8-acre property was one of the many that were involved in the lake austin zoning study that was conducted in the early 1980's. This study was the last comprehensive look at the existing potential and desired land uses and how to balance the westward development with the need to protect our drinking water spry splie. Our predecessors making these decisions even somehow managed to take a field trip to actually view the area they were making decisions about. It does not seem appropriate or in the best public interest for this council to now

unravel the protections they put in place. If there is a desire to delete the existing site plan, I would ask that council consider carrying over the important plat notes of the existing approved site plan as co's to the sf6 zoning. Or if the desired land use is for single-family residential to change the zoning to la residential to help retain some of the protections forake austin that your predecessors put in place. If you have any questions about any of the data of the chart or otherwise, I would be glad to address them. Thank you.

[00:42:20]

Mayor Wynn: Thank you, carol. lee, council? Our next speaker is sharon blythe. You checked not wish to go speak, but also in opposition. Thank you for being here. Council, that's all the folks who signed up in opposition. armbrust, our rules are you get a three-minute rebuttal if you think you need it. Welcome back.

Mayor, just a brief comment. The booths are very serious about building a single-family residence on this property. When they acquired the property, there was a plat that had been aproved and I'm talking about the larger 55-acre tract, of which this is a part. All they had to do was post fiscal to keep the plat in place, which had over 20 lots on it. They elected not to post the fiscal and so today the property really has no entitlements. And they are -- I think everyone would agree that it's familiar with what they're doing. It's very laudable and we're very lucky to havey. Thank you.

Mayor Wynn: We are. Thank you, mr. armbrust. So council, that concludes the public hearing segment of this case 61. Questions for staff or agent or neighbors? Comments? Motions? Motion by councilmember martinez, seconded by councilmember shade to close the public hearing and approve on all three readings. Further comments? Hearing none, all those in favor please say aye. Opposed? Motion passes on a vote of five to zero with the mayor pro tem and councilmember cole off the dais. Thank you all.

Thank you, mayor and council. Let me then go on to our next item that you have for discussion on the agenda. This is item number 64, case c-14-2008-0234, known as the zfb limited rezoning property at 9710 and 9718 anderson mill road. This is a property that is currently zoned interim rr rural residence district and is now requesting cs-co, which stands for general commercial services-conditional overlay combining district zoning. The property itself is approximately about 5.76 acres in size. The zoning was recommended by staff for cs-co zoning with the restriction that it be limited to convenient storage as basically the only cs use. This would be like a mini-warehouse type of use. And all other lo or limited office type uses on this property and also that there be a conditional overlay that would limit the overall number of trips to 2,000 vehicle trips per day. The austin metropolitan roadway plan called out for a right-of-way of 114 feet for anderson mill road. If the zoning is granted for this site, then 57 feet of right-of-way from the existing center line should be dedicated for anderson mill road according to the transportation plan. The applicant and staff have agreed to defer the right-of-way dedication to a later stage. The planning commission -- the zoning and platting commission does recommend approval of the staff recommendation on a consent vote of seven to zero. And we have an ordinance that's prepared and it's on your dais for approval to reflect the commission's recommendation. I'll note that

art@ gallery and software development would be permitted uses instead of being prohibited uses as reflected in that ordinance. There is an unusual condition that exists on this property in that when the property came in to the jurisdiction of the city of austin, they had a site plan that was submitted for the convenient storage use. 90 Days prior to annexation. There is a provision under the texas local government code that basically allows for the continuation of the use, even though it may be construct fire department that site plan were actually submitted to the city, the property owner is allowed to continue with that use basically for the construction of the convenient storage use, regardless of the interim own zoning upon annexation or eventual future zoning on that property as long as they keep continuing with that project and that project is not -- basically that permit does not lapse. So in this case the owner is requesting zoning that would bring the site plan that was previously approved for the convenient storage use into compliance. There are adjacent property owners to north along lois lane that have some concerns about this. There's been a lot of discussion regarding a fence or wall that would be located along the northern property line, but some of the other uses that are in the area to the south, there's a combination of Ir and Io. These are commercial and retail uses. Some sf-6 zoning to the south across anderson mill road. There's some office retail, condominium uses to the east. There's a church use, undeveloped property, property owned Io and dr, and generally to the west there's some interim rr and Io-co properties. There's also a service station that's along the frontage of anderson mill road adjacent to this property. I guess utility I'll pause and I'll let the applicant's agent, ron thrower, come forward on behalf of the applicant, pool brown and associates, and let him make his presentation.

[00:48:30]

Mayor Wynn: Thank you, mr. guernsey. Questions of staff, council? If not, we will conduct the public hearing. We'll set the clock for five minutes. We'll hear from thrower and then we do have one citizen here to speak in opposition. Welcome, ron.

Mayor, councilmembers, ron thrower representing the landowner and the developer for the property. guernsey had laid out a lot of the facts associated with this case and one in particular that I think is important to mention at this point is that the site plan that we have approved currently today was actually filed with the city seven months prior to the annexation. We did not know at this time we were working on the design of the project that the annexation was coming forward at the end of december of 2008. The site plan took a year to get approved. We had a lot of negotiations with city staff about the critical environmental features. There's a large portion of the property that is set aside for the critical environmental features. guernsey pointed out, and my understanding in our long negotiations with the neighborhood is that we're down to basically one issue and that's the material of the fence. Currently on the site plan that is aproved there's not even a fence proposed, but we recognize that a fence should be there. We're offering to the neighborhood an eight foot wooden privacy fence along this northern property line. Under the compatibility regulations a six-foot privacy fence is what would be required. The neighborhoods are i believe asking for a precast concrete fence in this location, which I don't feel is appropriate given the fact that we're putting in a self-storage use, which is a pretty quiet use. We have offered to the neighborhood that we would agree to a precast concrete fence if it was a use other than the self storage that we are proposing. If it's going to be an office use or apartments or something like that, I could see that the sound barrier type fence would be more appropriate. Again, this property, as

guernsey said, is a little over five acres in size and has an approved site plan in place. We're here before you tonight seeking zoning that is appropriate for the use that is approved for the property, and the primary reason for this is so that the developer can get a lender to lend money for this project. They're looking to check basically says that this use is allowed in this zoning district. As you know, the lending institutions are becoming a little bit more particular in how they're loaning their money and where it's all going. So we're trying to get all the ducks lined up so we can get a project under construction here in austin. And I'm available if you have any questions. I would also like to point out again that the commission had recommended with a vote of 7-0 to agree to the staff recommendation. And again, I'm available if you have any questions.

[00:51:23]

Mayor Wynn: Thank you, mr. thrower. Questions for mr. thrower, council? If not, we'll continue the public hearing. We have no folks signed up in favor we do have cindy barren has signed up here in opposition. Welcome, ms. barron. And a couple of folks wanted to donate time to you, cindy. Is brenda snow with us? And how about clifford shaw? Welcome. So cindy, you will have up to nine minutes if you needt, welcome.

Thank you. It's a shame it's come down to a fence. But it's important -- i hope you got the handout that I sent around. The site plan is what's been driving this project, and the site plan was not required to comply with compatibility standards, which are our key for protecting our neighborhood. They did not have to comply with set backs, height limitations, various things like that. I've tried to highlight here a few things that help support our reason for wanting a solid permanent fence. The fact that a convenient storage use is typically operated 24/7. The site plan that was approved didn't have to comply with the compatibility standards. I discussed that. The cef buffers and the water quality detention filtration systems, i don't know if you can go back to his overhead, but it showed that the building is actually -- the footprint will have to be towards the back of the property, which pushes it back closer to residential. Thetrip behind the project ranges from 10 to 17 feet. There will remain maybe four trees on that property, on that strip, and one is in fact dead. For the site plan 00 trees, many cedars, which I couldn't even count, and the thick underbrush that is currently in that area where the buildings will go will be removed to construct these eight storage units, storage buildings. They made no attempt to separate or skew or offset the buildings in any way to try to save more trees. I'm not sure if it has to comply with the tree ordinance or not. Three of the become buildings, they've had to separate -- three of the back buildings they've had to separate a five feet space between each of the buildings, which creates somewhat of a tunnel, a channel for noise to travel back towards the residential properties. And it also gives a straight shot view into some of our backyards. In the near future i believe anderson mill road will be widened and that, again, that pushes the traffic noise closer to the residential. Currently there's an active industrial use on tract 2, which I think was shown on the first slide. We have no idea what the facade of the building is going to be. They've not been able to provide us with any kind of renderings, but we're talking about taking all of our trees away and looking at the back of these three buildings. And you can see it spans across five and a half, six and a half lots. We have no idea where the location of the mechanicals to operate this a climate controlled facility, which requires a lot of air conditioning and noisy mechanical equipment. We don't know where the dumpsters will be located. They've addressed

lighting to some extent with a neighborhood planning and zoning department and have told us that they will be shielded and directed away from the residential properties. Thank you. Security mechanicals and alarms, we have no idea what to expect there. There's a day care facility that's going to be -- well, a site plan is being worked on right now on lot 12 up there. My item number 12. They have worked with our neighborhood extensively in determining that -- and offering to provide an eight-foot sound barrier fence, which is a fence that has a slat system, and it's actually designed to do -- sound retarding. They're also willing to go down their side property lines, which would be the sides between number 10 and 12 and between 12 and 14. A distance of 150 feet. They've also worked with the neighbors who are -- who share the property line there, and putting in landscaping on the residential side. So that they aren't looking at just a big eight-foot fence. They have been a joy to work with. Cs zoning normally would not be allowed abutting up to residential like this. Because it doesn't promote consistency with coa's plan to step down intensity. I know that seems to be an issue these days. We have gr in number 10 there, and number 12 is lo and cs just does not fit. The landowner in this zoning case also owns approximately 50% of the additional undeveloped property that surrounds our neighborhood. Our little island of residential. We are in support of staff's recommendation for cs reluctantly. We are supporting their recommendation because of their limited lo uses. And I'm available for any questions.

[00:58:11]

[One moment, please, for change in captioners] know, the self-storage use itself is a pretty quiet use. It's not habited 24 hours a day. It's not habited 10 hours a day. There may be people coming and going but it's pretty quiet use, and we think that this use, these buildings here would be a good sound buffer to neighbors here and again, if we put a use on the property that is going to be more of a noise generator we would be definitely considering the precast concrete fence that they would be looking for. So there again, we're looking for your support, staff's recommendation, zoning and platting's recommendation for cs and zoning for the property for the single use that we're trying to get under construction, and I'm available if you have any questions. thank you, mr. thrower. Questions of our agent? Mayor elect? well, the question was raised a moment ago about trees, and you haven't gotten to the site plan stage but you will comply with the existing tree ordinance at that point.

We have an existing approved site plan that's already done for the property. so trees are already mapped?

Trees are already mapped, and of course with most developments trees are coming out, but we also have a large set-aside natural area with the critical environmental features, and, you know, by that set-aside, yes, our buildings did get pushed back a little bit. do you have mitigation required for any of those trees?

Offhand I cannot recall.

Leffingwell: okay. furth --

question.

leaf.

Mayor wynn: mr. guernsey? when the site plan was approved, the site plan was in the county, so our tree protection ordinance was not in place, but as ron did mention, there was ces on the property and that they're obligated to setback and so there are trees adjacent to the ces that they were obligated to protect. to the tree ordinance --

the tree ordinance wasn't applicable when the site plan was approved, but right now we are obligated to honor because of state law.

Leffingwell: okay. further questions? Council member morrison. I think I might have a question for both of yo. The compatibility standards not only address setbacks and height but also, i think, dumpster placement and lighting, so I don't know if that information is on the site plan or if they decided now to put a dumpster on the back property line? Would that be limited, or do you know where the dumpsters are going to be?

Yes, there is dumpster located on the site plan and it's a good 150 feet away from the residences, from the property line.

Morrison: okay. And has there been any special care taken with regard to the lighting in the back so that it doesn't shine into the neighbors' yards, do you know?

As far as where we are with this process, with just the site plan approved, we still have to come in for building permits, and the commercial design standards will help dictate the lighting situation. And if you would like to bolster it with a condition of zoning, we'd be more than happy to accept it. are you subject to the commercial dign standards?

I believe we are. but you submitted your -- could you help me with this, mr. guernsey? well, the building locations, the building sizes are grandfathered for our ordinances because we are obligated to follow the site plan that's previously approved. If there are, I guess, individual conditions about the building construction, that may apply, like lighting or something like that, that may be still something that we could apply with the building permit, but the location, the uses basically are grandfathered. this is academic since you offered to work on something with lighting, maybe we can craft something, but if the commercial design standards elements besides the location and all are applicable, why wouldn't the compatibility standards, like lighting, be applicable? well, we could secial certainly do that. I was thinking -- certainly do that. I was thinking compatibility issues, so all the driveway setbacks, all the building locations, you know, those things are all going to be things -- they're grandfathered. but the others things might come into play. I guess there's one other question. What about mechanical equipment, like air-conditioning compressors and things like that? Do you know where those are placed yet? Are they exterior to the buildings?

They will be exterior, but they're going to be up on the roofs, and I would like to point out that because of the way our pond is situated on the property, which is to capture the development, the entire impervious coverage on this property, we're tilting all the roofs toward the interior of the property. So the mechanical equipment will be screened by the roof. And again, if you'd like to make an assurance with a conditional overlay, we'd be glad to accept that.

Morrison: okay. And then one other question. You mentioned limiting to one story with this use. Is there - I presume that's what your site plan is currently.

That's correct. that that would accommodate that.

Yes. further questions, comments?

Mayor and council, that could be put into a conditional overlay, that convenience storage use, be limited to one story, and that would be reflective of the site plan. So that would prohibit additional storage, I guess, being added in the future.

Mayor wynn: correct. Again, further comments, questions? Motions? mayor, I'll move to close the public hearing and approve the planning commission recommendation, or zoning and platting commission.

Zoning and platting commission.

Zoning and platting commission recommendation on first reading, with the addition of the co for the cs uses, which is only one allowed to be limited to one-story operation. And with additional instruction to bring it back for second and third at our June 18 meeting. so motion by the mayor elect, seconded by council member shade, on first reading only, with the addition of the co as described by the maker and instruction to bring back for second and third reading next week, if possible, mr. guernsey.

Mayor? I'd like to offer what I hope is a friendly amendment and that would be to add additional conditions that reflect the discussion we just had with regard to screening mechanical equipment on the roof and ensuring that lighting is compatible with and not intrusive into adjacent residential properties. compatibility standards for screening and lighting?

Shade: yes. so council member shade. So accepted as a friendly amendment. Again, we have amended motion and second on the table, first reading only. Further comments? Hearing none, all those in favor please say aye.

Aye.

Mayor wynn: opposed? Motion passes on first reading with additional direction on a vote of 6-0 with council member cole off the dais. thank you, mayor and council. That brings us to our next zoning item. 67, case c14, 20090038 the freight located located at 11000609 anderson mill route'd road torques zone to neighborhood conditional overlay or combined district zoning. The zoning request was originally

required for gr zoning and was amended to the lr zoning by the applicant. The property is about 9 acres in size and currently contains a single-family residence. The property owner would like to redevelop this property for commercial use. The staff recommendation was to approve the lr-co zoning with a trip limitation of 2,000 trips, and that if there's additional -- or zoning is granted for this property, that there is a -- excuse me, a dedication of then up to 57 feet of right-of-way from the centerline of anderson mill road, prior to subdivision or site plan application. The property itself is adjacent to an already developed tract containing , zoned gr-co that fronts on 620 at anderson mill road. Some adjacent properties in the area are zoned dr, vacant tracts. There are some single-family -- zoned single-family to the north across anderson mill road. At the time when this came before the zoning and platting commission they did recommend approval of the staff recommendation for the lr-co zoning with those conditions and limitations i mentioned earlier, and it was approved on their consent agenda with a vote of 7-0. There are some neighbors that would like to speak to you in opposition to this request that have made their comments known after the zoning and platting commission's recommendation. I think there was a petition that was actually filed in opposition. I don't have a copy of it, but the petition was zero percent because they weren't property owners within 200 feet of the actual zoning change request. At this time I'll pause and if you have any questions, paul less than lenihan that's here on behalf of the mayes family, which are the applicants, and I think someone has a land strategy he would like to provide for you on this property. thank you, mr. guernsey. Questions for staff, council? If not, we will, in fact, conduct this public hearing. lenihan, who's serving as ago. Agent. We'll set the clock for five minutes. Looks like there's four folks that would like to give us testimony in opposition and then lenihan will have rebuttal.

I'm paul lenihan. I'm representing henry mayes on this 11-acre tract. As you can see by the exhibit, this is a long narrow tract that's 160 feet of front on on anderson mill road with 551 feet of depth, all bordering on the back side of the h.e.b. And the reason we're here for the zoning is because you-all annexed this into the city this past december 31 of '08. There were three hearings in september, october. In october again for mayes thought he would go forward and try to get the zoning. When I first looked at it and studied the situation, i thought gr was appropriate, , but I was very concerned about the neighborhood and the people adjacent to it. So everyplace where you see a post-it note, we went and talked to each one of those neighbors. There were 12 people that individually signed letters before we even made the zoning application, and there were seven landowners, and we -- so I didn't want to take this case on unless I knew the surrounding neighborhood was okay, and i also contacted the representative, philip nay, regarding this concerns and he said they were okay what we were trying to do. We did negotiate with the city staff because they felt gr, which was our initial zoning request, which was had was not appropriate, and that we should go to neighborhood commercial,lr, and so after discussing that with the staff we went ahead and agreed and accepted that and put a limitation on 2,000 trips a day, and also to postpone a dedication of the additional right-of-way along anderson mill road until the time of final plat or site development permit, because we would know exactly and we could handle that while we were in the permitting process. It's in the bull creek watershed, limited to 40% impervious cover. It's also in the high intensity corridor of the hill country roadway ordinance, so I could put up to 3-point far on this tract, and we're not planning on even coming close to that. Really, the back portion of this tract, 40% of it, will be left in natural area. So the back portion behind the strip retail,



behind the -- catty-corner to the or parallel to the , will be left in its natural state. I have done a site plan on it conceptually and it would allow approximately up to 20,000 square feet of one-story retail. We have gone out of our way, and I kind of want to express this, from the very get go before I started to take this tract on to make sure there was no neighborhood opposition, and so the drawings I handed to you represent all the landowners in orange that we contacted and submitted those letters with the the planning commission and I talked to the planning commission members prior to, and it went 7-0 on consent. There was no opposition. This past monday I was alerted by the city staff that there was opposition. I've contacted the neighborhood -- the folks that live on antler lane, and tried to ask them what they want and they just don't want -- they want it to stay single-family. There's nothing I can really do except to go ahead and ask for the zoning because i do think it's appropriate. We have staff recommendation, and we do think it's a good use. It's neighborhood-commercial and it is transitional zoning, and the surrounding properties -- I'd also like to show you a picture. If you looked directly from the front yard of the site, this is what you see. So there has been a solid wall constructed in a -- and a water tower, so just to give you a sense of looking from the site on to anderson mill road, this is what you see. And anyway, I'm here to answering your questions, be more than happy to try to address those concerns and would appreciate your positive vote for this transitional zoning of Ir with a conditional overlay, and the restrictive covenant has been written. The zoning request has been done and we are here for all three readings. Thank you.

Thank you, mr. linehan. Questions for the agent, council? Council member morrison. I'm sorry, i must have missed it. You mentioned a restrictive covenant?

Yes, ma'am. and what does that limit.

Limiting the site to no more than 2,000 trips a day and dedicating the necessary right-of-way up to 5057 feet up to anderson mill road for future expansion to be dedicated at the time of final plat or site development permit.

And that's public restricted covenant?

Pardon me?

You signed it with whom, the city?

Yes, the city drafted it and henry mayes has signed it on june 3. Thank you. again, further questions for our agent who we'll hear from again in a few minutes? Then if not, we will -- there's no folks signed up in favor of the zoning case. We do have four folks signed up wishing to speak in opposition. We'll take that testimony now. Our first speaker looks like is asha jane, or jane asha, perhaps. Welcome. You'll have three minutes, to be followed by william dour.

So, mayor wynn, members of the city council, thank you for this opportunity to speak. My name is asha jane, and i live at 11300 antler lane. I was born here, went to the old austin high, lived here all my life except for being at college and graduate school. I currently work here as a psycho therapist at a

nonprofit agency. More importantly, I live in the antler lane neighborhood and I stand in opposition to rezoning the mayes property. The antler lane neighborhood sports a one-lane road with no curves. We have septic systems and wells, and our deed restrictions allow livestock. A large -- the large old oak trees along our street form a canopy that's beautiful. In some ways the setting is pretty rural. I first toured the house i live in in 1991. Didn't buy it at the time but returned about ten years later having been so struck by it and was successful in convincing the then homeowners to let me buy it. So you can imagine that i have strong convictions and feelings not just about my house but my home, and a shared sense of belongingness and neighborhood community. Our homes have lost value in the current recession. To allow the continued rezoning along anderson mill is tantamount to allowing a transfer of additional value from our neighborhood into others' pockets, and I can assure you I would never have bought this house had i recognized there would be a commercial intrusion on the way. Our little slice of austin has endured a lot in the last few years, including plaza valente and the widening of anderson mill road, which was protracted and difficult and required tearing up the middle of our whole entire street to provide a storm drain for drainage off of the anderson mill road. The projects have greatly increased traffic volume and speeding on anderson mill, and now it's very difficult to turn off of antler on to anderson mill. The dark night sky is gone and sound pollution is greatly increased. Our neighborhood is what i understand is single-family-owned, stable and well maintained. There are no fewer than 15 children under the age of 18. The only thing protecting our neighborhood from commercial development stopping literally at our back yards are the lots that still have houses on them between antler lane and the development, and the pressure is increasing because of these four houses, two of them have signs in their front yard saying they're open for business. And as far as I know, they haven't been rezoned yet away from residential. There's other reasons i could talk about about foot traffic, trash, rodents, dumpsters, sounds, smells from restaurants, pollution, impervious ground cover, but I'll just say I've read much of the austin tomorrow comprehensive plan and the interim update, and -- that was adopted more recently, and they reflect a growing concern with neighborhood integrity, specifically oriented toward providing protection for single-family neighborhoods, especially those facing redevelopment pressure. I think this is the case for our neighborhood, and I urge you to postpone adopting this rezoning application. Thank you. thank you, ms. jane. Our next speaker is william dour. Welcome, mr. dour. You too will have three minutes to be followed by carolyn dour. And you're welcome to use this podium over here if you'd like.

Mayor, mayor pro tem, mayor elect, thank you. I appreciate the opportunity to address you and the fact that I live in a government that allows us this opportunity. My apologies to being late to the party. I understand quite a lot has happened without the people who are opposed to this actually presenting their opposition, and my apologies also to the developer and the mayes family. Contributing personally to that we have some family emergencies and the fact that the hearing for the zoning was held adjacent to the weekend where my son was graduated from college out of city, and so we went to that instead. I appreciate the fact that we're living in a commuty that understands the need to balance the desire to develop against the needs of the older neighborhoods. I'm sure it's understood that any development where you have to balance that off, the people who are selling typically smaller group that have more to gain individually against the larger number who lose as the property values get degraded by these incursions of commercial developments into the neighborhoods. Part of the complication why our

neighborhood was so slow to organize was due to the fact that the mayes actually used to live in the area and they know several of the people on the street, including a number of the community leaders. So there may be some personal favors or relationships that have put in danger by people openly objecting to the development. I did want to address very briefly the point of the setback. Anderson mill road is actually a five-lane road, and so a very considerable portion of that setback from the centerline occurs in the street itself. The second point is the 2,000 trips per day works out over a reasonable period of time, maybe 16 hours, to be two trips a minute. That's an extraordinary amount of traffic to have effectively in your backyard. If you could also put up the original graphic with the yellow boxes again, I'd like to refer to that. To reinforce my point that not everyone who was talked to is, in fact, on board with this. The lower left hand square represents the property that belongs to kathy gross and juddy helms. I spoke to them today and they actually signed the petition saying they were not in favor of development. After considering it they changed their position, and I actually have a pecial personal note from juddy helms and I'd like to pass this to you. just pass it to the mayor pro tem and he'll pass it down for you.

As was pointed out before, we lose a lot when these developments come down the street towards us, and it -- roger, would you mind if I --

I would yield

[inaudible]

mayor wynn: fair enough. So william, you have three more minutes.

I appreciate it. I'd like to make a couple more quick points and i appreciate the opportunity to do so. When the -- when the h.e.b. Was put in we lost our night sky and we got a good deal more of the noise and the smells and everything that comes with that type of zoning. At that time my understanding was that the zoning commission recommended that there be no further commercial development between the property and all the way down anderson mill and around the corner. That was the statement that they made at the time, and we were hoping that it would continue to be honored. The issue is where does it stop? I mean, how many of those properties do you knock off before there's nothing left between our street and these commercial developments? Three more lots and it's in my back line. Again, I appreciate the fact that the higher intensity uses are -- you know, they're lucrative, but it's difficult for us. In addition to the 13 signatures that I have on the petition, which I've sent around, I also have two emails representing four more people, plus the fact, the two sisters, who also have changed their position on the desirability of the development. Thank you for your time. If there are any questions I'd be happy to answer them. thank you, mr. dour. dour, council? Thank you. And carolyn dour is our final speaker. Welcome, you too will have three minutes.

Some of this is going to be redundant. Good evening. My name is carolyn dour. I live at 11504 antler lane in austin, texas, located on the corner of antler and anderson mill road, and i appreciate this opportunity to express my opposition to the rezoning of 11609 anderson mill road. I understand that there was some surprise and concern that no one from our street showed up for the hearing on may 19,

and I can only speak for my family, that we had some personal issues going on at the time, and as my husband said, including attending my son's graduation from UT Dallas and moving him back home so that he can attend law school at UT. We didn't know the ins and outs of how planning commissions work. I had no idea that there's a particular procedure that you're supposed to follow if there is opposition to the rezoning. I just happened to call the case manager with a question on Monday to find out that there is a process that we're supposed to follow, so I will say that I'm sorry we took people by surprise by our opposition, particularly if that caused concern at this stage of the planning, and I'd like to tell you a little bit about why it is so distressing to us and many of our neighbors whose signature is on that petition. When my family moved here in 1997, my husband and I, our two kids and my parents, we were delighted by the rural feeling of the area. Every person on our street has an acre or more. There was no development at the intersection of 620 and Anderson Mill. There was green space all around us, lots of trees. We used to lie in our pool at night to watch the stars, especially when there were reports of meteor showers. There were no bright lights to interfere. It was like living in the country. That's why we bought that house. More development means more light pollution, sound pollution, loss of privacy, and increased concerns for safety, including air quality. Since Valente Plaza opened plus store as anchor on the southeast corner of 620 and Anderson Mill, the area has changed significantly. I don't know if you've been there to that intersection, but traffic is a nightmare. There's lines of cars often making it difficult to get out on Anderson Mill from Antler Lane, which is a dead end street. That's the only way we can get out. We are losing the rural feel of the neighborhood, the charm of our unique neighborhood street. People often ask me what development I live in when I tell them that I live, and I'm happy to tell them that we don't live in a development. If any more commercialization is allowed on Anderson Mill it will degrade the integrity, the character and the charm of our street and it will feel like a housing development, and that will be a big loss. Please do not allow any more business or commercial encroachment on Anderson Mill. Thank you for your time and attention. Thank you, Carolyn. Council, that's all the folks who have signed up to give us testimony in opposition. We now have a one-time three-minute rebuttal from the agent. Welcome back, Mr. Linehan.

Thank you, Mayor, thank you Council members. I'd just like to say that their neighborhood is a beautiful neighborhood. It's down the street. It's over 700 feet from our property. We have 550 feet along the back side of the loading docks of the H.E.B. It's not appropriate to have single-family adjacent to that and the city annexed it. It's full purpose, and we're supposed to come in as soon as possible afterwards to try to get that zoning, that's correct. You have -- we've worked with staff diligently. We've limited the number of trips. We have staff support. It is neighborhood commercial now. You have a solid block wall in front of the property. Does not feel like a neighborhood at that location, and I'm sorry that people are changing their minds. Before I brought this zoning case in I wanted to make sure all the surrounding property owners understood what we were doing, and they have signed a letter and it is in your packet and it was given to you at the first part of the year, in March. So we do think it's good planning practices to have this transitional zoning. We have staff support. Zabco voted on it unanimously, 7-0. There has not been any opposition today of Von Ruse Rosenberg and Cer that live on Antler Lane, so we're not feeling like we're going to touch anybody that was nearby. I did talk to the Anderson Mill representatives and they do not have a concern. We have done the best job to notify people. We will do the best site plan that we can and we're trying to be responsible and we would like your support, and we understand

there will be more transitional zoning as time comes on that will protect this neighborhood, but we're well over 700 feet away and there is, you know, seven other landowners that have signed letters in support between us and the folks that live on the corner of antler lane and anderson mill road. Again, thank you for your time and I appreciate your positive support on this zoning request. If you have any questions I'd be more than happy to answer them. thank you, mr. linehan. Questions of our agent, council, or of anybody else, for that matter? Comments? Council member morrison. guernsey, can you tell us what the normal practice is? We have all this dr zoning there, and now to the -- i guess it's to the east of it, is that -- can we zone that now because it's limited-purpose? certainly when we bring the land into the city of austin city limits, property owners are actually given incentive to file a zoning case within that first year, because when you annex actually you waive the fees for the first year. I would anticipate at some point those tracts with the little yellow stickies that are on here that are further to the east down anderson mill road towards antler will probably come in at some point and ask for a zoning change request. There's a very good chance that staff probably will not be recommending even the intensity of zoning that's being requested on this tract. It may come in for office, it may come in for multifamily or townhouse. There's a possibility it could even come in a single-family, probably limited access to anderson mill and turn the lots away from anderson mill. But that has yet to be determined at this time. and is antler lane limited purpose or full purpose? Because I seem to see that -- I think it is limited purpose. I'd have to honestly go back and check our maps to see their status. The owners here, if they're actually being taxed by the city of austin, then they would be full-purpose, but i believe that they're not taxed by the city of austin. It's limited purpose. I think they indicated they were on septic systems. so I have a little sense of frustration because it seems like i could see -- I mean, I'm sure you would love to take a paintbrush and put what you think might be appropriate transitional zoning for the unzoned properties. I guess my concern is that if we put lr here, you know, which is not completely unreasonable, since it is right next to gr, and then it's built up without any thought of, say, compatibility standards, then the people to the east are not going to want single-family because it's already -- somewhere we need to transition to single-family obviously and the question is where is that, but unless you do it all at once you might get a hodgepodge.

Guernsey: that's right. And there's a very good chance, each of these property are individually owned, they will probably wait until the market responds to their request for redevelopment. The nice thing about limited purpose, though, even though you're not taxed by the city of austin, that you do enjoy the zoning protection. So this process that we're going through now would take place on those adjacent properties, compatibility standards do apply, so as the tract that the mayes developed, that there's residences adjoining, they would actually trigger compatibility on this property, and it would cascade further down that. So you would -- even if there is properties that are limited purpose or full-purpose, they both enjoy the protections of compatibility standards, additional setbacks, height limitations from single-family uses. and, in fact, that a single-family use on that property to -- I believe it is, if you bring up the aerial again, I think you'll see that -- I think there's actually -- not that aerial, the overhead. an ireial from the air.

[Laughter]

the other air. the one that has all the stickies on it, you'll see. I think there's a house next door.

So they're already going to be subject on this property if they're Ir? that is correct. And so once those properties come in, there's houses that are next to those that will trigger compatibility if they're ever rezoned and developed for shotgun else. I do want to point out one clarification. linehan was talking about the restrictive covenant that was actually for the right-of-way dedication for the anderson lane. The trip limitation, 2,000 trips, that's in the zoning ordinance, in your packet.

One other question. Do you know when the h.e.b. Was zoned gr? looks like maybe 2004. Difficult to read the exhibits. I think it's 2004, early 2004, the properties possibly came in, maybe 2003. So either '03 or '04 is the time period when those tracts were brought in for rezoning.

Because it sounds like -- and I'd like to acknowledge the frustration that folks might feel if they sense that the zoning and platting commission at that point foresaw, it sounds like, continued residential and only residential on anderson mill, but there's nothing binding about that. no, and probably at the time the improvements for anderson mill road weren't going on. I know what they're talking about with regards to that. That road looks almost like a war zone when they're coming in and doing lot of the improvements, and actually the amount of traffic has greatly increased along anderson mill since it's winding. are there other questions of staff, council, or anybody else? Comments? Mayor pro tem?

McCracken: Mayor, I think this is an appropriate transition between a pretty intensive commercial use of the grocery store and highway, highway retail there at the intersection with 620, and it's appropriate transition on a significant arterial road in the city, that it moves from commercial to residential, so I'm going to move -- are we ready on first reading only or all three readings? we are ready for all three readings of the zoning and platting commission recommendation, which seeks the right-of-way dedication, the trip limitation of 2,000 vehicle trips per day on the property.

McCracken: Yeah, so I'll move to approve on all three readings the zoning and platting commission recommendation and then I'll say as part of that that there are a lot of development protections that the homeowners will have along anderson mill because this property is subject to all the development regulations of the city of austin, which are pretty stringent. And so that's my motion. so we have a motion by the mayor pro tem to close the public hearing and approve zoning and platting commission recommendation on all three readings, seconded by council member morrison. Further comments? Hearing none, all those in favor please say aye.

Aye.

Mayor wynn: opposed? Motion passes on all at least readings with a vote of 6-0 with council member cole off the dais. thank you, mayor and council. I would note on this linehan print pointed out is in the hill country corridor, at the time they develop this property, the adjacent property owner is within 500 feet and registered neighborhood organization, they would receive a notice of the filing of the site plan that would be reviewed and approved by the zoning and platting commission. So there will be another opportunity for public hearing at least on portions of this property that are within 1,000 feet of the hill

country roadway corridor for review. And with that, mayor, that concludes the zoning app. Changes for this evening. thank you, mr. guernsey. Thank you, mr. linehan. So council, that takes us to our public hearing section of tonight's agenda. If you remember -- could have done this earlier, i apologize -- earlier in the day we had a vote on our 36 regarding potential site-specific development regulars for the property located at 328 heartwood drive. Council voted to postpone that item to the -- or two -- for two meetings, which won't be until thursday, july 23, 2009. The two related public hearings to that item are 72 and 73. Council member martinez moves that we realign these cases, postponing public hearing 72 and 73 to the july 23, 2009 meeting. Do I hear a second to that motion? Thank you, mayor elect. So we have a motion and a second to postpone items 72 and 73 to july 23. Comments on the motion to postpone? Hearing none, all those in favor please say aye.

Aye.

Mayor wynn: opposed? Motion to postpone item 72 and 73 passes on a vote of 6-0 with council member cole off the dais. Let's see. Leaves us with a handful of others, and I guess we'll just sequentially. 68 is likely a very quick public hearing regarding the rate and tariff ordinance for texas gas service. There's a brief staff presentation on this item.

Mayor, I believe there is a request by staff to postpone that to june 18. ah, thank you. So I'll entertain a that motion. Motion by council member martinez, seconded by council member morrison, to postpone item 68 to -- for one week to the june 18, 2009 meeting. All in favor please say aye.

Aye.

Mayor wynn: opposed? Motion passes on a vote of 6-0 with council member cole off the dais. plumb e item 69, section 26 public hearing.

It is a chapter 26, item 69 is a change in use in parkland at hancock golf course for reclaimed water. The legal -- the actual package to the parks department is a little over 140,000, and the legal fact finding for item 69 is that there is no other feasible and prudent alternative to the taking of the dedicated parkland, which includes all planning to minimize harm to the park.

Mayor thank you, ms. plumber. Questions for staff? Are there any people who would like to give us 68 regarding the has not -- 69, regarding the hancock golf course? Hearing none I'll entertain a motion to close the public hearing and approve resolution as proposed by -- motion by council member martinez, secked by morrison, to approve item 69 as proposed. Further comment? Hearing none, all this favor please say aye.

Aye.

Mayor wynn: opposed? Motion passes on a vote of 6-0. Ms. plumber?

Item no. 70. It's a change in use in parkland for the extension of west gate boulevard to about 114 feet

of that park. The package going to the parks department is about \$30,000, and the legal fact 70 is that there is no other feasible and prudent alternative to the taking of the dedicated parkland, which includes all planning to minimize harm to the park. thank you, ms. plumber. Questions for staff, council? Are there any citizens that would like to give us testimony at this public 70, regarding the chapter 26 issues with the cameron are loop project? Hearing none I'll entertain the motion to close the public hearing, and approve at -- resolution as prendz. Thank you. Council member morrison, seconded by the mayor pro tem. All in favor please say aye.

Aye.

Mayor wynn: aye. Opposed? Motion passes on a vote of 6-0.

Thank you. thank you, ms. plumber. Takes us to public hearing 71, regarding a potential appeal of a permit.

I'm george zack lack, we are protection development and review department. This is in appeal by the highland sky view neighborhoodlan contact team represented by damon howze of the planning team's decision to approve the conditional use site plan to allow operation of an adult lounge at 6406 north ih-35, sweet 1100. At the time this item -- or at the time you set the public hearing on this item on may 21, the attorney for the property owner raised a question about the standing to appeal by the appellant, raised the question whether the appellant has standing to appeal and before we initiate the public hearing, therefore the city code specifies that you should address that issue.

Mayor wynn: correct. Thank you. We did have a brief presentation in closed session earlier regarding zapalac points out, I think lloyd here is about to help us, our first order of business is to make a decision as to standing before we would then either/or not conduct the public hearing. Catch your breath, lloyd, and help us with the logistics than how we make this decision.

Brent lloyd, city law department. 191 of the code says that before opening a hearing, a body -- before opening a public hearing, a body hearing and appeal shall decide preliminary issues raised by the parties, including whether to postpone or continue the hearing and whether the appellant has standing. So I believe the appellant's representative -- the appeal ants are here and i believe -- appeal ants are here and I believe the attorney for the applicant is here as well. So I think in terms of process the appropriate stel would be for the council to consider the issue of standing, and if you want to hear testimony from the representatives confined solely to the issue of standing, I think that wld be appropriate, decide the issue of standing. If you find standing, the appropriate course would be to open the public hearing and her testimony on the merits of the conditional use permit, and if you find lack of standing, of course the appropriate course would be to dismiss the appeal without opening the public hearing.

Mayor wynn: correct. Thank you, mr. lloyd. So then, council, I think that was sound advice. Council member morrison? Hang on, bret. we don't -- we're missing one of our council members today, and it just occurred to me, so we might -- we might have a 3-3 vote on standing, possibly. After we take that



vote and if that means we don't -- that we find there isn't standing -- I take it it would be too late to postpone the hearing and rehear it when there are seven -- a full council? do you understand the question, mr. lloyd? The question is if we bother to even start this discussion attempt to make the decision on standing, and if there were a 3-3 vote, I think -- I think the legal advice is that a decision would not have been made either way. Would that -- you know -- what would that do to the possibility, then, of either just -- to taking it up next week or does that -- or if you lose the zoning case, right, if the motion loses on the zoning case, goes away for 18 months, would we somehow compromise --

no, council, you're correct, -- council member morrison, if there is a 3-3 vote, then the body has not acted on the issue of standing, and so you can't open the public hearing. But if there is a 3-3 vote you can still postpone. You haven't sort of blown your opportunity to take action on the issue of standing.

Mayor wynn: okay.

Morrison: okay. so that's okay. And so again our first order of business here is to decide if we want to decide, and if we decide, that being whether there's standing or not, when we set the public hearing several -- meeting gam on, who represents the property owner at that time, actually brought the issue of standing to us. At the time we made the decision to go ahead and set the public hearing but we would make the decision about standing now and not then. Council, without objection, I guess I've got -- we could gammon's sort of reiteration of what he believes to be the legal issues as it relates to standing, and then we'll try to get some testimony from -- again, on the standing question with some of the folks who want us to hear the appeal, and we can decide whether we have standing or not. Welcome, mr. gammon. Again, we're limiting this sort of discussion/analysis to the issue of standing.

I appreciate that, and i will do that, and at least this time I'm wearing a tie. I did want to say, however, that perhaps we're doing this out of order. I am not the appellant here. It is my understanding that the appellant has the burden of proof in all of these events, and inasmuch as that's the case, then i believe that he has the right to go first. It's your agenda. You can do however you want to, but I believe that i howze because he has the burden of proof to establish standing.

Mayor, I'll -- mayor pro tem?

McCracken: Our practice is that standing is presumed unless there is a challenge to standing brought. And so at that point the council by practice has to resolve the issue of standing. So it is my understanding that is that the appellee has challenged standing, so under that standard, since you're the one who has raised standing, I think the expectation is that the burden is -- not the burden, but the first presentation is raised by the party raising the challenge.

And I -- I'm fine with going first. I just felt like it's -- you know, it's should lay out there.

Mayor wynn: fair enough. But the mayor pro tem stated our practice, clearly, so welcome.

And that's fine, and mayor and members of the council, mayor elect. The issues I laid out in a memo --

actually two memos, that I had shared with mr. lloyd beforehand. I should begin by admitting to you that in one portion of my analysis I was factually incorrect, and that needs to be disclosed. I stated that the -- I did not believe that the highland neighborhood plan contact team had officers. I have since seen a copy of the bylaws of that particular organization, and in the bylaws it does, in fact, state that there are officers, a chairman, a vice chairman and a secretary. It also states something that I did not realize, which is I think is perhaps even more condemning, if you will, as to the issue of standing vis-a-vis this particular organization. If I read them correctly, this same document limits this plan -- neighborhood plan contact team to 16 members, and I wonder, is this the kind of neighborhood organization that is contemplated by the code and by the city in terms of establishing standing to allow them to derail a challenge or otherwise lengthen the process of development and development review and the decisions that were laid down by the planning commission. Is it truly, and can it be actually considered to be, a neighborhood organization when, in fact, the majority of the people that would be affected by the decisions of this organization, and I use that term parenthetically, the majority of the people cannot participate in those, as a matter of fact are excluded by the very bylaws of the organization itself. So I don't think that that in and of itself, you know, may or may not be dispositive. I just think from a public policy standpoint it's bad business. From a legal standpoint, the city code, and I have read it. I'm certainly not holding myself out an expert on the city code. You have others here who are charged with the responsibility of doing that on a regular basis, and I would defer to them on some things, but on this I will say that I do not see anywhere in the city code where it specifically allows a neighborhood plan contact team to, in fact, challenge or appeal a decision of the planning commission. And if you think about it, and this sort of blends back into, and I will conclude my remarks with this because I want to be brief -- it blends back into the memo that I had submitted that has to do with the interpretation of the actual language of the code, and the way that codes must be interpreted is to make sense out of them and to absolutely reject any interpretation of the code that either conflicts with the plain meaning of the language or leads to a conclusion that makes no sense. Now, these words are not exactly taken from that case, but if you've read the memo that I provided, then you know exactly that to which I refer. And in this case I wonder what public policy and what the city would possibly be gaining by establishing a neighborhood plan contact team who are basically individuals working for the city who are then charged with the responsibility, according to the very charter of this organization, of looking at specific amendments and offering specific, shall we say, insights into those amendments with regard to what's going on in that area, and then as actual agents for the city, use that agency to thwart the very decisions that are being made by another city organization. That is the planning commission. Now, if that's the way it works, then I think that really where we are is back to what I was talking about, and that is you're interpreting the code in such a way that it doesn't make any sense. I don't think it works that way. I think you have to look at the straightforward language of the code. You don't see anything in there that allows specifically for the standing to be granted to a neighborhood plan contact team, and I think you should deny it, and I thank you very much for your time. thank you, mr. gammon. gammon, council? And it looks like there were three folks signed up to give us testimony in opposition. I'm not sure if there's maybe a consensus as who might represent those three folks, again, when it comes to the concept of whether the contact -- planning contact team would indeed have standing on this case. But hopefully perhaps either sharon doors, if I mispronounced that, sorry, or sharon berg, might want to step forward.

All right. So again, the issue is whether or not the planning contact team has standing.

This is the very first I've heard of this and i don't have a law degree, but , and we think we can talk about anything. So I will give it a shot.

[Laughter]

[inaudible]

right. I want to get home too. I have a baby-sitter waiting. howze is a member of the highland/sky view neighborhood contact planning team. I am not. I'm a member of the south river city citizens contact planning team [inaudible]. So I can only speak to the fact that we assume that we had standing on the very first time we heard of this way back in march, we used the help of some nice people at the city to help us find the site plan and the case number and everything, and katrina daniel was allowed, you know, to be put on there as an interested party for the neighborhood association. I have seen, and I'm, you know, completely unprepared for this, the screen, i suppose you call it, for the site plan that a neighborhood plan, highland has filled that slot, and city staff took the appeal. So from the perspective of, you know, just citizens, without a lawyer or any attorney to advise us, we assumed that we had standing. As far as the legal nitty-gritties, my understanding is that part of the neighborhood planning process, the neighborhood contact teams were designed specifically for this function, to hear zoning cases, and that they were sort of the first -- the first bear cage you have to get over when you want to initiate the zoning process. So the fact that that exists, that they're there to safeguard the neighborhood plan, that the city created them but that they're, you know, just people, no one -- there are no city employees on them, that we assumed -- it seems like there may be some -- the city attorney would have to tell us -- where neighborhood contact planning teams have had standing for appeals, for a conditional -- conditional use permit, which I assume by definition -- I mean, is appealable. That's why it's conditional use. Right? I don't know. I'm happy to answer any questions.

Mayor wynn: thank you. Valiant attempt. Questions, council? Comments? Thank you, ma'am. Lloyd, at some point it seems that we, in fact, do need to ask -- essentially everything we do up here, there generally is a staff recommendation, and so can you perhaps frame the analysis for us as a council with regard to standing? Because unfortunately there is -- you know, there are the legal technicalities of our code, and unfortunately for the -- as the citizen just mentioned, unfortunately we apparently -- there isn't sort of precedent one way or thother when it comes to a contact team and standing. Can you help us here, mr. Lloyd?

I think the issue before you can be looked at in two from the standpoint of standing under our code, I think the issue boils down to whether or not there is interested party status, whether the decision, cup is appealable, there's a right of appeal assigned, so the question strictly in terms of our code is whether or not the contact team qualifies as an interested party, and I think the answer to that is that it does. And we walked through that analysis previously. The boundaries are within 500 feet of the proposed la bear site, and the gentleman that filed the appeal is an officer of the contact team. So they meet those requirements. The more fundamental question, however, is one that is totally a first impression. It's

never been before you gammon summarized the essence of it, and that is whether or not neighborhood plan contact teams have fundamentally the authority to file an appeal. They are part citizen group and part quasi-administrative entity. They have certain functions assigned to them under the code that are not given to neighborhood associations and involving initiation of plan amendments, recommendations on plan amendments and decisions on whether or not proposed amendments can go out of sequence. And so the question before you is whether or not their authority is limited to what's granted in title 25. And title 25 does not, as gammon, give a contact team the right to challenge -- challenge permits. So the issue, really, before you is whether or not you want to look at this in terms of simply meeting party status under our code or whether you want to look more broadly at the question of whether or not a contact team should be limited in its authority to what's explicitly spelled out in title 25. so the issue is because the contact team was created by the city, even though it clearly has -- it's a sort of citizenry thing, it was created by the city in code and given a charge, giving, you know, the framework of things to do, and appealing another city structure was not one of those. That's sort of our case here. But clearly, a conditional use permit by the planning commission is appealable. That's why we have a process. And so help me again understand, what are the general -- and I know there are geographic parameters as to what and who can appeal a planning commission decision, or conditional use permit. What are those?

When we're dealing with -- we're looking at whether or not something is an interested party or not, if it's an organization it has to be a neighborhood or environmental organization, and that's defined simply as an association that is registered as a neighborhood organization with the city, and then its boundaries have to be within -- it's declared boundaries have to be within 500 feet of the property, and here those requirements are met. So from a code standpoint, which is a legitimate way to view this question, the appellant in this case, the contact team, does meet those requirements. It's a question of standing -- the question of standing, though, arguably goes to the more fundamental issue of whether or not a neighborhood contact team is limited in its authority to what is spelled out in title 25, and the question is not entirely clear in standing under the -- and standing under the code is a decision for the body to make. thank you, mr. lloyd.

Our recommendation, however, is that you find lack of standing. We -- in reading the code and considering how neighborhood contact teams sort of line up under the city's regulatory system, they share many common features with -- with a regulatory board, with a commission or a board, and clearly they're not one. As I said a couple moments ago, they really had a citizen group, but they are imbued with special functions and authorities that is quasi-administrative in nature, and the general rule is that when a body is created by code, its authority is limited to what's granted to it under code. thank you, mr. lloyd. Questions of staff? Council member morrison. Again, to the issue of standing, obviously. right, and not so much a question of staff. I wanted to comment for -- thank them for their analysis here. The issue that I see that we haven't addressed in terms of standing is the fact that we have contact teams and this other sort of halfway city, halfway citizen organizations, we have contact teams that I'm aware of that do a lot more than what is identified in the code, and they serve as community organizations, and if we start saying that they're limited -- and the fact of the matter is they're limited and would only function according to the explicit authorities that are given to them, they would be doing much less, and there would be areas, like this area, that would be left without someone to represent them in this community -- this community way. So with that I wanted to -- I want to move that we find that the

appellant does have standing.

Mayor wynn: great. So we have a motion by council member morrison, seconded by the mayor pro tem, that the appellant does have standing. Further comments? Questions? Hearing none, all in favor of the motion please say aye.

Aye.

Mayor wynn: opposed? No? I believe I heard -- there being three votes in favor of standing, three votes in opposition of standing, no decision is made. Therefore a public hearing will not be conducted this evening, but I will --

[inaudible] well, yes, council member martinez moves, mayor pro tem seconds, that this public 71, is postponed for one week to june 18, 2009, when we will have an odd number of members on the dais. Hopefully seven members. So again, apologize for the folks who came out, but there will be a decision made on standing next thursday. Okay. That was fun.

[Laughter] let's see. Takes us to our next -- council member cole will get lobbied all week. Good for her. That's what she gets for being gone. Takes us to our public 74, regarding the waterfront overlay. Welcome another brief staff presentation.

Good evening, mayor and council. I'm robert heil with neighborhood planning and zoning. This is item 74, to continue a public hearing which has been open for a while and to approve on third reading an ordinance amending title 25 of the city code relating to the waterfront overlay combining district and chapter 2-1 related to the waterfront planning advisory board. This -- as I mentioned, has been approved on first and second reading. On may 21 you approved it on second reading. The public hearing has still been held open, and staff is available for questions. Otherwise, we can turn it over to the public hearing.

McCracken: Okay. So do we have anyone signed up to speak at the public hearing?

You have seven speakers signed up.

McCracken: If you could start calling them in order.

Would you like them in order of for and against?

McCracken: Yes, please.

Okay.

McCracken: For first.

All right. The first person who signed up for is howard katz.

Mr. katz is not here.

The next person is dylon hope, followed by marcus hernandez and mike robbins. Those are all the people that have signed up for. The first one -- oh, and sorry, jeff jack.

Good evening, mr. jack. You have three minutes.

Mayor pro tem, council members, I'm glad that i didn't push the wrong button on that sign-in card. I was worried there for a second. As you know, I'm representing save town lake and want to express our appreciation for the opportunity that the community has had over the last nine months to weigh in on this very important issue in our community, and we realize tonight that this is one step along the way and that we have some more work to do with the appointment of the waterfront advisory planning board and the development of the bonus provisions. Council member shade asked me last time at the public hearing where save town lake stood with regard to our lawsuit, and specifically our position with regard to the whole issue of the super majority with regard to the pud issue. We k you're not going to vote on that this evening but we're glad to see that issue will be considered by the waterfront advisory planning board. And in just summary, I think the community is very much concerned about this issue. I think what you're hearing from various points of view all over the city is that the waterfront is very sacred to our community, and we hope that this action tonight will take us one step closer to reinstating the protections that the community developed in the '80s that are still valid today and will give us a city with a really wonderful waterfront, protected for the future generations and the scenic vistas, the open spaces will be preserved and make our community a really great river city again. Thank you. thank you, mr. jack. And mayor pro tem, i apologize for being off the dais. Our next speaker is laughton, smith. And a number of folks want to donate their time. Is linda north in the audience? The rules are they need to be present in order to do that. How about dick simmons? Hello, dick. Welcome. How about petra nesenow. How close was that? Oh, good. And how about marbin katano. smith, you'll have up to 12 minutes if you need it and and you'll be followed by steve jito.

Thank you. Good evening, it's my privilege to speak on behalf of the neighborhood condominiums hoa board this evening. We like to remind the council of the following before voting on the waterfront overlay ordinance. We are one of the few areas in which recommendations from the waterfront overlay task force would invoke a massive reduction in potentially buildable height. For reference, our current zoning of I would allow for 200-foot buildings. From another angle the cws next door was approved by you to be developed at 96 feet. The recommendations from the task force would take us from 200 feet not to a height equivalent to our neighbors at 96 feet, but to 45 feet. River walk condominiums are part of the community and have not been represented through the waterfront overlay task force review process. While there have been discussions for those that gain height as part of the overall recommendation, in the corresponding bonus provisions there has been no commitment to review those of us that are affected negatively, and in our case to a large degree. We would request council stipulate that parcels such as ours that have been significantly downgraded in height to be held out of the current ordinance until they can be reviewed and reevaluated. The height cap for our property of 45 feet as per the

waterfront overlay ordinance not only represents a significant loss in developable value of our property, it is also -- it also represents a significant loss of potential community benefits to the city as a whole. The heights that were set for our parcel over 21 years ago are unexplainable and unreasonable in the context of adjacent development. We are requesting they be reviewed and set at a level that could be justified with a definable set of reasons that makes sense for our 21st century waterfront. Approving the waterfront overlay ordinance as written today does not allow for this to happen. Members of council throughout this process are neighbors at CWS and Travis Heights, have been considered a part of the community. Why would we not be afforded the same rights? Thank you. Thank you, Mr. Smith. Smith, Council? Thank you, Laughton. I think our final speaker is Mr. Tittle. You will have three minutes.

Thank you, Mayor, Council. I would like to speak on two items within this plan. It would be the similar items that I spoke last time, the nature of the board itself and then the subdistricts. You stated that the board should be a diverse membership drawn from many fields. Unfortunately, I believe one area that has not been addressed is the owners themselves. I feel like they have been left out of the process. This has been going on for maybe a year. No one called any of our homeowners to have input. So I think at least one member of the property, and not just what you call the real property development, but actually property owners that are going to stay in place, not sell off quickly. So I would like that property owners be inserted into the diverse membership of the board. Next will be the -- item would be the subdistricts. For everyone who's concerned about the waterfront, I'd also ask you to be concerned about the water itself. For this plan not to include the water and the things that are built in the water and on the islands I think is short sighted. I think that that subdistrict should be in place. There's conversation about extending to all the way to the city limits -- extending it all the way to the city limits, past Montopolis. I think when you're considering subdistricts, that the water itself should be considered, and I'd like to state that position again, that this is all about the waterfront, and the views about the waterfront. I would ask everyone in this room to be concerned about the water itself. So take that end, I would like that subdistrict to be put in place. Thank you. Thank you, Steve. Council, that's actually all the folks that signed up to give us testimony. A bunch of folks signed up not wishing to speak, both in checking the box in favor or in opposition, and we'll note all of that for the record. So, comments? Questions? Council member Martinez. Thank you, Mayor. Well, I think we are going to make a positive step forward as it relates to our waterfront. I think there's still some very serious work to be done, and so I'm going to ask my colleagues that remain on the dais that you start considering right away your appointees to the waterfront planning advisory board, because I think the work that they're going to do is critical to the future protections that come out of the rewrite of this particular ordinance. So with that, Mayor, I'm going to move approval on third reading of what was approved on second reading, and I believe Council member Morrison has some language that is -- was proposed to add to part 25 that I do consider friendly. So whenever she's ready to put that out there. So I'll make that motion, Mayor. Motion by Council member Martinez to approve on third reading what was approved on second reading. Let's look -- let's let Council member Morrison second it, and that second will include some proposed language. If she could read that for the record or -- this is to replace part 25, which is the very end there, which Council member Shade had put in just to clarify that existing PUDs are not subject to the ordinance, and I'd like to replace that with two parts. Part 25, the following requirements apply to a planned unit development: A, a PUD approved after the effective date of this ordinance is subject to the requirements

of this ordinance, and b, property located within an existing pud on the date that this ordinance is adopted is not subject to the requirements of this ordinance. If the property remains in the pud, except that an amendment to an existing pud is subject to the requirements of this ordinance if the amendment, one, constitutes a, quote, substantial amendment under 1, parentheses substantial amendment of chapter 25-2, subchapter b, article 2, division 5, planned unit development. I have this all written out. 2, increases -- this is referencing the substantial amendment -- if it increases the size, scale or density of developnt allowed within the pud or further encroaches into the waterfront overlay setbacks. So what that's meant to do is say, okay, if you're an existing pud you're not under this new ordinance. If you're a new pud you are. If you're an existing pud with a substantial amendment that actually affects something that has had to do with the waterfront overlay, then you are going to be subject to it, and we wanted to limit that so that we didn't get into extra red tape with substantial amendments that don't affect height and all of that. So I would be glad to provide this to the clerk. I'll ask my aide to get that. Sorry, I thought you had it. so we have a motion and a second on the table, and the language will be distributed to us here shortly, hopefully. Comments on our motion? And second? Mayor elect? question for staff. It's my understanding pud ordinance goes before the planning commission. If the planning commission recommends disapproval of the pud, then when it comes to council it requires a super-majority to approve the pud; is that correct?

Robert heil, neighborhood planning and zoning. Yes, that is correct. what elements of the pud is the planning commission required to address? That may be a little too much, but --

the planning commission looks at the entire pud application, so that would include -- development restrictions?

Development restrictions. such as height, impervious cover, all that kind of stuff?

Correct, as well as those parts of the application in which the applicant demonstrates superiority from the existing code. So, yes. so the major issue, of course, is height in the waterfront overlay, it seems to be. So the planning commission would be required to make a recommendation on the height, maximum heights in the pud?

The planning commission makes a recommendation on the entire application, which includes -- I have never seen a pud that did not include a discussion of height. So -- and I would have to -- well, i think the question has been raised to me and that's what I'm trying to find out. Are they required to make a recommendation specific to that or not, or is -- are they -- it seems to me that if the height asked for in the pud exceeds the base zoning height, that would be listed as an exception in the pud ordinance.

Because pud would be the new base zoning district, they would have to specify to what height they were going to build. So -- to what height they were -- so all the exceptions would have to be -- all the exceptions to existing code would have to be somehow dressed in the new pud ordinance?

Right. All the exceptions to existing code would have to be spelled out in the pud application, and if they



were not spelled out, then they would default back to the existing land development code.

Leffingwell: okay. So that's what I'm trying to firm up, is is the planning commission required to specifically make a recommendation on height if it exceeds the base zoning height?

Because there isn't a base district zoning with pud, there's no set one, when an applicant came in for a pud application they would have to -- that's not something that could default. They'd have to say, we are going to build to 60 feet or 35 feet or scale it back. They'd have to describe that, because there is no specification to default to, so yes -- so yes -- i think I understand what you're saying. And you concur with that, mr. guernsey? The only reason I asked is you're standing here kind of lurking, so --

[laughter] well, you know, I think when we go through under the new ordinance, we go through and there's like a base district, and the base district probably does have an assumed height of maybe like 60 feet. Usually when we get to the waterfront overlay, if we had a pud in there usually they're asked to exceed the base district, and the majority of the cases that have come before you. So I think they would actually specify a height. If -- I also wanted to clarify one other thing. If the commission grants a pud application but not exactly what the applicant wants, let's say they ask for 200, the commission recommends 96, that's still a recommended pud, and it wouldn't require that super-majority vote. It's only if the commission recommends denial that i think it triggers that super-majority vote, just like a petition case would. so it gets kind of complicated. So the planning commission could recommend approval of the pud overall, but not necessarily all the requested components in it?

Guernsey: that's correct. It would still be a recommended pud that would not trigger the super-majority vote.

But they would have to make a recommendation on the specific height if it exceeded the base zoning limits, if the request exceeded the base zoning limits.

That's correct. That would have to be part of the applicable's request and what they would have to approve and if they deviated from that they would specify that as a recommendation to you.

Leffingwell: okay. Thanks. further -- again, whave a motion and a second on the table. In fact, we just received an email, in case you're looking, with the new language for part 25 as part of the third reading motion. Council member shade. I'd like to get some clarification on this suggested new language for part 25. Probably brent needs to be able to address these, i believe, since this looks like it came from you. Thank you. So this new language does a couple of things. On part b -- well, for the first part I guess if I read it by itself, pt a where it says a pud approved after the effective date of this ordinance is subject to the requirements of this ordinance. That would suggest that it would violate what's said elsewhere in the ordinance, which I realize is a point of big debate, but that this does not -- that the height restrictions in the waterfront overlay do not supersede pud. I mean, it's actually spelled out as a separate -- I think it's section 22. So if you have -- if you were to read this, it seems like this would actually be accomplishing what we voted on a couple of times, which is that we -- there some -- you know, -- we want -- we want pud's to operate -- it seems like this conflicts with section -- which is in section 22. So if I were to just

read this by itself, a pud approved after the effective date is subject to the requirements of this ordinance, then it would seem like that defeats the purpose of the -- am i wrong? I mean, if I -- that's basically doing what we voted on a couple times now, which it sounds like to me what some of us don't want to do.

Part 22, if I could speak briefly to that. Part 22 is really about design standards only, and the general rule is the waterfront overlay already contains language that says it trumps any conflicting provision of the land development code. But there is specific language in design standards that would call that into question and it would suggest that in certain areas the design standards would trump in the event of a conflict with waterfront overlay. The amendment in 22, in part 22, just eliminates that language, so the general rule would apply with design standards, and that is if they conflict with waterfront overlay, waterfront overlay trumps. so what is 25 as proposed here -- what does it accomplish? 25 A was developed on direction of council on the last hearing of this matter, and a, I think the larger question -- I think it's really clear that the procedural requirements of the ordinance would apply to any pud adopted after the effective date of the ordinance. In other words, the waterfront planning advisory board review process and the other procedural aspects. The larger question of whether or not in adopting a pud -- adopting a new pud down the road, council would be able to supersede say, the height requirements or any other requirements of the waterfront overlay, is a larger legal question, and i don't think that's an entirely clear question. I think that the pud ordinance includes broad language, giving the council legislative authority as part of the pud process to set the requirements that will apply to that property. And whether this language would be enough to override that grant of legislative discretion I think is questionable. and so what you're saying is on second reading, you know, right or wrong, I think the vote -- the decision was that, you know, future council -- a pud could over -- could change elements, could override elements of the waterfront overlay. This language changes that, and any future pud's, in fact, have to comply with waterfront, correct? How I'm reading this?

I think that that is debatable, and I'm not trying to be dodgy here at all, but I think that the pud ordinance gives council discretion to choose requirements of the land development code that will require or come up with new requirements, and as a legal matter, if council adopts a pud that complies with the pud process and complies with state zoning requirements, the fact that it changes a -- whether or not this section here would be enough to override that i think is highly questionable. So what I'm trying to convey is that probably the strongest interpretation would be that this language would not be enough if council wanted to override a waterfront overlay requirement in a subsequent pud. This language alone would not be enough, probably, to prevent the council from doing that. It's clearly an discretion of intent.

Shade: intent of what? Intent of way?

Mayor? council member martinez.

I wanted to make a quick comment. The reason I considered this friendly language is because my interpretation is about friendly language, it's about process, making sure the waterfront planning and advisory board goes through the process of reviewing pud's. It in no way in my opinion and in my thought precluded any request that might not be in line with the waterfront overlay ordinance. Doesn't preclude

that. It just speaks to making sure that the values of the waterfront overlay are applied to the request, but the pud request could be exceeding the subdistrict height limit or any other provisions within the waterfront overlay, if there is a question about whether or not that's capable, then I don't consider this friendly language, and I think that's council member morrison's intent. as the maker of the motion I would like to state my intent and that's exactly what council member martinez just said. I'm sorry to interrupt, folks. In case you haven't heard, I'm sorry, I should have said this earlier, we do have reports of a tornado touching down several times in far northwest austin, anderson mill, 183 area, heading this direction -- the storm is heading generally in this direction. At last word even should there be no more touchdowns of a tornado, we should expect up to 70-mile-an-hour winds throughout the rest of the town tonight, so just be aware of that. I'm sorry if you see and hear us worried about the weather outside. I should have said something earlier. I apologize.

[One moment, please, for ]

Help ify that? Because you're suggesting that not substantial amendment doesn't need reapproval.

Shade: Wouldn't this create a conflict on that exact example?

Morrison: I guess there's a legal issue about what the pud is. I think the pud is -- just to let you know, councilmember shade, when I was reading this and it was being crafted, I was thinking , especially keeping it away from -- you know, you have a pu and then it gets rezoned to mf and then you have a whole new p.u.d. As long as you're still , it still has the same number on it because it's a zoning case. Even when it gets amended it still has that same number. I was intending to reference that there.

Shade: I definitely get that wha the intention was. I want to make sure we don't create a new problem. So like with small administrative amendments trigger the need, I guess, for approval under this language. That's what I'm trying to --

no. I think the language is -- the effect of the language is consistent with what councilmember morrison described. And really the type of amendments that would trigger the waterfront overlay requirements are they would have to be a substantial amendment and there's a list of amendments that constitute substantial amendments under section 3.2.1. But also in addition, it would have to be an amendment that increases the size, scale or density of the development allowed or further encroaches into the waterfront overlay setbacks. And that language was added because not all of the substantial amendments -- something may qualify as a substantial amendment if it's a change of use, for example, that it may not really increase the development densities of the p.u.d. It may not really change the character or scale of development allowed within the p.u.d. So b-2 was added to sort of make it clear that the amendments that are going to trigger compliance with the ordinance would be ones that are significant and substantially will effect the level of development within the p.u.d.

Shade: So why wouldn't the language say (indiscernible). If the property remains within an existing ? I mean, use the same language consistently so that there's not -- except that an amendment is subject to the requirement of this ordinance if the amendment does 1 and 2? Because I think it creates some

confusion there. Didn't notice it before until I read it fresh here. Why wouldn't we use within an existing in every other place?

[00:03:25]

That introduces confusion. We did have this vetted with legal before, before this discussion today to make sure. But what you just suggested I think would take us back to the problem of if it's any , then it just -- it means that you could be starting -- have started over with another p.u.d. And you're amending it. I think that that doesn't achieve what we're trying to capture here.

Shade: Why wouldn't we have the same language? Wouldn't you say the property located within -- why can't you reference back to the existing? I think it creates confusion?

Morrison: You said within an existing pud? The moment you say within an existing , you introduce that confusion -- that situation we're trying to avoid.

Shade: Okay.

I apologize. I'm just not following the disconnect that you're identifying.

Shade: Well, it seems -- I'm sorry, I'm getting all the e-mails from hole too about this nasty storm, so I'm kind of -- it seems to me that when -- that this now creates -- that you could -- I guess I'm not sure about the administrative question. You're saying it does not trigger it. I mean, I guess it seems to me that if it's , then why would you need part 1 and 2 below? If it's a substantial -- if it becomes a new if it has a substantial change, so I guess I just don't understand the point of this.

It could remain --

Shade: Maybe greg could --

it remains -- if it's in the pud, but then is amended and the amendment is substantial and it would increase the density of the development or encroach in setbacks, then that amendment would trigger compliance with --

Shade: Right, because it would be a new pud.

Morrison: That's the problem. It doesn't become a new pud.

Shade: I thought it does.

Morrison: If you have an amendment, you still have the same p.u.d. It's just been amended.

Right, that's correct.

Morrison: It not a new p.u.d.

It's a substantial amendment. It would be an amendment of the existing p.u.d. It would still be the existing pud, but it would be amending that pud.

Shade: I can't hear you. What?

[00:06:01]

If there was a substantial amendment to , it would still have to be vetted and come back to you, so you would ultimately -- the council would ultimately have that final decision, whereas if it wasn't substantial, then it would remain administrative, but those changes are delegated to be very minor changes that would only be allowed.

Shade: If it was a substantial amendment, it would not only come to the council, but it would also go to the waterfront board as well as the planning commission?

Because it's a substantial amendment.

Shade: Okay.

Morrison: But it's still the pud.

Shade: Okay.

Mayor Wynn: Again, we have a slightly amended motion and second on the table approving this item -- what is this? Item 74 on third reading. Further comments? Questions? Are we ready to vote? Okay. So we have an amended motion and a second on the table, third reading. All in favor please say aye? Opposed? Motion passes on a vote of six to zero with councilmember cole off the dais.

Shade: Yay.

[ Applause ]

Mayor Wynn: Let's see. Before I call up item number 75, is there -- can somebody give us a quick update on the weather? For those of us who walk home?

[ Laughter ]

and especially those who rode their bicycles down here. I think they're more interested in the weather report.

Mayor and council, rene tejas, there has been reports on local television of a tornado that has touched down near jollyville as well as strong winds near the arboretum area. This includes up to 80 miles per hour winds. The weather forecasters are predicting that this could come through central austin. Wires are arcing near mopac and parmer. It is hard to tell where things are. Wires are also arcing near the capital of texas highway. Electrical wires are on the roadway reported by spotters to the television stations and with winds up to the national weather service has let the tornado 00, but there are extreme winds near the camp mabry area as well as northwest of that area.

Mayor Wynn: Thank you for that update. Everybody please be careful tonight. Okay. So council, our final public hearing of the night is a continuation of the public hearing that we started last meeting regarding our bicycle plan. Welcome, mr. spillar.

[00:09:12]

Yes, thank you. I'll try to be quick because I know it is raining outside. This is a continuation of the public hearing. We did not close the public hearing last time regarding our update to the master bicycle plan. I want to highlight a couple of things that are in your backup. Since the beginning of the public hearing and now this continuation, we have forwarded to you additional backup material regarding specific information related to a bicycle project in north austin. This is the north acres bridge project. We have met with representatives of the neighborhood and it continues to be the position of both public works and transportation that that project should coinue as part of the bike plan as we move forward. We've also sent you an updated memorandum regarding technical updates promised as part of the development of the bike plan. If you will remember, instead of repeat lid revising the bicycle plan, we chose to do a memorandum of revisions that if adopted by this council would be included in the final draft as we make the final publication as we go forward. I want to highlight the reason that you received an updated number 1, modifying the language of coordination with capital metro that was done at the request of capital metro just to tighten the language of how we plan to coordinate this plan with capital metro. Also, references to university of texas. Again, they asked us to tighten the language ther regarding our coordination with the university of texas, the partnership there. And then also. Identify those as bicycle lanes as opposed to a wide curb lane. And we missed that in the previous memorandum. And those three have been all corrected. Other than that I will allow you to take additional comment from -- encourage you to take additional comment from members of the audience if they have that. I do know that a number of bicyclists left early -- signed in and left early because of the approaching storm.

Mayor Wynn: Thank you, mr. spillar. Questions for staff, council? Maybe they had signed up earlier and wanting to leave because of the weather, but according to my sign-up sheet here, there's well over two hours' worth of testimony if everybody feels the urge to speak. The need to speak. Hopefully that won't be the case. Let's see, so, -- just a request. We tried to be as cognizant of everybody's time at the last meeting, but because of a glitch, long story, a glitch of how we thought this was originally brought to us having nothing to do with the merits of the plan, we were advised that we couldn't take action at our last meeting, but we had so many people here, we still opened and conducted the public hearing telling everybody that, and we wouldn't take action until this meeting. We purposely left the public hearing

open if anybody needs to speak, they will be allowed to do so. I'll just go through the list in the order that folks signed up. And take testimony. Let's see. Our first speaker who had signed up is christian bowers. Is christian still here? He was signed up in favor and a number of folks were donating time to christian. elliot McFadden. Welcome elliot. As you approach, know that you will be followed by ala demling. Folks wanted to donate time to you. Is alan here? robert McLay? Cullen snangz or jason ables? So you will have up to six minutes if you need it. You will be followed by alan.

[00:13:44]

Thank you, mr. mayor. mayor, members of the council, good evening, again my name is elliot McMadden and I am here representing citizens for the transportation choices. A political action committee that organized the austin bike petition last fall. On may 21st at the council meeting we heard from hundreds of members of the cycling community addressing the council in support of the master draft plan. There were grassroots support for the street works taskforce as well as the common concerns of the cycling community in drafting the new master bike plan. Our petition read as we the undersign call on the city of austin to adopt a new bicycle plan with clear time lines for clear implementation and the following priorities. One, establish both an initial north-south and east west cross town dedicated bike trailer bicycle boulevard. Funding for full time staff, the position of bicycle coordinator and the minimum of two paid positions charged with educational and promotional activity in accordance with the best practices of other cities and five, establish a permanent city council appointed advisory bicycle and pedestrian commission to make ongoing recommendation. The draft you are considering honors the intent of this petition to create a city where cyclists are respected and have a legitimate place in the transportation mix. I like to close by saying while this plan has our support, it remains only words on paper if it is not implemented. When we were circulating this petition, the number one issue that upset people the most was that only one-third of the projects in the 1996-'98 plan ever got completed. By establishing time lines in the new plan, we'll not have to wait over 10 years to see if progress is being made. In fact, some of the deadlines in the plan will arrive in the next budget cycle and before the end of the terms for the incoming council. The cycling community is more active than ever in this city and I think you can expect us to remain engaged while working with you to ensure progress is made and this plan is honored. I encourage you to vote to approve the plan tonight and to remain committed to its full implementation.

[00:16:36]

Mayor Wynn: Great. Thank you, elliot.

Is amelia hall here. How about christopher mcconnell. Alan you will have up to three minutes if you need it. You will be followed by margaret russell and bryan keenan.

Thank you very much mayor and councilmembers. My name is alan. I'm a commissioner on the urban transportation commission. I also serve on the bicycle subcommittee of that commission and also on the bicycle advisory council. I was unable to be here last time this came up because I was representing

austin and the world beard and mustache competition.

Mayor Wynn: We read the article the day before.

That happened to be in anchorage and there were a couple of things I learned there. One, it's really hard to get sleep when the sun is up for 20 hours a day. And two, anchorage happens to be a very bicycle friendly city and it's not necessarily because they have great bike lanes. It's because the population is very respectful to the cyclists in town. Motorists make full stops at stop signs. They don't try to squeeze riders off the street as they're reading. I think that's a very important thing. I think when I come back to austin, I think how do you change a population's mindset on that. I think a very important part of that is public education. The bicycle subcommittee made a recommendation to the bicycle and ped part of public works that in the initial stages, public education would be a very important thing because that may be the part where we get the most bang for our buck. In these hard economic times maybe putting some of the hard infrastructure might not be feasible right now. Public education and i know there are members of the city staff that are here and have that input. I wanted to say that. I wanted to make sure that I reiterated to you guys so that when it comes up you understand the importance of that, public education is very important to cyclist safety and that was brought to my attention in many different cities that I visited. Thank you.

[00:19:05]

Good evening. I'm margaret roughly. I appreciate what the city is doing for the bike plan. I think it's a great idea except I've been a neighbor in the wood bridge neighborhood association for 24 years and as I expect all of y'all feel, I love my neighborhood. I love my neighbors. But we're at risk of being overwhelmed by adjacent conditions. We are adjacent to i-35 on the west, industry on the east and high crime neighborhoods to the north and to the south. We have geographical barriers with 183 and we have the creek. The current location of the pedestrian bridge, part of the 1998 design, puts at risk a strong east side community that is a microcosm of all that is austin. Every racial, cultural demographic, occupations, range from doctors, lawyers, landscapers, child care givers, city workers. We have every family type of arrangement there. We have every family size. We've got ages, newborn to 80. It's a highly, highly diverse strong east side community. This bridge location is not -- we're asking that the bridge location be moved a quarter of a mile down the creek. It's still into our neighborhood, but its current location is a conduit to crime. You're connecting a neighborhood of 41 crimes in a year to a street of over 500 crimes. So if we could move this location, we've met continuously to express our concerns that this is not healthy for this great city asset. Crime is going to come across that bridge. The teacher I spoke with doesn't imagine they will be able to put a crossing guard down at the bridge. So to move the bridge a quarter of a mile down the creek, it will spare our neighborhood. We truly believe that. It will spare the neighborhood and it will allow aisd to save money on their buses and --

[00:22:04]

[ buzzer sounds ] I think that's all I get to say. I want to thank you all for affording us the opportunity, but



we love our neighborhood and we would hate to this impact, a really valuable city asset. Thank you.

Mayor Wynn: Thank you, ms. russell.

[ Applause ] bryan keenan. Welcome. You will have three minutes, to be followed by lowell rice, to be followed by ed patton.

Thank you, mr. mayor. Mayor, mayor pro tem and -- I'm sorry, mayor-elect, councilmembers, i appreciate this opportunity to stand before you and represent my neighborhood. I moved to the crime neighborhood heritage hills, wood bridge, two years ago. Since that time i quickly became involved in the neighborhood association and currently represent it as its vice-president. The reen that I did that is that I found this this is a unique neighborhood, especially for this area of austin. It is an area of -- like margaret said, low crime. It is a beautiful neighborhood with a lot of old trees and a lot of nice houses that people take great pride in. I did not want to see that endangered, so i chose to quickly become a part of the neighborhood association and that is why I'm here before you today. I want to make sure that you hear -- before you vote to accept the bicycle plan as it is, i want to make sure as you are aware that our neighborhood has been disregarded during this process. The members of the bicycle planning commission, the bicycle planning team, have in my opinion acted disingenuously towards our neighborhood. We were told during the neighborhood planning process that if our neighborhood choose to not put the plan for the bridge in our neighborhood plan, that the bridge would not be built. And that does not appear to be the case. The bicycle staff has had ample opportunity to amend the bike plan, to change the proposed location. And they have not chosen to do so so far. Based on those events, i am not confident that any amendment it that we choose -- that we put before them will be accepted. In my opinion this is endangering my neighborhood. I moved to this neighborhood specifically because of its character. And this plan -- while i must -- please hear me when I say my neighborhood is not against increasing bicycle traffic. We are very much concerned about environmental concerns and health concerns. We think that increasing bicycling is an excellent idea. But we are opposed to this plan because it has not been changed. And I ask you to hear me on this. That because we have been disregard odd this issue, I would ask that you vote against the current bicycle plan in spite of the fact that on the whole our neighborhood is very much in favor of it. Thank you very much.

[00:25:30]

Mayor Wynn: Thank you, mr. keenan.

[ Applause ] lowell wright? Welcome. By the way, I call names well in advance so folks can start making their way closer to either podium so we can speed up the process and maybe get home before it gets a lot worse. So hang on, bowel. Let's see -- hang o lowell. A number of folks wanted to donate time to you. Is terrance o'donnell here? Welcome. How about jaska? Hello. I'll leave it at that. Thank you. And darrell hazelwood. All right. Lowell, you have up to nine minutes if you need it. You will be followed by ed patton, who will be followed by melissa (indiscernible).

It seems like yesterday I was here making the same pitch to y'all. We have met over the last three

weeks with anique and nadia and peter marsh as well who is one of the original engineers planning the bridge for north acres park. I have spoken to txdot. I have sent various e-mails to city council. I have made phone calls to everyone's office. Thank you to those of you who took the time to speak to me. I appreciate that. The problem we keep running into, and i think that is being alluded to by my neighbors who have been forced to speak about this is we keep coming to point of discussion spillar pointed out, several people or several entities within the north austin neighborhoods have agreed to have the bridge put in place where it is. And yet we can't seem to find those people. When we go to the neighborhood association meetings every month and have been going for the last year, there's no one in those meetings that supports bringing the bridge where it's currently planned, none. None. When we talked with anique and nadia about who they have spoken to who are in support of the bridge we get the neighbors to north of us and the apartment complexes. There was a neighborhood plan or -- a meeting that was supposed to be scheduled for two weeks ago with those neighbors which was inadvertently cancelled. And yet now we hear that some meeting has occurred them that shows they are in support of this bridge in north acres. It's interesting because we wanted to have that discussion with them. One of the points i brought up in my e-mail, my last e-mail to city council, and to the mayor's office, was that what we really need to have in this discussion, truly need to have in this discussion is true representation from all the stakeholders that are affected by this plan, by this bridge specifically in a single room to have this discussion, to explore the alternatives. And that has never occurred. We keep having discussion as well around why this bridge is the only solution that's being offered, and that's my biggest concern with this discussion. If you look at an old adage, going back in time, pulling things back from the heritage that is our nation, the things that really make us strong, it's what we build our belief structure on. One of those things is that it's the only tool you give somebody is a hammer, everything starts to look like a nail. Every time this bridge is brought up, this is the solution to the busing problem. This is the solution to pedestrian-bicycle planning in the north this is the solution for interconnectivity between the neighborhoods. It's the only thing that's been offered in all these discussions. None of our alternatives that we have proposed through the neighborhood planning process h been brought to these stakeholders, to aisd, to hurt elementary, to the neighbors to the north. Nor anyone else to have that discussion which i feel is important to have an important dialogue to to find what is best for all of the participants in the neighborhood. If you look at the area that is impacted by this, okay, all the things they get back from various city councils members, from various people on your staff and everyone else is that there are 594 children in the pebble creek and other apartment buildings to the north of us that cannot currently get to school unless they get on a bus or their mom and dad takes them to school and this bridge is going to solve that. There are 800 kids going to school at bernice hart. 594 Of them live in the apartments to the north of us. I nd that really hard to believe. I wonder where these numbers are coming from. No one can justify or validate that that is the actual case that those numbers specifically addressed the area between rundberg and park plaza drive. When we talked to ber nice hart elementary they have 12 buses that leave on average during the day and leave to the north of them. As I pointed out in my last presentation, that doesn't just include the apartments to the north. That goes all the way up to chilled dress and bluff bend, two miles out. And yet this bridge is being proposed to address the subset of population that exists on north plaza and park plaza drive. Regardless of our concerns. Regardless of the amount of crime that exists around us. Regardless of the fact that people that we're talking about trying to help in this matter are renters in apartments. If you look at the statistics

across the nation, the average apartment rental to the 3 years on average. Margaret just stated that she's already looked at the fact that she's been in the neighborhood over 20 years. Most of our neighborhood have been there 20, 30 or 40 years since the first house was built. I've been there almost 12 years. We're going to look at serving a demographic 3 years on average in residence. And may or may not have children in that residence moving forward? And disregard the crime issues that we've already seen that kxan pointed out on their broadcast two weeks ago as again a single solution to fit all these various needs. I just don't see it as valid. I don't see it as logical. And right now with the budget shortfall of \$30 million facing the city next year, I don't see this fiscally responsible either. Txdot owns the right-of-way for i-35 onramp road. According to peter marsh, txdot is already looking at building a bridge at 35 regardless of whether this bridge goes in or not. ott is having town hall meetings looking at ways to cut the budget and what we can do to make sure we don't cut very specific and necessary services to our city. To a wonderful city that we all live in and are cutting back the fire department, bringing the administrative staff and putting them on the trucks instead. We're looking at laying out 300 people from the police academy and not providing them jobs because we don't have the money for it. Yet we'll have \$600,000 to spend on the gap between the funding from the federal funds and the city bond money for bridge that no one in our neighborhoods want, we'll come up with 600 grand of that just to make sure we can put a bridge in to join a 30-foot span of creek bank when there is already an alternative. It looks like we're going anyway, funded by the state. I really would like to understand why from the city council's point of view we keep going down a single path of solution versus the myriad paths that are open to us. Why can we not have that discussion to look at what will be the best solution for all of us. Because of the community, it really addresses all of our needs. Not a small subset. Right? To quote star trek for those of you

[00:32:48]

(indiscernible), the good of the many outweigh the good of the few are the one. In this case, the good of the many is connectivity. But we don't want to be connected at the location that is proposed, to crime. Where on the news they show the shot of a crack pipe laying on the trail that you're proposing a bridge to go to and connect my neighborhood to. It just doesn't make sense to me. No one having this discussion besides us lives in that neighborhood. Nobody in bike and ped, nobody in aisd has spoken up. We have a couple of police officers, but they don't seem like they can get involved because of the conflicts of interest. We've had a.p.d. Actually talk to us, our representatives, say that he doesn't want the bridge there either because it's hard to patrol because he knows what he's dealing with across the street, across that creek. Because rundberg is a huge crime mecca. And 30 years it's time to address crime on rundberg lane, the police department has been unsuccessful. Now bike and ped is saying if we put this bridge in, crime is going to go down over there because in national studies, connectivity between neighborhoods decreases crime. I don't see that either. Because in the studies i look at, it is state that had some of the neighborhoods they're connecting don't have connectivity already. That trails and paths are more of an improvement to existing connectivity as opposed to creating new connectivity. And especially new connectivity that resides on a cul-de-sac in one location and an elbow of two streets on the other with heavy ground cover on both sides. It's not apples to apples comparison. We need to make sure that if you go through with any plans on this that they address our concerns. My understanding in reading the bike plan currently is it's a draft. All the drafts I write for my job are

documents meant to be changed when there are problems encountered, when there's something in it that doesn't quite fit the needs of the project we're putting forth or that has detrimental flaws to it that will cause other problems down the road. We see this bridge as one of those flaws. And regardless of the rest of the bike plan which we again truly and fully support, we want that piece changed. We want that amended. Our biggest concern right now is that if you go ahead and accept this plan as it is with no amendment, with no changes, there will not be enough funding in the future to remove it as the city council did on the shoal creek bike improvements with the little bike islands that did such a wonderful job of protecting cyclists and providing connectivity and parking along shoal creek. Let's not make that mistake again. Let's not spend must not on a bridge that if it does go the way we are afraid it will go, you will have to go in and remove later. That just doesn't seem again to make fiscal sense. So all that granting a-- ranting aside, I do appreciate the time the city has put forth in defining a bicycle plan that does address a lot of connectivity in the city. I want to thank our planners for taking their time to work with us on getting three neighborhoods working together to identify our concerns and provide alternatives to what we have been opposing for over 12 years now. I thank the city council for listening to me rant once again. Thank you.

[00:36:07]

[ Applause ]

Mayor Wynn: Our next speaker is ed patton. Again, I call names out hoping that folks would be courteous enough perhaps to stand near a microphone so then we could not -- with 72 more minutes of testimony, we could cut that down by a significant amount of time if people sort of coordinate with us so some of us who are worried about this storm can go do our jobs. Welcome, mr. patton. You will have three minutes. You will be followed by lorasias (indiscernible) to be followed by chris peek. People can line up on both podiums. Welcome.

Thank you, council. I've lived in the heritage hills for one year and I'll keep my comments brief. I'm not going to repeat what other people have said well. I support the bike plan. I'm a bike commuter. I voted against it on the computer out there because of this one thing, which I see as a really, really bad idea. For a really good oasis in a part of town that's struggled. I'm a lifelong austinite. I've ridden my bike my whole life in the city except for the four years when I lived in fran when I was too afraid to ride because it was so contentious. I ride now. I have a seven-year-old daughter. I love living in that neighborhood. I really don't see how this is going to make my neighborhood better and I see a lot of ways that it could be bad. And yet, you know, i feel bad voting against it. I think this is a really ill conceived segment in this plan. And I would like to stay there, but as little as I paid for the house, if it goes in, I'll move. And I think a lot of people probably will, the neighborhood will go down, it will not have the long-term homeowners. It will probably become more like some of the neighborhoods close to it, which will incur more police hours, etcetera. That won't help austin. I love this city. I'm a native. And you know, if I have to go live in anderson mill, I guess I will. I would rather not. Thanks.

Mayor Wynn: Thank you, mr. patton.

[ Applause ] lorisa? Is richard siewar tment here? He wanted to donate time. You will have three minutes, to be followed by chris peak, to be followed by carol stephenson. Welcome.

Thank you. And thank you for giving me this opportunity to speak to all of you. I want to say as a resident of heritage hills, I do support the bike plan in almost all of its entirety with the exception of this one little bridge. And I support lowell our president. I agree with him and the others who have spoke completely. What I want to do is elaborate a little bit on other things that have been said, specifically our location and crime that surrounds us.

[00:39:12]

Mayor Wynn: Hang on. I'll pause the clock. Matt, if you could help ed and lorisa use the table and perhaps the aerial because with matt's help he can zoom in to make -- you can put that up on the screen for everybody to see and lorisa you can use the hand-held microphone and just stand next to our map and even point things out while the sky cam gets it on the screen for us.

It is lowell's map, so it doesn't have -- actually, it's our neighborhood planning map. It's our neighborhood planning area. It's the only map we have, but I thought it would be useful to show you what I wanted to show you. This is our neighborhood right here. Our neighborhood is right here. Here is our creek. Here is park plaza and north plaza. What I want to talk about is the crime. In our neighborhood the statistics that I pulled for our neighborhood association area for about the past year is 65 incidents on t crime viewer of the city of austin. This part of park plaza not even all the way to 35, the southern half of north plaza just these two veets here had a total of 498 incidents in that same time period. 65 -- 498. The bridge will go in right here. It will link us directly to 498 incidents. We are proposing that it move down here, still connected to our neighborhood, but not emptying out right into this crime. To give you another idea of where we're at, the windsor hills area, which is the other half of our neighborhood planning area, this area up here has 863 incidents in that same time period. 65 And 863. The neighborhood across 35, this area in here is together on the crime viewer. They had a total of 5,369. 5,000. This neighborhood south of 183 -- south of us, john's neighborhood, had 3,624 incidents. And again, 65 in our neighborhood. As you can see, we are surround bid areas that have a much higher crime rate than we do. All we're asking is that you move a bridge from here to here so you don't directly link us to one. And when you vote on this tonight, think of me and my family, my husband, my four-year-old son and my two-year-old son who bought a house in this neighborhood so that we could raise our children here. Thank you.

[00:42:26]

Mayor Wynn: Thank you. Chris peak? Perhaps carol stephenson? Welcome, carol. To be followed by maria raper. Let's see. Carol, some folks wanted to donate time to you originally. Is mary jo hernandez here? Welcome. How about craig wisenhunt. So carol, you will have six minutes to be followed by maria raper.

Thank you, mayor wynn mayor wynn and councilmembers for taking the time to listen to our concerns.

Again, my name is carol stephenson. I and my husband jim have lived in the heritage hills subdivision now for 16 years. We've raised one son, corporal daniel jay stephenson who is 23 years old and currently in the marine corps. He is quite found of our neighborhood. He has enjoyed growing up there. As has been stated before, we live in a very diverse neighborhood. Many races, african-americans, asia, hispanics, caucasians and probably many aim auto even aware of. We all get along well. We work. We pay taxes and we take an active interest in the city of austin striving to make it a great place to live. It's a quiet neighborhood surrounded by commercial development on all sides. Unfortunately it is also very close to high crime area on east rundberg lane to the north. Right now is sheltered from that high crime area by one simple creek bed named little walnut creek. It is a well documented fact that this area north of our neighborhood has a high crime rate. Let me stress to everyone here that this is not imagined. It is not something we are afraid might happen if this bridge goes in. It is real, it is documented, it is now. And it is what it is. Evidence of it lies everywhere. We really wish it weren't that way. We really wish it was a nice safe area for the families that live and work there and that they were not victims to it, which they are. And that's no doubt in our minds and anyone who will open their eyes and ears, and we really hope that's you, that we too in this neighborhood will become victims to it because this proposed bridge, where it's located, will connect -- and I repeat, it will connect our neighborhood to high crime. It's inevitable. We have just heard reports on the news of how difficult it is for our police force right now to protect users of the bike and pedestrian trails located around the lake. How many cars were being broken into or stolen. And that is an area of high visibility. We have also read and heard on the news that the current police force is understaffed. That new classes that should be ready to graduate from the police academy have been postponed and that over 250 police officers will reach retirement qualifications next year in 2010 and there are none in the pipeline now to take the places of those who do decide to retire. We are already concerned about our police force being further in the hole and unable to handle the worst of the crimes occurring in our city, much less a single lonely, voluntary bridge located deep inside a single lone, solitary neighborhood on the east side of austin.

[00:46:01]

[ Buzzer sounds ] we are concerned about the children who attend school at hart elementary. No parent in their right mind would allow their children to use that bridge where it's located. It will create a hardship for them because once they realize that aisd wants to take away the buses and that they will be forced to have their children walk, elementary, pre-k to through grade, they are not going to be happy. Thank you.

Mayor Wynn: Thank you, carol.

Can I ask you a question before I start? What is the buzzer mean?

That your time has expired, the three minutes has expired. You know, I'll let you take a seconds to conclude after that. We limit the testimony to three minutes a pop. Welcome.

Okay. My name is maria rape and I've lived in the heritage hills neighborhood for almost 11 years and I have a son and daughter eight and 10 years old. I had not planned on speaking tonight, but after

realizing how much we needed to be out there to let you all know how important this is to us, I am up here as of now. I am in favor of the master bike plan with the exception of the proposed pedestrian bike bridge that we've all talked about tonight. The reason I opposed this is that I understand one of the side benefits of putting the bridge in is that the current bus service supplied to Hart Elementary could be stopped as the bridge would make Hart within a two-mile walking radius for kids coming to school. That may be considered a great idea on paper and for the budget cuttingwise, but I assure you it is not. As a neighborhood member, I believe that if you yourself physically walk the proposed site yourself and you think about your kids or maybe your friend's kids having to walk across this bridge, you would not vote for it. Thanks to some of our neighbors who are here tonight, our side of the creek looks great because of their cleanup efforts. And they are continuing to clean up that area. We may actually realize our dream of having a safe park for our kids one day. We even have a red swing there. But as you go to the northside of that creek, it's a different story. There's trash, there's used condoms, and there's drug paraphernalia. And those are just a few of the things that you're going to find and that my kids will find if they happen to walk across that bridge with me, of course, because I wouldn't let them go over there alone. I don't want my neighborhood or my kids connected to that kind of environment. In addition, I wonder if Hart Elementary has been made aware of this plan to stop the busing. Have the parents been made aware that the bus option will be taken away and their kids will have to walk across that bridge or they will have to find other means of transportation? If I were one of those parents I would be pretty upset that no one made me aware of this. I also spoke to David Dean this evening who is the assistant principal at Hart Elementary and also at Highland Park Elementary on the west side of Mopac. He stated that he has not been included in any of the conversations about the proposed bridge. I can understand this considering he is half-time between the schools. But in addition, he is not aware of the plan to terminate the bus service if this bridge is built. I would disregard this comment except that the school is in transition between principals, so I would think that if Dean does not know about this, it's going to be a real surprise to the next principal.

[00:50:02]

[ Buzzer sounds ] this is a very -- this isn't fair to the school or the parent of those kids who ride the bus. And finally, we keep being told that this bridge is not going to be built, yet it keeps coming back time and time again. I beg you, I don't want to be here. I want to be home with my kids. I beg you, make this bridge go away. Now. Thank you.

[ Applause ]

Mayor Wynn: Ramon Trevino. Welcome. To be followed by Matthew Hazelwood. Is Jose Hernandez with us. Welcome. How about Paul Bostrum? So you will have up to six minutes if you need it, to be followed by Matthew Hazelwood.

Thank you for hearing us tonight. What I'm going to tell you today is a little bit different from what you've heard from some of my other neighbors. I'm very much opposed to this bridge, but I'm going to give you a review of some of the more recent history of our struggle against this bridge. I was the neighborhood association president two years ago in 2007 when this bridge was at least to our knowledge first revived

after being moribund or the plan was moribund for a long time. At that time we made the rest of our neighbors aware of it and opposition immediately arose because as you have seen, the crime on the other side of the bridge, the proposed bridge, is quite different from what occurs in our neighborhood right now. So we engaged city staff. We invited them several times to come to speak to us at some of our neighborhood association meetings, which at the time were being held every month. Because the interest in his project. More than once we had 70, 80 people at our neighborhood association meetings and literally at the last minute staff said that they couldn't come. When staff finally showed up, I think it was late march of 2007, they were -- they said they were very shocked and had no idea that there was so much opposition to the bridge and they didn't understand why in the world we didn't want such a nice bridge built in the edge of our neighborhood. We explained to them several times the reasons for that, which you've heard tonight quite eloquently from some of our neighbors. The staff has since continued to be in touch with us every now and then, and we've continued to tell them we don't want the bridge. They have continued to assure us we will not ram this bridge down your throats. This bridge will not be in the plans as is. We will not ram this bridge down your throats. I'm saying that over and over again because I've heard it over and over again. I was vice-president before I was president. I've been hearing this for years. So imagine my surprise when as Lowell and some of my other neighbors stated earlier, we've been involved in the neighborhood planning process, which staff assured us, they said if you can get this bridge changed in the neighborhood planning process, then that will be a signal that this bridge needs to go or needs to be moved. Two months ago the transportation portion of our neighborhood planning, our neighborhood plan, was approved and this bridge was -- we gave several alternatives, but the bridge as it stands before you now was not and is not part of that plan. So I was very surprised when two days before council last heard this we found out through the neighborhood planners not through bike and ped, that the bridge was in the plan and that it was going to council less than 48 hours from then. We had almost no time to prepare. So I must say -- and many times at the meetings in years past I had to call my neighbors down because they were agitated by this bridge and I kept telling them, city staff is here to listen to our concerns, please don't take this out on them. They're our friends. They're here to listen to us. I stand before you now in saying I feel like I've been snookered. I feel by trade by city staff. They should have at least given us warning that they were going to put this in the plan. We did not receive notice until 48 hours before it came before you. In conclusion, I once again ask you, please take this out of the plan. We are all for better connectivity. We have proposed not only the alternative on 35, but an alternative on Cam Ran Road far to the east. As KXAN put it in the piece they did on this several weeks ago, this is a bridge to crime. And I'm asking you, please take this out of the plan. Thank you very much.

[00:55:15]

[ Applause ]

Mayor Wynn: Welcome. You will have three minutes to be followed by Kim Foster, to be followed by Bryan Gerick.

I don't need three minutes. All I need is 30 minutes since I spoke with you three weeks ago. I wanted to restate the three main reasons that I think the bridge should not go in. I do approve the bike plan as I do



bike to work all the way up to ibm on mopac and parmer everyday. Not everyday, but I've done it a few times and it is quite far. I oppose it because I go past that corner on rundberg and i-35 all the time as I live nearby, and I am eyewitness that there's a high amount of crime that goes on in that neighborhood. And the bridge is a direct pathway to it. There's no side stepping the issue. The bridge will bring crime into the neighborhood. Plainly stated. Bridge to crime. The other issue is with the economics of it. With the police academy cadets being pushed off another year and 30-million-dollar budget shortfall, I just can't see the financial feasibility of putting another bridge in where another plan is planned on being put in by txdot on the i-35 feeder road. Plus the fact that the bridge will be a lot harder to be patrolled by the police if you put it inside the neighborhood. have to veer off and go into the neighborhood, thus giving said criminals an escape route. Not only that, but if you go to that area, you will find things like condom wrappers and used condom domes, crack pipes and whatnot on the ground in that area. Show me a mother that would let their child walk to school through that area alone. The third option is the planning issue. I've gone to meetings with hundreds of my neighbors who all unanimously oppose the bridge in its current location. Not a single person has said this is a great location for a bridge. In all the meetings that I've gone to. And realized that I'm -- I've already spoke, so i want to keep it short and sweet. I'll let you guys move on. Thank you for the chance. >

Councilmember shade moves and councilmember morrison seconds that we waive council moves and go past 10:00 p.m. All in favor, say aye. Aye. Motion passes on a vote of four to zero with the mayor-elect, councilmember martinez and councilmember cole off the dais. Coach are kim foster is our next speaker, to be followed by bryan gerich. Welcome. You too will have three minutes. Thank you.

[00:58:22]

Thank you for hearing me. I've lived in the neighborhood for 14 years. I used to walk down to the north acres park with my dogs. I will not do it again. I haven't done it for years because of the crime, because of the drug dealings going on. I see it every time i drive by there. There's somebody parked over on the side. They look, they get out, they look around. Their hands are closed like this and they walk across the park into the creek. I see them meet someone, they shake hands, he goes back and gets in his car and leaves. By the time I call the police it's already over and done with. I really like the neighborhood. And I urge you to vote no to this bridge plan. Please vote no. As ramon said, we thought this was over with a couple of years ago. Last year, last week. And it just keeps coming back and biting us. So I urge you to don't pass this. Thank you very much.

Mayor Wynn: Thank you, ms. foster. Bryan, welcome. You too will have three minute. You might actually be the last speaker. I've got a bunch of folks signed up here for questions. Welcome.

Thank you, mayor, council. I moved to austin at 15 years ago and a bicycle is my only means of transportation at the time. And I remember seeing on the green sign that said bicycle route 20 or bicycle route 25 or whatever. And so I contacted the city to try and find out if there was a map of those bicycle routes. Alvarez several phone calls, I found out that there was not in fact a map of them, that I was informed that it was something that was in the works. I'm glad to see that it's still in the works and I hope that it all gets ironed out soon. But the real reason I'm here tonight is again about the bridge in my

neighborhood. At one point I was working as a land surveyor and I actually did the data collection for the topography of where this proposed bridge is going to go in. And I remember then as I was beating through the brush on the northside of the creek asking myself why in the world is the city going to put a bridge between these two places. About 10 years ago we bought a house in the neighborhood. And from that time that I joined the neighborhood association until now, that has been the major focus as to prevent that bridge from going in. And I'm another tax paying, voting citizen here to tell you please don't do it. Thanks.

[ Applause ] mayor mary council, i think that might be --

Mayor Wynn: Council, I think that might be all the folks who wanted to give us testimony tonight. Again, 99 people signed up not wishing to speak in favor. 19 Additional folks not wishing to speak in opposition. A bunch of folks checked the box that says they're here to answer questions if we have any. Those handful of folks all have checked the in favor box. So questions, comments? spillar, I mean, obviously you know, these significant issues tonight disproportionately is this bridge.

Yes, sir.

Mayor Wynn: Has a lot of heart burn obviously. Before I maybe get to specifics about the bridge, so what we have before us is the bicycle plan. As I heard somebody earlier mention, these -- like it or not, they are words on paper and some lines drawn on paper. Help us all understand that as -- if this council were to adopt this or even a different bicycle plan, pieces of this plan require tens of millions of dollars of capital investment, bridges and grade separations, even -- in theory even paint delineate bike lanes. Other elements of the plan in theory don't cost money from some educational issues to updating the web page and that kind of stuff. As each potential project would happen, there's a time line associated with it or projected buildout, each project ultimately comes back to the council in some form or fashion vis-a-vis we either approve a construction contract, we approve on the rotation list some engineers to design certain things when it's big enough we have an individual vote when we have a professional services agreement with some civil engineers or even, you know, surveyors or the like. So what is your anticipation of over the next, you know, three to five to 10 years, some of these projects that make up this master plan? What are the next steps for an individual project? What would happen before this bridge ever gets built and/or what would need to happen in order to begin to make whatever adjustments, amendments, if in fact there was an alternative posed for this specific issue?

Well, if I can address this specific issue, there's a few items. First of all, I want to clarify that the bridge here at north acres park is currently in the existing adopted plan that was adopted in 1998. So really the question I think before this body that the citizens are asking is should it remain in the revised plan as it goes forward or should it be removed. Staff has made the recommendation that it should remain in that, so what that results in is really two scenarios, if you will. The first being to keep that project within the current plan. It is -- the design is complete. Phase 1 would be to coordinate with park to have the northside of the creek cleared. And in fact, that is an issue that has been addressed today and depending on weather tomorrow would be completed tomorrow. We did find the northside of the creek heavily overgrown. It was part of the park, but because it was north of the creek, had not been

maintained in the same level as the side of north acres park to the south of the creek. And given the concern about crime, we asked that pard go ahead and cut that weed and maintain it, which we have done or started today to address the issue separate from the bike lane. Phase two would be -- and also as part of that, one way we could address the crime, the park on the northside of the creek is actually a private park owned by the gated communities there just north of the park. we would like to meet with those apartment owners and set a curfew on that park and we would have signage that would allow austin police department to more effectively manage activities in that park. Moving into phase two in terms of implementation, staffs that recommended that this is an important crossing, so we would move sometime at the latter part of this calendar year to move towards construction. What that would mean is that we would need to come back to you and the public works director is shaking his head yes that we would come back to you for authorization of a construction contract and that would give you the opportunity at that point to decide again whether this specific project moves forward or not. Then we would implement an action plan for security around that bridge. The other option is to eliminate this bicycle feature from the plan today. That would generate us having to notify campo that we have decided not build that bridge and remove it from the tip and also return about the \$120,000 that has been spent on the design process. Those are sort of the two options today. So if we move forward with it in the plan, the next opportunity for you to -- or this council to deal with it would be at the construction phase, the authorization of the funding.

Mayor Wynn: So the -- what I would call the engineering, everything maybe short of construction documents has occurred. And you said we would have to return \$120,000 to whom? And who gave us -

it is a grant through txdot. So in effect the grant funding would be returned to txdot. It would mean potentially gating, even though we believe that has some technical problems with it, but we would be willing to consider that. The other item that was mentioned today was the school school had the funding for the crossing guard. And of course, that is a program run by the city of austin and funded through the city of austin. I understand the child safety is committed that should this bridge be built that we would actually place a crossing guard at the bridge to assist with crossing that bridge.

Mayor Wynn: And did you say that this bridge is tally in campo's tip or the transportation improvement plan?

Yes, because it is a transportation enhancement grant, so therefore it has to be in the tip. So we would need to request that it be removed from the tip. That in fact is why it is in the current bike plan is because it is funded through a grant and therefore has to be part of the continuous planning documents that we have.

Mayor Wynn: Help me understand the -- so the scope and scale of the bicycle plan is massive and it covers in theory all 280 square miles of the city, right?

Yes, sir.

Mayor Wynn: So I've got to believe there are dozens of bridges, of construction projects, of things that would cost a bunch of money and have to be fund and ultimately have to get built. It sounds like that, for right or wrong, this one has to some degree been some priority for it to already be in campo's tip, for us already to have spent 120 grand or more perhaps, and for staff to be prepared to recommend at some point even by the end of this calendar year, a construction contract. So help me understand how this one project sort of prioritizes over the whole -- the rest of the plan, how many more of these do we have this year? Is this literally -- would this literally be perhaps the first construction contract as part of this new plan? And because is that important or because there's just been so much momentum behind this thing how no for 10 years?

I think it's more of a matter of timing. This council actually accepted the grant, i believe, in 1997. And then we adopted the existing bicycle plan in 1998, is that correct? Yes. So I really believe that this is more of a sequence of timing that the design was done, we began those discussions with the neighborhood and then as we moved forward with this update to the current bicycle plan, this project and as we know from other public involvement examples, when you're talking about a nebulous plan, you tend not to drive controversy, but as you get closer to the implementation, the specific design, you tend to drive controversy whether it is this bridge or a bike lane on a significant arterial or a change in anything. I believe that this bridge has reached the point where there is something to have controversy about. I don't mean to diminish the importance of this bridge, please understand, it's just that this is the most physical thing we can look at and that's I believe created the controversy. Opportunity.

Mayor Wynn: In the scale of the entire plan over hundreds of square miles,, is this literally likely to be the -- the next project that's an element of this plan or are there five of these across the city that are happening and for different reasons, they may not have any controversy because they --

I would suspect that this would be other bicycle facilities that are placed prior to this bridge because they represent bicycle lanes on arterials or various roadways that are striping in nature rather than construction in nature. Questions, comments? If a councilmember asks a question of somebody in the audience, that -- councilmember shade.

Shade: You have a response to that?

Mayor Wynn: r I try to run a fair -- relatively pleasant meeting, and i want you to please respect that.

I will take a deep breath before i continue. Thank you. So I draw a question on the prioritization of this based upon the level of controversy because we are coming close to breaking ground. If that were the case, 10 years ago we wouldn't be having this conversation. But then this is brought to us 10 years ago we opposed it then. We have met with your staff over the last two years solid, sir, two years, and we've opposed it every meeting. Every single one. If you would like to ask the receptionist, she's received every meeting where this has been brought up and our concerns have been basically at this point in time what sounds like ignored, I think you would see that we have taken our time, we have taken our deep breath, we've tried to address rational and calm way and at every turn we are told, well, we're so sorry that you oppose it, it's already in the plan. It's already adopted. Got that. It was adopted before you

brought it to us. It was adopted before you took our input. We have been opposing it for 10 years. This is not an issue of priority, of proximity, of inevitability of three or four months out. This has been 10 years in the making and I take issue that because of the fact that it's now legislated for construction in december of this year and january of next that that's why the controversy exists, that is not correct, sir. It is impossible. If it was because of that, then all of us have molded the space time continuum to meet our needs to move forward 10 years in time to come this this point and realize that this is an inevitability and that's why we're concerned about it. It is not the case.

Mayor Wynn: Thank you. spillar, obviously -- others can confirm this. There's no question in any mind that there has been opposition to this bridge, probably even conceptually when it was a relatively simple line on a map. Of course that now hazel evacuated as what appears to be the moment momentum for an upcoming construction project.

And the gentleman is right, there has been controversy from very early on and I did not mean to imply that there wasn't. My statement was that as you start talking about a specific project as opposed to an n tire plan, you tend to see more super in a specific issue. And so absolutely there has been interest in this bridge, controversy, concern about this bridge from the beginning. It remains an important crossing and we believe an important connection between the north and the south side of this creek. We're willing to take direction from the council, obviously.

Mayor Wynn: Councilmember shade.

Shade: I have another question and it may be anique that's able to answer this. I'm curious about the other people on the other side of the bridge and if they were included in these discussions and I any of them were here. Is anyone here from the other side of the bridge?

No. Unfortunately for hafer reason, they have not been participated in the planning process we've been participating in for the last 83. My understanding from the notes that I've read on the memorandum is that all the meetings that have occurred with the apartments to the north have been conduct understand spanish primarily because of the language barrier. And that may be the exact reason why they have not participated in the neighborhood planning process, because of that language barrier. I don't know the reasons. Again, we've asked to meet. There was a meeting that was scheduled two weeks ago that I was invited to go to and unfortunately that meeting was cancelled. So I still have no idea why they haven't participated or who is actually in favor of this.

Mayor Wynn: And they are not here.

Thank you. Anique, public works department. I would like to speak to the process. First to the question, we did want to hear from -- I will attest that I have been attending the heritage hills neighborhood association meetings for the last two and a half years and I'm aware of the passionate emotions regarding this project. And we did respond to the neighborhood by holding back on construction. We had 100% design. And I made the recommendation to not move forward so that we could work through to see if we could find some alternatives, meaning design issues that could address the crime issues

and to hold back for one year had initiatives in the area to see if we could look at some decrease in crime in the area. So we have been working with them. During that time the neighborhood planning process started and we at public works thought it was a great opportunity to engage both sides as Lowell pointed out. And unfortunately there hasn't been as much participation perhaps because of the language barrier. We to be responsible outreach -- we do have a Spanish speaking member on our staff and outreached to the community, had two meetings, and had support for the project and the concept of the project. Those meetings were collectively attended by about people. So that's been the history of engaging the other side. I did attend the neighborhood planning meetings that were specific to bicycle and pedestrian transportation. And unfortunately there were no members of the northside. There's a condo community in addition to the multi-family that's directly north of the creek. Two folks did attend from there who were in favor of the project because of the impact. There's been investments in the area, other things such as the Gus Garcia Rec Center and they saw this as another investment in the area to try to address the issues. I hope that answered your question.

Shade: Thank you.

Mayor Wynn: Councilmember Morrison. If council asks a question of you, you're welcome to answer.

Morrison: Could you talk a little bit about how important this is to connectivity for bikes? We've talked a lot about the benefit for the 592 kids walking to school, but I'm not sure I get how it plays into the whole bike --

thank you. As you know, our bicycle plan responds to all levels of bicycle users, both the commuters, both the expert bicycle users as well as the junior and lesser skilled bicyclists. We believe this bridge responds better to the lower skilled bicycle user on the street. The advice, the kids that potentially go to the school. We believe it could be an important connection long-term. There are other bike routes that provide more of the longer distance connectivity and service through this area, but I would term this as a bicycle facility that not only serves that local connection, but as a collector, if you will, to bring people to the bigger bicycle facilities.

[One moment, please, for change in captioners]

just a quarter of a mile apart. The added walking distance actually adds up to closer to three quarters to a mile because you find that you have -- circuitry. The roadway to the east, although there is a continuous sidewalk there does not lend itself for that local connection to the school.

One little piece of history you might be able to help us with, do we know how it came -- how it got its legs in the first place? I understand there was a grant that came in from the feds.

Yeah, I actually was with the bike program back in the early '90s, I was fresh out of school and when the first alternative legislation was passed, it, which has gone through three or four reauthorizations since then, this authorization was included in a package of four to five other bicycle improvements, so there had federal grant money for a passage of bicycle improvement projects, all of which have been

implemented, except this project which experienced delays due to real estate acquisition due to the landing on the north side of the park and because of the opposition and trying to work with the neighbors to find design options that will address the crime needs and working with apd to see if improvements of the area could come about. I'll give the planning professional a little pat on the back. The history was that we new the gus garcia school was coming, and, and knowing that the children were on -- it's a coined term now, that it was supposed to be a route to the school and not so much is as director spiller pointed out a cyclist route but a lower key safer neighborhood route. So it was planned in the early '90s.

And just for clarification, it's a fed grant but administered through txdot so earlier when I said the grant had to be paid back through txdot, it actually would be passed through

[inaudible] federal.

Mayor wynn: thank you. Further questions, comments? Council member shade? so basically it's -- if we were to pull this piece out, the implications would be, what, one quick summary, sorry. You said that before --

the implication would be that we would -- eliminating the project from the bicycle plan and the campo transportation improvement projects, tip, and returning the \$120,000 of funding to txdot, reimburse design funding already spent and the remaining 160,000 in grant monies would also need to be -- would be forfeited, if that's

[inaudible]. So the net impact is a real 120,000 pay-back

[inaudible]

and at campo, since I'm not on campo, what are the indications there when you pull something out of the tip's? It's a big deal.

Well, the tip is a big deal. The transportation improvement plan is a short-term, sort of a three-year revolving spectrum of how projects are funded, which ones are actually going to be funded, sometimes because they involve federal dollars they come through campo and sometimes it's just a regional partnership created that creates that funding stream. It's challenging and very competitive to get a project on the tip. You know, we had an 11-10 vote monday night at campo -- not contention, but very -- contentious but difficult vote because there were 20 different cities and counties and other entities in central texas trying to get their projects on the tip, and most of them didn't make it, and they're going to try again next year and they'll try again the next year. Getting something on the tip is a big deal. You know, I'm sure over the last nine years that I've been there we have taken things off the tip for whatever reason but, you know, it's not just a council vote makes something happen. Obviously this council or our future council could obviously not approve a construction contract, could not build something, but this council unilaterally take some of other tip. It would be something to have campo knowledge and if the city wanted to have something out of t tip and then off the long-term campo plan, you know, two years

from now the majority of those regional colleagues would probably vote to take something off, if requested. But it's -- we don't get to take things off the tip. Campo does.

That's correct. It's a secondary process.

Okay. Thank you. council member morrison? is there any -- any constraint that requires us to move forward? Could it sit on the tip for a while unconstructed or are there actually commitments that we made -- we may make?

There is none. Obviously the tip is a three-year revolving plan, so there's -- it has to be updated, but there is not a requirement to immediately go to -- but this has been on the tip for a while, more than three years?

Yes. So it keeps getting rolled over. so it could stay on the tip?

Yes. yes, council member shade. and related to that, it's a great question. I guess I'm curious about the \$120,000 impact and if something is tabled temporarily while perhaps we look at the -- you know, the crime issue. I mean, what strikes me here is that the bigger problem is the crime, not really the path. If the crime could be addressed, then, you know, that would be a different story. I mean, the path doesn't create the crime. I mean, that's the -- so i guess the question would be if we could look at other ways to mitigate those issues and perhaps, you know, take some additional time on that, how fast do we have to give back -- I mean, \$120,000 is a big deal. Is there any thoughts on that? Because we have lots of projects we can start working on sooner, I guess is my point.

I will try to answer the question. Yes, there is not -- it is not mandatory that this move forward at the end of this calendar year. We could delay on that and try to work on crime, and, in fact, we've already initiated some elements to try to do that, to clean up the north side, of city park. We're trying to work with the apartment complexes there and condo complexes to apply voluntary curfew since it's private property on those. There's nothing that forces this forward immediately. I would assume that at some point the grant administrator will ask us what we're doing, and at that point we have to nawtd

[indiscernible]

the funding is floor planning -- one of the things that I found troubling was the aid issue. And I know council member morrison is doing a lot more of the aid than I am, but i think this is perhaps something that would be related to that work that could be looked at. I don't know. But there's a lot -- there are a lot of projects. I understand these concerns. I recognize, you know, the passion that you-all have here. It just seems like we should be able to address some of these things before proceeding, if possible. and rob, i heard you mention that one of the -- one of the many delays back during the day was the need for us to purchase property on the north bank. So I guess that has happened?

Yes, the property is fully acquired at this point. The eminent domain was used by previous council to fix the landing problem on the north side, and so that is now part of the park. then -- my last question. So



have other projects occurred, I guess, on this, you know, potential longer stretch, this lineal, you know, bike path -- have other projects occurred in anticipation of this bridge? And that is, have we built, you know, two other --

no, sir.

Mayor wynn: okay. So-so far no other dollars would be wasted if this bridge isn't built?

Yes, that's correct, and this relates back to, i think, a question that council member morrison asked, is what's the nature of this connection. And again, this connection really serves the lesser skilled bicyclist as opposed to the regional bike route, so the benefits are really to the surrounding neighborhoods in terms of bike access. council member morrison. I think there's a lot of technical reasons that we need to keep this in the plan for now, but i think this has been a very good conversation. It's my sense, as council member shade said, that the issue is the crime and that the neighborhood is honestly talking about crime is the issue. And so I want to make a motion that we approve the bike plan as it is, and I'm not quite sure how to craft the rest of this to say that we need to see serious improvements and have a discussion at the council level before proceeding any further with that bridge in particular because of the crime issues. And I know there's been a lot of improvements and attention to rundberg lane, to parts of rundberg lane, and maybe we can get some focus on this area also. So that's my motion, to approve the plan and to ask that that bridge not move forward without further discussion, with the understanding that we need to see some improvements in crime. motion by council member morrison to close the public hearing, 75, approve the bicycle plan as proposed but with further instruction related to the additional analysis discussion of this particular bridge, seconded by the mayor elect. Question.

Yes, sir.

So one of the early -- very early comments tonight happened to be from somebody who was wanting us to approve this plan, also challenged us to come up with timelines and, you know, some type of sort of commitments as to series of projects over the series of years needed. Technically, that's not in this plan, right? There's no -- you know, we're not -- you know, we're not committing a future council, or councils, to certain projects in certain years, right, other than you have this plan and --

it's not specific projects, but there's a goal to complete certain milestones, both in terms of the number of citizens using bicycles.

Mayor wynn: right.

-- As well as extent of the system. So there are measurable milestones, but of course that's subject to the funding that's available, which is a future council discussion.

Mayor wynn: okay. And then lastly, on this particular bridge.

Yes. so if it -- so we've spent \$120,000 or so on -- apparently on some significant engineering, and even

right-of-way acquisition, eminent domain. You know, my guess is that before -- that ultimately there would be a construction contract brought to some future agenda, you know, hundreds of thousands of dollars. Is there any interim council vote, is there another \$200,000 worth of engineering, is there another, you know, piece of property that has to be purchased, or would the next council -- unless we -- unless we have -- unless we can do what council member morrison is suggesting, which is somehow, you know, create another analysis of this. Otherwise, six months, 16 months from now there will be an item on the council agenda simply approving a construction contract, because by then you-all will have bid it or put this into the rotation list. So --

the next element of implementation that would automatically trigger approval by council would be the construction contract. But if I understand the motion correctly, we've been asked to try to work on the crime problem, obviously in coordination with the neighborhoods as well as with the police department, and then come back to you-all and make a report when we believe we are at -- and get approval, in fact, when we've reached a point where we think we've reached your intent and it's ready to go forward. That's what I understand the motion to be.

That's definitely my intent there, because i think before you even decide let's get a construction contract, we need to have that discussion here. that was my understanding on the second also, that basically nothing is going to happen until we hear back, get some results on what the effectiveness of the crime initiative has been and so forth. and sorry -- lastly, so do we think aid has taken any -- we've heard discussion about bus routes or bus spending or elements of their transportation being adjusted because of this potential bridge. Do we know that aid has taken any specific action, and what is -- is that based on their thinking that this council was about to propose a construction contract?

No, they've not taken any action because they knew the timing would not affect the next school year, so i believe that they would wait to see something constructed before they would take action. The information we have is from their transportation director. I believe that letter was provided to you, and that is where we got the numbers of students that could potentially benefit from this crossing, and also the potential benefit in terms of the reduced number of buses. council member morrison?

Morrison: exactly. And it hasn't been a board action --

no. -- or anything like that? So we could definitely have that conversation?

Absolutely. we have a motion and a second on the table approving -- closing the public hearing, approving the bicycle plan with specific direction not moving forward with any more of this bridge until such time as there has been more work done on the other elements.

And I assume we will write that language into the plan specifically on this project saying that this -- this project has to come back for council approval before we would even come back.

[Laughter]

it's very late. I'm sorry, I don't remember at this point.

Yeah, the existing bridge -- further comments? Motion and second on the table. Council member shade? I'm going to support this, and I thank you for thinking through that addition. I think that makes a lot of sense. And I just have to say from the dais on this issue, because I definitely support this plan, but I just want to make sure everybody in the bicycle community knows how many notes and emails we've gotten from people who really want to raise the awareness on following rules, safety rules. There are a lot of people who are very angry and upset when bicycle riders don't follow rules. And so I just wanted to bring that up. We've gotten a lot of people who -- a lot of messages from people who are not in favor of this, simply because they feel like they've been treated badly by a retired who, you know, isn't following the rules, running stop signs, that sort of thing. So I want to make sure and say that when we do this, that we really need to have heightened improvement in it, and that for the bicycle community this represents a very significant investment in all, you know, the community. You know, this -- everybody -- you know, everybody pays for this. So I think you need to -- you know, everybody needs to realize that. Everybody benefits from this, and everybody is collectively paying for this. again, motion and second on the table. Further comments? Mayor pro tem?

McCracken: I think as the bridge is designed, that it will be critical that we recognize something I know that -- that our team -- public works now knows, which is that until the value action design will not add anything because a lot of the challenges we have with things like crime, is a reflection of the quality of public spaces. This is what New York City learned when they started cleaning up the city. If you -- one of the responses to crime is to have nice public spaces, so do the bridge right. Don't make it some down and dirty value-engineered thing. If you actually want to transform the environment that people live in, these public projects can become a tool to make them nicer as places like New York and like Second Street here show. You create nice places, people respond to them differently. So this bridge and the resulting work of cleaning up the creek and adding sidewalks and high-quality public spaces to this area actually become a transformative event in an area that is clearly in need of a transformative event. Council member Morrison? I forgot to mention that between the last hearing and this hearing I've now become a -- I passed my bicycle course. I see Howard Lazarus there. He's the director of public works, he was in our course. And Nadia. I got 100 on my test. I think Howard did too. So congratulations.

[Applause] but really, it was very interesting because I obviously have a lot to learn as a bicyclist, and I feel like I did, and to give a nod to what Council member Shade said, absolutely, it also helped me become a better motorist. And so the public education I think from both perspectives is very, very important. So I appreciate all Demling's comments, and we've got a long ways to go but I think the streets will be safer for sure. a motion and second on the table. Further comments?

Congratulations on your hundred. you're just now learning how to ride a bike?

[Laughter] she had forgotten.

McCracken: Mayor, can I take one of these rare moments of personal privilege as I near the end of my time around here? But for much of my time on the city council I was -- I would be -- I would feel like I hit

a wall so much with our public works department that I even at one point tried to get toby and laura huffman to bring in a project for public spaces to help the public works department become more progressive, and I have witnessed an incredible evolution in the department over the last couple years, and I think the folks we see here tonight with howard and neke and rob and the whole team, I can tell you that in the areas where I've seen progress in the city, probably the -- our public works department is the area where I've seen the greatest progress, to the point now where I would actually have the project for public space to come talk to public parks. As I leave, awesome work. I may not get a chance to say this next week so i wanted to tonight. further motion comments in motion on the table. All in favor? Aye.

Aye.

Mayor wynn: opposed? Motion passes on a vote of 6-0 with council member cole off the dais. There being no more business before this meeting of city council.

[Applause] -- oh, that's right. Council, that's right, 71, which was a postponement because we didn't make the decision on standing, I got a motion and a second on the table to postpone for one week, but I never called for the vote. So if we can revisit that. We have a motion -- a tabled motion and second on the table to postpone public 71 for one week to thursday, june 18, 2009. All in favor of the postponement please say aye.

Aye.

Mayor wynn: aye. Opposed? Motion to postpone passes on a vote of 6-0 with council council member cole off the dais. Now there being no more business of the austin city council we stand adjourned. It is 10:52. Thank you.

## **End of Council Session Closed Caption Log**