

Closed Caption Log, Council Meeting, 08/20/09

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Good morning, I'm austin mayor lee leffingwell, we will begin this morning with the invocation given by donald from the hyde park church of christ, welcome.

Would you join me in prayer? Father, we come before you asking your blessing on our city council members. On our mayor, on our city manager. Great is their responsibility and burden as they lead this city. Father, would you comfort them, would you guide them in their decisions? Would you help them through times of difficulty? Father, we also come before you and ask your blessings upon this great city. May its citizens will well and healthy. Father, may we work together in unity, live together in peace. That we ask, father, in jesus name, amen.

Mayor Leffingwell: Thank you m. Be seated. A quorum is present so we will call this meeting of the austin city council to on THURSDAY, AUGUST 20th, 2009. We are meeting in the austin city council council chambers at 301 west second street in austin, texas. I'll begin by reading the changes and corrections. 6, withdrawn by staff. 1, 15 and 43 have been pulled for discussion by -- by councilmember morrison. 42 is pulled for discussion for speakers. 11 should be changed to read after the words capital budget of this, insert the words watershed protection department. Eliminating the words and development review. 19 at the end recommended by the electric utility commission. 39, reviewed by the comprehensive planning and transportation committee and the urban transportation commission. 62, add recommended by the electric utility commission. The time certain items, 30, we'll have a morning briefing, an update on the city's stage 2 drought contingency plan. 00 we will have general citizens communications. , we'll have a briefing from the responsible hospitality institute. 00, we'll take up our zoning matters. 30, live music and proclamations with the featured group will be nelo. I hope I'm saying that right. 00, we will take up our public hearings. I just went through the items that have been withdrawn from the consent agenda. All other items, items 1 through 58 on the consent agenda. I'm sorry, did I not say 1?

Yes.

1 --

the items 1 through 58, i will reiterate, items 1, 15, 42, and 43 have been withdrawn from the consent

agenda. And I will announce now that 65 will be withdrawn but we can't officially withdraw that until 6:00 p.m. tonight. Since we have our board and commission appointments down to a manageable number, I will begin reading those into the record. If I can find them here. I got it. For the arts commission, okay, got a recent update. Allan chin nominated by councilmember spelman. Hal katz nominated by councilmember cole. So the asian american center resource advisory board, cameron graber nominated by mayor leffingwell, lee by councilmember cole, also waiving the residency requirement for lee. For the austin mayor's committee on people with disabilities, alicia acano nominated by councilmember spelman. Building and fire code board of appeals, frank hawk, nominated by councilmember spelman. For the community development commission, mario flores, nominated by councilmember spelman. And myron smith nominated by councilmember cole. For the construction advisory committee, eddie hurst and also waiving the residency requirement for mr. hurst. Nominated by councilmember spelman. Emily temm, nominated by mayor pro tem martinez. For the downtown commission, paul ovisee nominated by councilmember spelman. For the early childhood council, sue chapter, larry elsner, althea houston and rhonda paver, all nominated by myself. Mayor leffingwell. Environmental board, robin gary, is that correct? Nominated by councilmember spelman. Human rights commission, lisa schepps, no, ma'am gnat nateed by councilmember riley. For the impact fee advisory board, rodgers nominated by councilmember riley. For the mechanical plumbing solar board paul hovey nominated by councilmember spelman. For the mexican american cultural center advisory .. Nominated by mayor pro tem martinez, residential design and compatible, karen McGRAW, NOMINATED BY Councilmember spelman. Resource management commission, perla cavasos nominated by mayor pro tem martinez, solid waste advisory commission, [indiscernible], nominated by councilmember -- spelman. Urban forestry board, donally, nominated by councilmember spelman. Urban transportation commission, sheila holbrooke white nominated by councilmember spelman. For the zoning and platting commission, theresa robigo nominated by mayor pro tem martinez. I will entertain a motion to approve the consent agenda.

Mayor, I've been asked to clarify the consent is really 1 through 46, except for the items that you read that are being pulled and withdrawn.

Mayor Leffingwell: Thank you, amend that to items one through 6 --

1 through 46.

Except for the items that we called out to be withdrawn.

Yes, sir.

And pulled for discussion. Is there a motion?

So move.

Councilmember cole moves to approve the consent agenda, seconded by the mayor pro tem. Is there any discussion? All in favor say aye.

Aye.

The consent agenda passes on a unanimous vote, 7-0. We have a briefing scheduled 30 time certain, so we will go ahead and start working our way through these items that have been pulled for discussion, 1, councilmember morrison?

Morrison: Mayor, if you don't mind, there were some last minute issues that arose in the minutes that we just caught. My staff is working on them right now, if you don't mind I would prefer that we come back to this a little bit later.

Mayor Leffingwell: Do you want to table this until this afternoon after -- after citizens communication? Would that be satisfactory?

That would be terrific, thanks.

Without objection, that's what we'll do. The second is item 15. Which has been pulled by councilmember morrison.

Morrison: Thank you, mayor. This is the item from staff that -- that creates our citizen plan, our comprehensive plan citizen's advisory task force. It doesn't actually appoint them, just creates the structure. As everybody I think is aware, it's a credit -- it's critically important that we get this right, that we have a broad range of folks on the committee that are able to represent the diverse perspectives that we have in our community. On the other hand I know there's some element of making sure it's not an unwieldy group, to that end, to try to balance those two things, I wanted to recommend changing what has been in the staff backup, the size of 14, to 21. My motion is to change under 2 a 14 to 21, change it to 25 to 35 members. I have a couple of other amendments that I want to suggest. We, of course, have boards and commissions that directly line one some of the 10 elements in our comprehensive plan requirement under the charter and in terms of -- I think it's important they stay connected to the process so that there's communication back and forth. So I would like to add a second subsection under 2 a that also invites and I'll give you the language exactly, members -- liaisons from those boards to come to and monitor the meetings so that we can maintain that communication. So I would like to add 2 a, subsection 2, 10 liaisons who represent the various elements of the comprehensive plan from our city's boards and commissions to monitor and serve as resources for the task force as delineated as planning commission, two, two people, the number I'm going to read off is the recommended number. Two from the planning commission, which was also recommended by the planning commission, I believe; one from zoning and platting; one from urban transportation commission, one from water and wastewater, one from the solid waste advisory commission, one from the resource management commission, one from the environmental board, one from the parks board and one from the community development commission. Then lastly, I have two suggestions that I would like to motion that we amend to bring this task force somewhat in line with the mechanics of our boards and commissions. As you may know, the boards and commissions lobbyists are not allowed to serve, so I would like to insert the same language that we have in the boards and commissions, about lobbyists with respect to the new task force so it would read, it would be a new section four, no person

who is registered or required to register as a lobbyist by section 4-8-4 persons required to register or as an employee of a person required to register may be appointed to or serve on the task force within three years of engaging in lobbying activity. However this limitation does not apply to employees of a person that does not lobby on behalf of others for compensation or in conflict with state statute or the city's charter. This is language that is the exact same language for boards and commissions. And the same thing one more section, would be to have the same attendance requirements as we have for if a person misses more than one-third of the meetings in a 12-month period or three consecutive meetings, they would be ineligible to continue serving and the numbers would be filled by the planning commission. It also says attendance records shall be kept by a member of city staff designed to provide support to the task force who shall report to the city council whenever the need for a new appointment occurs. Then some renumbering is needed after that. But to summarize my motion is to change the size reference for the task force from 14 to 21, up to 25 to 35. It's to add liaisons from the -- excuse me, from 10 boards and commissions. It's to, thirdly, speak to prohibition against lobbyists serving. And fourth speak to attendance requirements. So with that, mayor, I would like to move that we approve item 15 with the amendments that I just described.

Cole: Mayor, I would like to second that motion, but I have a couple of friendly amendments.

Mayor Leffingwell: Okay, let me go over it once more. Councilmember morrison moves to approve the resolution with amendments relating to the number of members expanding that to 25 to 30 --

35.

Mayor Leffingwell: 35.

25 To 35.

Mayor Leffingwell: And to include board and commission liaisons as outline understand the document and you will give that to the city clerk, also to exclude lobbyists and to align attendance requirements with the standard board and commission requirements. That's the motion on the table. Councilmember cole seconds. And I will recognize you for a friendly amendment.

Cole: The first friendly amendment I would like to make is as to the number of members that serve and that is more of language that -- that the comprehensive planning and land use commission will make the final determination of the number. If it's less, such that we can achieve diversity and geographic dispersion we will do that.

With the clarification you said the comprehensive planning and transportation commission. I think you mean committee.

Cole: Committee.

That's fine.

Cole: The second amendment I would like to propose, I know you set out 10 particular boards and commissions that would actually potentially serve. I would like that language to be expanded to include any other members of boards and commissions that the council designates to serve, because I contemplate perhaps a member of the public safety commission or a member of the african-american advisory commission who would like to serve.

Just to clarify, are you saying that you want to clarify that they can actually be members, appointed members of the task force or that they would be other liaisons from commissions?

Cole: That we would not treat members of other commissions any different than we treated the ones that you specifically set out.

Okay. So --

Cole: I think your language was that they could actually potentially be liaisons.

Right, you are suggesting we might for instance identify people from the african-american resource council to have a liaison, also? You want to be open to that?

Mayor Leffingwell: Could I ask? What I'm understanding you to say is that other board and commission members, other than the ones named, are not to be excluded from the task force. But it -- but the list of board and commission members that specifically should -- will be on the task force we mains the same; is that what you are saying? In other words 35 members of this board. Eight or 10 of these are specifically required as liaisons from the boards and commissions, but other boards and commissions' members could serve on the task force.

Yes, and they would not be included in the number that we capped of citizens to actually serve.

Mayor Leffingwell: So you would expand the number -- 25 to 35 number in the event other board and commission members wanted to serve?

Cole: Yes, but they would be liaisons and potentially --

Mayor Leffingwell: I think we have a couple of lurking attorneys.

Cole: I think we have to bring back language on this --

mayor, I think --

Mayor Leffingwell: Mayor pro tem?

Morrison: I think we're all --

Martinez: I think we're all trying to head in the same direction. We are saying task force members in place of liaisons which is very, very different. A task force member is someone assigned. A liaison is someone that is a monitor, if you will. I think we can get somewhere, I'm going to suggest that we postpone this item because we're not going to make any appointments before the next council meeting. I think we can all get to level of understanding. But right now I think we're -- we're interchanging language that would make it very difficult. If we were to move on this.

Mayor Leffingwell: Mayor pro tem --

Cole: Mayor, I will remove that amendment and commit to bringing back a specific language and a resolution.

Mayor Leffingwell: Well, think mayor pro tem has made a substitute motion to postpone and is there a second to that motion? Seconded by councilmember shade. And -- I will recognize councilmember spelman?

Spelman: When will we be postponing this to?

Mayor Leffingwell: We have to state a date. Mayor pro tem? THE 27th, NEXT WEEK.

Spelman: That would be next week. Perhaps other members of the council could guide me to this. Would this put the formation of the committee off schedule?

Can I speak to that, mayor?

Mayor Leffingwell: Morris?

We had originally discussed actually appointing the members next week and doing a lot of quick work and asking everyone to have their applications in by today. What we discussed on the committee is that it really makes sense to loosen up the schedule a little bit to make sure we get as broad of a range and applications as we can. And that we -- that we -- that we are able to have the time to work on the appointments themselves. So rather than the original schedule that we were talking about, we are thinking now that we will actually encourage all applications to be in by SENT 3rd. The land use -- the comprehensive plan and transportation subcommittee will have a meeting on sent 10th to consider those applications and develop our recommendations to council. And then those appointments will be made september 24th, SO THE ANSWER TO Your question is no.

Hang on a second then. That means it will be actually making appointments approximately a month from now.

Morrison: That's correct.

Spelman: Is that going to be a problem for the consultant actually conducting the --

Cole: I have actually spoken to the staff in regards to the consultant and their time and of course they would prefer that we go ahead and act today. But they understand that we have not received the number of applications that we wanted and that it was council's full intention that we have diversity and geographic dispersion. So they are saying that they will be able to accommodate that.

Spelman: From their point of view getting the right people on the committee is more important than getting a committee right now.

Cole: Yes.

Mayor Leffingwell: Any further discussion? We will vote on the substitute motion to postpone this item until AUGUST 27th. All in favor say aye?

Any opposed? That passes on a vote of 7-0. Without objection, council, I would like to take up number 43 next instead of 42, since we have a limited amount of time before our presentation. That was pulled for discussion by councilmember morrison.

Morrison: Thank you, mayor, I keep my fingers crossed, I think this will be less than five minutes.

Cole: Hold on councilmember morrison.

Mayor Leffingwell: Councilmember cole, would you like to be recognized?

Cole: Yes, I would like to be recognized by the mayor.

Mayor Leffingwell: Excuse me, councilmember morrison still has the floor.

Cole: Okay, go ahead.

Mayor Leffingwell: Are you yielding?

Morrison: Yes.

Cole: I believe the substitute motion was on one of the amendments on item 15 and I had another amendment.

Morrison: Mayor it was my understanding that we 15 completely.

Mayor Leffingwell: That was my understanding as well. Mayor pro tem, was that your intent.

Cole: Okay.

Mayor Leffingwell: So the action on item 15 stands.

Morrison: May i proceed, mayor?

Mayor Leffingwell: Councilmember morrison?

Morrison: Thank you, 43 is a resolution asking the city manager to process code amendments to address some of -- an issue that arose, I believe it was in june when the question of stands being for the neighborhood planning contact team arose before us. There were various perspectives on that, but this is a resolution that asks the city manager to process code amendments to clarify that neighborhood plan contact teams do in fact have standing and can be eligible to be an interested party. There was a second part of the resolution that -- that suggested certain intent in the interim until those process -- until those code amendments are processed. And rather that ambiguous language, I would like to make a motion that we strike the second be it further resolved and replace it with the following language that the city manager is directed to process the code amendments as expeditiously as possible -- that way we will try to shorten the interim period. So my motion is to approve item 43 with the -- with the -- with the change to the second be it resolved.

And you will furnish that language to the clerk? So motion by councilmember morrison to approve item no. 43 With changes to the resolution that will -- does everyone understand the change?

[Indiscernible]

Mayor Leffingwell: Copies should be on the dais for you. Is there a second?

Second.

Mayor Leffingwell: Seconded by councilmember shade. Any discussion? All in favor of the motion say aye.

Aye.

Mayor Leffingwell: Any opposed? That passes on a vote of 7-0. So it is -- it is time for 30 briefing on stage 2 drought restrictions. We will go ahead and begin that.

Thank you, greg landeras water director. We are preparing to enact stage two water restrictions beginning on monday, we thought that we would give you an update today on a little bit more of the particulars of what that means. AS OF AUGUST 18th, Combined storage in the lakes, which includes the two storage lakes, buchanan and travis was about 875,000-acre foot, that's one acre foot about 325,000 gallons. That's about 40% full for the combined lakes. Relative to history, that's a pretty low level, only three occasions when the combined storage in the lakes have been smaller, back in '84, '64,

the drought of record in the 50s. So this is a significant drought that we're in. The state approved water management plan for Ibra, trigger point for additional conservation is 900,000-acre feet. With us dropping below 900,000-acre feet that triggered Ibra to begin working with their clients, both raw water and retail on additional conservation measures. Obviously austin is already -- has already been in mandatory water restrictions since OCTOBER 1st, 2007. With our new water conservation plan where each year we go mandatory two days per week. However, our -- our conservation drought contingency plan, or the drought contingency plan that council recently approved had for the first time, in addition to pumping triggers, we put lake level triggers in that drought contingency plan. In this case, we tied it to the Ibra water management plan where we would initiate stage 2 water restrictions if we had pumping or lake triggers. Now, we haven't hit the pumping triggers, but obviously we have hit the 900,000-acre feet or below trigger. So in consultation with the city manager, we have recommended the implementation of the stage 2 triggers for -- for managing this drought. Go a little bit more on the specifics of the stage two triggers, probably the primary one is going to be a which I think in outdoor irrigation times from two days per week to one day per week and I have another slide on more detail. There's some changes to how golf courses water, some changes to vehicle washing only on designated days. No charity washing event, no outdoor fountains unless it's for aquatic life aeration, fish, et cetera. No automatic fill valves for pools and ponds. Washing of sidewalks, driveways, parking, patios, pools, is prohibited unless there's a public health and safety element to that work. Restaurants would NOT SERVE COURTESY Water unless they are requested by the customer for water. The stage two restrictions do include exemptions for government functions that are connected to health and safety or functioned related to the repair and maintenance of the water distribution system. So there are exemptions to that. The exemptions don't apply to the reuse of -- use of reclaimed or raw water. However, with city departments we are encouraging city departments that use either reclaimed or raw water to follow the one-day schedule so they can set a great example, even though it's not potable water that they are using. We are working, also, on the great lawn at zilker that's just recently kind of getting ready to be used. We want to continue to see that be healthy, so we're going to work with pard to continue to water that at adequate levels to keep it healthy, but in ways that really minimizes the amount of water that we use on that land scaping. And others. A little more detail on the changing the outdoor watering schedule. Kind of a summary page. Basically one day per week, tuesdays commercial and multi-family odd numbers, fridays are commercial multi-family even number, residential customers really focus watering on the weekend, saturday for odd numbers, sunday for even numbers, which is currently the practice under the two day schedule. Those are the same days. We won't have any watering at all on mondays, wednesdays or thursdays, that will be the no water days. In terms of time, the times also change. If you have an automatic irrigation system, you can only water on your designated day from 12 midnight, from 00 a.m. that morning. You lose the evening hour watering on your designated day. However, if you are hose and sprinkler, you do get to water not only from 12 to 00, but you do get to water from onward on your watering day. And you can water any time by hand, during any time of -- of the day. We are going to start these restrictions on AUGUST 24th, WE Have been encouraged to kind of voluntary compliance this week, but mandatory compliance will START AUGUST 24th. We are dispensing with our practice of inform, warn, cite. We are going to go to citations immediately beginning august 24th. We are adding approximately 10 temporary employees in addition to our existing water conservation staff and we're also shifting another six employees from another division in austin water to support the process of

patrolling, citing and also taking more phone calls, we are anticipating a large number of phone calls, particularly during the first few weeks of this as we start to implement this. Our enforcement folks will be out there literally around the clock. Obviously a lot of irrigation occurs during the night, that's the times we need to spot it as well as the weekends. So these folks will be out there at all hours of the day and night and time of the week. A citation is considered a class c misdemeanor with fines up to \$500. As determined by the municipal court. Of course, we still have a violation reportable through our 311 system, so if folks see a violation, they can call in. We don't issue citations simply on phone calls, we have to actually witness the violation occurring. But obviously notification of water waste we would -- you know, we would be able to investigate those areas. A lot of this is -- is on our website. We are also doing a -- kind of a media saturation this week. We will have ads in the statesman, ads on the website for the statesman, all of the top media, radio, television stations, we're going to be running ads, doing bill stuffers, other kind of ways to contacts. Doing the utmost that we can to make sure that folks are aware of this beginning on august 24th. That's kind of really a quick overview on where we are. With stage two and the drought. We will be happy to answer any questions that you may have.

Mayor Leffingwell: I have a couple of questions. First, I'm not following the logic in allowing the exclusion for raw water users. Because what we're talking about, we're not talking about a restriction imposed on the amount of water that we pump from our water treatment plants. We're talking about a shortage of water in the highland lakes, I don't see what the difference is if it goes through a treatment plant or pulled directly out of the colorado river basin. Could you educate me on that?

It's a great point because we are really managing raw water in the lakes. It's in our code right now that there are exemptions for raw water users. And I think that we are just trying to follow the code, although we are going to shape the behavior of city departments that use raw water to do our best to see that they do comply with the one day per week schedule.

Mayor Leffingwell: Maybe we should look at changing that code or changing that policy because I really don't think that it makes any sense. If your objective is to reduce the draw down on the storage I buechanan and travis, the effect is the same if you are pulling raw water out of the system as if you were going through a water treatment plant. Kind of illogical and defeats the purpose.

We will consult with our team and see what steps we can take to correct that and see that raw water users fully comply with our schedules, also.

Mayor Leffingwell: And the second thing is I would comment that I do think this -- this program, this plan that we have, although I support it, is very complicated. And I think all of us have had inquiries from the public as to what they can do and can't do, especially with the difference between a hose ends sprinkler and hand held and an automatic system. It's going to be very difficult for a lot of people to follow. I think the consequences of this, if we're not issuing warnings for this kind of thing at all, we're going directly to citations, i think that could be problematic. In other words, I'm not sure how many people understand the difference between a hose ends sprinkler and an irrigation system.

This week on nuances of this -- one of the things that we could do, the kinds of citations that are maybe

more obvious or more direct, the wrong day, the wrong time, that maybe we would be more citation driven there. But if it's more of a nuanced kind of issue where there is some discretion we could educate some folks about the hose end sprinkler is not hand watering, there might be opportunities for us to have different approaches based on the kind of level of citation. I think that's the kind of thing that we could certainly work with city manager staff to try to develop a little better strategy for those items. Garza, did you want to add to that.

Mayor and Council, Rudy Garza, City Manager. One of the things that I was consulting with our city attorney is that the current plan that we have in place, stage 2 restrictions as well as any other part of our contingency plan was approved by Council on April 23rd. So changes to that --

Mayor Leffingwell: That's all our fault is what you are saying?

No, no, but we would -- I just want to make sure that it's clear that administratively we could not just change the plan. We would have to present it back to Council if the Council decides they want us to implement any changes to the drought plan that was approved.

Mayor Leffingwell: I understand, that's a good point. Obviously I don't think there's time to think about making those changes now. This is a temporary thing hopefully it will be over with by the time we get around to changing it, a couple of months, they say that rain is coming in November, I believe that. But I just have one more comment, too, for -- for the future to work on this for the future. If I were designing the water schedule, I would have designed the automatic irrigation systems to be all during the week, because obviously people, most people are at home on the weekends, they are free to do hand watering on the weekends, they are in many cases not at home during the week so they could do their automatic one day during the week and their limited hand watering on the weekends. I just -- if I were -- if I had been in on the decision to design this plan, that's the way that I would have done it.

You mean you would have separated automatic systems into the week days and kept hose end on the weekend?

Both your automatic days for -- are for -- are Saturday and Sunday, correct?

Yes.

For residential. Then you could have that during the week, that doesn't require direct supervision, you don't have to stand there and do it. Whereas on the weekend you could engage in limited hand watering to -- to, you know, have the potential to save delicate landscapes if that were necessary. A little Monday morning quarterbacking there.

We are learning here, too. Yeah.

Mayor Leffingwell: Any more questions? Councilmember Shade? Councilmember Spelman?

Spelman: Thanks. Greg, how many people do you have that are going to be enforcing this. I got lost in the numbers there.

We estimate between temporary existing water conservation staff and some additional staff that we're shifting from a different division, that we'll have anywhere from 15 to 20 new folks involved or folks in citation related activity. Two or three will be taking calls, hopefully the calls will die down and hopefully shift them back in the field. There's obviously a little lag time with us getting temporaries and training the temporaries and getting them mobilized. So that's probably still a few weeks out. We are starting with roughly probably 10 to 12 of our existing staff that -- that are going to be out there starting on monday.

Spelman: Okay. 10 To 12 people ready now and another 12 or so or 10 who would be ready but after several weeks. These are only for restrictions which we are anticipating are only going to be in place for a couple of months. Is that about right?

We don't know. I think it's hard to predict when the drought will break. We are hoping there's an el nino pattern emerging and meteorologists are saying that's likely to bring more rain to central texas. In the fall. And we would hope and perhaps pray, also, that that does happen. But until it happens, we can't say for sure when the drought would break. And if the drought doesn't break, we'll keep these restrictions in place. Even so, even if we got like one good day of rain we wouldn't pull out the restrictions.

Spelman: Of course.

Recover a certain amount before we would do that. And, you know, there's -- we don't have this exact number in mind. I think that we would have to really work with weather patterns, lcra, city manager and others on, you know, what's the right time for these restrictions to lift. But it's possible that we could be in these stage 2 restrictions for quite some time. We just don't know yet.

Spelman: I understand. My primary concern is we have a very small number of people. We have something like 3,000, 4,000 street miles inside the city limits. And that if we are going to have these people doing proactive patrolling they would really not be able to cover the entire city. And that their time might be better used if they were responding to complaints or talking with neighborhood associations or other interest groups to try to explain why it's important to put complaints in. Or find some other means of -- of increasing public education and public awareness and persuade people, start telling their neighbor when's they see them violating. Rather than proactively going out and looking for stuff. I'm concerned if they start looking for violations they're not going to find that many just because it's such a big city. Apropos of which, have we considered discussing this with the austin police department who have a thousand people who kind of do this stuff?

You are suggesting to have the off duty police officers?

Spelman: No on duty. Class c misdemeanor. We are talking about violations of the law. Maybe if we had patrol officers on duty patrolling the streets anyway, recognize this is now a class c misdemeanor,

citation is just as valuable from the city's point of view as traffic ticket, this now ought to be a higher priority than it has been before this point for the -- for the a.p.d.

I think that's a creative idea we haven't talked about, thinking about police officers doing this. We -- we would want to kick it around a little bit. We would have to give them some education.

Spelman: Okay.

I think that's something that's certainly a possibility.

Mayor Leffingwell: I think the city manager has some comments to add to that. councilmember, we would be happy to take that under advisement and discuss that with the chief. However, I would qualify that by saying I suspect that he will have perhaps some concern, so do i, simply about the allocation of his resources in terms of what they do on a day-to-day basis relative to, you know, also trying to take up some of the responsibility for this issue. Greg, with respect to the additional personnel that you are talking about, was that proactive enforcement or response to calls that you might get alleging violations to stage 2?

We would do a combination of those things. We would use some of the resources for call responses. But others would be we would just -- like we do now, drive around on the weekend, in the middle of the night, other areas and look for sprinklers that are on, on the wrong day. And cite based on that. So it would have been a combination of things. In terms of that approach.

So we will assess that option, as I said, have that discussion with the chief. I will also talk with greg and staff about -- about perhaps some enhanced public education to -- to make sure that we're doing all that we can to -- to see to it that people are informed as to what the expectations are.

My primary concern is with the most efficient use of our resources, we have very thin resources, it's a very big city. We won't find very many cases by randomly driving around. The alternative to driving around is going to be more likely to identify people who are violating this ordinance. I think that's what we ought to be using.

Thank you, if you could keep us informed as to what it is that you come up with. I would very much appreciate that.

Councilmember shade?

Shade: I think that there's no question that it's confusing and i recognize some of that is because of the way it was done in the first place. I recognize that. But I think that it's really important that we think through ideas like what councilmember spelman just suggested to use as many resources as we have to get the word out. I know you talked about some advertising, I know that you are adding some additional temporary staff. But I think this needs a very aggressive public relations plan beyond maybe what's been contemplated. I don't know. We have -- we have lots of informal networks that exist that the

city is doing business with through as you mentioned neighborhood planning, through our various advisory boards and commissions. If this is that urgent it seems to me that we ought to make sure that those folks are informed. Whether it's even through circulating the advertising piece that you put together or what you are using as your -- as the bill insert. I mean, it doesn't have to be fancy. But I think so people know the difference between the sprinkler and the hose watering reminding people that the dates are changed. The statesman has run for a long time on its website the watering days and so I think it's significant that they are changing now. So I -- I really hope we do -- I know that you are doing -- you have a plan but I think whatever your plan is you should ramp it up, be more aggressive. I think the idea of having police officer or park staff, our own city resources fully inform about this is great. We have a hard enough time teaching people how to use new pay stations for parking meters. So I mean I think this is even much more complicated and I know that I get stopped and I want to make sure that I know how to answer people's questions. Same with somebody that's working in a park, I mean, if you have kind of get a city representation of people expect you to know the answer to something like that. I think we should all taking responsibility for helping to spread the word as well.

We would take additional steps to see that we're reaching out and improving the way we are marketing as well as proactively, yeah.

Mayor Leffingwell: Mayor pro tem?

Martinez: Thanks, mayor. Greg, I wanted to ask, if there are any restrictions that are applied to car washes during stage 2 drought conditions.

In terms of your personal car washing --

I'm talking about businesses.

Business car washes can continue to operate under stage 2, there are limits in terms of how much water they use per car. Although to be honest it's very difficult for us to tell how much water they're using per car. I think that's one of the things that we're going to have to spend some more time working on is how we monitor those car washes and how much per car they use. But there are requirements that they comply with certain standards and we will be taking additional steps to make sure we're working on that.

The reason I ask, I don't want to impact that workforce, if you will or that business. Because I think it is a viable and legitimate business, but we're talking about mandatory water restrictions. So as an idea, could we implement, once we get to stage two drought conditions, a two or three dollar surcharge per car that's washed and have that fee go towards all of the education and outreach that we know is going to be very costly during this time frame? I just think that it would -- it would heighten the awareness, for one thing, of the drought conditions, but also provide additional revenue and allow these businesses to still operate, these employees to still have a job. I think most folks who are pulling up to a car wash today in stage 2 drought conditions wouldn't mind paying that additional two or three dollars knowing

that we are in a tough time and it's going to be put to good use.

I would have to consult with the authorities for that, I think that's something that we can surely examine.

I think the city manager has a comments, greg.

I think that greg already said that we don't enjoy the prerogative to do that today, as far as i understand. city attorney, I guess that you would have to give us some counsel and advice in that regard. Not right now [laughter]

Mayor Leffingwell: We are waiting. Let me just say this. Commercial car washes are already addressed in our water conservation policy. Very strict standards have been imposed on that. On commercial -- as far as the nozzels that they use and the amount of water per car that they use. This is governed by the kind of equipment. So you don't have to go by there and measure the actual water that they are using. You can just go and make sure that their nozzles and spraying equipment is correctly adjusted. That's already in the plan. Frankly I'm surprised -- i guess that I would like to give some feedback what the problems with enforcement of that are. But other car washes that don't come under these standards are restricted in stage 2. For example, charity car washes, can't do 'em during stage 2. So I think the answer to that problem is unregulated car washes are restricted. You can't have 'em. But regulated car washes that are already under our conservation standards can continue to operate.

Yes.

Any more, city attorney.

I did want to make sure that we understand the ask of the law department. The ask is what could the city do to restrict businesses that engage in -- in car washing? It struck me that councilmember martinez's question was more specific than that as to a surcharge of some sort that could be applied.

Yeah.

Ott: the intention. Is that correct, councilmember?

Mayor Leffingwell: Mr. Garza? Building on a comment that mayor pro tem martinez made regarding the car washes. I want to make sure that it's clear. This is going to be somewhat disruptive. Not going to be pleasant. You will be getting phone calls, he will be getting phone calls, we are in a very difficult water rationing environment. And -- and it's not going to be pleasant. So I just want to make sure that that's clear because beginning monday, we're all going to be getting phone calls and it's just the environment that we're in.

Mayor Leffingwell: Thank you. Anything else? lazaros, i appreciate it. Council, if there's no objection we could now take 42, which was pulled for a number of speakers that signed up to speak on that item. I think what I would like to do is begin with a very quick overview of what the item does, item 42. If we

could get a quick overview from the law department and then we will take citizens communication. Good morning, Jenny Gilchrist with the law department. This directs the city manager to implement procedural changes to the way that the council meeting is run. Specifically there are a couple of code amendments reduces the number of councilmembers necessary to request an item be pulled off the consent agenda. Automatically removes an item from the consent agenda for two or more speakers are registered to speak. Currently it doesn't get pulled until there are five or more speakers. In terms of scheduling things time certain, the code just contains a laundry list of what things are held at time certain but doesn't specify a time. We were not anticipated making a code amendment but just using this as direction to the council or excuse me to the manager's office that briefings should be in the morning. I noticed in paper there was some confusion. The request to the city manager is not to regularly schedule more than two, but it doesn't limit if there are more briefings necessary to inform council of things. It's just in order to better facilitate the processing of the meeting that on average there will be no more than two briefings for any council meeting. And then there's some -- some procedural changes in the code to reflect the city clerk's current process. The code refers to facsimile submissions, refers to cards. The clerk's office can streamline their process with a lot of registration also electronic. So those were just -- those are just technical and finally to -- to make it available for more speakers instead of just speakers that regularly show up at 00 in the morning, there's going to be a limit on how often an individual can appear before council. The proposal in this resolution is once every four council meetings. I would be happy to entertain any questions.

Mayor Leffingwell: Any questions for staff?

Mayor Leffingwell: Thank you very much, I think we will go ahead and go to our speakers now. Signed up for -- for wishing to speak is McIntyre. I'm Frances McIntyre, president of the Austin League of Women Voters. I would like to speak on number 6 item of the proposed resolution which suggests limits to the citizens communication. The league has long worked for broad citizen participation in government. We believe that if more people can participate it's better for democracy. Because it would allow more citizens an opportunity to speak to council, the league endorses the proposal to allow each person to speak once out of every four regularly scheduled council meetings. It has been a frustration for many, including me, when I call and find out that citizens communications are filled for several council meetings. When I find that I have to wait for weeks, I lose interest. Of course agenda items can be signed on to the same week as the meeting, but the citizens communications is for other than agenda items. When conducting public meetings the league frequently asks questioners not to ask a second question until everybody has had a chance to ask a first question. It's only fair and it gives more people a chance to be heard. We might suggest that council consider lengthening the time of citizens communications on a regular basis or perhaps once a month. This would allow for a greater number of speakers. Thank you.

Mayor Leffingwell: Thank Ms. McIntyre. We have one speaker signed up against, Gus Pena.

Mayor, councilmembers, Gus Pena, I'm a former EEO discrimination complaints investigator for the department of treasury, this 6 that is being proposed and the changes to us as -- is highly offensive, highly discriminatory. I will explain. If you were to change this and not afford the opportunity to anybody,

anybody not just other people that have not spoken once every four, every three weeks, zimbabwe discriminatory. I can tell you, I for example come over here and sign up for citizens communication on my own time, sometimes I don't well, sometimes I have my child at dell children's hospital. But I come here because it is an opportunity, my right, my right to speak to y'all to sign up. And take time away from my busy schedule. Everybody else is afforded to do the same way that I do and similar to the situation that I am to sign up. To act, change the ordinance say oh, you can't speak once every four weeks or once every three weeks is not acceptable to a lot of the public. This is highly discriminatory. It's called disparity and let me get the correct terminology. It does not give reasonable opportunity to other people to continue to be allowed to speak. It is my right to come here any time I'm able to walk to the city clerk's office and sign up. And not have to wait for four weeks in order to go ahead and sign up again. That is unacceptable. I'm going to tell you what, ladies and gentlemen, and to city attorney, you know you're a good guy, but look at the federal statute. You do that, you will be in violation of three federal statutes. Be very careful. Be very careful how you word this and how you change it. You give the people ample opportunity enough to sign up. You don't say oh, well just because you spoke once already next three or four weeks you can speak. No, that's not the constitutional way of doing things. You are compromising the opportunity for people to have reasonable accommodation. If you do this, I promise you one thing, I will take legal action and whatever direction I have and whatever measures and knowledge that I have of the system, federal-wise and otherwise. You do this, you are hurting other people, their opportunity to sign up whenever they have to, whenever they want to. Don't do it. I'm disappointed by those that I helped get elected. Mayor Leffingwell, I'm here for the record, even my boy lucio phone banked for you, over 5,000 votes that I got you, people that voted for me when I ran for city council. I find it highly offensive for you to try and support this inappropriate change. [Buzzer sounding] to the way we do things. I'll wrap up. It's not in the charter. Do the right thing. Be careful. You could be up for a lawsuit. Thank you very much.

Mayor Leffingwell: Thank you, mr. pena. City attorney, do you have any comments on the legal aspects of this?

I will make some general comments on this and jenny gilchrist can make some additional comments, also. The idea of making a change to the city code about how people can come before council and speak on any item they would like to first came up, we treated the issue very, very seriously. And we explored the current case law, including the supreme court cases. And -- and very publicly i will say that my advice is what council is considering doing is very much within the law. It in fact has the effect of encouraging more citizen participation. Because it's designed in a way to allow more citizens to be able to come and speak. But -- but I will ask jenny -- if she will to talk a little bit more detail.

Thank you. We did do extensive research on this. There are no state or federal laws that -- that -- with limited exception, zoning, people do have a right to appear and be heard. The open meetings act does not create a right to speak. It creates a right to participate, observe. Our own city code is what actually creates the rights of citizens to come and speak. In general citizens communication and also on agenda items. So the proposal here is very limited. It only amends the section on general citizens communication to -- to as smith said expand the pool of people that would have an opportunity to come

speak during that unscheduled time. The code still allows any citizen to co-sign up on any item.

Mayor Leffingwell: Thank you, I have to say i overlooked myron smith who signed up for, if there are any questions. I think I saw her here earlier today. Is she in the chamber? Signed up neutral is debbie russell. Is debbie here? Those are all of the speakers that we have signed up to speak on this item. I will open up the dais for any comment and/or motion. Mayor pro tem?

Martinez: I just want to make a brief comment that this specific item that we're talking about, I think it's already been said, i want to re-emphasize, it only relates to citizens communication. Anyone can come down on any council meeting and sign up for any agenda item that they wish to speak to us on. This only applies to citizens communication. In my view, it's exactly what has been mentioned, allowing opportunities for others who don't have the ability to come down here at 9:00 A.M., 14 DAIS BEFORE Today, and sign up before it gets filled up. This will allow those folks who we have heard from on a regular basis who can't speak to us during citizens communication to be able to sign up and speak. To know that they can. Again, this is just adding structure to our council meetings moving forward. We are trying to -- to do the work of the citizens of austin, but at the same time do it in a very prudent manner. And so -- so I will be supporting these changes, although we're not making changes today. We are simply asking staff to come back with recommended changes that -- then we provide suggestions for those changes within 60 days, so there's still time for us to talk about this, there's still time for folks to provide input and I'll be supporting this and so i would like to move that we adopt the item.

Mayor Leffingwell: Mayor pro tem moves adoption, approval of item no. 42. Is there a second? There is a seconds?

Second.

Second by councilmember cole and if there's no objection, council, we do have a late arrival. It's a little bit out of order, but I would -- if there's no objection, i would like to ask mr. Robbins to give -- to give mr. robbins three minutes.

Thank you, I'm paul robbins. I was on the phone this morning trying -- with the city clerk trying to monitor this situation and know when I could get down here and the woman at the clerk's office said well we're just so busy here, I can't go over there and check. And I said I guess you are so busy taking all of those calls for citizens communication and she said actually we've got a couple of spots left for august 27th. Do you want one? So here we are seven days after the -- this -- this citizens communication was supposed to fill up, and, hey, there's still a slot left if somebody wants to call in. So maybe you are trying to fix a problem that is not altogether broken. Thank you.

Mayor Leffingwell: Thank you, councilmember shade?

Shade: Thank you for that comment. I actually would like -- you know, I know basically what we are passing today, paul you were a little late, we are talking about what's on the table is to open the discussion. We are not voting on making any changes yet. We're asking the city manager to come

forward with some suggestions for changes and I think that your point is one that is a good one. We do get complaints much like the one that mcintyre echoed, which was before you arrived, and so we are in a tough position in terms of making it easier for people to -- for a larger pool of people to speak. When they see the same people it is frustrating. So we hear both sides of this. I think that one thing that I would like to ask, doesn't need any formal amendment, but at least I can say it from the dais I've talked to colleagues and staff aides and people in the clerk's office, we really look at when there are open spots, you know, having a way for people to be able to sign up even if they had spoken before. So if there's -- but, you know, I think that if we could be open to the idea that people sign up, and if you have spoken at the last meeting or the last two or three meetings perhaps, you don't get to sign up unless people -- unless there's openings like what you are talking about. Like on august 27th where there are no open signed up seven days out, then perhaps you should not be prevented from signing up because you spoke last week, but I also think that you shouldn't get the automatic opportunity when you know the system and you are preventing people who don't. I can't say enough how many times I hear from citizens about this being a problem. They don't get to sign up. They lose interest after -- I mean, people who are very active. For this slot. As you said, paul, some months are busier than others, it's very inconsistent. I would like that we look at that and people understand this is the beginning of the discussion, this is not -- we're not passing any changes today. I will be supporting the moon.

Mayor Leffingwell: Councilmember morrison?

Thank you, mayor, I'm also supportive of opening it up to greater participation. I do have one concern. We have it set -- what it states right now is that it's every four regularly scheduled councilmembers. We do have gaps, some gaps in our council meetings because of the summer schedule and winter holiday schedule and things like that. I also would like to say that I'm fully on board with what councilmember shade just mentioned in terms of opening it up to anybody if the slots aren't filled a certain amount of time before the meeting. So with that, mayor, excuse me, I forget who made the motion?

Mayor Leffingwell: Motion made by the mayor pro tem. Seconded by councilmember cole for approval of item 42.

Morrison: Thank you, i wanted to suggest what i hope would be a friendly amendment. That is two things. Instead of every four regularly scheduled council meetings change it to every three regularly scheduled council meetings. Number one. And number two, to also to open it up -- open up the roster to anyone three days prior to the meeting itself. So with that I would like to -- to make a friendly amendment, if it would be accepted.

City attorney?

Councilmember, if I can ask for some clarification, on the open up the roster to anyone three days prior to the meeting that they're going to speak at, I'm looking for someone who will be drafting this, I'm not sure that I understand that --

Morrison: Certainly but still limiting the number of slots so if somebody has spoken at the previous

meeting, the next meeting if it's -- they could still sign up if they are open -- if there are open slots like there is today, seven days in advance, I would want to set that to three days in advance.

There's some open meetings act issues, but jenny if you would address that.

When I -- what I heard the requested amendment to be is that before the agenda is posted as opposed to before -- after the agenda is posted? The open meetings act requires the city to -- to publish the -- the subject matter if we know what it is. On the registration cards that we have, we request the subject matter. That practice was implemented in order to give staff an opportunity to be here to be able to respond to citizens. If the -- if the request is -- if there are fewer than 10 speakers after the agenda is posted to add people in, that does create issues for us.

Mayor Leffingwell: Councilmember, could i comment that I believe councilmember shade addressed this earlier when she said -- gave direction as this goes through the process. To look for ways to accommodate stand-by speakers or whatever methodology could be incorporated. I don't think that -- that there are too many issues to be addressed right now to directly solve this problem on the dais right now. But with that direction from councilmember shade and yourself to look for an alternate means to accomplish this goal and with your hard friendly amendment to change the restriction from once every four meetings to once every three, would that be satisfactory to you.

Morrison: Absolutely, thank for your help.

Mayor Leffingwell: Would that be satisfactory to the maker and the second? Okay. The motion now makes the change by friendly amendment to the restriction to be once every three meetings instead of once every four. Is there any further comment? Councilmember spelman.

Spelman: Mayor, I would like to offer another amendment which I hope the maker and secondly regard as friendly. This is to change the wording of item 1 and item 4. My understanding of the intent of item 4 in this list is to make sure that cases for which we do not need discussion, which are -- which we usually consider consent zoning 00 to -- to avoid our having to put them all off until 4:00. But the discussion zoning cases which require -- which the public has an interest in and would actually show up to a public hearing for, would be held at 4:00. The reason for four rather than two is because it is a lot easier for people both physically and financially and emotionally to be able to take an hour off of work than to take all afternoon off of work. So this would eliminate -- this will eliminate current .. public hearings and actions on discussion zoning cases at that does not define the distinction between consent and discussion. This is something which we have been using for a long time. On the other hand is just a resolution and what we are doing is asking the staff to come up with a procedure which would implement this, presumably part of that procedure would be here's how greg guernsey or someone else at city staff would make this call would be able to identify the distinction between the two. [One moment please for change in captioners]

Mayor Leffingwell: Then we have another break period 00 before we can take up any discussion. I would respectfully suggest that item number 1, the change that you have made to allow any consent

item to be scheduled at a time certain at the request of two councilmembers would address that issue. And if you, for example, had a request from a member of the public with respect to a certain zoning case item, to have that set for a time certain, you could get someone else -- another councilmember to join you in making that request and then some discussion items, not all, some would be scheduled for after 4:00. That might be a little more manageable and help us address the problem that we're trying to address. Those are just my comments on the friendly amendment, but it is offered to the maker as councilmember spelman stated.

Martinez: Mayor? I think the suggestion to strike the word regular is friendly, but I would like to keep the language in number 4 as its proposed and continue this conversation. I don't consider that friendly.

Mayor Leffingwell: So it's not considered friendly.

Spelman: I would offer this as an amendment.

Mayor Leffingwell: It's offered as an amendment by councilmember spelman. Is there a second?
Councilmember morrison seconds.

Cole: I have a comment, mayor.

Mayor Leffingwell: Councilmember cole.

Cole: I understand what the amendment is designed to do, but I am confident that if a person with a zoning issue would like to consider 00, then any other councilmember would gladly sponsor that with you. But I also want to point out that we are kind of in a difficult place here because we hear concerns about people not wanting to take off work to actually come 00 in the day, and then we also hear complaints that our zoning hearings last far too long and they are away from their families and children. So at this point I look at this as simply a trial run at how it will work. So I will not be supporting the amendment.

Spelman: Mayor?

Mayor Leffingwell: Councilmember spelman.

Spelman: I think what councilmember cole just mentioned is something we need to keep in mind. This is exactly right. This is a next cut at this. Whatever we end up doing on this amendment or on this motion is simply going to be provisional and if it doesn't work we can always change it. It won't take very long for us to change it. But I still think it would be better to give people the certainty that if it's not a consent case and they want to talk, then they don't have to take all afternoon off to participate in public process on a zoning case.

Mayor Leffingwell: Any more comment? I will just say that I will not support the amendment either for the reasons previously stated. I just don't think it really -- it doesn't accomplish what we're trying to do in a

meaningful way. Councilmember shade.

Shade: I think -- I'm not going to support this amendment, but I do want to echo what you had said earlier about taking direction on this. I think what we're trying to solve here may not be solved by this amendment. I think -- I think that there is an issue with the unpredictability of the way that it has -- the way that -- wait it currently reads in the resolution without -- I think it could be just as confusing in the new version and that there's -- and it's a point of difficulty for people to decide which is worse for 00 -- you know, people that have child care would much rather 00 and not have to pay for an extra babysitter at night. I can say that with personal experience. I think people who are working nowadays, many of the people that we see that are here that -- first of all, there's nothing regular here and nothing truly time certain, I can attest to that. So when it's your day on a case, there is going to be that uncertainty. It's part of unfortunately the process. I think that nowadays because of access to internet and so forth here that this is actually a fairly comfortable place for people to even be working remotely and I've gotten a lot of comments about that. So for -- for the people who are the regulars who are here on a regular basis, they work with whatever system is in place, but I think there needs to be some certainty about it. So I don't want to try to make the change from the dais either. I think this needs some additional discussion and I would like to suggest that we consider this direction as well with respect to the certainty, what staff could recommend so that we can address that concern about 00, unless you have two councilmembers. It's still a little confusing to people.

Mayor Leffingwell: So do I understand your direction to be to have a little more structure to the procedure so that perhaps a way can be devised that if it's known in advance to give advanced notice of the rescheduling for a time certain?

Shade: Yes. I think that's what councilmember spelman was driving at here. I'm a little hesitant to support this amendment because I think this begins the discussion and I don't have enough input to decide. I just want to vote on the resolution and let staff work on this a bit before we -- before I make a 00 better or is 4:00 better? I'll call for a vote.

Mayor Leffingwell: Mayor pro tem, do you accept that additional direction as a friendly amendment?
Councilmember cole?

Cole: I just had a question for staff. What is our procedure for setting an item for time certain?

The code has a laundry list of items that will be considered at time certain, including public hearings and zoning matters. The actual time has just been a matter of administrative convenience. Mr. guernsey is not here. When I spoke to him last was settled on -- excellent, thank you.

Mayor and councilmembers, jerry rusthoven, planning and development review. 00 time certain have been around for quite awhile. As far as we can tell it's been several decades. We understand this is just a direction for the staff to go out and look at a new way of doing it and bringing back our recommendations on it. However, I would like to point out before the zoning items, and we'll be researching this, but there is an issue of the notice. We mail out notices for the council zoning cases

approximately three weeks. We request that notice about three weeks ahead of time because state law requires that we post it in the newspaper as well as mail notices to everyone within 500 feet. On those notices and in the newspaper ad is the time that the item is going to go. So if we're uncertain as to 00 00, whether it will be a consent item or not, we would have to notify for 2:00 out of caution. Secondly, although y'all probably have seen my guesses that I hand out on whether or not it will be consent or discussion, sometimes we have items that are discussion up until, you know, five minutes before we're about to have the hearing and they become consent because a deal is reached. So I want to let you know that sometimes that's whoos a discussion and sometimes a consent can be rather fluid.

Mayor Leffingwell: Right, but any item set for a certain time, a time certain, can be changed at the council meeting by the direction of the council. We could today say we're going to set a time certain for item 25 and we're going to hear that at a time certain of 6:00.

That's true.

Mayor Leffingwell: I think what we're talking about in this is to find a way that we could give some kind of advanced notice, courtesy notice, perhaps, to someone who would like to have it at a time certain that yes, we plan to accommodate that request. It would not be a formal notice.

We could do that. We would just have to be careful that the item is not taken before the time on the notice that was mailed out to the citizens.

Mayor Leffingwell: Not taken before. I don't think there's much danger in that. [Laughter] okay. But I want to make clear this is not a totally fluid and open-ended resolution. There are basic components in here, but we do have direction to try to look for ways to accommodate additional concerns with direction as contained within the motion or right next to the motion. Okay?

Spelman: Mayor?

Mayor Leffingwell: Councilmember spelman.

Spelman: In view of the unexpected difficulties with implementation and because four of the seven councilmembers have announced their intention not to vote for the amendment, I will withdraw it.

Mayor Leffingwell: If there's no objection, the amendment is withdrawn. Councilmember morrison.

Morrison: I have a lot of concerns about how this all will work out, so I look forward to the staff's effort on this. One of the things that strikes me is we have in the resolution that two councilmembers have to request that it be deferred until 4:00. And I think I have heard from my colleagues that of course in one person is interested, we'll always be able to find two. And I think that it might make a lot more sense to then if it's a given, because of the bookkeeping, that it might take in extra time, just the mechanics of all of that, I think that from my perspective, it would make a lot more sense to change it to allowing it to be deferred on the request of one councilmember rather than two councilmembers. So I'd like to offer that

as a friendly amendment.

Mayor Leffingwell: Does this mean you're going to now move the entire -- all the zoning cases to four p.m. time certain?

Morrison: No, sir. [Laughter]

Mayor Leffingwell: Just kidding.

Morrison: I'm fully respectful of your intentions here, but I think I'm really interested in looking at finding the right balance and keeping it not too much of a bookkeeping nightmare.

Mayor Leffingwell: I think that does make sense. Mayor pro tem, would you accept that and councilmember cole accepts also? Okay. So we have a motion on the table to approve item -- chris? The motion is to approve item 42 with one amendment, changing the number of meetings from four to three. That a speaker can speak only once every three meetings instead of once every four meetings.

For clarification --

mayor, on item number 1, I think it was allowed as a friendly amendment that the word "regular" would be deleted.

Mayor Leffingwell: Thank you very much. That is correct.

Morrison: And on item number four we just changed two councilmembers to one?

Mayor Leffingwell: Yeah. I thought I did say that.

Morrison: I heard you say the number --

Mayor Leffingwell: Accepted that as a friendly amendment. We'll go over it one more time. The speaker can sign up, only once every three meetings instead of once every four. The word regular will be stricken and it will require only one councilmember to move a zoning item or a consent item to a time certain.

For clarification, is it one for zoning items only or for zoning and regular? Mayor may it was for zoning items -- mary mayor it was for zoning items.

Thank you.

Mayor Leffingwell: I don't think that's clear enough? Any further discussion? Councilmember riley.

Riley: Procedural. One procedural question. The resolution before us appears to contemplate that the

city manager will take action to implement these changes. And I don't see anything expressly indicating that the changes will come back to us for a vote. Is there additional language other than that that is -- that which is in the resolution before us.

If I may, that's a very good point and it would not be my intent to come back in here with a specific recommendation without perhaps first providing council with what we determine are some options for you to consider to see if we're in the ballpark, quite frankly. And --

Mayor Leffingwell: You mean on the additional direction?

On all of it, quite frankly. And depending on what we hear, then we would go back and put that in final form for you to take action on.

Mayor Leffingwell: May I say that, city manager, with all due respect, i disagree with that because it does contain requirements that should be made -- changes that should be made that are in this resolution. The additional direction was to find ways to accomplish certain goals, but the recommendation that you bring back to us should contain the specific items that are in the resolution. It's not entirely fluid.

It's intended to do specific direction, but it seems like there's some room in here for latitude of thought. So I want to make sure that we don't go too far from what the collective intent of the council is.

Mayor Leffingwell: I would just like to make sure that the latitude is contained within the direction and not within the specific points of the motion.

But so we understand, some of the things that -- the direction is being given on do not require a code amendment. For example, the things on time certain, all our code says on time certain is that certain things will be scheduled at a time certain, but it's totally a decision of the agenda being put together, at what times things will be scheduled. That does not require a code amendment. So just to make sure that we all understand, coming back to council, obviously for things that would require a code amendment, that takes council action, but what -- on the other items, how --

of the enumerated items in this resolution, item 1, item 2, the change in allowing one councilmember to postpone consent items and item 5 and item 6 all require code amendments. They're minor code amendments. So an ordinance would come back amending chapter 25 of the code related to those items. The zoning scheduling is not specified in the code. And it is not our intention to put it in the code.

That does not require a code amendment.

It does not.

So for councilmember riley's point of interest and the city manager's assurance, how does that come

back to council?

What I heard the city manager say is that --

he's recognizing 51% of the vote is over here on -- (indiscernible) [laughter] is that correct?

It is.

Mayor Leffingwell: Councilmember riley.

Riley: I just didn't hear the last comment by the city manager.

I think what the attorney was saying, acknowledging that last piece that doesn't require any amendments to the code, how we do it will be subject to some discussion and conversation and looking at various ways of doing it. So I think she was alluding to your question earlier and my response or desire to make sure that we're in the ballpark in terms of developing some options for how we might intend to carry out that part of what council is intending today.

Riley: So there will be ongoing discussion as to 3 and 4. 1, 2, 5D and 6 have to come back to us for approval because they're code amendments. And 3 and 4 will be ongoing work, but not necessarily another vote, is that right?

That's my understanding.

Riley: Okay.

Mayor Leffingwell: Well, does everyone understand the motion after all this? All in favor of the motion, say aye?

Aye.

Mayor Leffingwell: Any opposed? That passes on a vote of six to zero with councilmember shade off the dais. Thank you. So I believe we have no more items on our agenda until the time citizens communication and time certain?

I want to offer an alternative -- [inaudible - no mic].

Well, I think, councilmember morrison wanted to resolve it.

We'll do it at noon break, at that time, it may well result in a postponement. We will address it again. So council, without objection, the city council will go into closed session pursuant to section 551-071 of the government code for consultation with legal counsel to take up one item, item 48, concerning cause number d-1-gn 07-001790, archer western contractors limited, an illinois limited partnership, versus the

city of austin, texas in the 201st judicial court of travis county texas and it concer ulrich water treatment plant. Is there any objection to going into executive session on this item as announced? Hearing no objection, the council will now go into executive session.

Mayor Leffingwell: We have out of closed session. In closed session we took up and discussed legal issues related to cause number d-1-gn-07001790, archer western contractors limited, an illinois limited partnership, versus the stin city of austin, texas in the 201 its judicial district court of travis county, texas. It concerns the ulrich water treatment plant. No action was taken. So that brings us to general citizens communications. The first speaker is gus pena.

what's going on, randy? You're smiling. I can't smile after what happened this morning. Councilmembers, gus pena, proud east austinite, zavalva elementary, graduate of johnston high school. No furloughs, please. The food bank needs food donations. We are still in a deep recession. Parents cannot afford to purchase food. People cannot maintain a healthy diet because most of their funds are spent on a roof over their heads and utilities. The senior citizens are not eating nutritious food. I was inquiring on how much money was spent on your lunch and supper. Come to find out it also includes a category listed as additional meals. Mike martinez, you told me two weeks ago when I first brought up this issue under citizens communication, and I might just take a vacation from citizens vacation, from food that only \$10 was spent, \$10 on each meal. I couldn't ascertain as to what you meant by meal or meals. I hope y'all will explain that. 19 Different businesses that cater food to council meetings, from october the 2nd of '08 to 23rd july, 98 have been spent on meals. And this is meals for the mayor and councilmembers. But who is truly eating the food? You have other -- how many mayors and councilmembers do we have? It calls for 65 meals per council meeting. Then not only that, it says that additional meals per council meeting to the tune 17 at times and the other one is 200 some-odd dollars for additional meals. One of them says pizza ordered at the request of assistant city manager, and I'll leave out his name, garza, for extra long council meeting. Pizza. 65 Meals. 24,000 Some-odd dollars can be spent on the poor, needy, have notes, give food to the food bank, those who are less fortunate, dying of hunger. Mayor, councilmembers, assistant city attorney, could you explain to me how and why and when this process started? Why y'all are so privileged to be receiving food and sometimes it's not councilmembers and mayors, it's other city employees, why when there's a lot of hunger out there, a lot of poverty? Why did it take so long for me to receive this information? It's not right. We taxpayers should not have to foot the bill for your food. As I said last time, two weeks ago, right, mike, bring a sack lunch in there. In my little pouch over there I have toast that i made this morning, okay? A lot of people are not making ends meet and here we are as a taxpayer having to foot the bill for your food. And others to partake of the food. It's pretty darn good, hoover's, poke e joes, central market, thunder cloud, apple annie's, 24, whataburger. Not right. This is discriminatory. This is disparity. I love this better than I do citizens communication. Do something about it, do away with it. It's not right.

Mayor Leffingwell: Thank you, mr. pena. Next speaker is ronnie gjemere.

Thank you, here is to my new and improved pronunciation of my very own name. Ronnie reeferseed. But celebrating another sick try in the -- victory in the ron paul run for liberty and our constitution because today is the ongoing rand paul's money bomb. A grass root campaign of rand paul's donation.

Sure enough as a son of the ron rand paul, also calls for a better understanding of and appreciation for the wisdom of our founding fathers as reflected in our sacred u.s. Constitution, the supreme law of the land. To learn more online and donate today, visit randpaul 2010.com. There we can investigate rand paul's positions on many issues and ideas such as about banks and corporate bailouts. He's against them. About national defense, he's for better adherence to our constitution, requiring that the unconstitutional, unnecessary military interventionism worldwide be eliminated. Thus the results lowering of taxes across the board will help us all. Better adherence to our constitution means, quote, america can prosper, preserve personal liberty and repel national security threats without intruding into personal lives of our citizens. Sound familiar? ron rand paul also truly demands better support for our vit rans like gus. rand paul also supports our entire bill of rights, including, of course, the second amendment. rand paul also exposes expansion of the federal government into health care and thus favors advances of real free market principles into reform. rand paul also believes that life begins at conception and thus he recognizes that the federal government basic function is to protect life. rand paul also opposes any federal funding for abortion. rand paul also does not support amnesty for illegal aliens. Instead he supports fully legal immigration. legally already admits more legal immigrants than all other countries in this world combined. Now, to learn more and rand paul's run for the u.s. Senate, visit randpaul2010.com. By the way, today's money bomb for his campaign has already raised well over \$350,000 towards freedom for us all to have two paul's in our federal government that can only help advance peace and freedom here and now. Please protect your own life and health by refusing to allow dangerous experimental vaccines to be forced upon you and your family. Read the textbook, echo science population, resources and the environment by obama's top science advisor about their premedtated, truly evil plans to use forced and voluntary vaccines to kill and sterilize us all. [Buzzer sounds] and of course you can online infowars.com.

Mayor Leffingwell: Next speaker is paul robbins.

Who needs no introduction. I'm paul robbins, council. I'm an environmental activist and consumer advocate. I'm here to complain today about the recent texas gas service rate hike. I have information that you probably haven't seen before. The council passed this rate several months ago, probably not understanding its full implications. The gas company has raised its rates with a regressive rate structure that discourages energy conservation. The cost per unit of gas has been lowered while the monthly service charge has increased, so the more you use, the less you pay per unit. Meanwhile austin energy has had a rate structure since 1981 that does the opposite. I've used my current residence as a point of comparison since I'm a careful consumer and because it's a three-star green building home that was built for efficiency. I use about half -- I can barely talk. I use about half the natural gas consumption of the average austin residence. The two lines above it are arbitrary increases, a doubling that in blue and a tripling in red. If you look at the rates, next slide, which is only what the gas company receives, my bill will go up four and a half percent. But someone with double my usage will see a seven and a half percent decrease and someone with triple my consumption will see a 15% decrease. Now, if you include the cost of gas, which is a pass-through, which the gas company does not see because it doesn't make a profit on it, the effect is lower, but still noticeable. Next slide. 6% increase, while someone with twice my consumption sees a two percent decrease in a home with triple my consumption sees a three and a half percent decrease. As -- and note that in 2008 there were some of

the highest fuel costs ever reported, so in many years large users will get a much larger gross decrease. Another thing about this new rate is that it adversely affects the poor. I have taken this consumption information, next slide, from a 2005 energy information administration survey of residential homes. It shows that people over 100% -- over 150% of the poverty line use 36% more energy than people at or below the poverty level. [Buzzer sounds] as such, the poor will suffer under this rate structure. Council, I hope you rescind this and I hope you will take action to prevent such things happening in the future. Neither the resource management commission or the austin climate protection program were consulted about this. Thank you.

Mayor Leffingwell: Thank you, mr. robbins. I appreciate that information and I will look at it further. Next speaker is robert g. Mcdonald. Robert mcdonald.

Morning, city council. It's good to be here again. Hi, mr. martinez. Last time I saw you and lee was at jennifer gale's memorial service. Do y'all remember that? A very cold morning. We were out there at jennifer gale's memorial service, the homeless lady, guy, tt died, one of 136 homeless austinites that died on our streets last year. Yet compared to the homicide rate in austin, which was only 22, ask yourself, is homelessness violent? Is it really violent? And have we done enough to protect the homeless? I don't think so. We protect our barton springs salamanders, but we don't protect our homeless. How many salamanders have died in the last eight years? How many salamanders died last year? Which is really more valuable, a human being that is so stressed out that they can't keep a house, and dies because of their environment? What have we really done for them? I have a way that we can exep them. I have a way to lower our energy bills and cost of austin city energy. Do you want to hear it? Do you want to make a difference in this city? In this country? In this world? We have the potential with the university of texas alternative energies and their new photovoltaic systems that they have designed to be more like fabric instead of a hard system, not glass, not frames. We can put those on our light poles. I got the designs for the brackets to make those sails, solar sails is what i call them, to track the sun everyday. And because they're soft they can roll up like those canopies that you have over your back windows in your house that roll up when a storm comes so they're not damaged. We can incorporate that into this so the solar systems -- so our solar cells on our street light poles aren't damage when had high winds and storms come. It also reduces the risk of the weights and the wind variance on the poles so the poles don't snap and break fall down and cause injury to somebody. My name is robert mcdonald, 436-2009 is my phone number. If you want to make a difference, call me. Let's sit down and talk about putting solar cells on the light poles. I'll give up my design for the brackets to the city if you will designate a certain amount of the portions of funds that are sastled by such a -- that are saved by such a system to homeless projects.

Mayor Leffingwell: Thank you. Next speaker is linda greene.

Thank you for being here for our citizen communication. I had intended to talk about specifically about flower ride in our water, but then another issue has come up where the city council has decided that we should only speak once every four sessions.

Mayor Leffingwell: It was changed to once every three.

Once every three. Well, this morning I called to speak in two weeks, and I was told that session was cancelled, but next week a whole week ahead of the session next week there still were openings available. So I feel that you should not fix what's not broken. Here a week prior to our opportunity to speak in front of city council we're able to call in and still find openings. And I say that when I call I have as much chance as anyone else of 10,000 people that may be calling in at the same time to speak. And if I happen to be lucky enough to be on the first 10 people to be speak, then so be it. And let's not spend our time wasted fixing a problem that isn't broken. And obviously it's not broken. Also, since I'm having to take time out of my speech for fluoride, I would like to say that in lieu of being able to speak about the fluoride so much, I would ask you to all go in to the environmental board meeting last night where five of us spoke in front of the environmental board, including the sierra club, mr. neal carmen. And I will not go away on this subject. This idea of putting fluoride in our water, admitted by jane browser from the city water utility board, is a toxic waste product that we are spending millions of dollars for. It is a hoax. And until you all wake up to the fact that we are spending money on a hoax to fluoridate our water, poison our water, give children and babies fluoride that both the cdc and the ada have both said is a toxic chemical as far as babies are concerned, is a waste of taxpayers' money. And so again, I urge you to please go to the environmental board meeting last night, look at all of the documentation. There were five people that spoke. I'm also going to hand out a flyer to each and every one of you since I'm not able to actually go into detail on the cdc and the ada, who in the past have said that babies should not get fluoride. Also last night, one of the young men that spoke said on his tube of toothpaste it says keep out of reach of children under six years of age. [Buzzer sounds] if more than use for brushing is accidentally swallowed, get medical help or contact a poison control center right away.

Mayor Leffingwell: Your time has expired. Please conclude.

So this ingredient is pharmaceutical sodium fluoride. The ingredient that we pay for to put into our water is a toxic waste product from the fluoride industry and it's called --

Mayor Leffingwell: Your time is up.

Thank you.

Mayor Leffingwell: Next speaker is rae nadler olenick. Just give everything to councilmember riley and he will pass it down.

Okay. Good afternoon, mayor leffingwell and councilmembers. There's breaking news. At last night's environmental board meeting, jane browser of the austin water utility, gave a presentation on fluoridation and also addressed questions on that topic presubmitted by the public. Following her presentation and citizens communication, which included that of local dentist griffen cole, the board voted unanimously to recommend that city council establish an independent advisory taskforce to study the pros and cons of ending fluoridation in our city. I would urge the council when the time comes to consider this matter, to solicit the input of alamo heights city councilmember bill kiel. Two years ago

alamo heights was at the point of having to make a decision about fluoridating. They were plan to go upgrade -- planning to upgrade their water treatment infrastructure and had to decide whether to make a costly environment in fluoridation equipment. Our austin analogy would be the building of a new treatment plant. kiel was chosen point man because of his prowess as a researcher. He's a retired geo physicist, a scientist with degrees in both physics and mathematics and high level management experience here and abroad. Starting from a position of neutrality and very little knowledge about fluoride, he painstakingly researched the subject for a full year before reporting his conclusions to his mayor and city council. Those conclusions went against fluoridation for a variety of reasons and he could tell you why. He has expressed a willingness to share his insights with anyone grappling with the same issue and it would be well to get the benefit of his experience. Your handout has his contact information. kiel's many sources is the national research council's steering 2006 report on the negative impact that fluoride and drinking water has on the human body. It's a long, complex technical book and he has gone through it with a fine tooth comb. He has all of us. Thank you. [Applause]

Mayor Leffingwell: Thank you. Next speaker is robert thomas. Robert thomas.

Thank you, mayor leffingwell and mayor pro tem and honorable members of the council. I'm indeed honored to speak with you today in concern of the rosewood park and recreation center of industrialism. I am from the -- represent the national labor union of north america advisory council for the revitalization of construction industries at rosewood and from the national football league physical fitness parks over at east austin, east side football field. And our union -- the millennium youth entertainment center. I've got to this morning speak of relations, industrial relations with the parks. During the years of negotiation for industrialization at reducewood they have promised to bring forth a position there for labor for me and myself and my athletes. Now, we need the position at rosewood because we've brought in some many areas of industrialization at it. We've went into the construction trades industries and brought in minority contracts to help in areas like rosewood and we brought in enough alliances from them to branch out and explore all the uncertainties of our industrialism. What we've got basically before you is the type of uncertainty about athletics, productivity at rosewood, rather, that we had to discuss with mayor pro tem mike mcdonald who affirmed our position years ago and had them bring seasonal sports and revision at rosewood. What I need to do is speak with (indiscernible) and his assistance, chief mcdonald too into speak. And I've called him, he won't call back. So I need some assistance in trying to get with him. I need probably an aide so i can schedule a meeting and we can go over the agreements, the oral agreements and written agreements we've given him. This I need from council to see if somebody can help me get up there with these proposals that we've got. Proposals that we've got for the future of the facility. Are there any aides around that can schedule a meeting with him?

Mayor Leffingwell: If you've got a question, chief mcdonald is in the back and you can discuss it with him. Maybe he can help you resolve it. And thank you. Next is carol anne rose kennedy. I see she's gone, so we'll go on to the next speaker, carol torgrimson. Welcome.

Good afternoon. My name is carl torgrimson. I'm here to discuss the subject of city code as social contract. The public elects you, the city council, to be our representatives and to act in our sted. You in turn pass ordinances which are then codified. The public looks at the city code as rules to be followed

and relies upon your willingness and ability to enforce the code in a fair and consistent way. The city code represents a social contract between you, the city council, and the people who elected you to office. The code the city of austin covers a wide range of subjects from animal and business regulations to traffic and utilities. Now, most people believe that city codes are enforced. Certainly the traffic codes are enforced. If you get caught running a red light there will be consequences for violating the code and it won't be a valid excuse if the 10 cars in front of you ran the light and didn't get ticketed. The land development code is a horse of a different color. When I attended my first austin city council meeting a few years back I was flabber grafted in the manner in which variances were handled. I cornered a staff member and asked why there seemed to be such a casual attitude about granting variances without a compelling reason for the variance and compelling doesn't just mean convenience. I was told they were guidelines, not rules that had to be followed. I was horrified because that meant everything was negotiable, nothing could be counted on and the public was at a severe disadvantage. In the years that follow I've been well acquainted with the ldc. I have worked with staff in constructive ways and address issues and shortcomings and positive actively as possible. The failure to take this part of the code seriously is a violation of the social contract between the city and its citizens. This is not an indictment of city staff. They are extremely hard working and diligent, but they take their direction from the top. If the city council does not require the code to be treated with respect, then boards, commissions and staff will follow that lead. If the ldc is inadequate and inappropriate, then that needs to be fixed, but whatever the code is, it needs to be followed, fairly and consistently. It shouldn't matter which attorney a developer has hired, how long the property owner has lived in austin or whether the neighborhood which has raised objections is full purpose, limited purpose or e.t.j. I've seen these things matter. I'm not opposed to development and I appreciate the rights of property owners and I believe there are times when variances are called for. There needs to be more consistency in the way the city deals with developers, residents. We need to know there are rules, what the rules are and that they will be applied consistently. That is the basis of the social contract between us. We have a new council and i am very excited about this council. We have a newly reorganized planning function I'm very excited about too. This seems like a perfect moment to look at how the city treats the ldc to acknowledge how much frustration and distrust exists in the community because there seems to be a lack of respect for the code that we depend on to reflect on what the city code truly represents, the very definition of the relationship between the city council and the people of austin. Thank you for your time and thank you for your service to our fair city. [Buzzer sounds]

Mayor Leffingwell: Thank you, carol. And whoever told you that the land development code was a guideline was incorrect. It is a city ordinance and enforceable as any other city ordinance. Next speaker is sylvia orozco. Okay. So we'll go back to carol anne rose kennedy.

Thank you.

I am very, very sick, so I might have to transfer to sitting down.

Mayor Leffingwell: Please feel free if you can get a microphone. Please feel free to sit down if you would prefer.

Well, I prefer to stand. I want to speak to you and the cops.

[Inaudible - no mic].

I want to look in your eyes.

Mayor Leffingwell: Okay. Please address the council. And if you want to talk with chief holt later, you can speak with him. He's right there listening to you.

Okay, fine. I want all of you -- where is sheryl? Where is sheryl? I saw her today. Why isn't she here?

Mayor Leffingwell: I don't know where she is.

Well, you're her boss.

Mayor Leffingwell: No, I'm not her boss.

Well, who is her boss?

Mayor Leffingwell: Your time is running.

Pardon my espanol. October -- august 5th in the middle of the night I was home alone, I have no transportation by choice, 00 in the morning I was awoken with severe chest pains and shortless of breath. 00 in the morning. 00 i called 311, austin 311, and I asked for an ambulance to come get me. What started out as a mere heart attack ended up with five nights and six days in the hospital. Right now, I got out on the 10th. And the austin cops, the austin cops -- they're the austin cops are killing us! They're killing us! And I'm addressing this message to at least 50 people, starting with 311 operators, then 911 , then brackenridge hospital, bill lindsey and social worker pat cold air alofter. I'm going to -- I'm going to debar both of those. I'm filing criminal lawsuits against the city of austin and all those categories. The hospital of seton and brackenridge, the county of travis and the state of texas. Because I am lucky to be alive today because of their misuse, abuse, neglect of my I feel like crap 15 days after my heart attack! I feel like crap because of the medical abuse and the law enforcement abuse, mrsam holt. Where are you? You guys have an incredible opportunity to make austin a great town. And I'm going to make you work your asses off for a change, I am. I am. You know, you got on my last nerve. I almost died. I almost died! At the hands of the freakin austin cops! [Buzzer sounds] I almost died!

Mayor Leffingwell: Your time has expired.

Play balls!

Mayor Leffingwell: Next speaker we'll go back to sylvia orozco. Is sylvia here? Those are all the speakers that we have signed up for citizens communication. And council, we don't have another item on our agenda 00 briefing on responsible hospitality institute presentation. I don't anticipate that's going

to take very long. We don't have anything after that until our zoning cases 00, so without objection, we'll go into 30 this afternoon. Councilmember morrison.

Morrison: Earlier I had pulled item number one the minutes.

Mayor Leffingwell: We are not in recess and we do have one quick item to take care of. Councilmember morrison is going to tell us.

Morrison: Right. I would like to actually make a motion that we postpone the minutes and work with them -- work on them next week so I can work with the clerk and we can make sure we get it right the first time around.

[Inaudible - no mic].

Mayor Leffingwell: You're way out of line there, ms. kennedy.

[Inaudible - no mic].

Mayor Leffingwell: Chief holt, would you escort kennedy from the chambers?

[Inaudible - no mic].

Mayor Leffingwell: You will be leaving with an escort. Second on the motion to postpone item 1 for one week.

Morrison: One week.

Mayor Leffingwell: Seconded by the mayor pro tem. Is there any discussion? All in favor, say aye? Aye? That passes on a vote of six to zero with councilmember cole off the dais. And now, council, if there's no objection, we'll go into recess until 3:30.

Mayor Leffingwell: Good afternoon. We are out of recess and we 00 briefing at 3:30. And we'll begin with the responsible hospitality institute. I believe josh allen is going to lead off. Thank you.

Mayor and council, I'm josh allen, executive director of the sixth street austin association. Under the leadership of council member cole and then your leadership in passing a resolution some months ago directing the city staff to participate fully with a process that we were going through with the hospitality -- responsible hospitality institute. We engaged in a program of work. Today our consultant allison hardin, who is the vice-president of the responsible hospitality institute is officially packing her bags and going away and leaving us with some implementation taskforces. We thought it would be a good time to come back and say thank you very much for your participation and staff's presentation and let you know where we are, what our action plan looks like and what steps are next. Allison?

Well, thank you for having wonderful city to visit. The responsible hospitality institute is a nonprofit organization and we work with cities around the u.s. And canada in creating safe and vibrant places to socialize. It's a real pleasure to be in austin. This is my seventh time in one year, and I hate to say good-bye, so much that we're coming back in november and having a conference to showcase your hospitality zone on sixth street and the other ones as well. The process that we brought to austin, brought together four key stakeholder groups that we believe are important to -- that are key to a vibrant hospitality zone. We asked them to look at the things happening on sixth street and the resources that you have to address them and identified some gaps. The goal to have four points of engagement here in austin, and with hri and your stakeholders with the goal of reaching consensus around some issues that would go into a work plan that's actionable in six months. That's our signature thing to get people moving and having something accomplished in six months. In the course of this we did find some consensus around longer term recommendations that would fold very well into your waller creek and your new downtown plan. Sixth street has a really -- in comparison to other complaint districts you have a really unique blend of historic and entertainment elements and you really have a great potential to reach a wide customer base, which is not always the case in other cities. The focus group worked together to identify a vision that they want for sixth street and part of that was to have a diversity of customer and businesses that would attract them to offer a variety of authentic social options. And having clear and effective rules and enforcement, responsible businesses and property owners, but key to hospitality zones is having certain style of policing that's friendly and vigilant and that roams around and -- roams around and engages with businesses and with the individuals visiting the hospitality zone. But in the course of achieving this vision, it's not without challenges. Your proximity of the social services to the hospitality zone is quite a challenge as are some infrastructure items, such as your narrow sidewalks that prevent having sidewalk cafes and some of the types of buildings that you have are very small and don't -- are not conducive at the moment to attracting the variety of businesses that would track a wider user group, wider age group. The community standards around the ordinances not being clear are feeding some lax and inconsistent enforcement. And like a lot of cities that we see, since police are out at night and it's primarily a nighttime district, they become overburdened because they're the catchall. They're pretty much the only agency open after 5:00. So this is very common, but what we see -- what we're seeing in cities is more of a shift of city services to nighttime and weekend to accommodate the high peak time usage. So in our work we have found that there are six core elements that contribute to a safe and vibrant hospitality zone. And we gave you a little bit of a report card. The report -- we have a report that's much more in-depth so I'm going to try and buzz through this and do a comparison. The ideal for dining in entertainment is to have a variety of socializing experiences that can attract a wide age group and cultural groups. What you have here is just wonderful in terms of city and state supported music and music venues. I've never seen it anywhere else. So that's a really wonderful thing you have. Unfortunately again it's the buildings and some of the other things that are just attracting a certain type of business, but then attract a certain age group. So the opportunity to -- is to expand into a 30-plus market and some of the businesses that would attract them. Now, a second element is having obviously public safety. The ideal is to adapt regulatory compliance and policing for an active nighttime economy. Now, the pace organization is a really wonderful collaborative, but there are enforcement gaps and there are ordinances already on the books, just not being enforced. There's sort of a prevailing community standard that by enforcing we're ruining the fun. And -- but there's a lot of

opportunity here and there are -- as there are in a lot of cities to spread out that responsibility. You already have a lot of safety partners that are working at different hours that could be engaged and take some of that load off of police. Also some tools like security cameras and the style of policing, like roving style policing that enter acts -- interacts with the businesses and inner acts with the patrons. That's been done very well in west palm beach and chicago, hollywood and providence, rhode island. Multi-use sidewalks is a very interesting -- I think I skipped one. The service and safety looks at the internal policies and training and procedures inside the businesses that support safe fund. Now, there's a tendency now for late night businesses in different cities. They're starting to have a nighttime association because they have special needs and special problems, and if they see themselves as a collective, as a collaborative, they tend not to get as competitive and engage in risky business practices. Patrons here in austin are also contributing to the problem. They're drinking before they come into establishments. They're drinking and coming out into the street and making that the party. It's really only a small percent of people and businesses that are creating the profit the really good news here is that you have a willingness on both sides of businesses and regulatory that they both want rules clarified. They both need that to be able to be successful. Multi-use sidewalks is another core element. The ideal is to look at the streets and the sidewalks almost as if they're an entertainment venue in themselves, a dining and entertainment venue in themselves. So you have outdoor seating for sidewalk cafes. You have food vendors, music, you have diversion. So here in austin the sidewalks -- again, the sidewalk cafe is not there. The food vendor, apparently the placements can be reworked. And there's also -- if you begin with that end in mind that this is the -- the street is this venue, where does that begin and end? As a visitor it's not really clear where sixth street begins and ends, so there's an opportunity to create some visuals that would distinguish that. Late night transportation, most cities don't have it. You do. There are a list of some options here. It's just that they're not well indicated and there's an opportunity to coordinate and help people find where those late night transportation options are. And finally, the last core element is quality of life much the ideal there is to manage sound and trash and pedestrian and disorder so they don't impact residents and visitors and neighboring businesses. This is very common in most cities' entertainment districts that you have entertainment businesses that provide drinks and there are no public restrooms. And we shove everybody out 00 in the morning and then we're surprised at the result. You also with your social services, the combining situation is that there's a lot of olfactory use that makes people feel unsafe there. Just like having disorder of buildings can make some age groups, older people, feel unsafe, so do the olfactory cues. There's also this cleaning schedules don't currently match the peak demand. So if we can improve that, we're well on our way. So the action plan that -- like I said, it's a consensus of the 65 organizations and individuals that participated in this process, representing many more individuals and their constituencies fed into the -- the collaboration and coming up with consensus of these five action items. So josh is going to come up and help me let you know what action is being taken on that. Now, when we present it, is in the fourth visit before I left last time, the group decided that they really wanted to concentrate on the first three to make it actionable in six months. So we're going to focus mostly on that. The first one is to clean, repair and invest in the structure. Now, hollywood did something like this, taking one block at a time and reviewing the facades and working with the property owners, educating them and the businesses about how to get in to compliance and giving them the tools. And then letting them know that enforcement would be on the way. So the key to code compliance is that it's three pronged. You have two educate,

you have to self monitor and have you to enforce. So you need to take in to consideration all three of those elements. And again, this -- there were some other recommendations that were longer term that are in line with this that won't be in the sixth month action plan, but could be taken care of in longer term strategies. And josh?

Just to let you know what allison is leaving us with and one of the reasons why we selected the responsible hospitality institute is because of the model of leaving actionable teams in place with the right decision makers at the table to help us make progress within six months. So that's the reason we chose them and we found that the three taskforces, the clean, safe and systems in order, have already begun to make progress. For example, the clean taskforce, which fred schmidt, who is sitting in our audience, has been so kind to head up. Thank you for your work to this point and many of your city staff have been there with us. And I believe you will be hearing from howard laz sar russ in a few moments about specifically how do we do a cosmetic cleanup of each one of the buildings? Fred has already led in the 200 block a checklist of both public and private space of what we need to do in specific. So our next step is to have those individual, one on one, property owner and business owner conversations, to make progress within the next six months. And then simply looking at tools as a way to enforce -- to give people tools to help them get there. So, for example, a simple low interest loan program, could we use heritage grants and tweak that a little bit and make it applicable to private property owners in the form of a loan. That way there are no excuses for not participating. Then again the 200 block is a model of dined ciend of where we're going and -- is kind of where we're going and hoping that's infectious and hope it moves out and becomes much faster and we employ lessons learned from each block to the next to make it even better as we go. So that's the clean taskforce.

Again, hollywood, california was really successful with this. They went from blight -- they didn't even have a full entertainment district like you do now and went from blight and gang infestation to a really successful tax-generating entertainment district. So when you let undesirable behaviors go unchecked, you're reinforcing them as social norms. So if you have sanctioned street activity like taxi stands and vendors and street entertainers, it shows that someone cares and that there's order out there and someone is watching. So this action item is really to get those systems in place and then signal to the patrons that come down that there is a change in place now and that the expectations have changed. So the community standards have changed and here's what it's going to be. So get the systems in place and then do a pr campaign that will indicate that the change is coming.

So on the taskforce level we've already seen some implementation. For example, taxi stands. Allison said, you know, they're there, but you wouldn't know that they're there if you're from out of town or not a frequent visitor. So we've actually gotten with your right-of-way management department and they've helped us install additional taxi stands. The next step is for us to provide temporary signage that can go out during peak hours and come back off the street. So it's a way of providing a sense of order to the district. So we've already made some progress. There are also street lap banners. We've pulled that out of the longer term recommendations and said why can't we get this done in six months? So that's one of the ways in which these taskforces are saying we're chomping at the bit to get something done here. And then a modified vendor program where we can look at how best to serve the needs of a street as a whole rather than just simply oh, you've got in an application and we'll plop you a hot dog stand in front

of a very fine restaurant, which doesn't make necessarily a lot of sense. But instead look at it as how do you provide true additional value. For example, it may be the first step for us to get additional retail on the street by using those vendors as an example. So that's some of the work of the taskforce to this point.

And the third action is looking at improving the perception of safety. This is a common thing in hospitality zones because they are in downtown areas usually that have been abandoned. There's a lingering misconception that it's unsafe. So even though there may be some truth to the matter in some cases, it's the perception that lingers. So this would have to be a multipronged approach. In this we want to look at expanding partnerships and you have an -- and improving capacities. You have a lot of partners already that could come to the fore, but they need to switch to some night staffing. The -- the social services being next to the night life district, it's ju imperative to continue the dialogue between all those partners to make sure that the safety implications for both groups are listened to. Then again enforce what's already on the books. We don't have to create new laws, but we need to get some order there. And then increase the consequences for people, patrons that are creating some undesirable behaviors. So you can do things. In some cities they revoke id's, they report student conduct. Again, to the police deployment, the type of deployment that is key is to have them circulating and engaging and employ all sorts of types of tools that you can. And there are a lot of cities that have done well in this area. So these are some of the areas that josh is going to talk about.

This is an area where we've seen great strides forward in terms of communication especially. patrols around the social services have already changed as a result of the conversations that have gone on in this taskforce. The social services are happier and the austin police department is happier. And as folks that are right next door to them, we seem happier, at least to some degree. We still have some -- quite a bit of challenge with that co-location of social services along with the entertainment district and we're going to constantly be dealing with that as a community. But we've seen some progress here. Lighting around the social services is another area. Community court has been amazing with helping us identify what we call, quote unquote, the frequent fliers. And just to give you an idea of the kind of level of detail that they're deviling into is it's folks who have 25 or more citations in the community court before the life of the court who have had at least one of those in the last roughly two years. It's pretty amazing that there are 170 people that meet that type of flesh hold. But it gives us an idea that we need to find an alternative way to get people through the system because it's not working for 170 folks. and community court are actually working together to write tickets write tickets that could be prosecuted instead of them just being dismissed. That's an improvement. Then we're looking at ways that we can strengthen and review our public order ordinances. And your law department has been helpful there in letting us know what are the various different ordinances so we can begin to look at them in detail. Yesterday under the leadership of tim lee, who has taken the safety taskforce to his heart and said I'll lead that group, we had our first neighborhood watch program was kind enough to come and partner with that. So we think we'll see some additional eyes and ears on the street very soon. Again as allison pointed out, spreading out the responsibility so that the police don't just become the catchall. And then looking at how do we did do a better job of community policing and especially as we provide additional resources for them on the private sector l'dside that we have iterative response back and forth so that ultimately we get to that roving model moalgd that allison is suggesting. That's the work that we've engaged in to this point. I'll let

allison take the next two as well.

Sure. The fourth action plan was to really give the businesses some tools that they need. And that is to let people know what's already there. And I think josh is going to tell you about some that the convention and visitors bureau is doing to help with that. Businessmen tores have been used in other cities to take key leaders that are really excellent business people and help mentor those that are not in compliance and help them get into compliance. And that's a good model that we see for austin. And then we want you to research some incentives to help businesses to improve their appearance and their operations.

And just again to reiterate that the feedback that we got from the lea summit from our group of folks that came together to put this report and action plan together is if you focus on clean, safe and systems of order, these last two will come. So while we haven't made as much progress in terms of taskforce, there are many community partners that are going -- for example, austin convention and visitors bureau and music maps, downtown austin alliance and sixth street austin both work to try to recruit retail. The city has an incredible small business development program with all kinds of resources, including some loans to give tools to small businesses to be able to open, especially in a reinvestment area like sixth street. So even though we're not pursuing as a taskforce, there is work going on, and we're just simply doing what allison is going to recommend next, which is increasing our collaboration here.

So you need to get your businesses and your -- you're committed to self policing, but they have to have a better understanding of the rules and regulations. We really want some better communication between those who make the rules and regulations and enforce them with the operators. And then having some quarterly meetings where they can be equal partners and not have it come down on the businesses, but how the businesses can also inform pace about their concerns and how they want to improve.

So we said begin with the end in mind, and the end in mind from sixth street austin and the leadership of larry craddick and he is here with -- he's our chairman of the board this year. And the leadership there has said we have a vision of an 18-hour day, historic and entertainment district with live music and authentic offerings that's a source of cultural and economic pride for austin. That's our vision. We think by focusing on what we have and by making these improvements, we can truly push out the hours of operation to become that 18-hour a day destination that austin really richly deserves. Just very quickly, one other thing I'd like to point out is that we want to continue and we want to continue this partnership with you, and specifically we thank you for, mark, your city staff for coming to the table, for your leadership on the council for asking him to do so, and we look forward through these next six to 12 months that these implementation taskforces really take hold with even more progress than we've already seen with our continued partnership with you. Thank you very much for your time.

Thank you.

Mayor Leffingwell: Questions, comments? Councilmember cole.

Cole: Mayor, I would like to thank hri and josh allen and fred schmidt and the numerous stakeholders that have been involved in this process. I know it was not easy, but we recognize that if you go almost anywhere in the world and you mention austin, people say sixth street. And so it is not only our entertainment district, it is one of our major tax bases. For not only property taxes, but sales taxes. And so implied to have been involved in the process of helping create this stakeholder group and support you as you go forward. I did want to ask you a couple of questions. You mentioned the need for cleaning and your sidewalks. Could you give council just a little bit more information about why that is such a challenge?

Sure. The major challenge is that it's a really incredibly -- no other way to say it, ridiculous surface. It's sand stone, which is porous and it absorbs every bit of dirt and grease and grime you could imagine. Not only are we pushing roughly 15 to 20,000 cars a day on that section of sixth street, but we're also pushing thousands of visitors on any given weekend. uses the rough numbers on any given weekend we have about 10,000 visitors to sixth street. So it's just -- it's taking an incredible pounding and it's the wrong surface and they're too narrow and they've been there a long time. So you can clean them and about two weeks later they look about as dirty as they did.

Cole: Okay. And you also talked about your signage. And I know that mayor pro tem martinez and I have brought forth separate resolutions having to do with different businesses and the idea that they would advertise. So I would just like a little bit of information about -- a little bit more information about how you're going about that and what we could do to help you in that process.

I'm sorry, give me just a hand hold of the question one more time? My apologies.

Well, one of the challenges that we have downtown is way finding, people know where they're going, what businesses are where. And you mentioned a little bit in your program about signage. And it's been an issue with businesses citywide. And mayor pro tem martinez and I both have brought forth resolutions trying to deal with that issue. And it's important that we have an understanding about what the challenge is on sixth street and what we can do to help with that because we've already made it a council priority.

Well, clearly this is a longer term recommendation in terms of an overall way finding system downtown. I know the downtown austin alliance has done a little bit of work on that. We are doing work really more on the tactical level of how do we do things like get signage that -- for example, gorilla posts that can go -- if you remember on your new pay stations, the old parking meters, they're putting a metal disk on the ground now to replace where those parking meters were. You can come through with what's called a guerilla stick which it takes a gore gorilla to be able to move it once it's magnetically affixed there. But then you simply turn a key and pop it out. That could be a solution to one of our problems with not having clear signage and way finding with taxi stands, for example. So we could go and pop it in 00 at night or 00 at night and then it's 00 in the morning when all the hustle and bustle is gone and your street is clear again. That's an example of the kind of tactical level thing, but certainly the strategic level, we're going to have to look at longer term plans like in the downtown plan. I know some of it is being addressed and then the da has been doing some long-term research in that direction as well. I hope

that answers your question.

It does, it does.

Cole: And I just want to thank you for being a part of the process of not only addressing issues with sixth street, but our entire downtown because this council has made a commitment to bring the density downtown. So it is actually -- it actually has become a very important neighborhood. So I appreciate all the efforts that you've made to take responsibility to keep your neighborhood clean and safe and the partnering with the city with that. And I also want to thank my staff, stephanie mcdonald and I believe mayor pro tem martinez's staff, bobby garza, for also attending a number of the rhi meetings. And we thank you for coming.

Absolutely.

Thank you. I just want to in final say that what we found in cities is when you have the kind of commitment that you brought to the process from the top down to have all the city stakeholders there and the ground swell of support coming from a grassroots, like sixth street, that's when you get things really happening. And you're really at that point in time. So I really encourage you to move while you've got it. Thank you. Mature mayor thank you, folks. --

Mayor Leffingwell: Thank you, folks. Hold on. Some more questions, i believe. Councilmember morrison.

Morrison: Thank you. I want to echo the thanks from everybody because obviously without the partnership of the folks that are on east sixth street and you all, it wouldn't be happening at all. It's absolutely integral. You were mentioning 18-hour days. So that -- I assume that means moving into daytime and maybe some morning hours. And of course one of our visions for downtown is to be sort of family friendly and a destination for everybody. Have you given any thought to what it would take to actually encourage families and kids to be part of sixth street? I know you're talking specifically about the 30-plus market, probably in the evenings maybe focusing, but is this part of your thinking at all for the long-term?

I can tell you this from personal experience and having been in other entertainment districts that have worked quite well to have things like ice cream shops, arcades. So that can definitely be part of the mix. I think the vision at least which was outlined in a larger retail study for a larger area of congress, east sixth, west sixth and especially on west sixth it needs to remain a local flavor and really be unique to austin because that's what east sixth street has always been. It's the original place of commerce, large collection of commercial victorian architecture. So we certainly, while we want to see family friendly and especially in daytime activity, it's got to be how is it conceptually still unique to the austin experience.

Morrison: Great. I appreciate that. And then one little piece of information I'm not sure you're aware of, maybe you are. I know that the music commission and the arts commission are both contemplating street performance ordinance to clarify busking and tap dancers that might want to be on the streets

and all of that. So I know when you were talking about sidewalks and thinking of them as the venue, I think that could add a lot if we can do that in an appropriate way.

Definitely. We're aware of that. They were part of the process and it was brought to the fore that this is definitely a way that you can do it. And it also brings the families and that sort of thing, but it is very connected to how do you change the perception so that you get people to want to bring their families down there? So it's very connected to -- getting a handle on the nighttime economy can boost your daytime economy.

Morrison: Yeah, I see that. And lastly I want to comment on how much I appreciate and am encouraged by the partnership with the social services and police because I think that that's really the way to be able to move forward in the downtown community court. I thank you for that.

Mayor Leffingwell: No steel taps on the street, though. Thank you. Howard La Russa is going to come up for five minutes or so and tell us some things that the city is already doing in that area.

I would like to advise the councilmembers that you are fortunate I lived in New Jersey before I came here because I can talk really fast.

Mayor Leffingwell: Can you hold a second. Some of the councilmembers would like a copy of the presentation that you just gave. If you get a chance to come up with that, just give them to the clerk or if you don't have them now, later.

I'd like to spend a few minutes to go through a downtown initiative, which is really a collaborative effort to deliver services from the affected city agencies. The slides in here are really reference by nature, so I'll go through them pretty quickly. If you have any questions we can address those. I won't hit every single bullet that's on there. Really the purpose of the initiative is to provide a coordinated and collaborative effort to provide innocence services, repair and capital improvements to the infrastructure in the central business district and do it under a single point of contact so that if there are any questions, you don't have to go searching through the city directory to find out who to talk to. It came from an initiative launched by the city manager to simplify the process and make it more user friendly. Our organizational structure puts the director of the public works as the downtown coordinator. All the efforts here fall under one assistant city manager, Mr. Good. So there is good control at the operational level. We want to integrate maintenance and capital improvement underneath one department and make sure that we can identify the funding sources necessary for each responsibility. And also we want to clarify the scope of services that the city provides and those that downtown Austin Alliance provide so that we can do again -- find a cooperative and collaborative effort and one seamless to provide services for the downtown and for Sixth Street.

If you identify the funding streams and don't have a program, so we sat down and looked at all the requirements and identified where the money is going to come from. Some of these funding sources are in place, some of them are ones that will develop. A good example would be the increased revenue from having more improved parking enforcement. The revenues into the parking enterprise fund, which

will be set up with this year's budget to be fully enterprise-based. We'll provide some additional funds for the maintenance efforts that we need to do downtown. There is some money that comes out of the transportation fund as well as the capital improvement program. So for all the requirements up there, I think we've been successful in identifying where the funding comes from so that we can provide results and guarantee those results will occur. On the capital improvement side, we do maintain a master map of improvements. Not only public improvements, but also work done by others, a good example being the new courthouse being built by the federal government. We've also identified all the private projects that are undergoing. The intent is to put this on a single map so that the projects are coordinated not only from a spatial standpoint, but from a temporal standpoint so the sequence in which they occur makes sense so we don't do something that contributes to a problem while making an improvement. Austin transportation department, our partners in crime here, will coordinate all the transit mobility issues including the procuring of state and federal funds and doing the strategic mobility planning, including potential rail. All that is now integrated as the downtown capital improvement program so we can see where the improvements are going to be and where they're going to occur. Next couple of slides really show some of the future projects. I'll start just Brazos Street we should be in the ground hopefully next month. You can see the rest of the Great Streets program, the alley improvements and other infrastructure programs that are going on. Bike and pedestrian programs are integrated into the downtown to make it more accessible. The parking issues, both parking pay stations and the I-35 makeover. And then I talked about the federal courthouse. All these are parts of the capital improvement program downtown. We want to make sure that they occur in a sequence that does make sense. Maintenance and repair. We've coordinated among all the entities that work downtown, including 311. The working group internal to the department is under one assistant director for operations who has the ability to reach out, touch and get the resources necessary to respond to concerns. We need to do a better job of tracking the issues that come up, so we're going to plot out the problems we have using the city's geo spatial database and create some custom reports to track the calls, make sure we're responsive and also look at them, see what occurs and how we can address maintenance efforts to take care of recurring problems. So it's using resources we already have to operate a little bit smarter. On the pavements and sidewalks, we have done some overlays recently both on Fifth and Sixth Street. Solid waste services does do the nightly sweeping. In terms of sidewalks, we do have miscellaneous repairs going on primarily throughout the southeast part of the downtown. And we've worked with solid waste to take over the responsibility of cleaning the sidewalks. It is impacted by the water restrictions, so we're going to have to defer starting. And I've also requested a proposal from the downtown Austin alliance to see if they can do that more efficiently than city resources as part of their ongoing program. In cooperation with the transportation department we're going to restripe all the cross walks downtown over the next couple of months. We've worked with the convention and visitors bureau to see what their events are, so that we make sure those improvements are made in a timely manner so that it enhances the image of the downtown as large groups come to visit. Also along that line we will replace any missing and worn signage and we have talked about a potential pedestrian way finder project. One good example is as you walk counter traffic on a one way street we don't have street name signs that you can see, so it's kind of hard to figure out where you are. So that's one good example of starting small with an overall way finder project. In terms of fences and screening, there are some things that while projects are taking place that are not visually pleasing, so Rob and I attended a morning breakfast

with the downtown alliance where a temporary art is a way to screen vacant lots, things being prepared for development as well as implementing an improved project signage campaign to let visitors know what's going on here as they look at the various activities that are occurring. We've talked and sat down with parks and recreation to look at what the costs are to maintain the trees and planters through an effort to get more color downtown. We've also requested some price proposals from daa to see how they can do the work so that we can free some of the park and recreation assets to really pay attention to some of the other core missions and tie this into a single source of service provider. Finally in support of sixth street we do have our alleyway improvement program that's ongoing. We are planning support for kind after great streets type project and trying to find the funding for that. It may be grant funded or bond funded, but we will help and provide the resources to get us through and get the public conversation started as to what we want to do on sixth street. In terms of maintenance and repair, I mentioned signs and marking and sidewalk cleaning before. So at this time if you have any questions, I would be more than happy to entertain them.

Mayor Leffingwell: I do. Back on slide 6, talking about the funding, and you made mention of one of the sources of funding for two different items as the parking enterprise fund, which is the fund I did not know existed. It is my understanding that all the revenue for parking now comes from meters -- from metered spaces in that these meters spaces were not were not part of the parking enterprise that was discussed a year or maybe two years ago. And that further a third of those funds were dedicated to the great streets program and the rest to the general fund. So can you elaborate on that?

The parking enterprise was established legally last year, but it wasn't funded. So with this year's budget those resources that go into parking enforcement and the revenues go into a separate fund now so that they're visible and that the fund can be self supporting. As parking meters are laced with pay stations just because parking meters were failing at a high rate, there will be more revenues coming in. The use of those funds -- I'll get some help from rob. They fly plie to certain designated uses.

Under the new budget that's being debated and being presented, the parking revenues will start generating, we believe, some additional funds and the thought is to use them for some of the items that you see here. It does not take away the 30% commitment to downtown great streets program and so forth. So this is really looking forward as new funds are derived and how we might meet some of these requirements.

Mayor Leffingwell: But there is a proposal in the budget to divert the rest of those parking meter funds from the general fund into this program is that what you're saying?

Sorry, I'm having trouble hearing and the echo here. I'm sorry.

Mayor Leffingwell: There is a proposal in the budget, I understand what you're saying, is there's a proposal in the budget to divert the remaining two-thirds of the revenue from parking meters from the general fund into these programs.

No, sir. We are continuing to meet the requirements of, for instance, the debt reserve, our costs and so

forth. We contemplate in the future as this system develops that we will start to generate funds that we have not in the past. And as that occurs, then we will be looking for direction to divert those new funds to these extra costs.

Mayor Leffingwell: Okay. I wanted to clarify it because in the presentation it looks like we're already doing this.

And that is a wording mistake on our part, the proposal to do that.

Mayor Leffingwell: Good. Anything else? Councilmember Spelman.

Spelman: Either Howard or Rob, either of you. You've got a lot of proposals for spending money on infrastructure improvements and cleanups and things like that. Given the funds available in the budget as you understand it, if the budget were not to change, about what percentage of the work that the taskforce has identified over the next six months and you've identified here will we be able to afford? Capital funds are funded separately and those funds north part of the operating budget for the department.

Spelman: No, but they are part of the budget we're looking at here, though. The amount of capital funding that you've got to be allocating over the next year. Is that not something we'll be considering over the next month or so?

Aim not sure I understand.

Spelman: Never mind. Keep on going.

The capital fund programs have all been funded out. We're not proposing anything new here. We're just looking at how they're scheduled and interact with other projects that are contemplated in the downtown area. On the operations and maintenance side, pavement markings, signage and those things are already part of the transportation fund, and that work is programmed year to year. We plan to do that, that work anyway. So it's no additional commitment of dollars.

Spelman: Okay. So pretty much everything on this list is stuff for which you've identified dollars for and which we're going to be able to afford to do over the next year.

That's generally correct. One of the things that we do need to look at is when we complete our capital improvement project, making sure that we provide for its maintenance long-term. That has been a weakness with some of our capital improvements. We also need to make sure that as we look at parks and recreation department to maintain anything that's green and grows that we do provide the resources for them or find a way to pay for it. And that would be 100% on that effort is something that we need to continue to look at.

Spelman: Okay. So this is a doable thing and we're not going to have to worry about scaring up any

extra cash to make sure all this happens, except for the maintenance stuff that you just talked about a second ago?

All the efforts that we have here, that we have committed to do this here are in the budget that we have.

Spelman: Perfect. Thank you.

Mayor Leffingwell: Anything else? City manager.

Ott: Howard, some of the capital work, for example, the kind of major reconstruction that would be involved on sixth street, for example, that we've talked about, that is an area where we would look to identify funding to support our vision in that regard because that is currently not programmed in the cip, correct?

That's correct.

Ott: Okay. I just -- he's not here any longer, but I certainly wanted to offer that clarification that our vision goes beyond some of the things that are currently programmed in the -- in either the cip or the general operating budget.

We do not have a sixth street improvement capital program or project program right now.

Mayor Leffingwell: Okay. Thanks a lot.

You're welcome.

Mayor Leffingwell: Mr. guernsey. I thought we were going to get you up right at 4:00. Sorry we're running a little bit late.

Thank you, mayor and council. Greg guernsey with the planning, development and review department. Let's see if I can get you back on track maybe a little bit. Let me go through the items that I can offer for consent at this time. The first item I would like to offer is under zoning and restrictive covenants. These are where the public hearings have been closed. The first item is item number 50, case c-14-2009-0044 for the property located at 8002 research boulevard southbound. This is to zone the property commercial liquor sales, mixed use, neighborhood plan. And this is ready for second and third reading approval. Item number 51 is case c-14-2009-0053 for the property located at 7205 cameron road. This is to zone the property neighborhood commercial conditional overlay combining district zoning with conditions. On item number 51, the applicant has worked with our transportation staff and come to agreement regarding the right-of-way dedication so that there will not be a dedication at this time, but there would be agreement to dedicate it at a later date per an agreement. And with those items, I can offer these two for consent.

Mayor Leffingwell: Okay. Item number 50 offered for consent on second and third and item number 51

for consent on second and third readings. Is there a motion for approval? Motion for approval by mayor pro tem martinez, seconded by councilmember morrison. Is there any discussion? All in favor say aye?

Aye.

Mayor Leffingwell: The vote on that is five-zero with councilmember spelman and councilmember cole off the dais. So we pass with no votes to spare on that one.

Thank you, mayor and council. 00 zoning and neighborhood plan amendments. This is where the public hearings are open and there's possible action this evening. The first item I'd like to offer for consent is item number 52, case c-14-2009-0030 for the property located at 1503 west avenue. Staff is requesting a postponement of this item to your august 27th agenda. Next week. Item number 53 is case c-14-2009-0059 on banster lane. This will be a discussion item mayor, I believe you have at least six people signed up for this particular item. Item number 54 is case c-14-h-2009-006 for the known as one green lanes. This is to zone the property sf-3-h. The prk recommendation was to forward this without a recommendation. At this time I think I would like to introduce steve sadowsky to read something into the record that the owner would be acceptable to the rezoning per some conditions. I'll ask steve to read that briefly into the record.

Good evening, mayor and councilmembers. Steve sadowsky with the planning and review department. the walter e. Long hus hows is located at one green lanes. It was owned by walter e. Long, who was fame must in austin history. However, its current siting has doom it had for preservation at its current size t has suffered major structural problems that cannot be repaired on-site. So that the applicant, the property owners and my staff, have been working on an agreement to relocate the house to encourage its preservation. I'd like to read the terms of that agreement into the record for you. This is on first reading only when we have the agreement signed by all parties we'll bring it back for second and third. The agreement addresses that the house will be miss mantelled. It's a -- dismantled. It's a stone veneer house. The house will be dismantle and stored in manner approved by the historic preservation office. The house will be donated by the property owner to the fish family. Andy fish is the grandson of walter e. long. So that they may restruct scruct it. The historic preservation office will approve the location at which the fish family reconstructs the house and the fish family has six months to accept the dismantled house and then the applicant may offer it to the city -- the property owner may offer it to the city. If neither the city nor the fish family have accepted the dismantled house within 12 months, then the property owner may donate it to any person or entity who will accept it. We feel that this is a workable agreement and this encourages the prrchvation of the house -- the preservation of the house albeit at another site. Thank you.

Mayor Leffingwell: So sadowsky, are you saying that this is a condition of disapproval?

This would be a condition of disapproval, yes, sir.

Mayor Leffingwell: Okay.

Item number 55 is case c-14-85-339. This is a restrictive covenant amendment for the property located at 400 to 900 block of east yager the zoning and platting commission recommendation was to grant the amendment to the restrictive covenant. Item number 56 is case c-14-2008-0193 for the 500 block of vfw road. This is to approve the zoning change -- zoning and platting commission recommendation was to grant townhouse condominium residence, conditional overlay combining district zoning. Item number 57 and 58 are related items. Staff is recommending a postponement of both of these items. Item number 57, case 01 for the property located at 511 normandy. And related zoning case, item number 58, case c-14-2009-0028 for 511 normandy street. Staff recommends a postponement of both of these items to your september 24th agenda. That's items number 57 and items number 58. The planning commission has not looked at either of these cases. That's the items I can offer for consent at this time.

Mayor Leffingwell: Councilmember riley.

Riley: I apologize for this, but I was not paying enough attention when we did item 50 --

Mayor Leffingwell: Can we go ahead and deal with this consent agenda for these items and I'll come right back to you?

Riley: That's fine with me.

Mayor Leffingwell: Let me confirm the consent agenda for those items that a public hearing has not been held. Item number 52 to be proposed until august 27th. Item 55, item 56 for consent on all three readings. And if I need to state 55 for consent. 58 Postponed until september 24th.

And on item number 54 --

Mayor Leffingwell: 54 is --

a denial with those conditions.

Mayor Leffingwell: I thought it was offered for discussion? With the reading of the restrictive covenant. Or is it offered for consent on first reading?

It's offered for consent. mayor, i misspoke. It's actually offered for consent for historic zoning on first reading only this afternoon. And then when the agreement is signed and everyone is happy with it, then we will bring it back and recommend that the agreement take the place of the historic zoning.

Mayor Leffingwell: Well, I would like to pull that item off the consent.

Very good.

Mayor Leffingwell: So i understand the consent agenda. Is there a motion to approve? Councilmember riley moves approval of the consent agenda. Is there a second? Seconded by councilmember cole. Any

discussion? All in favor say aye?

Aye.

Mayor Leffingwell: That's approved on a vote of seven to zero. Now I'll recognize councilmember riley.

Riley: If we can go through item 50 which we passed through a few moments ago and I apologize that I was inattentive on that because I had intended to stick with my original vote on that in voting no. So I think if we could revisit that case.

Mayor Leffingwell: Are you making a motion to reconsider?

Riley: I would like to move to reconsider that case.

Mayor Leffingwell: Councilmember riley moves to reconsider item number 50. And you voted for it previously, so you're entitled to make that motion. Is there a second? Councilmember morrison seconds. Any discussion of the reconsideration? All in favor say aye? Any opposed? Motion to reconsider passes on a vote of seven to zero. So in that case we will now take up item number 50, and you have the floor, councilmember riley.

Riley: And we've already had a hearing on this and went through the arguments, and I haven't heard anything new that would cause me to change my mind. I -- I do not support the rezoning. So I guess I would make a motion that we deny the request to rezoning.

Mayor Leffingwell: Councilmember riley moves to deny the zoning request on item number 50, seconded by councilmember morrison. All in favor say aye?

Aye.

Mayor Leffingwell: The motion is to deny. And all opposed say nay?

Nay.

Mayor Leffingwell: So the motion to deny the request fails. Is there another motion? Mayor pro tem martinez moves to approve item number 50.

Cole: Second.

Mayor Leffingwell: Seconded by councilmember cole. Any further discussion? All in favor say aye?

Aye.

Mayor Leffingwell: All opposed say nay?

Riley: Nay.

Mayor Leffingwell: The vote is four to three with councilmember shade, riley and morrison voting nay. That passes on second reading only. So we'll be bringing it back next week. So now we'll take up item number 53. [One moment, please, for change in captioners] the property to the west is zoned mf 3 apartment type of uses and then further to the south is a vacant tract zoned cs and right-of-way belonging to the -- texas department of transportation. It's ben white further to the south. I will note that banister lane and east second street do connect, however they do not connect directly going eastbound to banister to the frontage road. You are forced to make a left on to second street. We do have a petition that was submitted. It currently stands at 19.34%. On the property. The intention of the use -- of the existing 1500 square foot building is for an administrative office space for the texas association of nurse anesthetists. I think you have -- the applicant is here. I think that you have additional speakers, most likely not in favor from the neighborhood. I'll pause at this time if you have any questions.

Mayor Leffingwell: Any questions of staff. Councilmember spelman.

> Pardon?

Spelman: You mentioned there was a valid petition at 19%.

Yes.

Petition at 19%. Where are the signatories located in the gr to the east.

That's correct, the townhouse type of project that's immediately adjoining on the east side voiced their objection signed a petition opposed to the rezoning.

Spelman: Okay, thanks.

Mayor Leffingwell: We'll begin hearing from those for beginning with the applicant, kathryn loayza.

Good afternoon, mayor, councilmembers, I'm kathryn loayza representing the texas association of nurse anesthetists. This is a non-profit association based out of austin. They purchased this property in order to use the existing 1500 square foot structure as their business office. The operation is a one person office run by the executive director. There are no other employees of the association and they do not serve the public, so therefore there will be little traffic generated by this use. President elect can cannaday is here and he will speak more about what they do. We ask you to allow the -mu zoning with the conditional overlay restrictions that have been described. The requested zoning is appropriate considering that it's an isolated single family lot surrounded by commercial and office zoning to the north, east and south of the site and high density multi-family zoning to the west. The land use pattern of commercial office and multi-family uses has been established along the southern boundary of the neighborhood for decades. This request will not undermine the concerns of the neighborhood for preserving the -- the residential character of bannister lane. These pictures, if I could go back to the

photo that shows the long shot of the road, keep going, yeah, this one. Frankly when you look at this picture of banister lane your first impression is not that it's a residential street, but that it's first without much character at all. Secondly that it is a straight shot to ben white boulevard. The proposed zoning and use will not always ter the single family character of the existing structure. The required parking will be off-site. Basically, it will be no different than if this is a home occupation use which is what the neighborhood asked us to do, move in and operate as a home occupation which we explained would be in violation of the code. Adding the me designation to zoning will allow this property to be used for residential in the future. This is showing the apartments to the east. Or the condominiums. We have the support of all of the property openers along banister lane except the corner lot and some of the residents of the banner place condominiums. The principal of the galindo elementary school is very much in support of the zoning request and the proposed use. This is a shot of the other two single family residential uses on banister lane. In june we sent out a letter to everyone within 500 feet of the property explaining the request. And asking for residents to contact us if they had any issues. We did not get any response from this mailout. The meeting was only attended by 13 voting members which represent one percent of the 1300 members of the association. We appreciate the planning efforts of the neighborhood that they have made and discussed their proposed flum land use maps. However, because there is no formally adopted neighborhood plan and flum for the area, we have from the beginning followed the regular rezoning process. We respectfully request, therefore, that you consider the basic planning principles that provide the framework for all zoning decisions as described in the staff report and in this case justify the request as indicated by the support from staff and the commission. With the additional prohibited uses added to the conditional overlay, and the inclusion of the mu district, we believe the requested zoning will still achieve the future neighborhood goals for maintaining residential uses along banister lane, while at the same time allowing the flexibility for a small office use to be allowed as well. This photo is taken from above the right-of-way which is at a much higher elevation. If you imagine looking to your left, this would be where the cs zoning is that the council recently approved that would allow a six story commercial buildings to overlook this particular use. And the use itself is the structure that's next to the truck to the left. We're here if you have any questions, thank you very much.

Mayor Leffingwell: Thank you. Second speaker in favor is kept cannaday. cannaday, you will have three minutes.

Thank you, mayor leffingwell and councilmembers, my name is kent cannaday, we are a support group and non-profit organization and we support the 2700 members of the association in texas and some 150 who live in the austin area. We've had offices in austin for about 30 years. Our organization has been in effect for about 75 years. We moved to austin in 1978 and we got too big to work out of the trunk of our president's car. And we would like to own property in austin so that we could make it our permit home. We believe we would be good neighbors and not have any impact on the neighborhood as there will be very little to no traffic at our organization as kathryn pointed out. Our executive director is a one-person employee and runs the organization's day-to-day activities. If you have any questions, i will be happy to answer those for you at this time.

Mayor Leffingwell: Questions? Thank you. We will go to those speakers against, beginning with naomi

esquida.

[Inaudible - no mic] okay. So we will go next to marshal davis. If you have a game plan and particular order that you want to go in, we can accommodate that.

We actually do have a game plan.

Would patty sprinkle want to go first. She's first with time donated from naomi, so you have six minutes.

Thank you very much. Mayor and councilmembers, and thank you, councilmembers, who made your staff available to us in this last week to hear this case, I would just like to state from the beginning that we have no problem with the texas association of nurse anesthetists organization of nurses, we don't really think that having a one person office is so terrible of a thing. But what we do oppose is a zoning change I the residential end ever our neighborhood. We have worked -- end of our neighborhood. We have worked hard with the thousand ben white folks who are just south of that project in the triangle that you saw in the image a few minutes ago. One of the stated goals was to keep that little section of banister lane residential. We work hard to direct traffic out and around the developer has given us money for bike lanes and to slow traffic down. We are currently doing traffic calming in our neighborhood to slow down traffic along gardenville and banister lane, as noted by the city's own studies it is very heavily driven. Marshal, do you have some of those pictures that you want to show? I would just like to say that we did participate in the neighborhood planning efforts a few years back. We came up with three flum maps, which you probably have seen. And all three of those maps we envisioned that end of the neighborhood as high density single family. As you can see behind it is the school. I would like to say, also, that donna lynn, the principal of galindo elementary, we had several members of the condo association met with her yesterday and she changed her opinion of the zoning. I think we gave a letter, that letter to randy's aide. So here we are on banister lane. There's three different flums as some of you may know. It was a pretty contentious process. The neighborhood was in agreement all three times for these three different scenarios a, b, c. We went for vertical mixed use along south first. We feel like that that's in keeping with basic planning principals to keep the commercial on the edges of our neighborhood. Geographically speaking, this little section of banister lane, as -- does not cut through to south first. As you can see here, you have to turn the corner and it is not connected to south first and ben white is diverted, goes right around and is diverted around. This little area here, the school, all the zoning along, next to the school, there is an office again, all those folks are directed out to south first. They are not coming down banister lane into the neighborhood. Which we would like to keep that. Can I see that other picture for high from the -- I know some of you maybe have seen some of this information already. Here is a view from the top looking down on the property in question. Geographically, it is a little bit like a canyon, if you will. The houses are set down, i don't know what the exact elevation is, but the commercial that will be just to the south of it will be up and above this property by quite a bit. The -- the gina elementary neighborhood association, 13 voting members voted against this. There were many other people there at that meeting. We have visited this question several times. In the last few years, we had -- we had I think the company that -- that sold the nurses the property came to us in november to ask if we would support a zoning change at that time. We listened to their spiel and we said no, we really would like to keep this part of our neighborhood

residential. Now, I know some people may say who wants to live on banister lane? Frankly, many people do already. If you go a little farther past the railroad tracks, the use is residential. We -- we think that -- again, that -- that they use should be respected. Bylaws specifically prohibit home office use. Somebody years ago was using it as a home office. They basically shut them down, said you can't do that. They will be meeting at their board meeting, they have a resolution that is on their agenda to discuss changing the zoning to match the use of the property. We hope that you can support the neighborhood in this action. We know this is one tiny little house and that on the surface of it what's the problem? But we feel that it will sort of be a domino effect, maybe some of you don't feel that. We are the ones who live there. We did work hard on our plan even though it wasn't adopted. We feel like for others to come in and decide how the neighborhood will be used, that doesn't seem quite right. The other thing that I would say, the nurses, we approached them, we asked them would they do a restrictive covenant and agree to sell the house when they are finished with it to a family so that it would be accessory. They don't want to do that. That to us indicates that their goal is at some point to turn the house around, maybe when a new board comes in, when they've told us they don't know what their new board will do. They bought the property as sf 3. They took a chance. They speculated and yet we the neighborhood we're here, we're not leaving, but they have the opportunity to rent the house which they told us they could do for a profit, wait until the market improves and sell it. I don't think necessarily they would lose money, they will certainly lose the time and energy they spent trying to get this zoning approved. But at the same time they bought the property knowing what the zoning was. I feel that that argument is a little disingenuous on their part. But once this gets zoned there's nothing to stop the people from next door from doing it as well. Let me know if you have any questions.

Riley: Mayor?

Mayor Leffingwell: Councilmember Riley?

Riley: Can I ask a quick question. I visited this site recently. I was struck by the fact that this one site actually appears, the whole stretch of banister, this is actually the one place that looks like a nice little house that actually embraces the street. It seems a little peculiar to me that we're -- there's an outcry about a use that would continue that building in its current -- in its current form and preserve all of the trees and I'm just asking a question about the long term vision -- if the choices were between preserving that house and the current appearance, but having somebody like this non-profit inside, versus having a residential use, like many other on there, actually has a boarded up fence.

On the corner. In the city using a staging area next door. There's a trailer there. That is zoned mf 3, the neighborhood when we were doing the plan, councilmember Riley, we were thinking affordable housing for the neighborhood, this could be an opportunity to, you know, put some density there and that's what we see. We as a neighborhood we don't necessarily want to see it go commercial because we would like to encourage more housing there. And to see that happen instead of having buildings that, you know, people leave at night and -- and there's lights and things like that instead of having residents live there. It is that -- that for us is the issue. We would like to see it remain residential. We have a major traffic problem right now that we're working with, you know, Ronnie Bell to fix and hopefully the neighborhood is going to approve that. But as you are coming, Garden Villa, South Fifth, Garden Villa and

through, we have a pretty good problem. For us we would like to limit traffic a little bit, you know, and we know that one person office, you know, on the sounds of it, they would probably be very nice neighbors, nothing personal to them. It is just that we do know how things go, things start to shift and once one zoning happens, people look at the map and before you know it the next door the city right now is using that spotted staging area for the watershed. This to us, you know, we agree it's being used commercially right now. But that's not --

Riley: Would you say that the neighborhood has a long-term vision of restoring more residential character not just to this particular site but to the other sites that are still residential but currently don't really embrace banister street.

That's true. Along south first, with the vertical mixed use ordinance that's where we would really like to see the commercial development. I know that you are looking at the map and banister lane, it seems like it's an ideal situation but really the way that ben white is routed off around it, you have to turn left on bannister there, that it just -- it just doesn't seem like it really is the appropriate spot to start a little strip of commercial to us.

Okay, thanks.

Councilmember morrison.

Morrison: Could you talk, I understand the neighborhood as you mentioned worked with the developer on the southern side of banister. Could you talk a little bit more about what the requirements are for -- for that property and how it will face banister?

Well, it -- all the traffic will be directed towards ben white to the access road and so south first. Traffic will -- there is a co prohibiting that building or the people in that building to exit on to bannister because of the traffic. The -- the developer did give the neighborhood some money to build some -- to ensure compatibility with the neighborhood and some walking paths and more sidewalks so that people can come into that mixed use development and, you know, access it from -- safely from the neighborhood. And so that really is a big concern that -- that that will be a large project there and, you know, they heard our concerns, they worked with us. And the city at that time seemed to understand what we were talking about and -- and agreed that, you know, routing traffic off of banister was a good thing.

Thank you.

Anything else? The next speaker is marshal davis, unless you want laurie perry to go first. Your choice. Marshal davis, it looks like.

Mayor, thank you so much for your time this afternoon. The applicant mentioned the principal of the galindo being in favor of this project. We met with her yesterday afternoon and explained to her about this piece of property and the rezoning, i would like to read a letter from her, I donna lynn do not support the rezoning application. The reason, I was not aware of the fact that the texas association of nurse

anesthetists were asking that the 888 banister lane property was going to be zoned commercial. It is very important that the property remain residential because it backs up to this school. The texas association of nurse anesthetists were to promise that the property only be sold to a residential family I would have no problem. I think the association would be fine. It is after -- after their residency that I am concerned about, signed donna lynn, principal, galindo elementary. I think there's been some misrepresentation. The applicant said that it is all commercial. Banister lane, the -- the apartment complex on the corner of the condos is g.r. It's residentially used and they prohibit any business in that. This property up for rezoning is currently sf 3 to the west of that is mf 3, to the west of that is sf 3. They have shown a construction site currently used by the city as commercial. It is mf 3 land that the watershed department is using. They have also mentioned a boarded fence with a sign on it. That is an single family 3 home residence, it is not a business. We have called the city many times about asking that family to remove their construction sign from the fence, so far the sign is still there. The entire block of banister lane is residential use or zoned all the way until it turns the corner, crosses the tracks and comes to ben white where again at the edge of that neighborhood it is commercial. We really hope we can maintain the residential use and feel of banister lane, feeling that it is an interior street and worked well with the project manager for the 1,000 west ben white project, considering that was on the edge of our neighborhood, worked well with them to prevent any light spill, traffic or any spillover commercially into the residential banister lane.

Questions, councilmember spelman?

Are you saying that you don't want any commercial uses on banister lane. I understand you have multi-family uses right now, a couple of single family houses.

Yes, sir.

What exactly is the problem with commercial uses on banister lane, if they are located cheek by jowel with residential uses, why is that a problem?

We worry about the expansion of the commercial. We know that the property to the west, those owners are looking to sell their land. It's right now zoned mf 3. If this rezones to commercial, I would expect to be standing at this podium again to argues that the place next door shouldn't be commercial, either. And it keeps going and going and going. The applicant has tried to say well it's commercial all around. They have used the elementary school saying well that's light office. In my opinion, the elementary school should be off the table in a zoning consideration.

Sure.

But they are using that well it's commercial here, commercial there.

Spelman: So it sounds your objection is not really to this lot, it's to the chilling effect this lot might have on adjacent lots or other lots on the street.

Yes, sir. We have no problem with tana. We think they would be fine neighbors. But they have said their president has said their board is elected. If a new board comes in, they might vote to sell the property. They bought a home zoned single family and will be selling an office.

Spelman: Okay.

That to us works against the interior feel of the residential neighborhood.

Okay. With respect at least to this lot your concern is -- look and feel of the neighborhood and keeping it looking more residential than otherwise?

Yes.

Traffic is -- what's the issue?

We don't feel traffic will be on this specific lot. We don't feel traffic will be a problem. Again we worked hard to keep the commercial across the street so the south side on ben white as patty mentioned all of the properties to the east exit on to first or ben white. But this particular property will probably not have a problem. You take the big lot next door, make it commercial, and then the little house on the corner goes commercial, now we've got traffic and -- it will be then too late to do much about it.

Spelman: If, I know there's some commercial uses are big traffic generators some are not. Medical offices are generated for -- famous for generating lots of traffic because they turn over patients every half hour. Others are not because they don't have a lot of customers. Just the five people working in the building that sort of a thing. Is that -- if one could show, I'm thinking hypothetically here, I don't know what the numbers would work out to. But if one could show that the traffic demands on limited office, which is all we're talking about here, were less per square foot or per unit or per lot than the traffic demands on the multi-family that would be going into the lot next door anyway, if I could show you lo were less than manufacture 3, 4, lots of that particular size, would that change your mind any? Or not that big of an issue to you.

The traffic has not been an issue on this so much. Mf. One thing that we learned about is spot zoning. We would like to take as our flum showed more comprehensive look at banister lane and our neighborhood putting the heavier density commercial on the edges, residential on the inside. We also worry about vacancy after 5:00. If a family lived there, the lights are on, less problems. If again this lot they're 00 or 6:00. There would be nobody there backed up against an elementary school. Next door, let's say they go lo. Going to have a whole block 00, no residences there, there's a greater chance for crime for the -- for the condominium owners who live flex door.

Gotcha, thank you.

Mayor Leffingwell: Anything else? Councilmember shade?

Shade: I will save my question.

Mayor Leffingwell: One more speaker, Laurie Perry.

Good afternoon, my name is Laurie Perry, I've lived at the Bannister Place Condominiums since 1981, I have been in the area a very long time. If I could address Mr. Spelman's question about traffic. It's not so much the traffic concerning what's going to happen there in L.O., it's the future rezoning that could -- so then traffic becomes an unknown for there's more zoned commercial property on Bannister Lane. Our concern with limited office is that the space is used only at certain times of day. And then it will be vacant or if it's not leased it's going to be a vacant building that will be unsafe. I live right next door. As the property has been unoccupied there have been vagrants on the property. So we have that concern. I also have a letter here that is signed by 22 residents of the Bannister Place Condominiums, it's a 32 unit condominium complex, I have 22 letters. If I could read this. It says to the honorable mayor and councilmembers, I'm opposed to the rezoning at 888 Bannisters Lane from SF 3 to L.O.M.U. Co. As a member of the Galindo Elementary Neighborhood Association I support the current neighborhood plan to keep the inner core residential. Commercial development needs to be kept on the perimeter of the neighborhood for the following reasons. It creates unsafe traffic for pedestrians and bicyclists, it increases commercial traffic in residential neighborhood. It alters the landscape and environment by removing trees and diminishing the aesthetic value. Promotes vagrancy in empty buildings. I want the property at 888 Bannister Lane to continue to be zoned residential. Please consider the above and support the centers of the Galindo Elementary Neighborhood Association. I also have 23 opposition forms that were signed by neighbors and the one also from Galindo Elementary School principal. Another point to -- to Mr. Riley, you said something about the trees. In the planning commission's recommendation, it does state that trees will be damaged due to the proposed -- will be -- trees will be damaged due to proposed development associated with this zoning case. And I've asked the agent what was the development -- the proposed development. And she said she didn't know. So -- so I would have appreciated an answer to what is the proposed development that's associated with this zoning case. There's also comments that's been made that they would be good neighbors. I would ask are they going to be a member of Galindo Elementary Neighborhood Association, are they going to attend our neighborhood meetings? Are they going to be neighborhoods in the Galindo Elementary neighborhood. Also I'm on the board of the Bannister Place Condominiums, our bylaws do stipulate there is no commercial use on our property and we will be vote on that and down zoning to MF.

Riley: If I could just ask about that. I'm not following the argument about trees. With respect to this site the argument is that the -- as I understand the idea is to use the existing building and --

that's why I didn't understand. In the planning commission's report it does state that trees will be damaged due to the proposed development associated with this zoning case. I don't know what that means.

Riley: Okay, thanks.

Mayor Leffingwell: Thank you. Now, we have a three manuscript rebuttal from ms. loayza.

Well, there's a lot to cover here. Every issue they raised we responded to. We've been asking them what we could do to make this work with them. The issue was we said we cannot commit to a restrictive covenant that would allow a rollback because we don't have the authority to initiate a rollback. That is only something that the council can initiate. So in a restrictive covenant we cannot commit or to promise that there will be a rollback. It would be like we would be telling the council what to do. That is a legal issue that we don't have the authority to do that. If the council chose to roll back the zoning in the future, that is certainly your prerogative. It would create a non-compliant situation with impervious cover, but addressing that issue the -- as far as the selling of the site for profit, the issue with tana is that they are non-profit. They have to be careful what they do so they don't lose their non-profit status. There was never any talk about selling this structure for a profit. That what was raised was what would you do if you didn't get the zoning, they would have to lease it to recoup all of the costs that they have incurred so far, but certainly not making any kind of a profit on it. They would be very stable. You would know who is there. There would be no strangers coming and going. As far as crime and security and safety, this would be the best possible neighbor that you could possibly imagine. They are very committed to being in this structure for a long time and I think there's a misconception that if there's a new board that all of a sudden they would decide they didn't want to be there anymore. That is not the case at all. They are a 75-year-old association. They don't like change. So it's not something that they would all of a sudden up and sell it to somebody. On the issue of confusion of the commercial, when i describe commercial uses and commercial zoning, gr is commercial zoning although it's used for high density multi-family. High density multi-family also is going through the commercial site plan process. It has all of the intense development as a shopping center does with noise, traffic, visibility issues, all kinds of things that come up with impervious cover. The condominium is at 90% impervious cover. Banister is a commercial collector. One of the pictures that i showed it's basically not your typical internal residential street. This is not going to change anything of what the area already looks like and the -- the concern about the domino effect, quite frankly, after meeting with this neighborhood association, I don't see that there's any, you know, likelihood of somebody coming in and asking for the whole strip to be zoned commercial. It's -- it's really -- i just don't see that happening. zoned right there to the east of us, or to the west, you need more land area. The likelihood would be if they would want to buy the single family to make more land area to do the high density residential that they're talking about. As far as working hours and crime, I will wrap up, the place has been vacant for over a year. There was no crime. This use, the hours are not your standard 8:00 to 5:00. There's going to be security lighting. Fenced. It's much safer. Janet marrow did meet and talk to the principal of the neighborhood, elementary school, I don't know, somehow they have given this -- this perspective of what's going to be there as something that is completely I think skewed her in a different direction but --

Mayor Leffingwell: I have a question for you. Since you're going to talk anyway, I'll ask you a question [laughter] on your question about impervious cover, you made mention of the rollback issue. I agree with you. That would be very difficult to deal with. But you mentioned impervious cover as being one of the factors. Didn't I understand that you were going to use the existing building.

Right. Now what I'm -- what I'm saying is what we have to do is put in a parking lot in the back. We

would be adding additional impervious cover for a five space parking lot. Maybe that's the issue, councilmember riley that was raised by trees. We are basically not planning on removing trees to put in the parking lot.

Mayor Leffingwell: The parking lot would cause you to exceed the --

the sf 3.

Mayor Leffingwell: Impervious cover limits.

We would approximately somewhere between 65 to the allowed 70% impervious cover. We have the gr next to us is 90% impervious cover. The mf 3 that is adjacent to us is 65% impervious cover. In essence, it's spot zoning that was mentioned would be if you kept this sf 3 be else is lo, gr, cs, and mf 3, we're an isolated sf 3.

Mayor Leffingwell: Thank you, I think that answered my question. Councilmember spelman?

Spelman: You -- the point that you made a few moments ago about your client not being able to complete rezoning or down zoning of the property when they sell it is obviously correct. Down zoning is going to be prerogative of some future city council not your client. But your client could commit to seeking down zoning of the property to some kind of residential use.

I guess we could commit to not objecting to that if the city council chose to do that.

Spelman: Well the zoning requires somebody to take some kind of action. If the zoning is going to change, somebody is going to have to act for it. Would your client be willing to ask for it?

I would have to confer with them on that, I'm not sure if they would. I think the issue is basically if they did that and it's a non-complying situation, if there would be an issue of -- of getting somebody to purchase it because it would be -- you would have a parking lot behind your house, I don't know. You could turn it into duplexes maybe, I'm not sure how that would logistically -- see if -- if the president can address that.

If I understood the question correctly, you were asking would we be amenable to requesting a zoning change at such time that we've decided if we ever decide to vacate the property; is that correct? I think we would be amenable to that, if that were a possibility. But we were told as she stated that's not our prerogative. We could initiate the action, possibly, but we can't sign a covenant that says we would automatically do that.

Spelman: What the neighborhood is asking you to do, as I understand it, is not something that you can do. You can't commit to a down zone. It would require a change in law, that's a future city council's prerogative. But you could commit to saying that you would be willing to ask for a down zone.

We have already committed to restricting who we would sell it to and that we would only entertain purchasers who would be limited use. Such as ourselves and another non-profit organization or a very low traffic organization for an administrative office.

Spelman: Are you seeking a restrictive covenant to that effect? Or this a handshake agreement?

I'm not sure how all of that works. I'm not a legal person. My understanding is that it has something to do with a conditional overlay? That appropriate, doesn't have anything to do with a conditional overlay? Yeah, we would entertain that in a covenant.

Spelman: I think maybe greg can help us understand. guernsey of the staff can help us understand the legal status of that.

Guernsey: Councilmember spelman, they do have a list of prohibited uses recommended by staff, recommended by the commission as well. These would not limit whether they are profit or non-profit, but they do in here prohibit let's say a medical office, type of use, so you couldn't use for it a doctor or dentist. This particular use is administrative office. So state farm insurance agent wanted to move in, they could certainly use that facility. The co also limits the vehicle trips to 300. On here. But.

Spelman: That doesn't help a whole lot here, greg.

Guernsey: But it doesn't necessarily reflect a proposed using a profit or non-profit.

Spelman: Thank you very much. Greg, if I could ask you a follow-up question. As you know far better than we do, zoning is for a lot and goes for the land and doesn't go with the particular owner of the land at any given time. Also doesn't go with the building located on the lot over time because they could obviously get a demolition permit and replace the building with something new. What's the maximum size envelope that could go on this lot if it were zoned lo mu.

Guernsey: I would have to go back. Impervious cover is about 70%. The school to the rear would actually trigger compatibility on this property. The existing building, about 1500 square feet, this is an area of the city which we have granted a reduction in parking, still part of the core, required five spaces they do have four, they do have several constraints where they could locate parking and a building. We're talking about less than a quarter acre of a lot. It's not that large. I would have to go back and do a little calculation, but what you have on the property is getting probably close to maybe what the upper limit would be if you are trying to get the parking in. Meeting impervious cover. If you are building a new building, we would start looking at the detention unless regional water quality is available that's in the urban watershed, i believe. So that -- [indiscernible] 35 far she calculated might be the most. 35 is the maximum that you could get under lo mu.

That's what she calculated that she could come up with.

Spelman: That's roughly similar to the largest far you could get under single family zoning for this lot; is

that correct.

Guernsey: Well, you couldn't get too much in the size of a house. On this property. Just because it's not -- it's only a quarter of an acre lot.

Spelman: Right. Talking about roughly the same footage under lo as you were getting under sf right now.

You would probably get a little bit more square footage, two story building, you had limitations of the structure, 50 feet off the property line possibly because of this school. Maybe a little bit less because it's -- it probably has less than 100 feet of frontage. So you are going to be subject to compatibility off the back.

Thanks. Councilmember shade --

[indiscernible] means that it allow for a resident to live there in the future, it's not something that would restrict that from happening. That's the purpose of the lo mu was to allowed mixed use so that somebody could live there if the next buyer, for instance, wanted to live there.

It could be used for say a small apartment. Couldn't get too many units on the property. But you could use it for multi-family. Duplex, conceivably build a garage apartment, two family residential. Both a duplex, two family residential and single family home are already allowed under the sf 3 category. The mu would bring in or introduce townhouses and multi-family uses.

Shade: Okay. Then the items that -- seems to me like the -- the condition, the combination of light office and also the conditional overlay, that is part of the zoning. So -- so there wouldn't be the opportunity for some other type of business besides those that are contained in that conditional overlay. Is that correct?

Right. You would have those uses allowed under lo, then you have a list of about 16 uses that they have agreed to prohibit on the property.

So it's prohibiting. So there's -- the ones that are prohibited are all of the ones that are in the high traffic category.

Probably the biggest high traffic category in lo district is a medical office. And those are -- those are prohibited on the list of conditional uses.

Okay. So all --

conditional overlay i should say.

Okay. So the daycare services, the -- the educational facilities. I was thinking about what else could go there if it's a school next to it, so you can't have anything like that goes with the land. Somebody else

would have to come back to ask for that to change.

Guernsey: Right, you would have to have a rezoning in the future to allow a medical office to come back on this property if the co is approved as it's recommended to you.

What is the reason for there not to have the flum in this --

well, this is an area that we were going through a neighborhood planning process. About three years ago. I would rather just say we had a fundamental disagreement about how to proceed with the neighborhood plan. The -- the neighborhoods that we were working in in the south lamar neighborhood asked to challenge the process. I don't want to go into a lot of detail. But we agreed to disagree.

Okay. More than we have time for tonight. But the fact remains that there is not a flum here that's --

there is not. However three years ago, there were three different scenarios that represented i think a high density single family like a six or five on this property at that time. There was -- there was those three options when we were going through that process. But none were adopted.

Okay.

Shade: That wasn't really this neighborhood's specific fault, it was a bigger issue.

It included this property as well as many other properties in the --

Shade: I mean the neighborhood had consensus about this. It sounds like. But I don't know.

Gurensey:: Three years ago, there was some consensus looking at these different scenarios.

Shade: Thank you.

Mayor Leffingwell: Councilmember riley.

Riley: A very quick question. One of the speakers mentioned there was something from the planning commission suggesting the trees would be taken out in connection with the development of this project. I haven't seen that. In the materials. Do you know what that comes from?

Yes in the staff report under environmental there's a reference to trees will likely be impacted with the proposed development associated with this rezoning case. Please be aware approved zoning status does not eliminate a proposed development's requirements to meet the intent of tree ordinances. Asks them to contact the arborist. This is probably a comment that you would see more of like a standard comment because they do have to provide parking if this is going to be used for administrative office. Providing a driveway access and four parking spaces, there's a chance it would impact trees on the property. If there are trees to the side trying to park to the rear there's a very good chance any trees on

one side trying to get to the rear may be injured or removed. They would have to provide replacement trees accordingly.

I think that I heard you say previously four spaces would be required. Four spaces I believe would be required based on the square footage of the existing residents. Since they are in the core areas they only have to provide 80% of what's required.

That would be bumping up close to the impervious cover limits if they provided four spaces.

Guernsey: I would imagine the impervious cover in this district is 70%, so you would probably be getting close to that requirement. If you are paving the area and still getting the circulation needed to get in and out of the property.

Riley: Thanks.

Mayor Leffingwell: Councilmember morrison?

Morrison: Thank you. guernsey, are you familiar with any private restrictive covenants in the past and maybe I'll have to ask the neighbors this, that -- that put forth something like we're talking about where the owner would -- would agree to file an application for rezoning, for down zoning or to not -- I don't know, to not oppose one or something like that.

We have had in the past we've had zoning cases that come before council and property owners that would offer to not object and make that a permanent record in travis county deed records in this case a restriction saying they would not object to a zoning change in the future. If the property is down zoned by the city council and -- and that's not to say that a future property owner could not file a petition. But also recognized by a new owner that they bought the property with the acknowledgment that the prior owner put into record that they would not object to a down zoning. So they would actually be buying the property, acknowledging that upon that transaction.

Then is the idea maybe that the planning commission or the neighborhood will -- will ask the planning commission or council if they would be willing to down zone that.

We've had cases in the last 10 or 15 years where we had the neighborhood association coming before you, planning commission or zoning and platting saying, you know, planning commission this case the property is no longer used for whatever administrative business office. It's been changed to a different use. According to this covenant the prior owner agreed to down zone the property. They would not object. So the commission has initiated cases like that. The city council initiated cases sometimes under certain circumstances but then again sometimes the owner comes back and gives the petition and says I do object. But yes that's a possibility.

Morrison: How does that work? They agree not to object but then they do object and then the neighbors

are in the position of trying to enforce a restrictive covenant.

Guernsey: And the restrictive covenant all it says is that the owner will not object. What may happen is the owner does object. It may be 20 years, 30 years later, conditions have changed then they would voice that before the city council. Then you would have to have a super majority vote still because of the state law and local ordinance to override that property owner's petition.

Morrison: They would be violating the restrictive covenant that's on their property but still -- still if somebody wanted to enforce that that would be up to the neighborhood.

That would be up to the neighborhood and depends on what those consequences are, the city is typically not a party to this. This is a private covenants between the two entities.

Morrison: Okay. What I would like to say is that I -- I think that comes down to whether or not this is the endanger fundamentally of a residential street. What I see the neighborhood sort of saying is that they would like to preserve their residential core, not have the creep. This is the line. On the other hand this particular use seems to be fine and it sounded like there could be some conversation and getting a win-win of having restrictive covenant developed where the owner would not object and so -- so with all of that, I think that I would like to make a motion that we actually postpone this item with a request that the neighborhood and the owners have some conversation about developing a restrictive covenant so that everybody could come to the table and this could be on consent next time. So that's my motion. For -- to postpone.

Mayor Leffingwell: Councilmember morrison makes a motion to postpone to when.

Morrison: I think we have to make it sent 24th because I think a week is not enough time. We have no other meeting between the 27th and the 24th.

Mayor Leffingwell: Is your motion also to close the public hearing.

I would like to leave it open.

Mayor Leffingwell: She makes a motion to postpone the hearing, leave the public hearing open. Seconded. Any discussion?

Riley: If I could add, I appreciate the motion, i think there is room for further discussion on this. In particular, I think there is room for discussion about the issue of trees and impervious cover. I know that I was involved in a recent case in my own neighborhood that resulted in a negotiated agreement protecting trees and ensuring that -- that the pavement that was put in would actually use pervious pavers to reduce the impact on the neighborhood. So we -- there are ways that you could do that. Just involves sitting down and working out something that's mutually acceptable. So I think there ought to be some -- some common ground that could be reached.

Mayor?

Mayor pro tem?

I just think we're really close. I think we probably can find some consensus. I wanted to ask if there's an option on this property that may expire by september 24th.

The property has already been purchased. The issue with september 24th is that the owners will be out of town for their state's annual board meeting so we could not have the hearing on the 24th because they would not be here.

We could still have it if there was an agreement reached.

If it could be consent possibly. If not then I guess another postponement.

Okay.

Martinez: I will be supporting the motion, mayor.

Mayor Leffingwell: Anything further. Motion made and seconded to postpone until september 24th with the public hearing open. All in favor say aye.

Aye.

Mayor Leffingwell: Any opposed? Passes on a vote of 7-0. I think we can in five minutes pick up item 54. I'm going to let steve sadowpsycho back up on the item dealing with the walter e. long.

Since I'm the person that pulled it off the consents, if I could just ask a couple of questions. First of -- first of all the talk is about deconstructing the house and moving it somewhere else, correct?

Correct. Sadowsky.

The historic zoning applies to the dirt not to the house.

That's correct.

So is the objective here to pass it on first reading just to move it along and see if an agreement can be reached on the deconstruction and then vote not to zone it historic; is that the ultimate objective here.

That is sir.

Mayor Leffingwell: All right. That's what I thought it would be. So -- so in that case i would ask no objection to moving ahead on first reading with the caveat that -- that -- that -- i don't think this property will ultimately be zoned historic. So that's not a motion. I can't make a motion. So somebody else will

have to make the motion. Mayor pro tem moves to pass on first reading the requested zoning, close the public hearing. And seconded by councilmember morrison. Is there any discussion? All in favor say aye.

Aye.

Mayor Leffingwell: That passes on a vote of 7-0. We are in recess for live music to begin in 3 minutes. And proclamations and we'll be back later. Nelo, [âTmaâTma music playing âTmaâTmaâTmaâTma]

check, check, yeah, that's good. âTmaâTmaâTmaâTma

are you ready, guys.

Welcome, my name is mike martinez, mayor pro tem, it's my privilege to introduce tonight's live muc from ci hall in austin, texas. Joining us today is nelo, the members of nelo all grew up in texas and define their sound as acoustic based rock punctuated with jazz. After briefly decamping to athens, georgia, nelo returned to austin, found growing audiences and a record deal with justice pedernales records. Theirself titled debut album released last year charted on billboard and has sold 20,000 down loads. This year the band released singles from their latest ep two years ago and is nearing 2,000 down loads to date. Please join me in welcoming nelo. Take it away guys.

Thank you. [Applause] [âTmaâTma music playing âTmaâTmaâTmaâTma] [âTmaâTma singing âTmaâTmaâTmaâTma],. [âTmaâTma Singing âTmaâTmaâTmaâTma] [âTmaâTma singing âTmaâTmaâTmaâTma] [âTmaâTma singing âTmaâTmaâTmaâTma],.

Thank you very much. [Applause]

thanks a lot.

Martinez: Very well down, sounds great. Tell us where we can buy your music, where your next show is, if you have a website. All right question one. You can get it at waterloo records here in austin, on i tunes anywhere else if you don't live here.

Waterloo records in austin, get a hard copy of it there. Next time we play in austin is the 24th of september, I think, a la zona rosa, then at austin city limits MUSIC FESTIVAL ON THE 2nd.

Great. Do you have a website? Www.myspace.com/nelo music. Then nelomusic.com.

A proclamation for you reads be it known whereas the local music community makes many contributions towards the development of austin's social, economic and cultural diversity and whereas the dedicated efforts of artists further austin's status at the live music capital of the world. I lee leffingwell mayor of the city of austin, texas, do hereby proclaim august 20th 2009 AS NELO DAY HERE In austin, texas.

All right. Thank you very much.

Congratulations. [Applause]

we will be at acl. Thanks a lot. Turn it over to mayor leffingwell. If there's anybody in the back that's watching, we are looking for city manager ott, if you could send him out higher. Higher -- out here.

Mayor Leffingwell: Why don't we have the honorees come on up.

Is everybody here, this is one of the pleasant parts of the job. Having the opportunity to recognize the good work and service of our city employees, we have a whole group of them here who contributed in an outstanding way to our dollars and cents program and actually helped us balance a very difficult budget this year. So I don't know what your individual ideas were, but i know they were good ones because you're up here getting recognized for them. So the city manager will speak to you about that in a few minutes. What I'm going to do is -- since all of these certificates are exactly alike, I am not going to read the certificate several times, I'm going to read it then I'm going to read off all of your names and then let the city manager say a few words of appreciation. It reads -- certificate of appreciation. This certificate is presented to joya hays, in recognition of your outstanding contribution to the dollars and cents initiative. Your efforts to create and implement a system that allowed city employees a voice in the budget process was obviously successful since almost 650 cost saving ideas were submitted and reviewed. Your dedication and commitment to the seven-month long project are greatly appreciated. We are pleased to acknowledge your fine efforts via this certificate presented the 20th day of august, the year 2009. Signed by the city council of austin, texas, lee leffingwell, mayor of austin, texas. And city manager mark ott will say a few words. This is the official certificate. You can tell that it's official because it has a gold seal. And exactly the same wording on certificates for russell nash, benefits manager, human resources. Karen sharp, assistant director, human resources. Paul hopingardner, did I say that right? Deputy chief information officer. Katy lang, financial consultant, financial services. Katy. Byron johnson, purchasing officer, purchasing department. Byron. And diane maxwell, database administrative -- administrator financial services. Thank you very much, i appreciate your fine work and I appreciate your working for the city of austin. [Applause]

my goodness, I think that about says it all. I certainly want to take advantage of this opportunity to acknowledge you six outstanding individuals. You know, I know what was involved and -- in dollars we got almost 12,000 employees here. Who had the opportunity to -- to, you know, to weigh in on this thing. And, you know -- and, you know, all of the different ideas the mayor gave out the number nearly 1700 different ideas that you all had to wade through. But before wading through them, you had to really create a system and methodology for taking all of that stuff in and getting it organized and making sure that ideas were, you know, analyzed and assessed and evaluated and make sure that the employees submitted them knew that we really valued what they were trying to help us do. Got feedback about their ideas. And, you know, some of those ideas have already turned into savings for this city. As like with most cities at a time when, you know, this kind of initiative is paramount to a city's, you know, very financial survival, you know, and that's how important really, you know, was the work that you all, you know, were doing on behalf of the -- not just the organization, quite frankly, but for the entire city of

austin. That's really what you were doing. You were serving not just the organization, but the entire city. I think you know, you knew before, you certainly know after this experience, that, you know, part of our challenge every day and our ultimate responsibility is doing all that we can to optimize every single cent that we get on people who pay the taxes and pay the fees and things for the services that we provide. And that's -- you know, essentially what this -- this whole program dollars and cents was all about. You know wented up in a good place with respect to stuff. I know there's stuff we are going to doing with the remaining stuff we got for dollars and cents. You heard me talk about the proposed budget for 2010, you heard me talk about it just yesterday. We had a pretty hefty gap to close. Not our first round. We have been through that evolution about three or four times now. In no small way your efforts and your leadership in regard to this, in addition to all of the wonderful and creative ideas that we have got helped us meet that challenge and meet it at a responsible way. It was really important. So -- so my hat is off to you. My heartfelt accommodation is extended to you all. The certificate is a small token of the appreciation that we all have for the hard work that you carried out in making this a successful initiative. Now, I would be remiss if i didn't -- there's a seventh person here that needs to be acknowledged and he happens to be standing behind me. That's assistant city MANAGER mike McDonald because when we first started talking about this kind of an idea, mike, as he always does, is one of the first people to step up and volunteer his time and skills and ability to help us get something done and he did that in this case as well. And did gusanossing job. Mike work -- did just an outstanding job. I want to first acknowledge mike and say thank you for a job well done. [Applause]

thank you, so much has been said, it difficult to describe in words the efforts that these individuals put into the dollars and cents initiative. You know, there are so -- when you reach out into the departments they had to work closely with different, you know, points of contact and each of the departments. And waded through and ensure that each of the employees that submitted ideas to us was thoroughly, thoroughly vetted. You know, one of the things that I think that I was most impressed with is on its surface how an idea will come in, on a surface appear to not have as much merit. But as this team waded through it, they would push back on the departments and ensure that they get the information that was needed, you know, and some of those resulted in some great ideas that we can use now and in the future. But, you know, whenever you receive a project like this, your other responsibilities do not discontinue. So these folks were not put on special assignment in order to fulfill these requirement, they had to continue with their regular job as well. I think that's what makes what they did so great. I thank you, it was a pleasure working with you. [Applause]

so jo anne.

Mayor Leffingwell: We are out of recess. A quorum is present, so we'll pick up our agenda with item number 59. Is there a staff presentation on 59?

Good evening, I'm junie plumber with contract and land management. Item 59 is a change in use in parkland for some drainage improvements. The legal fact finding under chapter 26 of the texas parks and wildlife code 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 Leffingwell: Any questions? I'll entertain a motion to close the public hearing and approve item number 59. Moved by the mayor pro tem, seconded by councilmember shade. Is there any discussion? All in favor say aye? Aye. Any opposed? That passes on a vote of five to zero with councilmember spelman and councilmember cole off the dais. Thank you.

Thank you.

Mayor Leffingwell: I'll call up item number 60. Here they come. I caught you guys by surprise today. [Laughter]

I'm sorry.

My apologies. My name is matt hall with watershed protection, and we are presenting tonight a proposal to amend the land development code, add some provisions for our storm water, water quality controls and flood controls. And we're loading the powerpoint as we speak. Apologies for being late. All right. Back in october of 2007 the -- just before the barton springs redevelopment ordinance was passed, there was some interest and concern on the council as to look at both the erosion and sedimentation control programs and also the permanent structural control program looking at storm water controls. And so the city council passed a resolution asking staff to review this -- our practices, and so we took -- we took a very hard look at both of those programs over the next year and we're coming back now and presenting the following changes. We've made other changes to the program itself, and the way we do business, but this is the portion that refers to the land development code. And so you'll see it in there that it talks about the inspection of water quality ponds and enforcement of requirements there towards the end of the resolution. All right. The code sections we're proposing for change have to do with detention ponds in section 25-7 and also with water quality ponds in section 25-8. And then those each have corresponding sections in our title 30 portion of the land development code that deals with our friends with travis county out in the e.t.j. And here is a summary of the changes. I can go into more detail for all of these if you wish, each and every one of them, but I'm just going to give a quick overview of them if you would like, just to keep things speeding along here. So first just imus because things are often unclear we add some clarity to the definitions of these in a definition section. We clarify that if you are the owner of a pond, that you have to maintain it. So many commercial properties, multi-family properties, etcetera, own ponds and they're expected to maintain them. Often there will be a separate legal lot that the pond will be on. Sometimes apparently that's not been clear, so we're trying to make that crystal clear in the land development code. We also -- sometimes you will have multiple properties draining into a single pond downslope, and we're just making sure that everybody knows that everybody involved there that was permitted at the same time needs to be responsible for that pond. So that was just another clarification. Also something to make things a little more straightforward and flexible, we're clarifying that you can make alternative arrangements with our watershed protection director, so in the case of say a horizontal mixed use project like the mueller development, if you've got single-family residential coming into a pond and you also have some multi-family or commercial going into that same pond, we can work out an arrangement by which either maybe the commercial interest will do the maintenance or else the city will do the maintenance. We'll have to work that out with the director to the best advantage of the parties. But it's another simplification and clarification. One key provision of the

ordinance, proposed ordinance change, is to move the inspection frequency of our staff -- our staff goes out and inspects all the water quality and flood ponds as often as we can, and in the code that was written back in 1986, we said let's do this every year. Let's look at all these water quality ponds every year. And we only had about 100 of them at the time this was written. And that number has ballooned to about 3,000 water quality ponds and there's more than that actually and then there's a total of about 6,000 water quality and detention ponds that we're expecting and need to inspect. So the work load involved in that is very high, and it's not practical to go out and look at each one of these every year. And in fact, we did a benchmarking study and looked at what other folks were doing across the country and in the other leading storm water entities like maryland and the pacific northwest, king county, etcetera, we're going to a three-year rotation. So that's what we're proposing here. And frankly, just to be honest, we've never achieved anything sub-three years in our actual practice. This is calling a spade a spade. We're also putting in the fact that we're definitely going to be looking at the flood control facilities as well as the water quality. That was not previously in the code, so that's an addition. And then also we are adding in a reinspection fee for noncompliance. Sometimes we go out to a site. We point out things that need to be cleaned up, we come back and for whatever reason they haven't gotten it going. And we have the ability to charge a reinspection fee that's very similar to what we do on the erosion and sedimentation control program. Just as a point of clarity in the summary, we do not maintain the flood control if it's from like a county road or something like that. Or frankly, if it's a , we don't have to maintain the flood pond. We do have to maintain the water quality controls out there. And then another point of clarification, again, already was the expectation, but now it's trying to make it crystal clear in the code. We're saying that the owner -- if you build a residential subdivision, single-family subdivision, complex dpleks subdivision, and you put in a pond, you're expected to maintain that up to a one-year warranty period and the city, if it's in good shape, accepts that and starts maintaining it. There's a lot of wrangling that goes on with that and we want to make sure that everybody knows that you're responsible up until the point that we actually say yes. That's going to be a city-maintained pond. And that in short is it. I have additional slides to clarify any of these points if you would like. But I'll keep it short unless you would like to delve into any one of these items.

Mayor Leffingwell: Councilmember morrison.

Morrison: I noticed in the backup or on the agenda that it was recommended by planning commission and reviewed by the environmental board. Did they have some concerns about it? moncada had a couple of questions for us. One was about the three year versus one year, is that backsliding, is that a problem? He was saying, hey, when i go out to see a pond and it has a tree growing out of it, that seems like we need more frequent inspections instead of fewer. And the simple fact is with these going from a few hundred ponds in the '80's to 6,000, literally 6100, something in that range. I've got the data here somewhere if you guys really want to dive in. But basically we recently combed through all the past site plans, all the subdivision plans, aerial photography, all these different things, and increased the number of ponds in our database from 3200 to 6,100. That's a big change where we only had two inspectors at the time that was happening. We've now gotten that up to four. And we're on a rotation with this new three-year thing. We feel like -- if you crunch the numbers we can get four people can cover those 6,000 ponds every three years almost exactly.

Morrison: But it's your understanding that that's the only issue that the environmental board had?

Mayor Leffingwell: If i could interject, I think the question relates to why didn't they recommend -- the environmental board would not normally make a recommendation on an ordinance, so that --

Morrison: Oh, okay.

Mayor Leffingwell: They would just review it and make comments.

Morrison: And I think you would know that. Thank you, mayor. Never mind then. I was afraid there were concerns.

Mayor Leffingwell: Anything else? I'll entertain a motion. Motion by councilmember morrison to close the public hearing, approve on all three readings the ordinance in item 60. Second by mayor pro tem. Any discussion? All in favor say aye? Aye. Any opposed? It passes on a vote of seven-zero. Thank you.

All right. Thank you, sir.

Mayor Leffingwell: holland, hold on just a second. On item 60 we do have one citizen signed up to speak. Stacy ingleing? You signed up as for. Recommending we've already passed the ordinance, would you like to talk us out of it?

[Inaudible - no mic].

Mayor Leffingwell: Okay. Thank you. And I apologize for the oversight. Go ahead and say a word.

I live in oak acres subdivision, which is a very, very small subdivision behind -- backing up to st. Andrew's and they have a pond that floods our subdivision every time that it fills with water it floods our subdivision then for days afterwards. And I definitely support streamlining the process and making it a more simple and understood process and something that's kind of convoluted and unwieldy as it was before. But I definitely want to put out there that I really hope that this is adequate to keep up with it and make sure that these ponds really do function as they're supposed to because it's really causing a lot of problems for us and we haven't been able to find any resolution.

Mayor Leffingwell: I'm very optimistic that this revision is long overdue and I think it will be a big benefit to the city. Thank you for coming down.

Mayor Leffingwell: So next we'll take up item number 61.

Good evening, mayor and council. Dave wall with austin water. This item relates to the ser request process. We've been working on this for a number of years. A 2005 amendment to the local government code prompted the utility to look at the current code at the time, and we found that there were a number of areas that needed to be updated. More specifically, there was a requirement as part of the

amendment that requires the cost imposed by the city on a development for improvements, infrastructure roughly proportionate to the infrastructure costs associated with development. Basically we need to pay our fair share of the improvements that would require any type of oversizing for the development, not just to serve the development. As I mentioned before, there were some other areas that needed to be updated. The last time we even updated this section of the code was in the '90's. A lot of inflation costs have occurred over time as we determine how to calculate our participation. So staff has made some recommendations. There was a committee put together as part of the water and wastewater commission, and we over the -- I guess since 2005 we met for several years, working with several groups, stakeholders. We reviewed and presented the recommendation and got the input from them. We subsequently developed the draft ordinance, took that ordinance to wastewater and wastewater commission for their review and approval. What we would like to do tonight is -- what we've been doing over the past few years is coming to council requesting by variance or waivers ways to comply or be aligned with the state laws since 2005. And so what this does, it will bring the current code up to what we feel will make us aligned and bring so I have provided a narrative summary of the proposed changes, and in addition to that there's a side by side comparison of the changes. And also the proposed ordinance. I'd be happy to answer any specific questions on any of the recommendations.

Mayor Leffingwell: Questions, council? I'll entertain a motion. Mayor pro tem moves to close the public hearing and approve the ordinance on item 61 on all three readings. Seconded by councilmember Riley. Is there any discussion? All in favor say aye? Aye. Any opposed? It passes on a seven-zero vote. Thank you. I'll call up item 62.

Good evening, mayor, members of the council. My name is Carl (indiscernible), I'm Austin Energy's vice-president of distributed energy services. Before you on item 62 is a proposal of a proposed ordinance to amend the 35 for green choice, our green power service or product offering. Included in that amendment are changes in the price as well as the terms of the offering for what has been known as batch 6. And I can go through the details or I could entertain questions. You have before you a presentation that outlines both of those, the terms and the cost components.

Mayor Leffingwell: Any member like to hear a full presentation or have questions? Councilmember Spelman.

Spelman: Between a full presentation and just answering questions.

Mayor Leffingwell: Anything you would like, councilmember.

Spelman: Is there a two-minute version? Is there anything that would be in the two-minute version that's not in the powerpoint slides, let me ask you that?

No. The tariff revision in the ordinance is simply aligning out a substitution of new terms which reflect the price, the five-year term and the expiration date for the offering.

Spelman: And there has been no reallocation of costs of any kind? All we're doing --

the change between the current pricing and the proposed pricing is to take what was before the estimated congestion pricing and no longer collected through the green choice price offering, but rather to collect it through the fuel charge that all austin energy customers pay.

Spelman: Okay. So there has been a reallocation. That's all it is.

Yes. That's part of the pricing revision, yes.

Spelman: Okay. Does that account for all or part, and if so, what part?

I would say it's a little more than a third, without getting into sort of specific pricing of the elements. When the first batch 6 pricing was set, we tried to make an estimate at a time when congestion pricing was particularly high and volatile that would be about for the long-term because remember we offer a fixed term price. Since that time we've seen those congestion prices fall. Our estimate is much lower, but also there remains some uncertainty. Because of that uncertainty and the difficulty of predicting exactly where congestion pricing associated with delivery and the wind from the wind farm, because there's some difficulty in estimating exactly where that is, we took two major steps. First we took the congestion pricing out of it. We're also separately managing that pricing as part of our operations. Second, we shortened the offering term so to shorten the window over which we had to try to make a prediction of that what changeable number.

Spelman: The offering term is now how many years?

The offering term would be five years at a price of 7 cents per kilo watt hour fixed.

Spelman: And what's the cause of the continuing volatility and the congestion pricing?

The causes of the original volatility were associated with basically just sort of wholesale powered activity. There were a couple of things going on. First of all, there were some periods of particularly high congestion when a lot of wind was coming on, and very little transmission was available. Second, there was a designation of the particular wind farm from which this supply was provided that put it into -- into a region that had high congestion and therefore high congestion charges. A puc and ERCOT decision that put it into another region significantly lowered those costs, and in the meantime ERCOT itself has made changes to operational and other protocols which have had the result of substantially reducing that congestion.

Spelman: Is it likely to change region again?

I can't say whether it's likely. It is within the realm of possibility, but we also understand that the long-term horizon is that overall transmission charges should get more moderated and predictable. There's a lot of buildout going into the system for the so-called credit lines, for the new transmission to serve

renewable energy in west texas, and ercot is improving its process of assessing congestion charges and managing the transfers of wholesale power.

Spelman: This is a related question. It has no immediate bearing on this, but you probably know the answer. So when will those cres lines, along what kind of schedule will those additional capacity in those transmission lines be built?

It is a rolling schedule of almost six billion dollars of transmission improvements. First cases are moving through the public utility commission now as well as a number of other line improvements that are not associated with the cres, but were put on hold. We expect to start seeing benefits in wholesale prices within the next couple of years at the most, and then it continues for a long period of time because that - the size of that investment and the size of those projects.

Spelman: Could you give me a sense for what kind of time period you're talking about for long period?

If everything goes on schedule, as everything never does, the build out should be completed in the range of five to eight years.

Spelman: Okay. So 10 years probably is more realistic expectation for how long it would take.

Given that there's a lot of line going to a lot of people's land.

Spelman: Got it. Thank you.

Mayor Leffingwell: Councilmember riley.

Riley: I just want to go back over that last point about the congestion costs. There were some concerns raised that these -- that this energy was going to be particularly expensive and some folks were thinking that that's inherent to wind power. And what I hear you saying is it actually had more to do with ercot's placement of this particular -- of the hackberry wind farm within a particular region that had a higher cost and when they decided to put it in a different region, the cost came down significantly. Do we know -- so the cost that we're directly attributable to the hackberry wind farm were actually not that high? Could you give us a sense of --

the costs that we saw at the time when the price was set were real and were that high. But various things, including the zonal designation, as well as those protocol changes, as well as our management by buying essentially hedge devices to collar the congestion risk all combined to sort of substantially reduce that congestion price. Still given that there is that uncertainty, that's why we propose to collect the congestion charge associated with this in the fuel charge so that it would -- so that we wouldn't have to come back in for repeated amendments to the green choice price.

Riley: Okay. So in the past the green choice -- prior green choice batches have sold out.

Yes, they have.

Riley: And so the expectation is that this batch will sell out as well?

The pricing -- this pricing amendment puts this batch fairly close to batch 5, which did sell out. Now, one thing I can tell you is that there were different economic conditions at the time. So I can't say with certainty that it's going to happen. We think it will make the batch much more competitive and we expect to see sales. But it's also true that by shortening the price term, some people who like the 10-year long fixed price benefit of our green choice offerings may feel that that's not long enough. So there's a couple of factors at play, but we think the sales should pick up substantially more than the current level, which is only about one percent.

Are there plans for future adjustment if this batch doesn't sell out?

We're planning and have proposed to you in our resource and climate protection plan that we're going to -- and state that had we're going to take a real hard look at how we do green choice or voluntary green program offerings. I won't take it off, but I'll say we'll look at the whole thing because we want to see how do we continue to offer this voluntary option. However, with this batch as with every previous batch, if the batch does not sell out, we roll the unsold portion into the fuel charge for all austin ratepayers. That's been the case since the very start. That has not changed.

Riley: And one last question. I've heard some concerns about people who support green choice that they actually wind up paying some charges that really could be associated with the brown power component of austin energy's portfolio. That some hard costs associated with coal and nuclear actually get -- wind up getting paid by green choice consumers. Is that accurate and can you address that?

Yes, it is accurate. It's accurate because of course we can't distinguish between a greentron and a browntron. Austin energy is in the service to provide service to every customer and wind power doesn't occur around the clock. Every customer is being served whether they're a green choice customer or brown choice customer and any time give every the mix of choices we have operating, including that wind farm. Now, the total wind farm accounts for about 12 percent, that's all of them, all our renewable energy. A green choice customer represents a very small slice. We can't segregate the trons. We use cheen choice as an -- green choice as an accounting mechanism for customers who which choose to invest in more renewable energy for all of austin to do so, but we don't represent that they are only buying from a necessity are renewable energy facility. In fact, if it were even technically possible, they wouldn't have reliable service.

Riley: So the question isn't just effective in sometimes getting power, the issue is that in addition to paying the charges associated with new green power, they are also paying charges associated with the infrastructure for the brown power.

They're -- yes, sir, they're paying the base rate.

Riley: And there's no getting around that because in fact they benefit from the base rate because they actually wind up utilizing that energy in addition to it.

That's perfectly said. Exactly right.

Spelman: Move to close the public hearing and pass on all three readings.

Mayor Leffingwell: There's no one signed up to speak. Councilmember Spelman moves to close the public hearing and pass item 62 on all three readings. Second was by councilmember Cole. All in favor say aye.

Aye.

Mayor Leffingwell: Any opposed? Passes on a vote of seven to zero. Thank you.

Thank you very much.

Mayor Leffingwell: So we'll move now to item 63, and council, with no objection, item 65 has no one signed up to speak. Item 66 has one person signed up to speak. And so if there's no objection, I'd like to go after 63, skip 64 and go to 65 and 66.

Mayor, 65 was to be withdrawn. We just haven't done it yet.

Mayor Leffingwell: 65 is to be withdrawn. Thank you. That involves that problem. -- Owe that solves that problem. We're calling up item 63 now.

Good evening, mayor and councilmembers. I am Rhonda La Hawkins with the office of telecommunications and regulatory affairs. Item 63 is for city council to conduct a public hearing regarding revised tariffs from Atmos Energy Corporation, the Mid-Tex division, to increase its systemwide customer distribution rates and after the hearing is closed to approve an ordinance approving their revised tariffs. Article 11, section 6 of the city charter allows council to hold a hearing on any franchisee's proposed rate increase. The city works in coalition with a group of other municipalities that also regulate as most energy. This is known as Atmos Texas municipalities. Atmos has approximately 6300 customers within the city of Austin, and pursuant to an annual rate review mechanism established by Atmos and the ATM municipalities in 2008, Atmos filed its last rate review mechanism on March the 6th of this year requesting in that increase and systemwide rates of approximately \$50 million. After almost four months of review and examination of the rate increase justification, ATM's experts were successful in getting Atmos to modify its requested rate increase down 6 million, causing rates to increase 15 cents 22% to the average monthly bill of a typical -- monthly bill of a typical and by 26 cents per month or 067% to the average monthly bill of a typical commercial customer. In addition, there is also a change in their conservation energy efficiency tariff to allow for an increase in conservation measures from \$200 per household, increasing that to \$1,500 per household. This program does provide assistance to low income and those over the age of 65 to obtain an install energy efficiency

materials. And this concludes my presentation for the public hearing.

Mayor Leffingwell: Is this proposal essentially the same as the one we had with 1:00?

There are two different companies.

Mayor Leffingwell: I know they're two different companies, but the rate structure is the same?

There's a different rate structure between the two companies.

Mayor Leffingwell: Could you explain that?

Yes. Well, there's different revenue requirements per the individual companies or different distribution systems.

Mayor Leffingwell: I mean, what are the differences?

As far as the customer charge, the monthly customer charge, the charge for Texas 75 per month. And the charge for Atmos Energy is seven dollars per month. And then they have -- I don't have the different volumetric per ccf charges to compare between the two companies. But there is a difference in --

Mayor Leffingwell: How about the tariff?

The tariff?

Mayor Leffingwell: Yes.

The tariffs are different. Those tariffs set out the base charges for the companies and they are different. As far as the cost.

Mayor Leffingwell: The tariff rates are different because the base rates are different, I assume? You know, we had this -- this has been a month's long, year long discussion about this. So your recommendation is now that we approve this ordinance?

Yes. And as far as the ATM experts and the other municipalities, the steering committee, they recommend approval.

Mayor Leffingwell: Any more questions? I'll entertain a motion on item number 63. Mayor pro tem moves to close the public hearing and approve the ordinance on all three readings for item number 63. Is there a second? Seconded by council member Cole. All in favor say aye. Any opposed? That passes on a vote of seven to zero. Just for the record, council, if there's no objection, item number 65 is withdrawn. Objection to item number 65 -- no objection, item number 65 is withdrawn. We'll go to item number 66.

We're skipping 64 without objection.

Good evening, mayor and council. My name is virginia collier from the planning and review department. This is the first of two public hearings on the proposed strategic partnership agreement between the city of austin and the river place municipal utility district. The second hearing will be here next week, august 27th at six p.m. held a hearing yesterday at their meeting and they have another scheduled for next tuesday. board aproves the proposed agreement following their second hearing next tuesday, council will be able to approve next thursday after the city's second hearing. You may recall that the city council amended the city's municipal annexation plan in december to include the river place area. Earlier this year m.u.d. Representatives and city staff met numerous times to discuss the potential effects of annexation on residents and to explore alternatives to the annexation under the three year map process. Adoption of a strategic alternative that we are presenting today. Before going further I would like to recognize the m.u.d. Board members who have been working with us over the last several months. lee rutland and former mayor bruce todd are here this evening. So as you know, in the , a developer must first obtain the city's consent prior to the creation after m.u.d. In 1984 the city consented to the creation of river and we've been operating under that consent agreement for the last 25 years. The purpose of a strategic partnership agreement is to fund the terms and conditions for the city's and the terms that the m.u.d. Will convert to a limited district at the time of full purpose annexation. This spa is designed to provide reasonable and equitable benefits to each party and under this proposed agreement the on behalf of its residents agrees to full purpose annexation involving city services and city taxes STARTING DECEMBER 31st, 2017 And at that time preserve land currently and as part of the bccp will be conveyed to the city. Upon approval by the m.u.d. would convert to a limited district with an initial term of 10 years for the purposes of owning, operating and maintaining their parks and recreational facilities, for providing solid waste and single stream recycling collection services and with the ability to enforce deed restrictions. Also a service plan that describes services that will be provided by the city in a limited district upon full purpose annexation will be adopted as part of this fpa. Copies of both of those are here this evening. I left a giant pile out on the table in front. Municipal services to be provided by the city include those that are currently provided by travis county such as public safety, the , and road maintenance as well as other services that the city provides citywide. Also at the time of full purpose annexation the city 's remaining debt and no first annexation surcharge would be applied. Upon the effective date of the fpa this year, territory would be annexd for limited purpose of zoning which extends the city regulatory authority regarding development, destruction, land use and environmental quality and residents would be eligible to vote in city elections. However, no city taxes are collected in the city's limited purpose jurisdiction. In addition, the austin water utility will acquire the infrastructure on the date of the fpa and the will continue to operate the wastewater infrastructure and providing these services until OCTOBER 1st, 2014. At which time the city would take over these responsibilities. Within 90 days of the effective date of the fpa, would adopt and enforce the city's water conservation program and in addition the mu has agreed to make city identified infrastructure improvements from a city assessment by july 2014. and the city both agree not to initiate or support any legislation to modify the other party's rights under the fpa or the consent agreement. To this point there are two other limited districts within the city. The former tanglewood forest limited district, which has been in operation since 1998. And then anderson mill , which has been in operation since the beginning of this year. In addition

to these two, we have two other fpa's in effect. One was spring woods m.u.d. And one with lost creek m.u.d. Again, copies of the fpa and the exhibits, including the service plan, are available this evening and I would be happy to answer any questions you might have on item 66.

Mayor Leffingwell: Questions of staff? As you just heard, council, there's no action required tonight. We will conduct a public hearing. There's one citizen signed up to speak. Carol king?

Good evening, mayor pro tem and councilmembers. My name is carol lee and I'm here before you tonight as a resi glen lake, which is one of the out of district customers of the river place m.u.d. collier reminded you, the city council vote understand december of 2008 to annex the entire m.u.d. District effective the 31st of december 2011. The strategic partnership agreement -- okay. The strategic partnership agreement cuts down that area by quite a bit. It's a little bit difficult to figure out how many acreage from all the missing details that are in the current draft. I have three main concerns with the draft as it's written right now. This district area is in zone one of the parks land development map, which is rated as very deficient in the parks gap analysis. Second concern is city of austin is the assigned parks provider for at least 12 subdivisions in the immediate area that have paid parkland dedication fees in the last five years in lieu of providing parkland. The preserve areas mitigate the taking of endangered species and open space is required to account for the transfer of impervious cover for the development of river place. And serves as a buffer to the cortana preserve. This is the area, and you can see we have one park, unless you can walk on water, emma long park, and it doesn't serve as a neighborhood park. It reaches capacity from may through september. It's greater than three miles from the area subdivisions. And it costs \$8 a vehicle to enter. You're not very successful getting community neighborhoods to go down under those conditions. And we just have a real desperate need for more parkland in this area. There's as the draft is written right now, there's substantial cost risk and liabilities. The strategic partnership agreement treats the existing other district customers and future out of district customers the same, yet there's significant infrastructure that's going to be required to bring on those future out of district customers, additional water storage, the raw water contract service area, interconnects. It also allows the district to independently negotiate contracts until 2014 and the city is obligated to fulfill whatever they've contracted. There's contracts for those future customers that have not yet been made available for review. We've been waiting for one of them for three years. [Buzzer sounds] so the city assumes the utility debt and the district keeps all the parkland funds, which the -- they negotiate an out of district contract in 2001 to take contract fees in lieu of any improvement to the water for 55 homes.

Mayor Leffingwell: Thank you, ms. lee. Thank you. And we also have signed up to speak mayor bruce todd. Welcome back, mayor.

Thank you, mayor and thank you, councilmembers. A delight -- delighted to be here today to represent the m.u.d. They had their meeting last night. And 40 or 50 folks, and i think they were all very satisfied. I think satisfied in this process. Both sides gave up a little, but got a little in terms of a good relationship to work together. Virginia collier, bart jennings and the others did a wonde putting it all together, even though there was -- I will not be able to attend the last two meetings, one here and one there. I can tell you I think it went very smoothly, it went very well. And I think you've -- you'll have about -- by my

calculations about 2500 new registered voters out there once annexation occurs. And I think they will be very pleased with how their city is being operated now. Thank you very much.

Mayor Leffingwell: Thank you, sir. Anyone else wishing to speak on this item? There will be another public hearing on this next week, but I'll entertain a motion to close the public hearing for tonight. Moved by the mayor pro tem, seconded by councilmember shade. Any discussion? All in favor say aye? Aye. passes on a vote of seven-zero to close the public hearing. We'll next take up item number 67. And this is to conduct a public hearing to receive public comment on the city of austin fiscal 2009-10 budget. I have four citizens signed up to speak. The first is harry savio.

Good evening mayor and council. My name is harry savio. I'm the executive vice-president of the home builders of greater austin. I really wanted to address tonight again the issues of buildings inspectors as being addressed and is being proposed in this budget. There are nine positions that are being eliminated plus one administrative staff person. And I think we're -- and i know we are concerned that that's going to severely impact the ability of that department to provide reasonable levels of service going forward. I've e-mailed the full council twice with projection trends and those were not my numbers, those were numbers provided by other entities, including city staff. And it's something that i think I can understand when the budget was prepared maybe that the number of starts were considered -- were projected to be severely -- dramatically less than what they're actually turning out to be. But there is an answer. And which is to simply put the positions back in the budget with the -- with additional anticipated revenue, should that occur, and just ask that the positions are frozen until those slots are -- until that activity meets the level to sustain the income. If we don't, please consider this analogy. What if applying the same theory ofanagement, we applied it to solid waste collection. And you told all of the people who were having their garbage collected that 30% of their fees were going to fund other general fund activities and, by wait, we're not sure what day you're going to be picked up. There's an 80% chance that your collection day will be wednesday. If we can't get to it wednesday, we will probably get to it thursday or maybe friday. I don't think that's something the austin citizenry would expect because they're paying a fee for a service, and I think that our concern is that the city will not maintain to be that same level of service. And again, these changes can be made in a number of different ways without having any impact on the tax rate, and I'll close with a reminder that even as presented, the budget projects a 3-million-dollar level of income in excess of expenses for building inspection and intake. Thank you.

Mayor Leffingwell: Thank you.

Spelman: Mayor? savio, there were a lot of positions that were supposed to be eliminated in the inspection section. How many of those would you think would be necessary for us to put back in to cover our uncertainty?

What would be ideal for me is to have all 10 slots there, but frozen until the revenue justified their reinstatement. At the very least what we would ask for is five, five inspectors. The problem being is that let's say that -- the budget was adopted as is, and we got in to, say, january of next year and the departments realized, boy, things are really taking off. We actually need to fill our new inspector slots

right now. That process alone takes three months. I'm not even talking about training, I'm just talking about going through the normal hr process and hiring employees. Sometimes it can be expedited with the use of temporary employees, but to come back to the city council and get a formal budget, and that takes time and that's not fair.

Spelman: I understand. How is it that you picked five?

I pulled a number out of the air. That's half. And you know, there certainly has been a downturn, although not nearly as dramatic as projected in this budget. What the budget shows -- i shouldn't say that. The fear was that there was a big decrease in new home building starts. And there has been. But there's also been a 45% increase in remodeling. And remodeling takes more time because you have to make an appointment, you have to meet the builder or homeowner, someone on site, and they're just more difficult and more challenging. [One moment, please, for change in captioners] thank you, our next speaker is gavin fernandez, next speaker is jennifer mcphail. Welcome, jennifer.

I'm jennifer mcphail, I'm with adapt of texas. We wanted to comment on two items tonight. We're in favor of the public works proposed budget for five million dollars for sidewalk improvements and providing access and a.d.a. Compliance to sidewalks. I'm going to hand information to you tonight and you'll see in a memo from howard that we have quite a bit of funding available for sidewalk projects. We want to make sure that -- that we can put some of the community's priorities in those packages that are being brought forth to you. To make sure that we get those -- the biggest bang for our buck. Then the other issue that i wanted to bring up about that is better coordination with the different entities that are involved and -- in constructing projects. A lot of times, txdot and capital metro aren't necessarily coordinating with the people that provide access and we've missed a lot of opportunities through campo funding and things like that to get some larger projects actually done. And it's cost the community a great deal. And it would be nice to be able to see some -- some bigger projects be completed, so that areas like north lamar and south congress are accessible. The other issue that we wanted to talk about tonight was affordable housing that's accessible to people with disabilities. And a major issue for us is that we're very concerned both about the language in the consolidated plan that promotes nursing homes as a form of accessible housing. That goes against everything that adapt has worked for at the federal and state levels to do away with the institutional bias that exists in this country for people with disabilities who need long-term services and supports to live in the community. And I've been in adapt 20 we've done policy discussions, we've done protests, we've marched from , we have gone on hunger strikes. To do all of those things and then come home and see that language in our consolidated plan and see that this city -- has -- has backed off of some of the more -- the more profoundly important policies that you put in place to protect the rights of people with disabilities. It's very dishartening for us. Frankly our members are disgusted. And I'll just tell ya, that one small thing that you can do is to continue the effort and inspections of accessibility features in units that you had in the voluntary compliance agreement. You had an inspector, you hired an independent inspector to go out and inspect the stuff that you funded. It was a very valuable resource to us. And it should be continued. And we really didn't understand why it was done away with. Maybe the staff was confused by the name because we no longer have a voluntary compliance agreement. Fine, call it something else. But do it. We're nationally recognized for our efforts. All over the country and [buzzer sounding] the world and we have

done away with it in one fell swoop. Why?

Mayor Leffingwell: Thank you, jennifer.

Something is wrong.

Cole: May I have a quick question for jennifer.

Mayor Leffingwell: Councilmember cole.

Cole: Jennifer, I just misunderstood or didn't understand what language you were talking about in the -- wait -- in the consolidated plan having to do with nursing homes that was objectionable.

Well, there's a section within the consolidated plan that promotes nursing homes as a form of housing for people that are in need of services. And we consider that a form of discrimination, not only just us but the supreme court says that you have to provide services and programs in the most integrated settings, which is required by the americans with disabilities act. Well, that's not the most integrated setting. The supreme court says so. So for the city to go and promote that as a form of accessible housing is an affront to everything that we have done.

Cole: Thank you, jennifer.

Mayor Leffingwell: Councilmember morrison?

Morrison: Thank you, i wanted to follow up also to make sure that I understand about the inspections on property that we have funded. So you're talking about city-funded housing that we used to go out and inspect to make sure that it was accessible once it was built; shark? Built; -- is that correct?

Right, that's correct.

Because I would assume that the design that we were funding, is this correct, the designs that we were funding that we were assured were accessible but then sometimes they weren't built that way?

Well, I'm sure that there were examples of designs that were bad that you had to correct. A lot of times you can't tell by the designs when someone is going to screw up until, you know, they construct it and whoops you realize there's a step rather than a no step entrance. So it's kind of hard to say. I'm sure there was a mix of both. I don't know off the top of my head what the inspector has found over the years. But I can tell you that even after the voluntary compliance agreement with had expired, previous administrations and previous councils felt it was important enough to continue it, even after the agreement expired because their commitment was strong and they wanted to ensure that there was accessible units and that we were complying with the -- you know, the laws that required them. I don't know if it was an oversight. I don't know if they're going to tell you they didn't want to pay for the contractor to go out and do it. I don't know what the issue was. But I know that you find money when

something is important to you. This should be one of those things that you find money for.

So it used to show up in the budget as voluntary compliance.

It used to, yeah.

Well, maybe, assistant city manager edwards we could talk about this later on because I would be interested to know how i finally disappeared. Thank you.

Thank you.

Mayor Leffingwell: Next speaker is david witty.

Thank you, mayor, my name is david witty, I'm also with adapt of texas, i concur with jennifer's comments both on the sidewalks and the budget on that and as well as the problems that we've been experiencing with the consolidated plan. Some things she wasn't able to tell you is that in austin two out of three of the complaints that the austin tenants council receives are disability related, problems with housing. That didn't used to be the number. In fact the numbers are growing. Now, not all of those complaints are regards to the city-funded housing. But all of those complaints that they received do reflect problems that people with disabilities are having with housing here in our town. So just keep that in mind that over 60% of the complaints they have reflect a problem. And, also, the -- the -- the consolidated plan that jennifer mentioned, the problem with the section on the seniors and elderly housing, that's basically a list of nursing homes. We could have gone to the phone book and gotten that. There's a couple of services agencies that are also listed there providing services for people who are elderly and they may be disabled. But that's not a big deal to look in the phone box and get that information. It's just wrong to claim that nursing homes are an adequate housing resource. There are other resources available in austin. Besides, the census doesn't even count people who are institutionalized -- don't even count them. They are non-existent as far as census goes, so it's hard to recognize a non-population as needing housing sources. Housing resources. There's also claim in the consolidated plan that cdbg funds cannot be used for architectural barrier removal. That's just plain wrong. There's also some problems with the east 11th and east 12th initiatives. There are businesses there that need your assistance to remove architectural barriers, to make themselves more accessible for people with disabilities, they are not getting the help they need. Her getting barriers to remove barriers, so thank you for your time.

Mayor Leffingwell: Thank you, mr. witty. Gavino fernandez? I have no other speakers signed up to speak in this portion of our public hearing on the budget. Council will continue to receive public comment on the proposed budget on AUGUST 27th, 2009 AND WILL Vote to adopt the budget for fiscal year 2009-2010 at the annual budget meetis here at the austin city council chambers. These meetings will be at on monday, SEPTEMBER 14th, 2009, TUESDAY, SEPTEMBER 15th, 2009, And wednesday, SEPTEMBER 16th, 2009. I'll entertain a motion to recess tonight's public comment period on the budget hearing.

So move.

Mayor Leffingwell: Moved by councilmember morrison. Seconded by the mayor pro tem.

Martinez: Mayor? I just want to let the other councilmembers know that my aide, andy moore, has already reached out to margaret shaw to find out how the language got changed in the consolidated plan and so we'll coordinate this with everybody as we move forward.

Mayor Leffingwell: All in favor of the motion to recess tonight's public comment period say aye.

Aye.

Mayor Leffingwell: Any opposed? That passes on a vote of 7-0. Tonight's public comment portion of the budget hearing is adjourned. So -- without objection, council, we will go to item no. 68.

Mayor, mayor pro tem, councilmembers, michael [indiscernible] of the economic growth and redevelopment services office. 68 is to conduct a public hearing and to consider a resolution reauthorizing the east sixth for a five year period. As part of that reauthorization you will also be adopting a five year service plan and budget and designating sixth street austin as the advisory board for the p.i.d. Council, first authorized in august of 2004. That authorization expires august 26th of this year. The sixth street p.i.d. Encompasses an area of approximately 25 acres. The boundaries are i-35 on the east, congress avenue on the west, and approximately one-half to one block on either side of east sixth street. The city received petitions signed by property owners requesting the we authorization representing owners 61% of the appraised value of all of the property in the assessment district. And [indiscernible] 79% of the area of all taxable property in the district. As required bylaw, a five year service plan has been prepared. The basics of that service plan are contained in the four program areas. Number one infrastructure and fiscal environmental improvements, number two public safety, number three communications and membership, and number four marketing, fundraising and economic development. The proposed method of is a rate not to exceed 25 cents per \$100 of valuation, there are a number of exemptions included, including the value over \$500,000 and properties qualifying as homesteads. The budget for these programs is approximately \$145,000 per year. 009 of the texas local government code, staff has notified property owners of this public hearing. I'll be prepared to answer any questions. Josh allen for sixth street austin is also here to answer any questions about the district and the proposed service plan. Otherwise, we are ready to conduct the public hearing.

Mayor Leffingwell: Questions of staff? If not, we'll go ahead with the public hearing. The -- the first speaker on my list is bob witty.

Good evening mayor and councilmembers. that is -- has been in place for the last five years has -- will -- will in some regard we were unable to see what was accomplishing. So I put myself down to speak against it. But the conduit of the and having it in place and going back and trying to recreate that, it worries me. It worries me. It's already there. And for us to try to go and recapture that after going to the trouble of -- of getting rid of it doesn't make sense. So we feel like as long as accomplishes things, we

can support it. When I put myself down as against it, I want to see the accomplishments that it can make. I also want to see more of an open type group, if you will. Of the p.i.d. So that we can have a -- a greater amount of involvement from many forms of businesses, versus manipulated by a few. So we've met with them. We've spoken to them. And their conditions I think mike knox can bring some of the conditions up that they are unable to increase their revenue from each business without having a vote drawn and at least 51% of the -- is it the membership, mike? Or is it the property owners? Is that a part of it? What I'm trying to say is there's been some things put in place since it was began that should help accommodate what we're talking about. Josh, is it members or is it property owners that are part of that 51% --

good evening, josh allen, executive director of sixth street austin. We are hired by the city of austin to manage the public improvement district. Ance to your question, there were some property owners specifically concerned about going to the 25 crept which the petition authorizes. What they suggested is that we go to 15 cents, which i think is what he's allowing, what we have done is said we are putting a bylaw amendment into our bylaws that specifically says we cannot raise to the full 25 cents unless we go to a vote of the membership of the organization. So that would be done at our annual membership meeting. It's a way of building consensus and leaving in the pot of funds an ability to do seed funding for major projects down the road. We thought that was an appropriate compromise and the board was happy to do it.

There you go. Thank you, josh.

Sure.

That's all that I have, thank you so much.

Mayor Leffingwell: Next speaker is harold laves. Correct me if I miss pronounce that. Lavis.

This is going to be hard for me because not only am i nervous, but one of my good friends on the opposite side of the table with me. Against me. It's larry craddick. He and I were both born and raised in austin. His father had -- had craddick furniture, my father had lavis jewelry, as sons of these merchants we came to carry on the family business. Sixth street was a -- was a really vibrant place until the salvation army came in. Caritas and the others came in. And consequencely, in 1990, I was attacked with a 14-inch blade machete in I had to close my business because of the trash that's down there. I don't understand how a p.i.d. can improve that. Unless you just get rid of the undesirables. And I'm sure if mr. Craddick, my father, were still alive, they would wring both of us out for even thinking about this. for sixth street, you have a p.i.d. For downtown. 's on top of the taxes. Somewhere we've got to stop the bleeding. It's hard for us to approach our tenants and say, yeah, we need to raise the rents to take care of these -- these excess taxes. So I don't know where to go from here or what to do. Or how to tell my tenant he's going to have to pay more money. But I'm just against it. Thank you.

Mayor Leffingwell: Thank you. Next speaker is chuck tuman.

My name is chuck tobman, I'm a broker who specializes in restaurants and clubs and my company has brokered over 100 restaurants and clubs in the austin area. I've worked on sixth street since -- for 25 years now. And the -- while I have great respect for the work done by the salvation army and the homeless shelter, the fact remains that it's a block from sixth street. And it impacts our ability to lease and sell properties on sixth street to various types of people. For example, right now the only retail between congress and i-35 is tattoo shop, t-shirt shop and a convenience store. We would like to be able to have clothing stores and jewelry stores and other types of retail, but it's very difficult for us to lease spaces on sixth street consequently -- the reason that I am against the , it is a burden on the -- the property owners. And for a half a million dollars it's -- that they have spent since 2004 it's very difficult to see what the accomplishments have been. And consequently I think the is a -- a waste of money. And a burden on the property owners on sixth street. Thank you very much.

Mayor Leffingwell: But the p.i.d. is voluntary. You don't have to participate if you don't want to, correct if.

Excuse me?

Mayor Leffingwell: The p.i.d. is voluntary?

I'm sorry.

Mayor Leffingwell: is voluntary?

Yes.

So you don't have to pay it if you don't want to.

No. That's not true.

Mayor Leffingwell: Sorry. My mistake.

Yeah, no. The -- the property owners have to pay the -- have to pay regardless whether they are members or not.

Mayor Leffingwell: Okay. Thank you.

Any other -- other comments?

Mayor Leffingwell: No thanks. Next speaker is tim league. Tim league and veronica boosty, veronica boosty, are you here? Okay. So you have up to six minutes.

Okay. My name is tim league. I am an owner of the alamo draft house cinema on sixth street, also the vice chair of sixth street, austin. We are certainly listening to the concerns of some of the property owners on sixth street. But I would like to it's precisely because our neighborhood is so challenged and

we have the issues of dealing with the social services right in our neighborhood and having a crime hot spot, that we're precisely for those reasons is why we have to have funding so that we can have an organization that can work with city council and work with the city manager and work with all of the agencies of the city and work ourselves to try to fix these problems. And I -- I know because i speak with a lot of you, we were just -- I see sheryl all the time. And there are very tangible projects that we're working on to try to come to short term and long term solutions. But these things don't happen purely out of a volunteer effort. I myself am volunteering, i myself am happy to pay the p.i.d. I'm not a property owner, I'm just a business owner, larry craddick is my landlord. All of those p.i.d. 's are being transferred on to the tenants and I still feel like sixth street is a tremendous bargain as a tenant. And so basically what I'm saying is there's a lot of work to be done. We have a very lean organization. Josh does a tremendous amount of work with the budget that we have. And just earlier today we talked about the rhi process and the series of objectives that we have as an organization to complete and I'm very proud of the work that we've done and corralling a lot of the -- of the people that are decision makers for sixth street and having an action plan for the next six months. So I -- so I must say to the property owners, that -- that are against this, i would like to meet with you in a year and see if you are still against it. Because I propose with the leadership that's in place right now, with sixth street austin, we're going to tackle a lot of these problems and we're going to make you proud of this district again. So I -- that's what I would like to leave you with.

Mayor Leffingwell: Thank you. Councilmember morrison?

Morrison: The organization, sixth street austin is that what it's called?

Yes.

Morrison: We the city contract with you with that organization to manage the ?

That's correct.

Morrison: Is that correct? What does it take to be a member of that organization?

You are a member if you are a property owner on sixth street. Within the district. You are a member and then there's a board that is elected.

Morrison: Okay. Great.

So I'm a member of the board, but technically I'm not a member of the p.i.d. Because I'm not a property owner.

Morrison: I understand. All of the property owners are automatically members, so it's not a matter of having to pay fees to be a member or dues, thank you.

Right, that membership that votes on whether we're going to spend that extra 10-cent valuation is all of

the property owners.

Mayor Leffingwell: Thank you, next speaker is larry craddick.

I thought that tim said it very well. I don't have a whole lot to say. My family has been down there on the street since 1929. My grandfather opened the ritz. I have been down there ever since I was old enough to go to the movies. I worked at the popcorn machine when I was a -- i guess before I was a teenager and then my dad had a furniture store on the street and I worked down there. I see more energy on that street now, I see the -- the merchants and the social services groups and the -- and the city of austin police department and the various other departments of the city of austin all working together now for the first time closer together than I have ever seen it. And it all comes through the and through the support of councilmembers like councilmember cole and I second tim's suggestion that everybody check back with us for a year or so from now and see whether they can still support it. It took us a while to get rolling and we would have liked to have seen progress be a little faster than it's been. But it's -- progress is there. And anyway we thank everybody for their support. We're -- we're really proud of what we have accomplished and we think the street's coming back. We think the street needs to. We're there in the area of the convention center, we've got a lot of hotels in that area. We need to bring that street back and it's coming back. There's -- there's lots of stuff going on down there that we're really proud of. Including I'm really proud that tim league is down there with the alamo drafthouse. It makes a tremendous difference to have some of the businesses that are down there now. Anyway, with thank you guys for all you've done for us. We hope that, you know, we'll get those sidewalks maybe widened, if we can get in on the federal money which I understand we're on the list there. I think we're third on that list now. I wish we were higher because I can't think of any higher priority for the city of austin than - - than cleaning up its -- its entertainment district and its downtown historical district. But I understand that there are a lot of areas that need to be addressed. I just think that's very important. We thank everybody for -- he we really do thank that the city staff has done a tremendous job. We're really pleased and all of the city manager's office [buzzer sounding] I'm -- I've used my time, I'm sorry.

Mayor Leffingwell: You said you didn't have anything to say, but you used all three minutes. [Laughter] congratulations.

I apologize.

Mayor Leffingwell: No problem. Next speaker is fred smith.

It's actually schmidt. mayor, councilmembers. Thank you very much for listening to us in various forms for the third time today. It's been a long day for everybody. My name is fred schmidt, i own wild about music art and gift gallery on sixth street. Not everybody may know it, but our little business actually started in austin about 18 years ago as a 10 by 10 booth in what was the blue bonnet market. It's where the convention center now sits. And out of that humble beginning we doubled our size to a 10 by 20 booth and then eventually when the bluebonnet market had to be redeveloped to make way for the convention center, we finally sprung out and took out a 5,000 square foot building on west sixth street right next where to opal divines is right now in that little area, way ahead of the curve thinking that west

sixth street and sixth and lamar was going to develop more quickly than it did. We heard about capital chevrolet and a mall coming, we thought we would get there first. For the two years we were there it was us and leslie going over to mhm across the street. We couldn't stay there. We subleased our building, got on the road and transplanted ourselves to 8th and congress where we existed very nicely and happily for eight years. Next door to the paramount and state theater buildings and then that building got sold underneath us so we were mobile once again, building is still empty to this day. But we ended up interestingly in a business called wild by music, we have been dancing around coming to east sixth street for 13 years. Finally, through a complete twist of fate, we ended up where we are today which is across the street from the driskill hotel. We had no home literally to go to when our lease ended on 8th and congress and they were very anxious to get us out of there because they wanted to bring the wrecking ball in and start to rehab the building. We literally had no place to go. Trucks loaded I took one more shot at that littlefield mall space where at&t used to be, I said maybe for a little while. We went in there on a month to month lease. Did a deal literally on a napkin in 24 hours and moved in the next day. We have now been there for five years. I have got to tell ya that it's been the best five years of our business. Our business grows year over year, even in this year in a depressed economy we are doing very well. We have fallen in love with sixth street. We hope to be a long-term business there, actually becoming a property owner if we're lucky one day because our building is again one day going to be redeveloped, our whole block there is scheduled for some very nice plans down the road when the economy recovers. So we will once again find ourselves at some point mobile. We hope to actually stay on sixth street. Ance to your question earlier this after -- in answer to your question earlier this afternoon councilmember morrison, we are a very family friendly business. You were asking who is family friendly on sixth street. We're opened seven days a week, long hours, lots of children, a baby section, toys, everything else, we believe that we are part of the coming of the future of sixth street, we thank you very much for your support of all of the work that we have been trying to do there to take this opportunity to the next level. Thank you. smith -- schmidt. Mary craddick. Do you wish to speak? Okay, thank you, mary. We also have emma lynn shaun [indiscernible], josh allen signed up to speak in favor if there are any questions. And we have john rosa -- the property o signed up rosattao signed up for and not wishing to speak. That's all of the speakers that I have on my list.

Cole: Again, I would like to express my appreciation to the sixth street owners, especially your willingness to come to the table and to volunteer to tax yourself an additional sum to meet some of the needs that are occurring in your area. During this time of tight budget restraints, it is especially heartening to recognize an organization and property owners such as yourself that are willing to step up to the plate in such a manner. With that I would like to move approval.

Mayor Leffingwell: Councilmember cole moves to close the public hearing and move approval of item no. 68, Seconded by the mayor pro tem. Any discussion? Councilmember shade?

Shade: I just want to make a comment, especially lavis, i know his store from back when I was in school in the '80s, have watched it over the years, know his family pretty well. I really do believe there's been a sea change. While I recognize that it is hard to endure any additional tax burdens, I'm going to go ahead and support this because I have seen the energy. I'm so excited about -- about the commitment not only from this council towards a rebirth and a regeneration of sixth street and also a commitment on the part

of some of those social service agencies that I have worked closely with in the past to do things differently and better. And, you know, entrepreneurs like Tim League being there shows that, you know, there's been a tide, change, new energy. We also have a new city manager already referenced as being committed to this. Earlier today we had two presentations which I'm happy to share with you, because I know you weren't here, also extremely encouraging. So I know that it's a -- gives me a little heart burn, too, to add to people's tax burdens. And I can assure you that I'll be as good of a steward as possible on all of the other areas that I can be, but I do feel like this is worth giving it a try, so I'm going to definitely support this.

Councilmember Riley.

Riley: I want to echo Councilmember Shade's comment because I know Mr. Lavis, too, and his family. I hear the concern about having to pay additional taxes. Long time property owners down there have weathered a lot through thick and thin. So we need to be sensitive to the concerns that we hear. I've been convinced that in order to get the district like this right it takes a lot of long-term effort, very, very focused efforts working with all of the property owners and lessees, all of the stakeholders, to examine the conditions down there, opportunities to -- to make things work better. And I've seen a lot of very encouraging signs in recent years, especially right now. We have got groups that -- surveying the country seeing how things work elsewhere. And how we can get them to work better here. I'm very excited about the prospects for Sixth Street. I'm encouraged by the comments today about how if we just have this conversation six months, a year from now I think things will -- people will feel a lot better about having to pay the extra fee because you'll start seeing some turn around. So I'm very hopeful about what the future holds for that district. We've been talking for a long time about how to make it is a very successful district yet there are persistent problems that we've recognized for a long time. Huge opportunities to get those problems addressed and make things work even better. I really appreciate the efforts that everybody has put into this. I'm really excited about what the future holds for the district, I'm looking forward to seeing how it unfolds. I'm going to be supporting the motion.

Mayor Leffingwell: All in favor of the motion say aye.

Aye.

Mayor Leffingwell: Any opposed? Passes on a vote of 7-0. Next item is item no. 64.

Mayor? I apologize for interrupting. But before we begin this issue, origin this item, I believe there may be an issue of either postponement or a standing that needs to be addressed? And perhaps my colleague Brent Lloyd can -- can assist us.

Mayor Leffingwell: Another one much those pesky standing issues.

I might have misspoken. I am plea following the process, you are supposed to ask at the beginning if there are any issues of standing to be raised or request for postponement.

I apologize.

I certainly don't know of any. But that's the protocol.

I was worried, too. [Laughter] if anyone wants to raise those issues, this would be the opportunity that they would have.

Mayor Leffingwell: That was interesting. Do we have a staff presentation on item no. 64. Yes mayor and council. My name is Greg Guernsey with the planning and development review department. 64 is to conduct a public hearing and consider an appeal by Elda Bruciaga of a decision to approve the renewal of an outdoor music venue permit for the ATX Sports Bar at 1504 East Sixth Street. Back on June 26th of this year, we received an application for the renewal of the existing permit for a 1,140 square foot cocktail lounge known as ATX Sports Bar. On March of this year, the city council approved an outdoor music venue ordinance that provides an opportunity for an interested party to appeal the decision for the renewal of the outdoor music venue permit. This could be the applicant, this could be a notice of an opener of a single family residence located within 600 feet of the proposed outdoor music venue or registered neighborhood organization whose declared boundaries are within 600 feet of the venue. The appeal was filed. The reason for the appeal are in a letter that are attached in your backup. Elda had stated as part of that appeal that the concerns about the noise that would be emanating from the establishment. Which disrupts her enjoyment and use of the property. It requires to make modifications to the window goes and insulation of the property and the sound reduces the use and fair market value of the property either in its present use or any future use. Staff did take a look at the property in the area. I would like to show you an exhibit. I just want to show you briefly where the -- where the ATX bar is located. It's right there. On East Sixth Street. The appellant's property is on East Seventh Street. The uses in the area to the east and west are some other cocktail lounges, a hotel, immediately to adjacent to the ATX Sports Bar is a -- is an existing parking lot. I believe it's overflow for Cisco's, which is located across the street and down a little bit from this property. Not an existing bar, to the rear there's a gas station convenience store, some vacant tracts and another commercial building that fronts out on East Seventh Street. The staff recommendation is to deny the appeal due to the lack of noise complaints and size of the establishment. In addition, the existing establishment staff researched and appears that the original venue that was established was back in the 60s. Now, back in 1960s, this property, in fact most of the properties along this street were part of a zoning district known as C 2. C 2 allowed bars or establishments to sell alcohol without the need for a conditional use permit. That's certainly not the case today. All of the zoning has area, but I just wanted to let you know how that venue could have been established without getting a conditional use permit. Back in the '60s. With that, I think that I will pause. If you have any questions, I think there are at least one person here to speak in favor and I think search to speak in opposition as well as the appellant. Guernsey, just for clarity here, to -- to approve the appeal would be in effect to deny the permit.

To approve the appeal --

Mayor Leffingwell: To deny the appeal would be in effect to approve the permit. Just -- I wanted to

clarify that. So mayor pro tem was first, I believe and then councilmember martinez.

Martinez: Thanks, mayor. Greg, I wanted to ask on this facility do they have an outdoor music venue area? Or stage? Or -- I believe to the rear of the property or rear of the building is an area they have been using periodically for outdoor events. This would be coming up as a renewal of their existing permit. They have been there, as far as we can tell, since about 2006. I don't know if they have any plans to expand what they have been doing. The owner could probably speak to that a little better than I. But they do have an outdoor event. It's not every night. That's not to say that it could in the future be every night. But right now it has not been every night.

Can you point again or have someone over there point again to where the appellate's residence is?

This is the location of the atx sports bar. Being along sixth street. This is cisco's, just to give you an idea of where we are, up on east seventh street. If you come in from the corner the building with the brown roof, you might be able to see it a little bit better on this exhibit. Here's the bar. This is cisco's to give you bearing. Here's the bar. Right at the edge over here is where the residence is.

Martinez: Great. Do we have any records as to complaints filed, historical complaints? Not just related to sound. But is it an establishment that has a high number of a.p.d. calls? For any other reasons?

Guernsey: That I do not know. My staff is shaking their heads at me. I know we did check for sound, noise violations. But there's not been appear -- associated with this establishment. I know just down the street there was an unfortunate incident where I think a -- a -- one of the operators of a bar I think it was called the chief bar not too long ago met an untimely death at the end of this block, that would be further to the west. But that was not involved -- that would not involve this facility.

Martinez: How many outdoor music venue permits do we have in that corridor, that area of east sixth street?

That I don't know, councilmember.

Some of that information --

Guernsey: I know we have at least three bars within this block.

Martinez: Right, but we don't know if they all have outdoor music venue permits.

No.

Mayor Leffingwell: Councilmember morrison.

Morrison: Thank you, mayor. guernsey, I have a few questions that you might be able to help me with. One comment you made was that -- that in the '60s this was zoned the old zoning c 2 where alcohol

serving alcohol was a permitted use.

Guernsey: Actually, that zoning remained in EFFECT THROUGH THE 80s. The c 2 designation.

Morrison: Okay, one of the considerations in our new ordinance is let's see, proximity of proposed outdoor music venue, existing land uses including consideration of the date on which the venue was originally permitted. So do we know when this was originally -- originally became a music, outdoor music venue versus when the single family homes were occupied?

Probably the single family homes probably have not changed their use along east seventh. Going back in time, I was looking at zoning cases from THE 60s AND GOING FORWARD And this area has been predominantly used for commercial type of uses, cafe, bars, hotels, parking areas, that's not uncommon for this area right up until the present day.

Morrison: I think what we're looking at in the ordinance is when the venue was originally permitted. So that would have been permitted as a music venue.

Guernsey: As far as i know that goes back to when it was created in 2006.

Morrison: Okay, great. And let's see, are there any -- so can you tell us the conditions, the hours and decibel limits that are on the permit?

Guernsey: Just one moment.

Morrison: Thank you.

The -- the establishment right now has a decibel limit of 85, an occupancy of 50 and the -- the proposal as far as the hours go, the hours on friday and saturday are 10:00 a.m. to midnight. And friday and saturday on 00 on monday, tuesday and wednesday, they are from 00 -- excuse me, sunday through wednesday they are 30 p.m.

Morrison: That reminds me, we're going to have stickers that have all of those conditions on them, right? I think let's see. Then also, when we were having these discussions about this new ordinance it was sort of conceived that we would be able to have conversations hopefully with staff about the potential sound abatements possibilities, so two questions. One, do we have staff that's doing that now? And maybe we just have it in the budget for next year. And did that happen? And just -- it looks like it's sort of a wide open parking lot; is that correct?

Guernsey: It is right now. The area. It's very open on this property to the side to the rear. We did not, staff did not have any conditions that we recommended with the renewal of this permit as far as the additional landscaping and buffering because it was an existing establishment. That has immediate uses nearby, which are similar.

Mayor Leffingwell: Councilmember spelman.

Spelman: Greg, let me be sure that I understand. This particular location has not been subject to noise complaints to 911 or 311.

We checked with the police department and code enforcement. We were not made aware of any violations regarding noise by this establishment.

Spelman: That was very carefully worded. So to your knowledge there have been none. Did somebody in the police department say, there were none or we can't find any?

Guernsey: We don't have a record that's been mailed -- or --

Spelman: Okay. Has anyone from your shop ever measured the decibel rating at the property line?

Guernsey: No, not to my knowledge.

Spelman: So the limit of 85-decibels during singing hours, but we can't verify that they have actually stayed under that level of limit?

Guernsey: That's correct.

Spelman: Okay, thanks.

Guernsey: We did receive a letter from gain, an adjacent neighborhood, that's raised some questions and concerns about generally about venues in their area. And the issues that -- that they had concern about were one of the things that they mentioned was the enforcement of the ordinance historically, also there was concerns not only about that but -- but it's not appropriate for residential areas, knowing that our 's at some point may have development for residential. There was concern raised about in the future. Also, they also raised issues of noise from east sixth street, red river area, east 11th street and certain events like the pecan street festival, mardi gras, texas relays and others.

Spelman: Nothing specifically about this particular location.

Guernsey: No, I think there's a concern about having this renewed but there's a general concern that was raised by gain in the area. They are not the appellate, but they certainly side with the appellate in this case.

Spelman: Thank you.

Morrison: Sorry to get back at it. I wanted to ask the assistant city manager edwards if she could talk a little bit to the fact that we really conceded that there was going to be a conversation to help the venues

out and find a way to be compatible here. Maybe you can comment on that.

Yes, we have included on a temporary basis a sound engineer from channel 6 who sits on a team that does evaluate the permits as they come in.

Mayor Leffingwell: More questions? We will go ahead and conduct the public hearing.

Martinez: Mayor, I just have one question.

Mayor Leffingwell: Mayor pro tem?

Martinez: Greg, what happens if we uphold the appeal, how long does it venue operator have to wait before they can come back and request --

I would assume we wouldn't renew, so they wouldn't be able to operate outside with an amplified sound.

Martinez: But would they ever be able to come back at some point and reapply?

Guernsey: Let me check on that. And I'll -- [multiple voices]

Mayor Leffingwell: The city manager wants to weigh in on that.

One of the things that we could do is work with them on sound attenuation and then they could come back and apply. And that's one of the opportunities. Otherwise, if we deny -- if we approve the appeal or support the appeal, and there is nothing else that we -- that -- they are not willing to work with us, then we would not approve it. At all.

Mayor Leffingwell: So i guess the answer is there would be no -- there would be no opportunity to -- to renew the permit unless conditions cnegd.

Brent [indiscernible] assistants city attorney. The ordinance does not have a moratorium on the submission of a new permit application. While I think on a practical level staff would likely in reviewing the application look at this body's decision if you were to uphold the appeal and deny the renewal as a technical matter, they would be able to resubmit. Additionally, your option of upholding the appeal reversing the appeal or modifying, so it's also this body also has authority should you choose to do that to impose additional conditions.

Mayor Leffingwell: Thank you. If there's nothing else, we will go ahead with the public hearing. First speaker, speaking for the appeal to deny the permit, rebecca ledesma.

Thank you, mayor, councilmembers, my name is rebecca ledesma, this is my first time to come and speak before the council. So I hope that I give enough information on this matter because it really it's very, very important for my business. My husband and I own atx sports bar. I want everybody to know

that atx stands for austin, texas, because both my husband and I were born and raised here in austin. Our business is a small one. It only has 100 capacity, it's a small -- a small patio. Which we're planning to develop, make it a little bit better. We have a little bit of a -- of a temporary fencing, a temporary little - little band stand in the back and a temporary little bar. We have been in operation over a little -- a little over two and a half years and we have never had a complaint on any of the music. I now have an outdoor music permit, which allows us to play music in the back patio. We don't have very many music events due to the extreme heat. And it's really a lot of work trying to put those together. And to tell you the truth, I'm supposed to be retired. But it's a lot of work running a bar. In june, we held three outdoor events, in july we held two, and in august we held one, most of them for benefits. The last event, my husband and I acquired a sound meter. And with the speakers on the stand facing the south, towards sixth street, we measured 105 feet to sixth street and the -- the sound meter registered at 85, which is the city limit. That's what we're supposed to be at. We then behind it, look at that map, behind our area is a -- an alley, we marked from where the band stand is, we marked all the way to comal street, which is 169 feet, and the meter read 74. We then went -- continued on -- I'm sorry, I cannot pronounce her name, bruciaga's property, which is 385 feet away. And the reading there was 64. And at that time of course the band was playing and it's like a muted sound. Very low. And as -- [buzzer sounding] I'm sorry. Real quick. As far as the value of the property, that area is an upcoming valuable area, commercial and residential. And the last six months we have seen four new businesses --

Mayor Leffingwell: You're going to have to wrap up, your time is up.

I'm sorry, okay, I really just hope you consider. Thank you, please consider continuing my permit. I really appreciate it. [One moment please for change in captioners]

the area is developing so much that there is four new businesses, two under construction and one in the making so that whole area is just developing like crazy, and at -- not only just commercial customerresidences f you take on a ride on there, I am welcoming anybody to come out, a an engineer - - but we don't play that much music, we just don't do it.

Thank you.

Thank you very much.

The next speaker is antonio wanus -- wanus signed up against -- I am assuming you are against the permit and for the appeal.

That's correct.

Mayor Leffingwell: Okay.

First of all, I want to thank you for taking the time to listen to that. I own the law office on east seventh street, 1602 east seventh street, about 25 years ago I was in front of city council trying to get a personality to make that a commercial property. I was denied that for approximately two years because

they said that the traffic my office would cause on seventh street would disrupt the neighbors, so I am quite aware of arguments that really shouldn't care mustard and shouldn't matter in people's lives, so I am very sympathetic in her business and her financial investment in that location. However, when I read that this ordinance, I was surprised that as a owner of a customer shat property, I would not get notice for a permit and I am denied the ability to try to stop this. If it had not been for the bruciaga, and I was shocked that somebody could affect my property because this is the most insidious type of invasion in one property that one can imagine. Noise affecting your sleep, affecting your business concentration, affecting your ability to go out in the yard and have peace and quiet, smoke a cigarette, which is where our smoking area is, without having to listen to music that somebody selected down the street. Now, all of us who lived in that neighborhood or worked in that neighborhood are pretty good friends and we are sort of let live kind of people, what somebody does in this their house or next door to me, that is their business, what they do in their bar is their business, what they sell in their restaurant is their business, but when that noise or that argument or that disruption starts affecting my property, i feel I am entitled to at least have the opportunity to object to somebody getting a noise permit. Since I have worked and lived in that area for about 30 years that, has always been -- and nobody here is objecting to bars or restaurants opening up. We are very happy to see new businesses come to sixth street or east seventh street. Nobody is here protesting that. We are protesting the fact that -- that noise does fall into our property. I want to thank you very much.

Mayor Leffingwell: Thank you, wanus, the next speaker is moyne rice gardner. Welcome, ms. rice gardner. You'll have up to three minutes.

Thank you for allowing me to come and speak today to the city council and to the mayor. My name is vogne rice gardner, and to give you a texture of who I am, my birth date and my driver's license have the same address. It's 1609 east seventh street. And as antonio said, we are a community there. I can remember when he came to speak to my father when he was getting ready to start his business there, so it's not about taking away a business or stopping a business or stopping someone's money. It's about our community. There are two neighbors on my block of the name of rodriquez. One has been there approximately 30 years. The other has been there ten years. Of course I have been there. Now you know my age -- I have been there for almost 64 years. There is also ms. smith. She has been there 50 years, and then there are the aces. They have been there more almost 25 to 30 years, so even though we have businesses in our block, we do have a number of individuals who live there who own property and, as far as the noise, if you go back and check the records, you will find that vogne rice or friendly rice have called e numeable times over the years -- enumerable times about noise that has filtered over the neighborhood either distant yards that can be a block or two or three blocks way way. Again, we don't want to stop anybody's business but our block is unique, and if you ever have an opportunity, stop at i-35 on seventh street and drive all the way until you get to airport boulevard and see how many neighborhoods do you see, and you will only see one, and you will see that one which is in the 1600 block, because there are homes and homesteads on both sides of the street. You might see maybe one or two houses as you move further down near the french legation, you may see some in the block going towards chicon, but our block is a very special block and our neighborhood is very special. And if you go back, you will find that we have called and we have been very concerned about the noise in our area. I plan to live there the rest of my life [buzzer sounding] many of our neighbors do, my time is up. I want to

thank you for your consideration for the concerns i have. Not just for myself but for my neighbors as well.

Thanks ms. rice gardner. lori, welcome, you have 3 minutes.

I want to thank the council for the opportunity to speak at the meeting held at that time east cesar chavez grant june 17th. They were opposed to a sound permit on there and the reason was for quality of life on this future of residence at the soldot and because there are a lot of bars on 6th in our planning area we are worried this outdoor bar sets a precedence and other bars to seek amplified music permits. Over the past years our team has been asked to support other outdoor music venues in our plan area and we did not support those questions for the same reasons, most notably, the scoot in, big red sun, bird nest and the dog house. We do feel that bars and other businesses and organizations in our area that want to have an occasional outdoor music event can apply for and should be grant a temporary sound permit for special events, such as fundraisers. We want our bars to make gobs of money during south by southwest, cinco de mayo, political rallies and other types of community-based events with outdoor sound. We just -- we -- we as a team conscientiously did not roll back any of the cs1 zoning on the -- that commercial corridor in our plan, east fourth to east sixth is a commercial corridor with east sixth being designated as our local entertainment district. We welcome via new and soldot because it will bring us more housing and more residents and hopefully more families. We have not supported any new cs or alcohol because we have plenty. You know, the daa, you just heard about sixth street making a comeback, the daa has worked very hard probably ten years to diversify the uses on downtown east sixth and red river, so please don't let our part of east sixth end up in the same condition that downtown east sixth did, because we -- what you will see if you grant this permit is -- if you grant this permit is all of those little bar also start to become outdoor music venues and we -- all of the bars downtown, especially with the smoking ordinance, they're wanting to all come east with their music and outdoor stuff because you can smoke outside. So we've already seen deer land take over, rita's, there is only two or three neighborhood chicano bars left in the whole neighborhood because we are seeing people move out of downtown and come to our area, so please don't end up replicating problems that the daa and the east sixth street and pecan street neighborhood association have been dealing with for over a decade by allowing all of these music permits to take over our neighborhood. [Buzzer sounding]. And just finally, there is a question about this permit. You know, the bar has been closed for years, and we're not really sure how they got in the amplified outdoor sound permit without people being notified to begin with, leave it to the east cesar chavez area to be the guinea pig, we were the pilot to the planning area and now the pilot for dealing with the new sound ordinance, so we would like at least a postponement so we can check out the history of this existing permit that nobody knew about. I was doing campaign work in that building, you know, a couple of years ago, so we are questioning, I believe in my mind, the bar has been only opened a year, you know, so we are not understanding how this is a renewal. Thank you very much.

Mayor Leffingwell: A question from councilmember morrison.

This is for the legal department and might be for lloyd, but can you remind me, up until we changed the ordinance recently was there ever a requirement to notify neighborhoods for a request for application for

a outdoor music permit?

No councilmember morrison, notifications for outdoor music venues are entirely new to this ordinance.

Morrison: Thank you, so that would explain why you have never been notified before.

Mayor Leffingwell: Next speaker is elda versiaga. -- Elda bruciaga.

Thank you, councilmembers for the opportunity to go ahead of you. Again, I want to ask that you I live in a very close proximity to that bar and I invite all of you, any of you, to come out on a friday or saturday and sit out there and listen. And it does get very annoying. I am quite nervous, so excuse me. There is a lot of noise that concerns me. It concerns me that it impacts not only me but the other neighbors in the neighborhood. I have spent quite a bit of money rehabbing the interior of the house and there is only so much insulation you can put in to keep noise out. And it -- I am concerned about the property value going down and I would ask you to please give this some serious consideration before you make a decision. Thank you.

Mayor Leffingwell: Thank you. The next speaker is tomas vantene.

Hi, my name is tomas, and i on a building that is -- the closest office building to this bar, and I have been there for 24 years. On the weekend of the motorcycles -- that we have the motorcycles in austin, I could hear them boom, boom, boom, not only in clubs, in the apartment building close to the bar but on the opposite side, ail through my building I hear boom boom boom and it is not pretty music, it is just the bass going through the walls and I am sure you've heard that before, so even though I am a businessman, I am very affected by it. I have tenants upstairs and there are architects and sometimes they work late. I was very involved in the tod ordinance and we failed to this point, we never addressed it. times and we just didn't address it. At the same time, we described very, very expensive construction for the tod area, the city wanted then, the area that we ride a train, we were excited about the train at that time and we came up with a very, very wonderful neighborhood that somebody drew and very expensive to build, even if people that were starting affordable housing came to you and said it was going to be very expensive to build and to have affordable housing, would have to be heavily subsidized and only on this would I have two empty lots on this lot and zero activity, in fact, you see construction that is resident I can't recall, to my knowledge -- resident i outside of the to dividend amworried that -- if anybody gets an outdoor permit, it would be like [indiscernible] and sixth street where the buildings complain to you every day, but the buildings were built before the bars there and this way backwards, you put the bar there first an then hope people will build residents, I hope you don't continue this permit. Thank you.

Thank you, tomas. Susan benz.

Thank you all forgiving us the opportunity to speak on this issue, my name is susan benz and live at 1101 east sixth street and my office is there as well, across the street from a lot of new bars and I am really happy for the development in the neighborhood and really happy, what lori is talking about, this is

the -- I am a planning sector 8 district, of a local entertainment district but i want you to help us with not a continuation of the kind of entertainment district that is west of i-35 but a different kind of entertainment district that is more oriented towards families, quieter, not just sort of the college crowd. So we need your help on that. I do support all of those businesses. I really think it is important that they have every opportunity they can and this particular business, they do have the opportunity to have their outdoor events, especially like big south southwest thing, you wouldn't believe what my house is like for south by southwest but they could get a temporary permit for it and I think it is a fair way of handling its and we really appreciate your consideration.

Mayor Leffingwell: Thank you, that is you of the speakers i have signed up to speak. Is there anyone else wishing to speak on this item? Being none, the floor is open for comment or a motion.
Councilmember spelman.

Spelman: If I could. They are on the way.

Mr. lloyd.

Mr. guernsey.

If I operated a bar and did not have a -- an outdoor music permit and I wanted to get a temporary permit for a special event, how much would it cost me, how long would it take, what would the procedure look like?

To get a temporary use permit at our property, you come into our office -- I don't know precisely what the fee is but there are seasonal activities like selling pumpkins or christmas trees or having, say, a weekend sale that might be limited to certain weekends during a month, so you can come in and get that type of permit, on just about any property that is commercially zoned. There might be limitations depending on the intensity of that commercial property as to the number of people that could attend that event, as far as limiting it by actual number and the type of venue that might go in. So if you are -- is there -- the temporary use you are talking about, is that the political campaign that you were talking about?

Spelman: No, if I were operating this bar and I were denied this -- if the appeal were accept and the ferment were denied -- and the permit were denied and the owner of this property wished instead to get a temporary permit from time to time if there were -- for outdoor purposes, exactly.

I think there may be an issue if you were to say that some were going to do something over an extended period of time, let's say, like five years worth of -- get worth of temporary use permits -- I would have to take to the attorney but that may be circumventing an intent of what temporary use is if you were try dog it on a monthly basis. What you could do if you were to deny the appeal, uphold the permit, you may be able to limit the permit on the frequency of events that may occur.

Okay.

By -- by month, by day, that sort of thing.

Spelman: Okay. Be sure I understand you. If we were to deny the appeal, approve the permit, we could still put conditions on the permit?

You could and there is some latitude under this ordinance that makes allowance for that.

Spelman: Thank you, greg, i don't and you don't have a sense of how much it would cost to get a temporary permit once a month for a couple of days.

I have not gotten myself with the one stop shop fees yet.

Spelman: We've got a lot of fees. [Laughter]

just a minor point of clarification, a sound amplification permit is one-day permit so those are issued one single day and temporary use permit are for longer events for longer duration.

And I just got a note saying the last sound permit she got was \$20. How long ago was that, lori?

[Indiscernible - no mic]

okay, that was through your truck -- for your truck but not a -- the same permit, okay. How long ago was that? A couple of years ago.

Mayor Leffingwell: If we are going to have a colloquy, why don't you come up the microphone.

That is a fairly recent number, mayor, that's all i needed to know.

Mayor Leffingwell: Okay. Okay.

Spelman: One day.

Mayor Leffingwell: Any other questions? Well, if someone has a question for you --

I have a question -- councilmem councilmem ber shade.

Shade: Shade.

I was going to ask, what about the permit --

come up to the microphone.

The permit, it was like 100 something -- \$190 or something --

[indiscernible - no mic]

it was \$50 for the permit and \$195 for the notification.

Notification, since y'all started this new outdoor music vendor -- process, all of the paperwork.

But that notification was not for a temporary permit. It was notification for what you are here about today.

Yes, for one year.

So \$95 was notification, you were going to seek temporary permit for one day, you wouldn't have to do the notification and it would roughly be in the same \$50.

Twenty.

Or possibly \$20, \$206 for the one day.

Yes -- \$20 nor the one day.

Well temporary permits is what was talked about before like in special events, you will see venues during south by southwest for a day, want to do something that -- normally what they do, and I guess my question was, you made a comment that you don't really do music very often.

No, I don't.

So I guess what my question would be, why would on you be someone that wouldn't have the everyday permit that you are applying for but instead would, when you see a special event coming up, when you want to have that, you apply for one day permit and go to one stop shop, pay \$20, you get it and it works for a day.

Well --

why wouldn't that work --

councilmember, the one day permit is limited to only one permit per 30 day period.

Per month.

Per month.

Shade: And that was my next question.

A month I have no music, right, and some months maybe we have two benefits where we do that.

If you were to limit yourself to one benefit per month, is that something you could conceivably do?

Well, yes, I mean, that would be fine but some months I may have like two benefits and i were required to paperwork to do two, I mean, I would be perfectly fine with that.

Shade: I think the rule is that you have to only -- you only get one of these every 30 days. It would require some planning on your part but it would not require you to do the kind of notification or be here in front of us with this kind of a complicated process.

Right.

Shade: It might better -- you were saying [indiscernible] that there were several big red signs that would have a couple of occasional events and that's what they do.

And that could be another location, one of the bars down sixth street but in my -- in my situation on this permit, like once again, I do not have that many events. The winter months, there is nothing going on. Summer months, like this month, we just have one. So, I mean, if you grant me this permit, I am very -- you do that much. I don't perform out that much on the patio, but, I mean -- I mean whatever gets -- my business -- those are my best days, if i have outdoor venues, everybody understands that is my best nights' income.

Shade: So one of the alternatives, if I understand correctly, based on y'all's questions on that end was was -- spelman's question was you could have a permit granted with the restrictions of one per month or two per month.

That would be fine shade shade or the other alternative would be you get no permit but if you want to have an outdoor event, you would simply apply once -- only allowed once every 30 days and for \$20 you could get outdoor temporary permit.

Twenty dollars sounds good. But yes if you can g give me a permit -- or a permit that limits me to two a month, that is fine. Like I said, there is lots of the month you even have music back there.

Shade: Okay. I understand. Thank you very much.

Mayor --

is there a question.

Mayor -- [multiple voices]

how about twelve a year, that would be average of one a month and if I don't got lucky and had a couple in one month, you would be able do two in one month but they would have to average out to once a month and you only get twelve a year. Would that work for you? Twelve outdoor events in a year.

Well, we could do that because you minus the winter months, nobody goes outside.

So it would be a little more frequent in the fall and spring, when the west is not nice, not much going on in the summer and not much going on in the winter.

Yes, I am willing to work with you to do that. I mean, that's fine.

Spelman: It is only a hypothetical question, not necessarily a proposal, but i wanted to check its out.

I do want to say, my bar is small. I try very hard to go with all of the rules and regulations and everything, permitting of the bar. My bar just happens to be the first one on this new outdoor venue thing, but I never had complaints before on my bar, because I keep it very well low.

Thank you, ms. bruciaga.

The first for you, it is also the first for us, ma'am.

And I have a question.

Mayor Leffingwell: And it could also mean you could have twelve in one month, right, and then you couldn't have any the rest of the year. Mayor pro tem.

I am sorry you got all the way back there. I was going to ask you a question and you may not be able to answer there. This. But in the last twelve months, how many outdoor music events have you had?

Well, I've had -- we didn't have anything in january, february, or march -- what did i say here? I have to go back and look at my records.

Martinez: Can you guess, more than ten, less than ten?

No, 7, maybe.

Martinez: The last twelve months, 7. So if we allowed twelve per calendar year, some months you don't have any, maybe another month you have two, but you kept it under 12 the entire calendar year as councilmember spelman suggested, that would be something that would be --

yes, I would --

Martinez: -- Is acceptable to you?

Yes, that would work. Councilmember Morrison.

Morrison: First I would like to ask the neighborhood if somebody -- or perhaps the woman that appealed if the twelve per year sounds sort of doable.

My name is Susan Benz and I'm a sector 8 representative on our planning team. I think 12 is a reasonable compromise. I would just encourage you to think about this as being the first one and we have a lot of opportunities for people in this neighborhood. We could have one every night in the neighborhood, so please think of the big picture.

Was 30 in a neighborhood -- and now I have a question for staff that maybe you can stay up here for a minute. If we were to put a condition on it that this permit was only good -- there could only be twelve, I am trying to sort of figure out how we might have any hope for enforcement for that, how would -- how do we know when it is only twelve and if maybe neighbors are counting and feel like it's over -- I wonder if anyone has any ideas? Obviously we don't really have the city resources to monitor that in any way.

I might have a suggestion.

Great.

Although I will probably look at my attorney at the same time and want some consultation. [Laughter]

but perhaps as part of this we could work through that prior to the event occurring, that they have to contact my office to register that event so we can keep track during the year, so if they are going to have an event a certain amount of time in advance, they would say we are scheduling event on this day so we would literally keep track in advance of the number of events that could occur, and then once they hit the magic number twelve, that would be it for that year, and then we would have to wait for the following year and if they went beyond that, then they would be considered a violation of their found permit and with enough in here, there is a potential of losing that permit in the future. So I would.

Morrison: And so then that --

I have a couple of attorneys behind me huddling right now, but I think that would be a reasonable way to track such -- or limit the number of events.

Morrison: And so if there were any concerns from the neighborhood, they could call and see where things stood in terms of the number of events that were recorded.

Yes, if there is a rogue of events that occurred and we had a record of it, then they failed to be compliant with that permit.

Morrison: I see the huddling has stopped. I wonder if you have any comments.

Mayor Leffingwell: Mayor pro tem. Excuse me, are you finished, councilmember? Okay.

Martinez: I want to thank the appellant and the folks coming out and also want to thank ladesma, this is ideally what we are looking for when we talk about an outdoor music venue trying to coexist in a very diverse eclectic neighborhood and I really appreciate the dialogue that has happened tonight. This is, in my ideal mind, what I would like to see from all venue, and it is unfortunate but it doesn't happen. In fact, it's never happened, so with that I think we can strike a compromise. So I will take a stab at a motion that will deny the appeal and grant the music permit with a maximum of twelve outdoor music events per calendar year, with a notification at least 7 days prior to the event taking place, but I also believe that the notification is critically important, because we need to be compliant with this if we are going to start doing this, so i want to add a punitive provision that says if an outdoor music event occurs -- and of course a complaint would have to come -- but if it occurs and a notice has not been given, then it's an immediate revocation of the outdoor music venue permit. ladesma, the deal is you can have twelve events a year if we pass this but if you fail to notify us and somebody complains you are having outdoor music event we cancel your permit for the remaining calendar year.

And councilmember -- or mayor pro tem that is notification of my department, planning and review department.

Martinez: Right. Right.

And also it is substantiated of that, we have verification -- it is not just someone calling in, that we can --

Martinez: Sure.

Apd has gone out and there is an event there, not something that --

I don't think a neighbor will call in and say -- [multiple voices]

Mayor Leffingwell: Someone asked you a question, ma'am.

Yes, I would like to ask benz a question, please. What would you like to offer us.

Thank you for asking me a question. The answer to the question is we all -- the city already has in effect a means by which you can allow a place to have a permit, twelve a year, this proposal requires -- really calls upon the neighbors to keep track. I mean, we are going to have to make a note every time that little bar across the street me has an outdoor -- I am going to have to track of that so you are putting the onus on the neighbors.

I am putting the onus on the operator as well with the punitive measure I put in place. Let me tolle explain what I put into consideration to make the post. They will be out 245 bucks tonight if we vote to

uphold the appeal and then they are going to have to come back maybe once a month if they hold twelve events and pay the additional \$20 per single day permit. All I am trying to do is create an option that already exists for them but taking into account the funds they have already expended and time for you all as well to be here tonight, so i think it is a fair compromise. What we are offering is what's already allowable. I am taking into consideration as well the expenses and time that --

Mayor Leffingwell: And council, before we get into discussion of the motion, the motion is on the table and there has not been a second. Second by councilmember morrison. Now we can have a further discussion. Councilmember spelman.

Spelman: Just a question, mayor pro tem, what would be the need for 7 days' notice?

It is just an arbitrary number that at least gives a period of time before the event occurs.

Spelman: Okay. How about -- why not one business day or two business days?

Martinez: That's fine.

Stters at all.

Martinez: We need to have enough time to verify the event is actually taking place because one thing that guernsey mentioned, we want it to be a verifiable event, we don't want somebody prank calling saying we are holding an outdoor music event fort worth.

So councilmember spelman are you offering that as a friendly amendment or --

Spelman: Just exploring the issue for a moment. Sir, do you have something to say about this? I think we can wrap it up pretty quickly, mayor, I wouldn't drag it out further.

I am [indiscernible] and i serve on the torse for the [indiscernible] closures and the city has this wonderful website that you can go and see what [indiscernible] were coming up for events and if we have it 7 days or something like that it will be enough time for the city to upload the information on the website so if you want to know what is going on in your neighborhood, then the 7 days, i don't know exactly would be ideal, but this website will be fantastic for races, at leasts.

I can see from greg guernsey's smile that he doesn't want to commit his department to another website.

This is the only concern, this is the first one. You may have many, many, many more of these, I need to look at staff resources if I am going to actually have a website devoted that is going to need to be maintained to track each music -- open outdoor music venue in the city of austin.

He does have a point.

And the other part of it is these permitting run on not just calendar year but the year of the permit so aside from my assistant and the attorney wanting to tell you some additional information, but if it was limited to twelve during the course of that permit, on an annual basis, running from the anniversary to the permit rather than calendar year so it is more consistent and easier for my staff to administrate, I would appreciate that, but I know since the -- the attorney would like to give you some more additional information. Mayor.

Thank you.

Mayor Leffingwell: Do you want to allow the attorney to speak or do you want to speak first?

I just want to say that i think it's a great idea and suggestion, I wouldn't want to add that to a stipulation as this because it may potentially have harmful effects but we can add language to direct staff to consider it and explore it as an option.

Morrison: Before --

Shade: Before we -- councilmem councilmem ber shade.

Before we leave the item and knowing your neighbors and an active website, e-mailing us, i think it would be neighborly to inform them so they can get the I assume you would be willing to do that.

Show up and spend money.

Brent Lloyd.

Just one recommendation. Once a permit issues, the holder of the permit has certain due process rights not to have that permit taken away without hearing and a notice and a chance to be heard and i, therefore, would recommend against including in, as a condition of the permit any kind of provision that provides for an automatic revocation of the permit. Title 25 establishes a revocation process that affords the applicant due process hearings. That is not directly available under this code chapter and so i would advise against an automatic revocation as a part of your permit condition.

Mayor Leffingwell: So would that process be triggered by a complaint if the condition was imposed and if it were violated?

I think the department would have to undertake some kind of a revocation process that would afford the permit owner an opportunity to present their case and dispute whether or not there were, in fact, violations and if you want to get into that level of detail in the permit, you may simply want to reference following the procedures that are laid out in title 25 per a building permit revocation.

Mayor Leffingwell: Into mayor pro tem would you accept a friendly amendment to remove the language

pertinent to the revocation?

Martinez: Maybe I need to ask another question. You said an immediate revocation, you would advise against, but what about some other language, like temporary suspension until contact can be made with the operator and determine whether or not there is a violation? I mean --

based on my understanding of fundamental due process principals, any kind of temporary or permanent revocation suspension of a right granted by a permit should not occur without there being an opportunity for the landowner, the applicant to be heard and to present a case disputing whether or not there were, in fact, violations or the extent of the violations. Referencing if some sort of -- some sort of revocation process is something that you are interested in, referencing the process under title 25 per building permits would provide a framework for -- for a due process hearing in this context.

Mirror, it's unfortunate, but I will withdraw my motion and make a motion to postpone until next week. I think it is critically important we get this right.

Mayor Leffingwell: Any objection to the motion being withdrawn? Hearing none, mayor pro tem moves to postpone until next week and close public hearing and postpone until next week.

I second the motion.

Mayor Leffingwell: Second by councilmember riley. Is there any discussion.

Ifkiadd one comment. Councilmem councilmem ber riley.

I think it is great we are talking about a compromise and i am hopeful we will work something out here, I encourage the parties to visit and see what kind of common ground can be find, in addition the discussion of what we've had about the number of events and the notice period that the ordinance also contemplate that is there can be sound mitigation provided by the operator, including but not limited to landscaping an buffering and building design so there can be some discussion, for instance, especially if there are improves planned, there can be discussions about how that can be done in a neighborhood friendly way and also limitations on the hours. If the neighborhood feels strongly that -- that the -- that the music should end by some time other than what would otherwise be allowed by code, then there could be some conversation about that and i think that -- that could help make sure that this remains a livable neighborhood for the future. So I hope that kind of conversation can take place during this postponement period.

Mayor Leffingwell: Thank you. And there have been a lot of suggestions made here tonight, both on the dais and off about how to mitigate this problem or this situation. And I hope -- I would hope that we will take this opportunity between now and next week to have some meaningful discussion between the two parties and see if we can come -- come out with something next week that makes sense. But I think with regard to the language about any kind of automatic punishment for violation of a condition imposed on the permit, to me, it seems problematic, because we impose conditions or cos on some cases all of the

time and permits all of the time and that language is -- I think it is obvious that if the conditions are violated, if those conditions are violated, there is some consequence to it, so for what it's worth, is there any more discussion on that? All in favor of the motion to postpone until next week, say i .aye, motion to postpone passes with a unanimous vote. No other items on our agenda, so with that, we stand adjourned.

End of Council Session Closed Caption Log