

Closed Caption Log, Council Meeting, 12/17/09

Note: Since these log files are derived from the Closed Captions created during the Channel 6 live cablecasts, there are occasional spelling and grammatical errors. **These Closed Caption logs are not official records of Council Meetings and cannot be relied on for official purposes.** For official records or transcripts, please contact the City Clerk at 974-2210.

Mayor Leffingwell: Good morning. I'm austin mayor leffingwell. The invocation will be by reverend david boyd, st. David's episcopal church. Please rise.

Mayor, members of council, thank you for the privilege of being with you today. Let us pray. Holy one, give us ever grateful hearts for the privilege the citizens in this community, this state, this nation. Make us always aware of the responsibilities that come with that privilege. In the season of festivity for many turn our hearts to those who may be in need, let your hearts lead us to action for the good of your people. Bless now these proceedings all who gather here with the knowledge of your presence that as we work together for the common good, we might do those things that benefit your people and help us to grow as a community and as a nation. Amen.

Mayor Leffingwell: Thank you. Please be seated. Before we begin today's meeting, I want to make a brief statement. This is our last meeting of 2009 and I want to congratulate everyone on the council, the city manager and the city staff for a very I think we've made a lot of progress on some very important issues, but most notably we passed a budget that preserved all core city services and did not result in a single layoff or furlough or pay cut, and I think we should all be proud of ourselves and the city staff for their help in making that possible. There are a lot of specific things that we could talk about that happened this year, but I just want to mention one that has kind of been under the radar. It was very difficult to do. We had the cooperation of the manager and the staff, a lot of work went into an initiative that was sponsored by myself, mayor pro tem martinez and council member shade and that's a new procedure for posting council agenda items. So beginning with our january 14th meeting, which is our next meeting, the council agenda will now be posted publicly almost two weeks in advance of each meeting. That's really a full week additional to what we have right now. So that's going to give every citizen in our community and even those up here on the dais more of an opportunity to see what's coming and to ask important questions. Starting tomorrow, you'll be able to sign up on the austin notes section of the city website to receive e-mail notification of when the council's draft agendas are posted, and I think we'll see the draft agenda for january 14th actually on DECEMBER 31st. I encourage folks to look at the city's new website, go to austin notes signoff and thanks again to all the staff who worked so hard to make that possible. So with that, a quorum is present and I will call to order this meeting of the austin city council on DECEMBER 17th, 2009, AT 10 00 in the morning. We're meeting in the council chambers at austin city hall, 301 west second street, austin, texas. We will begin with the changes and

corrections to today's agenda. The first item is item number 2, add the words "recommended by the electric utility " items number 6 through 13 have been withdrawn from the agenda. Item number 56 should read, instead of approve a resolution, should read approve an ordinance regarding managed growth agreement. Item number 59, add the words "recommended by the electric " item number 60 has been withdrawn. Add to item number 63, recommended by the electric utility commission. Item number 70, add the words "recommended by the electric " item number 88, should add as a co-sponsor mayor lee leffingwell. That's yours truly. Item number 90 should add as a co-sponsors mayor pro tem mike martinez. Item number 93 should strike the words, after the word waiving strike the records requirements for a temporary food permit; waiving. And also after the word cost, strike the words and waiving the requirements for a license agreement. Item number 134, add the planning commission recommendation which is to grant community commercial gr district zoning with conditions. And item number 140 is contingent on passage of the consent agenda, so I'll just say that all of those items, 95 through 99, where it's posted in the item, it says the public hearing will be , that time will be changed to 4:00 p.m. If item number 1 passes on the consent agenda. Which we're getting ready to address. And also add item number 27, the name of the construction contract company should be mateuse construction instead of mateuse constructors. Those are all of our changes and corrections. The time certain items today 30, we'll have a briefing on the downtown -- by the downtown austin alliance. 00, we'll have our general citizens communications. , we'll take up our zoning matters. 30, we'll have live music and proclamations. The featured musician is vanessa lively. , we will have our public hearings. The consent agenda is items 1 through 99 with the following items pulled off the agenda. Item number 14 has been pulled by councilmember riley. Item number 20 pulled by councilmember morrison. Items number 43, 49 and 71 pulled by councilmember spelman. Item number 50 is pulled by staff for a brief presentation prior to action. Item number 82 also pulled by councilmember riley. Item number 85 and 87 pulled by councilmember cole. Item number 90 pulled by councilmember morrison. Item number 92 is pulled off the consent agenda. We will hear that item after hearing item number 141, which public hearing item. Negotiations are in progress on that item so we'll hear it after item 141. The following items have been pulled off the consent agenda because we have more than one speaker signed up. Those are items 25, 47 and 72. Are there any additional items to be pulled off the consent agenda? Hearing none, I'll entertain a motion to approve the consent agenda. Councilmember riley.

Riley: I'll move approval, but mayor, I would like to be recorded as voting no on item 41. I don't need to pull it or discuss it, but I would just like to be shown voting no on item 41.

Mayor Leffingwell: Councilmember riley moves approval of the consent agenda and show him voting no on item number 41. Mayor pro tem seconds. Is there any further discussion?

Mayor?

Mayor Leffingwell: Mayor pro tem.

Martinez: Please show me being recused on item 18.

Mayor Leffingwell: Show mayor pro tem recusing on item number 18.

Mayor.

Mayor Leffingwell: Councilmember spelman.

Spelman: Please show me recused on councilmember 40.

Mayor Leffingwell: Show councilmember spelman recused on item number 40. Any other comments?
All in favor of the motion to approve the consent agenda as stated and amended say aye.

Aye.

Mayor Leffingwell: Any opposed? That passes on a vote of 7-0. Without objection, council, i would like to take up first item number 43, which was pulled by councilmember spelman. That is the ratification of the firefighters contract. We will begin with a short briefing by staff. Do we have a staff member? Okay. 43. Folks, we're going to resume our meeting. If you could exit quietly, it would be greatly appreciated. You may begin.

Ladies and gentlemen, larry wass with the labor relations office. We have a short presentation, a power point covering the high points of the agreement. As you can see, the term of the agreement is approximately four years, running from december 20th to september 30th of 2013. I'm sorry, I guess -- there we go. The benefits for the firefighters the electric utility commission agreement on wage adjustments, pension contribution increases, longevity pay increases, and a work furlough provision similar to that that is in the e.m.s. and police contracts. And there is a standard schedule for promotional testing in the contract. The benefits to the city are there will be no increase in base wages this year and the first year. There is an overtime exemption which excludes sick leave as productive time in the agreement. We have changes in the hiring and cadet training provisions that allows the fire chief to design hire processes utilizing a third-party vendor without civil service restrictions. We have a lateral entry process for the first time in the fire department, and we will be able to use civilian recruiters in our recruiting effort. We will be able to implement a drug testing program in this contract. And we have changed disciplinary actions in the contract to track the same as the police, their concessions and suspensions of three days or less as they are in the police contract. We will have assessment centers for promotion to captain and battalion chief and the eligibility list will run for 24 months as opposed to 12 months under civil service. And the final slide are the cost analysis projections, and as you see, the total compounded cost is \$25,490,000. And with that, that is my presentation. I think we would entertain any questions.

Mayor Leffingwell: Questions for staff? Questions? Is there a motion on item number 43?

Mayor.

Mayor Leffingwell: Mayor pro tem.

Martinez: I'll move approval of the contract with a brief discussion. If I can get a second.

Mayor Leffingwell: Okay. I'll recognize -- mayor pro tem moves approval of item number 43. Councilmember shade seconds, and mayor pro tem, you are recognized for discussion.

Martinez: I just want to congratulate chief kerr and the bargaining team, chief McDONALD, DEVON, TOM, ALL OF You, and the firefighters. I know there's representatives from the association here. It's been a long year. Last year we did have a contract on the table that we felt was a fair deal. But the firefighters wanted a little more specificity. I think over the last 12 months what's beared out or what's been born from that is a contract that not only is fair but I think has the potential to be a landmark contract. For the first time ever the lateral hiring process where we know not only is the austin fire department one of the best in the country, but it's also one of the most attractive in the country because of the pay and the benefits and because of the city of austin and all the amenities that we have here. For the first time ever we're going to be able to go to other cities that have certified firefighters, and cities where they may be laying off, like detroit and memphis and new orleans, and say come to austin. You're a certified firefighter, we would love to have you here in our system serving our community and being a part of our community. I think this truly has the potential to be the beginning of the end of this decade-long discussion about having a fire department that reflects and represents the community. And so I congratulate everyone and I congratulate the firefighters as well. Thank you.

Mayor Leffingwell: Any more discussion? Councilmember spelman.

Spelman: Like mayor pro tem martinez, I applaud the firefighters union and the city staff for coming up with a agreement which will improve downstream the diversity in fire department. We've been discussing this for a long time. But with the changes in this contract which will not only add diversity to our fire force, but also improve our capacity to identify the best candidate for promotion and hiring and approval lateral transfer I think we're going to see even better firefighters than we've already got and one of the best fire departments in the united states. That said, I'll be voting against this not because we have one of the best fire departments in the country. Our firefighters do a very hard job. They do a very good job with that under tremendous constraints, and they deserve everything we can afford to pay them. The reason I'm going to vote against this contract is because, frankly, I do not believe we can afford to pay them this contract. This is going to add 5 million to the city budget over the next three years. The total cost of the contract. And if somebody gave me 5 million from the taxpayers and asked me would i 5 million, i might very well say no. I think the taxpayers might very well have more use for that 25.5 million than we do. Unemployment rates are not the highest they've ever been in austin's history, but the highest in its recent history. There are layoffs still contemplated. Whether people are laid off or not, there are a lot of people who are very worried about being laid off. We have a tremendous amount of uncertainty among the citizenry. If somebody told me you got to 5, you can spend it on anything you want to, I'm not sure I would spend it on salaries, wages and benefits. The most problem right now is the economic disruption. All those people unemployed, who have lost their insurance and seems to me if I had \$25 million, the place I would like to spend it is replacing some of the services we

had to lose in last year's budget since we had to remove \$30 million, or else spend more money on things like job training or affordable housing or doctors and nurse in our health clinics. If somebody told me you got the spend the 25 million and you got the spend it on salaries and benefits, I'm not sure I would spend it on the fire department, not because the fire department isn't terrific, but because we've got 8,000 other employees who do not have the benefit of collective bargaining and who historically have not had the same increases in pay and benefits over the last 10 years as the police, the E.M.T.s AND FIREFIGHTERS Have had. I think it's a tremendously unfair situation for the other 8,000 employees, many of whom now are not only well paid but in fact are paid below market. And they are paid less than they would be paid if they were working for Round Rock or Cedar Park or Kyle or Buda. It seems to me if I had \$25 million, if I had to take it and spend it on salary and benefits, despite the fact we have a tremendous fire department and firefighters who are absolutely worthy of whatever we could afford to pay them, there are other people more worthy and other services more necessary and taxpayers deserve a little more of a break than what we're giving them with this contract. I'll be voting no, but have no ill will towards anybody and I applaud all the things that you were able to gain for the city through this contract.

Mayor Leffingwell: I'll recognize the city manager.

In particular, lend my voice to the compliments extended to the mayor pro tem to my negotiating team for having done an exceptional job. I appreciate having this opportunity to acknowledge all of you publicly for the good work that you did. I also want to acknowledge the fire department as well. It takes two to negotiate. And so I appreciate the perspective and the reasonableness that you all brought to the table. I think this is a milestone in terms of our relationship with the fire department and so I am very optimistic about the work that we're going to do together going forward. I think we have, as has already been mentioned, one of the nation's exceptional fire departments. So my congratulations to all of you.

Mayor Leffingwell: Thank you. I will also be supporting the motion and strongly associate myself with the remarks made by the mayor pro tem and the city manager. This contract is not out of line with other existing contracts that we have, the police, the contract with the Austin police officers and the E.M.T.s, THE RAISES IN THOSE Are exactly the same year for year. I think it would be highly -- to say the least, irregular to single out the firefighters for special treatment and treat them differently than we treat the other components. Our other organizations in the city. I think it's a good contract. It's been negotiated for over a year now. Towards the end of achieving diversity objectives that we implemented long ago in A.P.D. departments that is now being incorporated in this contract. It's a big success. I want to congratulate the city manager and the city staff and also the negotiators on the firefighters side for arriving at what I think is a very fair and equitable contract. Any more discussion? All in favor of the motion to approve item 43 say aye.

Aye.

Mayor Leffingwell: Opposed? That passes on a vote of 6-1 with councilmember Spelman voting no. And now, council, without objection, we have had some isolated late signer-uppers for items already passed on the consent agenda. I would like to give them the opportunity if they want to speak, we have one

person signed up in favor of the motion which has already passed. Lewis desaw. Is lewis in the chamber? Lewis was signed up in favor and the item has already passed, as I pointed out. Item number 27 has a speaker signed up against the item. Howard burks? Is howard in the chamber? Howard, you are welcome to come forward and speak for three minutes, and we always have the option to reconsider if you convince us otherwise.

Good morning, mayor and members of city council. My name is howard burks, I'll apologize, I thought I had six minutes so I'm going to try to abbreviate some of my comments. We filed a protest yesterday or rather an intent to protest the award of the project that was under consideration for item 27. Really the basis of our protest revolves around the city's policy called out in chapter 2-9-a as it revolves around minority and women owned business enterprises. We believe we were the only bidder who met the intent of your policy and complied with your instructions in regard to the bidding process. There are a number of sections that came out of a mandatory pre-bid meeting that was held for this project, and again with the abbreviated time I'll have to skip over that, but it was made very clear at this mandatory pre-bid meeting by raymond young who is with the smbr office that the goals 7 and -- minority 8 women owned business participation could be achieved. And he stated it was important to this council here before me that they be achieved. The bidder who you intend to award the contract at that same mandatory pre-bid conference stood up and said the goals can't be met. We achieved the goals. We have over 1,000 pages of good faith documentation. We met with local contractors such as benitas construction to divvy out packages of the work that we would normally self-perform with our own organization so that we could achieve the goals. I believe they are also a minority subcontractor of the year recently. 9 million of work we would normally self-perform to minority and women organizations. We had an effective good faith effort and an effective good faith effort we achieved, we 5% combined minority and women owned business goal. 65% 17, less than half a percent to women owned firms. 60% Shortfall on the goal. [Buzzer sounding]

if I could just summarize.

Mayor Leffingwell: Very quickly.

We understand economic times are challenging for contractors, businesses and the public agencies. We also understand you are entrusted with the public funds to spend them in a fiscally responsible manner. It comes down to are you prepared to compromise the city's policies and principles for money. Thank you.

Mayor Leffingwell: Thank you. Any questions, council? Councilmember spelman.

Spelman: Just a question of city staff, if I could. As I understand it our process is understand the low bid so long as the bidder has met the m.b.e. w.b.e. goals. But either of two ways, or demonstrating a good faith effort to have done so. Is that correct?

Correct.

Spelman: Is the low bidder demonstrated good faith effort?

Correct. They were found compliant through meeting our good faith effort requirements.

Spelman: So according to city policy, they would actually not be consistent with city policy to choose anything other than the low bidder despite the fact the low bidder at the percentage goals, not just good faith effort, correct?

Correct.

Spelman: Mayor, move approval.

Mayor Leffingwell: It's already been approved on the consent agenda. So the only action would be to reconsider, which I assume you don't want to do. Okay. Without objection, council, I think we can take one quick item up before we go to our 30 believing and that is item number 87, which is the boards and commission item. It has been pulled by councilmember cole to make a brief statement.

Cole: I want to thank the subcommittee and I know take subcommittee compares about diversity but I wanted to call attention to the fact even after we potentially approved this item, we may not have an african-american representative on that board. But I have -- I had discussions with some of the other entities who are yet to appoint representatives, and they also share our commitment to diversity. So I simply wanted to make a comment on this item just to highly encourage the other entities to consider diversity.

Mayor Leffingwell: Thank you, councilmember. And I believe councilmember riley had a brief statement.

Riley: Yeah. Mayor, the subcommittee did meet and consider the item respect to the city's appointments to the -- citizen appointments to the capital metro board and the committee recommends that appoint anne stafford. We did in conformance with council's pry resolution, we did also identify two other folks that we recommended, but the committee suggests that we appoint anne stafford and with that suggestion I believe this item could stay on the consent agenda.

Mayor Leffingwell: It was pulled off the consent agenda so we'll need a motion. I will read the entire list of board and commission appointments. First to the electric utility commission is steve taylor, appointed by councilmember shade. And this item waives the attendance requirement under section 2-1-26 of the city code. To the austin-travis county advisory board, paul corossa appointed by your truly, mayor leffingwell. And to the capital metropolitan transportation authority board, three names submitted by the ad hoc committee. The recommendation is anne stafford, so that will be the name on the agenda item that we will consider unless there is suggestion for change by other councilmembers. City of austin employees retirement system, ed golden is the council nominee. And to the travis county health fair district board of managers, and I believe, to be technically correct, the name of that board of managers has been changed to the central health board of managers. Can we note that correction in the minutes? The name is bobby barker, nominated by the council. And those are all of the folks who are nominated

to boards and commissions and intergovernmental bodies for today. That is item 87. I'll entertain a motion with the notation that anne stafford would be the cap metro appointee from the city council. Moved by councilmember morrison, seconded by councilmember spelman. Any further discussion? All in favor say aye.

Aye.

Mayor Leffingwell: That passes on a vote of 7-0. And now we are a little past 30 time for a presentation on the downtown austin alliance. So we'll go ahead with that.

Mayor, mayor pro tem, council, rodney gonzalez, acting director for the economic growth and redevelopment services office. With us today are the downtown austin alliance and the -- and marie crane of crane and associates, an austin based firm that provides consulting services for quantitative and qualitative market research. Every two years the daa conducts a survey to monitor the perceptions of downtown austin and identify trends and changes in their perceptions. crane will present to you today a summary of those findings. Additionally a copy of the full report will be distributed to council offices today. And now I'll turn the podium over to dr. marie crane.

Good morning, mayor and councilmembers. Thank you for the opportunity to be here this morning. It's an honor to present to you and a privilege to work with the downtown austin alliance, and I want to begin by thanking the city staff who supported our efforts to make this presentation to you today. Our purpose is to provide you with an understanding of the perceptions of downtown austin. Are you going to flip through this or am i? Okay. I'll see if I can take the wheel. This project is undertaken with several research objectives. Motivating it. The first is to monitor key stakeholders' perceptions of downtown austin, including their perceptions of its strengths, its weaknesses or limitations, and suggestions about how downtown austin might be improved. The second purpose underlying this work is to monitor the awareness of the downtown austin alliance and how effectively it is engaging in its charge and mission. The third is to provide an understanding of trends and changes in stakeholders' views about downtown austin over time. And the fourth is to inform the downtown austin alliance's priorities and directions for the future years. As part of their daa planning effort. I want to take a minute to talk about research methodology. So those of you who are not method logical betweeners, bear with me. A few of -- dweebs, bear with me. A few of you probably are. The downtown austin alliance has been conducting surveys of stakeholders' opinions of downtown austin biannually since 1995. So that's a 14-year period. This is the 7th such survey. It was designed as a tracking study, and though it changes somewhat each time it's administered, it retains a lot of the fundamental methodology in order to serve as a tracking device. This year there are four stakeholder groups studied. Downtown property owners and managers and downtown business owners and managers. Those are the most direct immediate constituents of the downtown austin alliance. Over the years, the stakeholders who are included have increase,ed have grown to include downtown employees. And now other downtown nearby residents. The sample sources are listed there so that we -- the daa provides us with the entire population of property owners and business owners, and we use a random digit dial sampling methodology to identify nearby households and households with downtown employees. So roughly one in four of the downtown -- I mean nearby residents includes a household -- is a household with a downtown employee. The map on

the next slide shows you the geographic area. So it's a -- does not include everybody who works downtown. It's the limitation that I want to call to your attention. There are 551 interviews completed altogether. And sometimes you'll see that we are showing findings for nearby residents, and that may include 350 households because we've combined nearby residents in some instances households without downtown employees and households with downtown employees. Okay. One other thing I want to tell you is that we are -- don't believe that any one item should be taken to the bank, and so we are very author re, we use multiple measures to capture everything that's important to us. A number of close ended questions, a number of open ended questions and we find often it's respondent's answers to open ended questions to help us determine accurately. Let's go by looking at their evaluation of downtown. Most of these items have been asked over the 14 year period. There are four columns representing the results of the four stakeholder groups. There are 10 dimensions, and the question asked is at the bottom of the page using a 10 point scale, how would you evaluate the downtown area in terms of the 10 dimensions listed on the side. As you can see, downtown gets a mean rating of 8 or above on almost -- on seven of the 10. The three that get what I would call fair ratings, that is not fair or very good ratings, safety during the night, being a desirable place to work and live. It is not surprising to us not everybody wants to live or work downtown. Some people want to live in the suburbs or work close to their homes. I would tell you here that the definition of downtown that is provided to respondents is the area bordered by Lady Bird Lake on the south, MLK on the north, I-35 on the east and Lamar Boulevard on the west. We also asked respondents to compare their evaluation of today to three years ago. The next slide shows their responses. You can see more than half of each group thinks that downtown is improved today. On eight of the ten measures, including interesting places to go, the visual appeal, being a desirable place to live, the cleanliness of streets and buildings, the safety during the day and during the night, being a desirable place to shop and a desirable place to work. There are two items where most respondents do not see downtown improved today compared to three years ago, and those have to do with transportation. Ease of getting around downtown and accessibility of their commute to downtown. I'm going to skip the next slide for the sake of time and tell you in addition to asking about functional or material aspects of downtown, this survey includes some measures of people's perceptions of the sort of quality or flavor of the downtown area. More subjective, certainly, but not necessarily less important. So on slide 8, will you see the four stakeholder groups' perceptions of downtown with respect to these ten attributes or qualities. And all groups gave the downtown area a very high rating when it comes to being the heart of the city. A mean of in excess of 9 on the scale is high. The downtown area gets very favorable evaluations on all dimensions but two that were sort of precautionary measures and those were whether they thought the downtown area was mainly a place for young people or whether the downtown area was an exclusive kind of place. As you can see, they do not ascribe those characteristics to Austin's downtown area. The next several slides provide information about response -- respondents' answers to questions -- open ended questions about what they think the strengths of downtown are and then the limitations or challenges. In terms of their frequency, the five most often mentioned assets or strengths of downtown are its cultural offerings and events, its natural environment, the feeling of the place, its atmosphere, the great number and quality of restaurants that are there, and fifth, its size or walkability. The next few slides offer some verbatim -- some illustrations of verbatim comments by respondents so you will know what we mean when we say they identify cultural offerings and events, for example, as one of the most important strengths of the

downtown area. They are saying things like, okay, what do you consider the most important strength of the downtown area? The fun things to do, the art festivals and music festivals. The great events. The museums are phenomenal. They have fun family things to do. There's always great live music. Or there's always something to do there. With respect to the identification of the natural environment as one of the most important traits of downtown, respondents made comment like they've put in a lot of trees, that makes it look better. The natural resources are the key to downtown success. The parks are a strength. I enjoy lady bird lake and the park around it, and so forth. When it comes to the atmosphere or feeling of -- thank you -- of downtown respondents made a number of comments about people and energy, sort of the vibe. I like the diversity of downtown is what I like, austin has a good vibe to it, people are friendly, it has a cool feel. It remains grounded in its roots. It's laid back. It draws people from lots of backgrounds. It's the hub. And you can turn through them, with respect to restaurants, there isn't a great variety. They like the fact there are a large number of restaurants and the quality of the restaurants is good. They have a lot of choice. They are happy about that. And finally, walkability. This is a finding that is new to 2009. They are talking about the tackett that you can get where -- the fact you can get where you want to go downtown on foot. Everything is within walking distance. It's small enough to walk around, easy to get from work to a restaurant at lunchtime. And one of my favorites, you don't even have to get this your car to go to lunch. So again, that's sort of a summary of what people in the stakeholder groups referenced as the most important strengths of downtown. When it comes to what they consider to be the most important weaknesses or short comings of the downtown area, five topics rose to the top. The most frequently mentioned issues are traffic or transportation, inadequate parking, attention to environment, including parks and green spaces -- or inadequate attention, i suppose it should say. What some perceive as excessive growth, and insufficient attention to the historic aspects of downtown and historic buildings. You'll notice that when people are asked to identify the weaknesses and short terms of downtown, they also offer suggestions for actions that could be taken. So when it comes to transportation, respondents in the stakeholder groups said traffic is the weakest point, there is horrible traffic in the morning. The bus system needs improvement. It's a must to install mass transit. We need more bike lanes. What do they mean when they reference inadequate parking? I'm told by the folks at the daa there's actually quite an extensive inventory of parking downtown, but from the standpoint of these four stakeholder groups, it means i hate that there is not enough parking. I spend more on parking than gas. There is definitely not enough parking down there, or even i try to steer clear of downtown because of parking issues. Again, we're talking about the perceptions of these stake holds. -- Stakeholders. When it comes to their concern about the level of attention to the environment including parks and green spaces, there's a good range in diversity of concerns expressed in this category. Some is about growth itself being detrimental to the environment. Some of it is wanting more green space. There are comments about the need for better landscaping, improvements to the parks. And even air quality concerns, air pollution, and sometimes even noise pollution. This is something that as downtown has grown is a relatively new set of concerns or criticisms of the downtown area. Another one that is again only surfaced in recent years is a concern about excessive growth. And with that, something of a change in the character of the downtown area. So these comments give you a sense of that. Some of them very straightforward, just too much growth. But others, downtown is too corporate now. The up-ies are taking over. Or people are not as friendly as they used to be. I wish the city would keep its roots, be more eclectic and hippie. And the fifth area of concern that surfaced in this survey was attention or

insufficient attention, really, to the historic character of the downtown and its buildings. I'm afraid that historical buildings will be knocked down. We need to fix them up, don't destroy them. Protect Austin's history, it's very important. Okay. And that's about the strengths and limitations of downtown Austin. We want to go next to a particular issue that was studied in greater depth in 2009 than in years past, and it has to do with transportation to and within the downtown area. We could see from the survey two years ago that this matter was of increasing concern to the four stakeholder groups that are studied in this research. I want to call your attention in this next slide to the column on the far right of the page. Not that property owners and business owners don't matter, but certainly downtown employees are far more numerous, and so I think it's most important that we look at their responses. 72% Of them you can see come to or leave downtown using their own vehicle. An additional 14% do that in a carpool context. A small percentage, 13, use public transportation or walk. Within downtown, you can see almost half, 45%, get around within downtown using their own vehicle. A very small portion use public transportation. But an increasing number, 40%, are walking around downtown. We asked them because of the complaints that we had been seeing in recent years about the availability of parking and the cost of parking to provide us with some actual information about the cost of parking. So again I'll call your attention to downtown employees, and you can see 28% spend nothing, 44% spend less than \$50 a month. So 72% of downtown employees are spending by their own report less than \$50 a month to park downtown. That gives you sort of a way to compare actual costs with the perception that it's too expensive. 14% Spend more than \$75 a month. Going to move on to the next few slides which focus on the daa. As you recall, one of the objectives is gain capability to monitor perceptions of the daa and its effectiveness. Familiarity is high. 70 Or 80% are somewhat familiar with the daa. I'm going to skip the next slide and move to the overall evaluation to say that it's quite favorable. The daa is fortunate in the sense that 76 to 85% had these four stakeholder groups evaluate the job that the daa is doing by describing it as good or excellent. This is a hard one to talk about. There's a lot of data on this page. Respondents are asked what they think -- how important various issues are in terms of the daa's priority and activities going forward. And as you can see, all -- property owners, business owners and downtown employees think all 12 or 15 of these things are really quite important. We've highlighted in yellow the things that get the highest ratings, but really there is a small difference between those that get the very highest and those that get the very lowest. So property owners and managers place the highest priority on addressing housing, shopping and Congress Avenue. Business owners on sidewalks and trees, as well as attracting and retaining businesses. And downtown employees place highest priority on sidewalks and trees, security and arts and culture. By way of quick summary of the things we've talked about today, perceptions of downtown Austin are quite positive. I think it's worthwhile to take pause and appreciate the efforts of the daa and the city of Austin and others to create an environment that is evaluated so favorably. I would call your attention to the fact that the sole exception is transportation. Ingress and egress and movement within downtown. I think it's important to note that the sense of the flavor or the feel of the place is also very favorable. It's described as exciting, inviting, the heart of the city, energetic, friendly and full of cultural attractions. Those are very much in line with the daa's own vision for the downtown area. It's considered to be sort of the right size. There is a sense of appreciation of the growth and the [inaudible] environment downtown. We're getting a great sense of all you can accomplish on foot downtown, which is a relatively new finding. But I say right size because there are those among these respondents who are concerned about what they can think of as

excessive growth. The downtown austin alliance is -- has enjoyed high awareness and favorable ratings. And last but not least, I'll review with you the areas for improvement. I think it's important to note and as we've been looking at this data over a 14-year period that, you know, downtown austin has seen a great growth in terms of the built environment over that period of time. And favorable evaluations from these stakeholder groups with respect to that growth in the built environment. Now we are seeing, however, concerns about other aspects of downtown. A progression of issues that one might expect to occur over time. They are concerned about transportation. They are concerned about the natural environment. They mention that the parks are a great asset, but it's the fact of the parks when it comes to the condition of the parks, they are not evaluated so favorably. And another area for improvement, you know, I don't know if improvement is the right word, continued attention, is the presence of a distinctive sort of character and quality of downtown austin so you know at any moment that you are not in downtown -- what are the made up city's names? Downtown anywhere usa. That you are in downtown austin, that it's a unique place with a character that is not replicated and there is a sense that's an important quality to be mindful of in the planning going forward. I would be happy to take any questions.

Mayor Leffingwell: Questions, council? Councilmember spelman.

Spelman: crane, this is a really good presentation. In large part because I think you accomplished your objectives of asking the right people the right kinds of questions, asking them the right sort of way and having questions walking against each other. So I believe your findings. And a lot of public opinion poll findings I don't believe so that's an accomplishment as far as I'm concerned.

I share your perspective.

Spelman: I figured you probably would.

The concern one should have for the results of many surveys.

Spelman: I figured you probably would. I'm also interested in the fact you or a predecessor as a contractor has been doing the survey for 14 years and wondered since you probably looked at the results of those 14 years, if you could highlight the most important differences between what you are presenting today and what you would have presented two years ago, four years ago, six years ago.

Okay. Thank you for asking that question. There is more detailed report that compares the 2009 findings to the 2007 findings. And frankly, there is very little change in the last two years. Very few findings that show a significant change. There are no findings that show a significant change in an unfavorable direction. So there are some, know, different topics that come up in the answer to the open ended questions, but in terms of closed ended questions, we do not have a significant decline. And I don't mean just statistically significant, meaningful decline in any of the closed ended questions. If we look back to 1995, we see a lot of changes. If you glance at the table that shows sort of the overall evaluation of downtown, it's slide 5, and you can see, first of all I'll tell you, councilmember spelman, some questions have been added over time because it didn't make sense to ask them in 1995. For

example, as a place to live. You know, we didn't ask that in 1995. So some cannot be tracked back that far. But safety, interesting places, cleanliness, visual appeal, many of those things have been tracked. The mean ratings that were in the findings from 1995 are generally about six on a ten point scale. And now the mean ratings are eight, eight and a half on a ten point scale. So certainly over time we -- taking the longer view, downtown has improved on every metric measure really with the exception of transportation. And new issues like the environment and green spaces have arisen.

Spelman: Thanks very much.

Mayor, I have a couple of questions.

Mayor Leffingwell: I would just say that transportation is no big surprise to anybody and it's already off scale bad, that's the reason it hasn't changed. So councilmember cole.

Cole: I wanted to ask your opinion or views about the image of downtown when it states mainly a place for young people and we have a low rating. Do you have any comments on why that might be?

Well, truly the -- downtown austin alliance sat down and said what -- you know, develop a vision for downtown and what kind of a place it would be. And they were -- and the first, I think there are 10 characteristics, are characteristics that the downtown austin alliance was working to achieve in the downtown area. Then they said, you know, here are a couple of concerns that we want to keep our eye on. We want to see if stakeholders are property owners, business owners, employees and nearby residents think it's predominantly for young people. Because if they do, we need to make a change. And we also want to see if they think it's an exclusive place that isn't open or inviting. Means of five, fours and fives are telling us that these stakeholder groups do not ascribe this characteristic to downtown austin. I suppose it would be better if we had means of two or three, but you can see that there's -- the way people use ten point scales, you know, all the answers in the top half of the scale, so really -- I think there's a notable difference in terms of how they describe downtown office, characterize downtown austin with respect to these two qualities and all the others. This is them saying I don't think this is particularly true of downtown.

Cole: Okay.

And they are there because there was some concern that they might -- that the perceptions might exist. It was a way to attract -- a way to track that, measure it.

Cole: We have had discussions at various points on the dais about trying to have families downtown. And so this response to the survey just gave me cause to pause, I guess I would say. So -- and I'm very glad that you are collected that data. I had a couple of other questions. I guess mayor leffingwell kind of got at the traffic, transportation issue, but i was wondering if you had any insight as to any particular parts of downtown that we have a -- especially a parking issue.

I don't think that the survey is specific enough or large enough in scale to provide findings that should

interpreted that way, councilmember cole.

Cole: Okay.

The survey is designed to be broad rather than deep.

Cole: I totally understand.

I would say it's not appropriate to interpret it in terms of this pocket of downtown or that pocket of downtown.

Cole: And I only raised that because, you know, we are considering the green development, which will have a parking garage, and, of course, we are considering the waller creek development, but no particular parking garage in connection with that, and, of course, we are evaluating the feasibility of rail, and also because I know the state garages are located on trinity and those are for state employees, but there has been some discussion about the state may be moving some of its facilities. So it's kind of hard -- i don't think we've done a careful enough analysis of what really is needed in terms of parking and we have a lot of surface lots, and so I just brought that up for that very reason.

And those are all excellent questions and I have to say i don't believe this research addresses them. Other research could address those in a much more specific and appropriate way. Frankly, what this tells us is about perception of parking and transportation. And it's really different than a transportation planning study or something else. Just people think there is not enough parking or that it's too expensive. That's important to know. Even if you believe the situation is out of line.

Cole: And then the reality of what the situation is.

Exactly.

Cole: Former mayor pro tem betty dunkerley and i sponsored a downtown open spaces plan, particularly dealing with the parks, i guess in particular. I'm wondering if you know or anybody on staff knows about the status of that and how it's coming along.

I should defer to staff. Others would be more knowledgeable about that.

Cole: Okay. I'll just visit with them separately about that because I am concerned about it. I just have not brought it up with them to this point. Thank you for your presentation. It was excellent.

Thank you very much. Privilege.

Mayor Leffingwell: Thank you. Councilmember rile re.

Riley: crane, this was an excellent presentation. I appreciate it. One thing I wanted to ask about was an

area of concern identified on page 15. And that was the last one, attention to historic character and buildings. I think there were a few quotes related to that.

Yes.

Riley: And I notice there's no asterisk before that so that was not a widely mentioned weakness in '07. I'm just trying to understand what's driving the appearance of that concern on this survey. Do we have any sense of that and was there -- were there particular comments about a specific concern?

Have I to say that the context someone gets a call and says we would like to take time to ask you questions about downtown austin. There are no close ended questions in this survey that raise the topics -- that's not true. There might be one. I think there's one in a 15 or 20-minute survey. So there's nothing that sort of sets the agenda through the questions that are included in the questionnaire. That focuses their attention on this issue. Initially in 2007 and again in 2009, this concern with the historic assets, preserving, developing historic assets of downtown is one that kind of comes up on its own. As a researcher, I would say that means it's important to pay attention to. And it seems when I take all things into consideration, and this is an interpretation on my part, that it becomes important because there is so much new development downtown now. And by contrast, there is growing realization that green spaces and historic spaces have value. They capture not only something that we can't develop now, but something that is uniquely austin, which these stakeholders care a great deal about. So this is a relatively recent concern. It didn't come up 10 years ago. It's come up in the last -- 2007 and 2009, and I really think it's an outgrowth of other dynamics in the context of the downtown environment.

Riley: Thanks.

Mayor Leffingwell: Any other questions? Thank you very much.

Thank you very much.

Mayor Leffingwell: Council, we need to address an error that was made on the changes and corrections sheet for today. An item was supposed to be listed for postponement because it has not yet been heard by the planning commission. Postponement request from staff of item number 55 until JANUARY 28th. Of 2010. So if we would get a motion to reconsider and postpone item 55 UNTIL JANUARY 28th. 2010.

So moved.

Mayor Leffingwell: Motion by councilmember spelman, seconded by councilmember cole to reconsider and postpone ITEM 55 UNTIL JANUARY 28th. And I would like to add a friendly amendment in the way of direction to that that we have a full staff presentation on this item. This is the downtown plan on JANUARY 15th. 14th, CORRECT. Thank you. Any further discussion? All in favor of that say aye.

Aye.

Mayor Leffingwell: Any opposed? So item 55 is postponed until JANUARY 28th. Thank you. There were three items pulled solely because people signed up to speak. Without objection, we could take those first up in the interest of saving time and start working our way through the rest of the items pulled from the agenda, which are numerous. But the first is item number 25. And item number 25 has two speakers. The first is John Thomas who is signed up against. Welcome, you have three minutes.

My name is John Thomas and this is John Dague. We are representing an Austin bidder on the Austin Bergstrom Airport Overnight Apron. We were a bidder on a project 56 DBE goal, the only bid they met the goal. The low bidder that you intend to award the project to was 82% of the DBE goal. Quite frankly, we're just at a total loss as to how a good faith effort could be made when there is ample opportunity to meet the goal. Again, we're just at a loss as to how it could be approved and we think it's in favor of a lower bid, which is in conflict with the city's rules.

Mayor Leffingwell: Thank you. Are you John Dague?

Yes, sir.

Mayor Leffingwell: You have three minutes. Reset the clock, please.

We take exception with the idea that Chasco made a good faith effort that they met their DBE commitment through achieving a good faith effort. All the contractors have submitted proposals were required to include disadvantaged business proposals. We had a goal of 28.5%. We all were required to solicit quotes from the subcontractors. We also listed from the same list of subcontractors Austin Bridge and Road put together a DBE commitment of over \$2 million. There was another bid. Rgm put together a commitment of over a million dollars. Chasco only had \$280,000 of DBE commitment in their plan. We received the same quotes that all the other subcontractors would have received and we believe that Chasco had to overlook and dig out some of the DBE contracts and participation in order to perform -- they chose to perform the work with their own forces and ignored the DBE that they could have awarded to the DBE contractors. [One moment, please, for change in captioners]

Did you have additional comment? Or just questions. Any questions from staff? We'll entertain a motion on item 25.

Move approval.

Leffingwell: Councilmember Spelman moves to approve item 25. Is there a second? Seconded by Councilmember Morrison. Any discussion? All those in favor, signify by saying aye say aye? Any opposed? It passes on a vote of seven to zero. The next item was citizens signed up to speak is on item 47. Item 47 has three citizens signed up to speak. Don Johnson who signed up for item 47. Johnson, you're whack wk to come up here and try to talk us out of it. Are you in the chamber? Gus Pena? Is Gus Pena in the chambers? He was here earlier, I know. And the third speaker signed up for item number 47 is Dr. Pat Nells. Pat Knells in the chamber? Don Pat Nells. Not in the chamber, those are all the speakers we have signed up to speak. I'll entertain a motion on item 47. Mayor pro tem moves to approve item

47. Seconded by councilmember riley. Any discussion? All in favor say aye? Any opposed? It passes on a vote of seven to zero. Next item is number 72, which has four -- one signed up if there are questions. There are actually three speakers wishing to speak. The first is marissa tellford? Is she here? Don't see or marissa tellford. Denise wade? Is did he knees wade in the chamber? Kirsten chuchshell in the chamber? Sheryl abby has signed up for there are any questions. Once again, marissa tellford, denise wade, kirsten cuchshell. Those are all the speakers we have. I'll entertain a motion on item 72. Councilmember morrison is going to approve item 72. Seconded by councilmember spelman. Any discussion? Councilmember morrison.

Morrison: I would like to mention that this is the contract for our new website redesign, and I wanted to thank staff for all their work and really I think getting us on track to do this in a great way. And I had the opportunity to look at the proposals and I'm very impressed with the recommendation that the staff has made. It's going to be -- I think we can be very optimistic that we're going to be on a great path in the near future. So I just wanted to say i think staff's recommendation is terrific.

Leffingwell: Thank you. I'll also comment. We began this effort about two years ago. It's been a long, hard slog. There have been several changes and staff leadership on this item. And two years ago we held a series of public hearings around the city to gather public input and we also received I think the number I remember is over 1200 suggestions and comments open line. so we've had a lot of public input. Time has elapsed with the new architect -- not the builder, but the architect of the new city website, we will now go back out and get additional public comment. This contractor is a local business and the mbe, wmbe participation requirements are met. We think it's a good choice. By far the lowest bidder on this contract. So I will be supporting it also. Councilmember shade.

Shade: I'll echo the comments that have already been made, but I also want to add that although this has been a lengthy process and we've had input and there are certain things that are just obvious that could be done now, I really want to compliment the staff for not waiting until this process gets fully underway. They're using what we have to make some significant changes now. While our current website isn't everything that we would want it to be and in some ways behind the curve, we're really ahead on some of the things that we're doing with lividio and streaming video and all the council meetings have been on for awhile, but just in recent weeks we've added boards and commissions. There are now 20 different meetings added to the regular series of meetings that people can watch live video. I want to compliment the staff, they're not waiting for this lengthy process to be over, they're using the changes using what we have now. Special callout to channel 6 where if you go to their websites you can see the great improvements that have been made. Thank you for working with what we have and I do look forward to seeing where we go from here, making some good progress.

Thank you. And I failed to mention a couple of very important things that will be incorporated into this website. First is what we call putting the city's checkbook online, an item we've talked about for months now where there will be disclosure of city spending online in an easily retrievable state for the public. We think that's very important and are fully supportive. And the other item is to put a payment center on the city's website so you can pay fees and, for example, utility bills and various other fees for development and so forth, development and review. You will be able to do that online. So this will be a

comprehensive city website. Again, we're all very excited about it and very glad to see that we're moving forward again on it. Any additional comments? All in favor of item number 72 say aye? Any opposed? passes on a vote of seven to zero. So we'll now go back in order. Item number 14 is pulled by councilmember riley.

Thanks, mayor. This is another toilet item. This was one of a number that were on our agenda, and this was the one that rmedz --

can't seem to flush this subject. [Laughter]

Riley: Just in the interest of thorough flushing I just wanted to make sure we're all up to speed on where we stand with our rebate program. I know there's been a lot of interest in this and some comments to the effect that the program is being halted temporarily. And I just wanted a quick update from staff as to exactly where the program stands.

Leffingwell: Okay.

I'm darrell slusher, citizen director in charge of the toilets at the water utility. Well, we have about 14,871 applications for multi-family and institutional, commercial rebates. Of those, 14,008 -- excuse me, 14,102 are multi-family. They are in various stages of the process. We have, as I think y'all anticipated and discussed when we came for the budget amendment, this program has proven to be so popular at this stage that we've had to suspend it. What we've done is suspend it until may. We'll reevaluate it at that time and see if there's more money left, we'll put it back into the rebate budget at that point or we can discuss that with the council at that point. Let me just add of these 14,000 that we were talking about, that's about .26 million gallons a day in 4 billion gallons over the 15-year life of a toilet.

Riley: Okay. As you go about the reevaluation of our rebate program, do you expect that the results of that reevaluation will be presented to council or relevant boards and commissions?

If y'all want to have the reevaluation, I would certainly anticipate that it would be. We're not just going to present it to the boards and commissions, we're going to discuss it with them as we reevaluate.

Riley: I'm glad to hear that. I think that would be very helpful. I know there is a lot of interest in this, and in particular I think given the high level of -- given the popularity of this program, I think it's incumbent on us to examine the availability resources that we have and do some strategizing as to exactly how those -- those resources could be allocated most efficiently.

Absolutely.

Riley: That would mean identifying the highest users of the toilets that are out there, assessing where the greatest number of older, inefficient toilets are and in particular which of those are getting the highest usage. I don't know if that's old hotels, bars, restaurants, but we ought to be very strategic in our assessment of the universe of older toilets that are out there. So we can make sure the funds that we

have are allocated in the most efficient way.

I can give you some of our estimates are before this 14,000 that some of these of course being postponed today until we finish and complete the inspections, but we estimate that there are about 37,000 toilets that are at the old wasteful 76 gallons per flush. So there's about 37,000 of them. This is more than a third once these all go through, they all go to the maximum. That's where we think there's the most. We have 16,000 is what we estimate of commercial out there. We do want to get those. We have some of these on the agenda today are hotels, all but one. Of that 769 number I gave you, most of those are hotels. We do think there is opportunity there. The largest number is in multi-family. Now, you do get more savings on a commercial one, but the universe of what's left out there,, twice as many multi-family as commercial.

Riley: Okay. And it's not only a matter of figuring out how to get -- which toilets to replace, it's also a matter of deciding what's the most efficient way of doing that, whether that means free replacement or rebates or some sort of incentives. I think it would be appropriate to step back and think that through carefully and look at what the best idea would be to stretch your dollars the furthest and achieve the greatest level of savings that we can.

Absolutely. We are going to look at that number because when you see this much response and at the number, we didn't kick off at this number. We also have the free toilet program council approved last week. We ran out of those, hit the contract amount more than halfway through. It didn't last the whole year, it was so popular. That's the first time that's ever happened. We would like to continue to do that and wipe out a lot of these numbers through that.

Riley: Okay. I'll look forward to tinting dialogue on this issue. And with that, mayor, i would move approval of the item.

Leffingwell: Councilmember riley moves approval. Seconded by councilmember spelman. Is there any further discussion? All in favor say aye? Any opposed? It passes on a vote of seven to zero. And with that we will take up item number 20, which was pulled by councilmember morrison.

Morrison: Thank you, mayor. This is an item where the city is purchasing some property from a private property owner, and there were some questions that had arisen in the community that I thought it would be helpful if we could hear from staff on that purchase. Thank you, mr. garza. The concern was raised because the purchase price -- we're approving up to \$950,000 for the purchase price, and someone had noticed that the travis central appraisal district had appraised it at about \$37,000. So the question was why was there such a discrepancy between the appraisal district and us paying almost a million dollars?

Mayor and council, rudy garza, assistant city manager. The information we don't have is exactly what tcad considered. What we do know is that tcad has not changed the value of that property since 2000. So that's stayed consistent. The way we came up with the value -- in fact, we did not come up with the value. We hired an independent appraiser that then considers highest and best use for that property, which would consider the 60% impervious cover, it considers the current zoning, making that property a

very valuable property. It is unfortunate that the appraisal district had not reflected more of the market value because certainly for the last nine years the city of austin has not been receiving its full assessment that we believe, based on the appraisal. But again, this is another example of if there was a process that we could work with on tcad, but it's just very difficult. In the end it's kind of the honor system. If the property owner knows -- in this case we know the property owner had to have been aware that that property was worth much more than \$37,000, but didn't file a protest to increase the value. [Laughter]

Morrison: Imagine that. [Laughter]

but what we will use with this information -- again, had it not been for us needing this property, we would not be doing the appraisal. With the information that we learned, we can go into that same area for some properties that may be adjacent to or in the near haven't that may have the same factors, the impervious cover, the zoning, and just share that with the appraisal district and hope that they would in fact consider that when they reevaluate the other properties that are in fact there.

Morrison: I think you bring up a really good point because as I understand it, this property was subject to an agreement back in the '90's and we probably have a lot of -- well, we know we have a lot of properties like that. So if that information with the additional impervious cover and entitlements is not known by the appraisal district, that effectively means we lose a lot of revenue, potentially a lot of revenue, which makes funding our parks and firefighters a little more difficult. I know bryan rogers was down here a couple of months ago pointing out the values that we were aware of because we've done appraisals and what the appraisal district is doing. I'm certainly looking forward to kicking off the new year by -- hopefully we can work with staff and find some ways to make the information that we have known to the appraisal district so we and all the other taxing entities can get their fair revenues from that.

Absolutely.

Morrison: And one other question came up in terms of details of the appraisal process. One comment was made that nothing in the area had sold within the past two years since the height of the market. And so can you talk about how the appraisal process, the professional appraisal process that we use, would take that into account, knowing that generally the market has fallen, but maybe not having any particular price, comparable price points?

With that I will actually defer to our real estate expert ron, who is here to answer those questions.

Morrison: Thank you.

I'm ron olderag with the real estate services with the city. To answer your question, the appraisal did use three comparable sales and three listings, current listings in the area, because there hasn't been the -- the most recent sale was in 2007. So the appraiser used those sales, even though they were older, as well as some of the current listing information. Additionally this particular property was under contract 3

million in 2006, i believe it was, and the contract subsequently fell off. It was with a bank, and with the changes in the banking system and so forth that were going on at that time, they wound up pulling out of the contract. So other than just the sales, looking at the listings too as a point of comparison, and what other activity was going on on those listings as far as potential contracts and so forth. And all of this market data was very close to the subject property along brodie lane and in that very close vicinity. So we felt that -- we felt satisfied with the data that he had.

Morrison: Do you think that -- I guess I'm a little comfortable if we're using old data that I might assume is going to be higher because the market has gone down. And current listings, which means that they're not sold quiet. How do we have a sense that it's really a realistic value?

Well, like I said, he wasn't using just the listing values to set the limit. He was using those as just a point of comparison and to find out what the market was doing relative to those listings. Also factored into all of this, in addition to the sales, was the impervious cover that this property had allowed, which was more than most of the other property in the s.o.s. area. So to answer your question, I believe that the appraiser took into consideration the time line, the time frame, existing market conditions, in his considerations. And given that these were the best sales, given that they were the closest to the subject property, that from appraisal methodology, that's the best data that you can use, and you are correct, market-wide there are much fewer sales going on now. There were no increases to what those sales were relative to that time.

Morrison: Okay. Thank you.

Leffingwell: Any other comments? We have no citizens signed up to speak. Bill walters signed up in favor, but not wishing to speak. Is there a motion on item number 20? Mayor pro tem moves to approve item 20. Seconded by councilmember spelman. Any discussion? All in favor say aye. Any opposed? It passes on a vote of stoafn zero. -- Of seven to zero. That brings us to item number 49, pulled by councilmember spelman. Councilmember.

Spelman: Mayor, I would like to ask a couple of questions of city staff people assigned to this item.

Leffingwell: Okay. Social services staff, lurie I see coming forward.

Good morning, councilmember, mayor. David lurie, director of health and human services.

Spelman: David, I would like to ask you just a couple of questions about the performance measures associated with these contracts. The item before us is 51 social service contracts and 48 social service agencies. At a cost of closing in on \$8 million. And I'm looking at your attachment in the backup, which is performance measures, all of which are associated as they should be with the health and human service department goals and you're measuring basic needs, child care, homeless services and so on, which is exactly appropriate for maintaining accountability of the health and human services department so the citizens of austin, for which I applaud you. These are the right kind of measures and I like that. Do we have any measures which provide accountability for each of these 48 social services agencies to

you and to us?

Well, councilmember spelman, I'm not sure i totally understand the question, but let me try to frame it in terms of what we do. Each contract has performance measures built into it specific to that contractor both in terms of out puts and outcomes. And we do monitor very closely each of those contractors in terms of their performance specifically related to those measures.

Spelman: Could you describe for us -- that wasn't in the backup, but that is an important part of what it is that your means of selection and monitoring of these programs.

Right.

Spelman: Could you describe for us how that information on results and out puts and outcomes is related to your selection of the contractors?

Well, we've of course had these contracts in place for a number of years, and part of the discussion we're having right now, also with our public health and human services subcommittee, is the need to sort of take a larger look in terms of what we're doing relative to our social services investments. So I say that to kind of put this in context in that a lot of these contracts have been in place for a number of years. Initially they were developed specifically around goals that the city had relative to social services. And as I indicated, we've built in performance measures related to those, but we also think that we need to look more strategically at this point in time, given all of the changes that have occurred in our environment in the community, to see if in fact those are still the priority goals for the city of austin. But again, I would -- in fairly simple terms, I would say that there is a direct correlation between what's in those contracts and what we as the city at least historically have identified as our priority goals and objectives.

Spelman: So we've identified priority goals and objectives generally through our usual processes. You're selecting social service agencies on their at least professed ability to meet those goals and objectives. And you've got specific performance measures for each of these 48 contractors and 51 contracts to be sure that they are in fact meeting those results and outcomes goals.

That's right.

Spelman: Do they all meet these goals?

No, they don't. There's a formal reporting we also do site visits. We have over the years made adjustments based on their capacity and capability. We also factor in other resources that they receive from other entities within the community. So we're looking not only at the city investment, but the other investments that that agency receives and how we leverage that to again achieve our goals. If we are not experiencing successful performance, we negotiate with them, we've had instances where we've required corrective action, and in some instances we've had cases where we have discontinued

contracts.

Spelman: So if, for example, an agency just isn't doing what they said they were going to be able to do, for whatever reason, there are lots of reasons which have nothing to do with the activities of the agency. They may be doing everything right, but it's almost impossible or very difficult to accomplish the objectives that we have in mind. If they're not able to achieve those objectives, then we would not use them in the future years, we would find some other means of trying to accomplish the same objective?

Right. And councilmember, these are of course community-based organizations. Often times they have limited resources, limited capacity. The resources vary from year to year. Our objective is for them to be successful because we want to achieve these outcomes. So we work very closely with the organizations. We've had instances where we provide technical since tense and other support to help agencies build those capacities, but in some instances -- it's relatively rare -- there has not been success with that and in those cases we have redirected those funds to other organizations that have proven to be more successful.

Spelman: Do you anticipate any changes in this performance measurement system over the next year?

There's some adjustments year to year based on their capacity and capabilities. I don't expect there to be major changes. As you might recall, these contracts are renewal of what was approved in the budget process, which is basically level funding. In some instances, however, we've been able to supplement this investment with some stimulus funding, for example, and that of course results in higher expectations relative to performance.

Spelman: I don't want to take up any more of the council's time by asking more specific questions, but if I have time to talk with people on your staff who are very familiar with this system, I would very much like to talk with them about it.

We would welcome that opportunity. Thank you.

Spelman: Move approval of item 49.

Leffingwell: Councilmember spelman moves approval of item 49, seconded by councilmember morrison. Any discussion?

Morrison: Yes, mayor.

Leffingwell: Councilmember morrison.

Morrison: I wanted to lurie had mentioned, that the public health committee is looking at the overall process and when you talk with staff maybe you could give them an update on what we're going through and the work that you're doing. They started a survey of best practices across the country of how other folks do it and we're going to pull together a team of people with a wide variety of

backgrounds to help us sort of figure out what might be a good approach to update the approach we use.

If I could, mayor, just to clarify the time line on this, these contracts have been on a calendar year, and we prefer to go to a fiscal year to align them with the budget. So these renewals are as of January 2010 for nine months carrying us through the fiscal year with the option of a 12-month renewal for the following fiscal year. But as councilmember Morrison pointed out, we're going through this review process and depending on the results of that process, we may have some opportunity to look at some possible changes or reinvestments or so forth. So this is intended to do things timewise put us on a fiscal year, but also provide us with maximum flexibility in the result that this comes to changes.

Leffingwell: I would add that two years ago when I was on that council subcommittee we began changing it to a matrix base system and I assume that is still on track.

Part of it is the technical assistance team that we're developing includes the land contracts and management, include the cultural arts program people, some experts from U.T. and so forth. Yes, sir, that will be part of the mix.

Leffingwell: Okay. Councilmember Shade.

Shade: That process did begin and my first year on the public health committee, which is when I served with the mayor. And we were underway when the stimulus funding came and everything kind of got thrown up into the air. It became pretty challenging. I think councilmember Morrison said this yesterday in a meeting, but I think it's very clear that one of the values of our subcommittee -- I know this is also the intent of the subcommittee when the mayor served on it, was that when we make changes and we expect that they could be significant changes, we want to make sure that we have a transition period built in so that there's -- so there's minimal shakeup to the organizations that count on this funding. So we would have a transition plan and that is the other reason why we wanted to make sure that have the extension available because things tend to take a little longer than we expected and we learned that this past year and this year in particular would have been a disaster I think if we had suddenly changed the rules without any -- without fair notice and proper involvement from the agencies that we contract with at the moment. So that was another key consideration.

Leffingwell: Motion on the table. All in favor say aye? Any opposed? It passes on a vote of seven to zero. That brings us to item number 50, which was pulled for a brief staff presentation, prior to action.

I'm Anne Morgan with the law department. I'm here to recommend that you approve a settlement of an AT&T property damage claim in the amount of \$76,109.89. We had an executive session about this, but briefly, the claim arises from a 2008 incident. There was a water main break. Our water utility employees went to the break to fix it. They used a backhoe. When they were digging they hit an AT&T line, damaged it. The replacement of that line was timely and pretty time consuming and costly. Our claims adjuster irrelevant has negotiated the settlement. It's been reviewed by the water department's

internal audit and the water department management has approved this recommendation for payment.

Leffingwell: Thank you. Comments, council, or a motion? Councilmember spelman moves approval of item number 50. Seconded by councilmember cole. Any discussion? All in favor say aye? Any opposed? Passes on a vote of seven to zero. That brings us to item number 71 pulled by councilmember spelman.

Spelman: I have a very brief question for staff. One of the uses for this 2-million-dollar contract, which would be extended for five years for about \$11 million for the entire course of the contract, is with the fusion center with the austin police department -- that the austin police department is putting together. I wanted to verify that we're still working on that fusion center. We don't have a charter for it, we don't have an auditing procedure for it. We're still working on a letter of understanding with the other participants in that center. I wanted to verify that we would not be spending any of this money on the fusion center until all of that stuff is put in place, is that correct?

Yes, councilmember. Actually, the line item is for an enterprise licensing agreement for oracle products. And what we've done is we did a forecast over the next three years of what oracle products we would think we would purchase, package those altogether to take advantage of a bulk purchase discount so the item is to negotiate. There's no contract in place. There's no intent to make any purchases for the fusion center at this time. It's just forecasting. If that becomes something we need to purchase, it will be included under the agreement for the discount.

Spelman: So we're negotiating a price with oracle and we'll be buying units as we need to along the way? What this item is about, negotiating a price with oracle, but we're not making a commitment to identifying to purchasing particular units for particular purposes except as we need them along the way.

Sure. The items are -- again, it's just a forecast and we put the items that we used to come up with the number for this agenda item. [02:53:06]

Spelman: The question came up and I wanted to put it on the record. Roughly what proportion of the units we're talking about purchasing under this agreement over the next year would be devoted to the fusion center? Do you know?

The number of licenses?

Spelman: Number of licenses, yeah.

The amount would be -- i don't know how many licenses. I don't have the detail at this time, but I could get back to you. But the dollar amount is approximately \$260,000.

Spelman: One of the reasons I ask is we're still in such conceptual stage of the fusion center. We haven't got a budget, we haven't got a time line for implementations as one of the few budgetlike items that has come up with respect to that particular project. I wanted to get a sense of what kind of numbers

we were talking about. Chief mcdonald, do you want to offer something for me here?

No, councilmember. Just you said correct that we are purchasing licenses for certain --

state your name, please.

Byron johnson, purchasing officer. We're purchasing licenses. The fusion center licenses are those that are anticipated and there is no commitment to go forward on them at this time, sir.

Spelman: I wanted to get it on the record. Thanks very much. Mayor, I move approval of 71.

Leffingwell: Councilmember spelman moves to approve 71. Seconded by councilmember morrison. Any discussion? All in favor say aye? Any opposed? It passes on a vote of seven to zero. Council, if there's no objection, I would like to go to item number 85. 00 citizens communication. I think item 82 has the potential to be age lengthy -- to be a little lengthy. I'll call up item 85 pulled by councilmember cole.

Cole: Thank you, mayor. My comments will be very brief. I just wanted to point out that we are moving ahead with rail and I am very supportive of that and the council is also. I understand there has been concerns expressed in the community about the financial feasibility of it at this time. I wanted to point out that this item is designed to begin to address that. And as we address that, then we are doing our due diligence. And I also wanted to point out to staff that some of the items must be careful to include previous (indiscernible). And we need to get some indication from the downtown community about areas that already have a public improvement district and whether they support or not support a tif on top of that. And then we also need to be mindful of the capital view corridors as well as we intend to do rail along the riverside area, so we have to consider the waterfront overlay and the statements that this council has made about the limitations of height in that area. We of course recognize that staff is contemplating a number of funding sources, not only city revenue, but federal revenue, potential state revenue, potential university of texas revenue. And I want to encourage them to consider to do that, but I recognize this as an effort to get familiarity and expertise on the economic impact of this endeavor. And I appreciate that. So with that I'll move approval. [02:57:01]

Leffingwell: Councilmember cole moves to approve item number 85. I'll second. Any discussion? All in favor say aye. Any opposed? It passes on a vote of seven to zero. So I don't know if we're going to get - we might get through item number 90. Without objection, council, we can try to start on item number 90. That was pulled by councilmember morrison and we do have speakers signed up on that item. Councilmember?

Morrison: Thank you, mayor. I wanted to ask staff a few questions to get some clarity and information out. In particular, if we could maybe hear from legal and the police department, I'd appreciate it. First I was going to ask the legal department if in layperson's terms you could describe the ordinance on what is and is not allowed.

Christie orlot with the law department. Primarily what is address understand this provision is everything

you can do on your cell phone but for dialing and making a phone call and conversing on the phone.

Morrison: Oblg. Can you go through? There are some exceptions. Basically you're saying that you can make a phone call.

The exceptions are when the vehicle is stopped, strictly to engage in a telephone conversation, including dialing or deactivating the call. As a global positioning navigation system, it is actually affixed to the vehicle, so it's a gps, not necessarily permanently, but affixed to the vehicle. In the reasonable belief that a person's life or safety is in immediate danger. If the device is permanently installed inside the vehicle or if it's in a voice-activated or other hand's free mode.

Morrison: Okay. Great. Just to reiterate, tell me if I'm saying this right in layperson's terms. You can be talking on the phone, using it even with your hands. It doesn't have to be hand's free mode. You can do anything if it's in hand is's free mode.

We did try to clarify on the phone conversation that that was one of the revisions we had made. It was originally for making a telephone call and we kind of clarified that to say strictly to engage in a telephone conversation. So that would include dialing, scrolling through your address book, that kind of thing.

You can actually pull up one of your contracts and just click their number. So that's okay. When the vehicle is stopped. So if you're stopped at a stoplight?

Yes, ma'am.

Morrison: You can lean over and manage -- if you're listening to the radio or something. And then if you want to use it for maps, that's okay as long as it mounted on the dashboard or something.

Affixed. I think the idea with that is the suction cup devices, that kind of thing that hand-held gps devices have.

Morrison: Great. Now if I could just ask the police some questions because all of this information -- I know you all are going to be doing some outreach and education efforts, and that to actually finalize that, the material, you wanted to wait until we had finalized the ordinance. So first of all, the question I have is will those outreach and marketing and education, if you could introduce yourself, but also is it going to be put in layperson's terms, easy to understand what the exceptions are?

Yes, mayor and council. I'm al ails, assistant chief. To answer your question, councilmember, yes, that is our goal. Certainly enforcement is a part of this, but we understand the spirit of of this is just to get people to drive safely and comply. As enforcement would be the last effort, and certainly that's always an option. In terms of outreach and education, that's very important to gain voluntary compliance because people have to know that the law exists, the ordinance is there and we have a population here in austin that lives here. We also have a great number of people that come in and visit. So for the department, we're going to look at several different means to get that information out. Our district

representatives are going to be primarily tasked with the local and regional area distribution of information. They will be putting information out to the airport, austin convention center visitors bureau, rental car shops, insurance companies and also talking about this at our commander's forums. We'll be working with channel 6 also to get some of this information out to make sure that it's out as much as possible. Our chief will be doing some psa announcements also. And we'll be doing those in spanish and also for other media. We'll be doing a press conference also, of course, once the language is finalized to be sure we get it out as much as possible. I think the key here to remember is this is of course a big push to gain voluntary compliance. If our officers are looking at enforcement, we're going to ask that they are -- this will be certainly part of the training that they look for unsafe or erratic driving. And then if that causes them to reasonably believe that there's something going on, they do make a stop. If they can connect that to teching at that point and they choose to cite, they can do so. It's a little different than a lot of laws. For example, running a red light or speeding, which are pretty much obvious there. This is an ordinance where a stop may occur and then there may be some conversation between the officer and the driver, follow-up. And christie had mentioned some of the affirmative defenses. Some of those may come up in that conversation and that may play into whether there's a citation related to this ordinance.

Morrison: Okay. Back to the outreach effort, I wonder if you could look into the possibility of including information with the utility bills. There's always a flyer that comes and I think that's one way to reach the maximum number of people to get something right in their hands. Could you also -- I know the chief has mentioned something called a one month conditioning period. Could you talk a little bit about what that means?

Yes. This was a decision made based on we are rapidly approaching the january 1 period where we begin enforcement. And I think it's appropriate and certainly reasonable given this is new, not only here in austin, but really nationwide that we give ample opportunity for people to know what this ordinance is about and how it can effect them in their daily lives and their driving. We're look take 30 day conditioning period or grace period where we would actually put the message out strongly. The outreach and education, before we actually start enforcement of it.

Morrison: Great. I know there -- this is something new. There have been several concerns raised from different perspectives. And I would like to ask if you all would be willing six months from now to come back and talk in the same venues that you have already visited. I appreciate that, that you did before in terms of the couple of commissions and committee and back to the council to give a sort of report about how you see the ordinance operating. And at the same time I'd also like to make sure that those opportunities include the opportunity for the public to comment also.

Absolutely. We would be happy to do that, councilmember.

Morrison: Maybe what we can do in the interim is have a conversation. I'd like to hear other ideas about what kinds of things we'd like to see in that report, the number of citations, how many complaints, how many are being fought in court, and we'll probably come up with more to get -- so that we're sure we get

a flavor of how it's going and if we need to adjust it at that point.

Absolutely.

Morrison: Thank you.

Leffingwell: Council, we are past our time for 00 citizens communication, so -- and we have at least 12 minutes of public testimony, so it's very likely that this case will also go on for awhile. So without objection, I'd like to suspend consideration of item 90 and go to citizens communications. The first speaker is pat valls-trelles to speak on animal issues. You have three minutes.

Thank you, mayor. Mayor, mayor pro tem, councilmembers and city manager, I'm here to make a request. The request is specifically of mr. ott. But any others of you who would also like to participate in this I would appreciate it. ott, when you were coming as city manager I met with you at the tail end of an open house and you said you were willing to be educated on animal issues. And my request is that the best way for you to become educated is to go down to the shelter some afternoon and five and walk the euthanasia list with a volunteer from austin pets alive. I'm not asking you to actually witness a youth nice I can't, I'm asking you to -- a euthanasia, I'm asking you to walk the list with the animals they're about to save. I think this is an important request to make at this time as we consider the implementation plan that's due to the city council on march first. In support of my making this request, I'm going to read a statement that was written by a shelter worker. It was not a shelter worker here in austin, it was in another city. And it wasn't this year, it was about 17 years ago. But it's relevant to us today. And I hope I can do it without choking up. She was a stray, long haired, blue, cream, tortoise shell. She was a very pretty cat. She loved kittens. She didn't have any with her when she came in, but when she was let out of her cage for exercise, she would run up to the cages with kittens in them and try to lick them through the cage bars. If any kitten began to cry in our cat room, she would become all alarmed and i would have to go over and assure her that the kitten was all right. When the shelter was closed, I would let her out of her cage and she would stretch out on my desk. She would try to play with the pen I was holding while I tried to do my paperwork. Sometimes I would get annoyed and put her down on my life, but like all cats, she had a mind of her own and would jump back up on my desk and continue poking at my pen. As the weeks went by she became the cat who had been at our shelter the longest, so I had her photographed and made her pet of the week in our local newspaper. Unfortunately not one person called. No one cared that she was beautiful or that she got along well with other dogs and cats or that she was young and healthy and had silky fur. So one day when all the other unwanted cats filled our cat room beyond capacity, I lovingly took her life. The author of this is unknown, at least unknown to me. But I think we have many shelter workers here in austin and some community members who would vouch for the important sentiments expressed here. Thank you very much.

Thank you, pat.

Martinez: City manager ott.

Where did pat go? Pat, how do you pronounce your last name, please?

Valls-trelles.

I just wanted to acknowledge your comments and first say, one, I would be happy to come, but I do want to note for your information that I have done that sometime ago. I see david lurie back there. I spent several hours there, both touring and hearing from a number of different advocates in terms of the shelter and all of the related issues. I'm happy to do that again in terms of euthanizing. While I didn't actually see that occur, I do know what that's like from personal experience because we've had to unfortunately do that on an occasion with a family pet of our own. But I'm happy to do that and we'll get that scheduled as quickly as I can.

I think the specific part of my request was to do it with austin pets alive.

I understood that.

Okay. Thank you.

I understood that.

Leffingwell: Next speaker is linda green speaking on fluoride waste must stop.

Thank you, mayor and city council. I would like to start out with a question. neal carmen from the sierra club's 16-page omissions that he feels the city of austin's report left out on facts about fluoride, your independent study? Did you receive that 16-page report? If not, chris riley does have it and I urge you to please read those omissions that were left out of your independent study. We the people of fluoride free austin have shared with you over the past year a number of undisputed facts. The first of which is that both the city of austin and the lower colorado river authority inject into our water supply tons of fluoride waste from the florida phosphate fertilizer industry. Is anybody in dispute about that? Jane browser from constituent water utility department has over and over again acknowledged that this is fluoride waste from the phosphate fertilizer industry in florida, that we have been paying for since about 1972. Fluoride free austin wants a full accounting of the cost of this actual product, shipping, handling and maintenance, and the insurance that I'm sure we must have to pay for such a toxic ingredient that's been added to our water. Fluoride free austin asked for an independent study and instead we got a totally in-house committee study, which did not consider outside input. I'd like to share with you what you've been advised of over and over again also from numerous members of fluoride free austin, that there has been a national research council independent study. This is a textbook. I believe it costs about \$80. And we checked it out from the u.t. library. This is an independent study. The cost to fluoridate is unnecessary. We can get fluoride in our toothpaste. And I would like all of y'all as a christmas present to the people of austin to vote unanimously to stop spending close to a million dollars adding fluoride waste to our water and unanimously vote to stop putting fluoride in our water. I'm looking at a document DATED DECEMBER 18th, 1975, And in that one year it says that we injected -- estimated 160 tons of fluoride into our water, \$70 per ton for shipping over a 12-month period, added up to \$11,200 to ship the fluoride

from florida to austin. [Buzzer sounds] and I believe this is a violation of our constitutional rights. We also have given you the center for disease control 2009 --

Leffingwell: Your time is up.

-- Saying babies should get no fluoride.

Leffingwell: Thank you, linda.

Thank you.

Leffingwell: Next speaker is russell doyle. The topic is fluoridation. Russell doyle. Russell is not in the chamber. Next speaker is ellen williams. Topic is enforcement of tree permits. Ellen williams. Okay. Next speaker is gus pena. Gus pena. To speak on city issues. Welcome. You have three minutes.

We're a tag team right here, mayor. This is my boy lucio. My name is gus pena, proud east austin native, marine corps veteran. Mayor, you mentioned accomplishments by the council and staff. Don't forget y'all have recommendations and input from the community on all the budgetary issues. This was a team effort that should include the community and the accolades to the many efforts of the community, residents and citizens that's also acknowledged their efforts also. Number 47, I wasn't here because I was picking up lucio from school. It deals with the (indiscernible). Mayor, the city and the county and aisd has a tri-joint meeting. Y'all don't know the problems the students are encountering in school. They are not meeting the grade in math, they're not meeting the grade in english, not meeting the grade in writing. We need to provide mentors and tutors. Lucio and I lobbied the legislature four years ago to abolish the taks test. We feel it is not acceptable and helpful to our students. End of course exams are better. We have the highest rate of dropouts. We need to bring that down to zero. Nothing is acceptable if you have dropouts. We need volunteers to mentor and tutor. If you have time, please do that. Please adopt a family for christmas. Poverty is prevalent and increasing. Adopt the senior citizens. Support your troops in iraq and afghanistan. They don't want to be there. We signed on the dotted line, we gave our information. We're here to defend our people and other people's countries. Show the appreciation. Mayor and councilmembers, again, I get to this point and mayor pro tem, I don't know what you're laughing at because that's very disrespectful to me as a latino. Show respect to me and my son, you and your other compadre over here. We have problem with the council spending \$800 per meeting for food and snacks. How many meals could you provide to the poor, the needy and have not's out there that won't have meals, won't have christmas. Christmas to me, I'm a christian, is all about the birth of baby jesus. Don't forget about that because that's prime time right there. Anyway, how many meals could you provide for the people here? You should have donate this had money you spent on lunch and supper and snacks to give to the people who need it. You're not doing that, you need to do it and get away from that. That's bad business, bad business. Support blue santa, brown santa and the christmas bureau. Also if you have time and money, donate to the food pantry. I guess nice just food pantry. 40 People in less than an hour. They need help and funding for meals and food, I guess, and utilities, etcetera. Last item, I want to thank ben wear of the "austin american-statesman" and lee nichols of the austin chronicle for the diligent reporting and investigating capital metro's fiasco, lack of fiscal

responsibility, lack of accountability, lack of transparency. Thank you very much to those two gentlemen on those rival papers because they brought the people the needed information they needed. Last item, feliz navidad. [Speaking spanish] remember, a society's worth is measured by it's treatment of the less fortunate. Don't forget that when you're eating the food and spending the taxpayer's money. Thank you very much.

Leffingwell: Thank you. Councilmember shade.

Shade: pena, who is a regular citizen communication person, it made me remember that i wanted to make a point today during citizen communication to recognize that today is in fact the one-year anniversary of the passing of jennifer gale, who was also a person that we frequently saw here at citizen communication. And because last week richard troxell wasn't here, I am going to take the liberty of just reminding folks that are watching that it's the 10th annual house the homeless thermal underwear drive that is underway. So if you have it in your heart, please consider making contribution to house the homeless. \$10 A thermal top or both ton. \$20 Gets a top and bottom, plus hat, scarf and rain poncho. As it's wet outside, I hope anybody watching will make an effort to think of those who are less fortunate. Thank you.

Leffingwell: Thank you, councilmember. Ronnie reeferseed. Topic, peace and freedom and the first amendment.

Thank you, mayor. My name as you already know is ronnie reeferseed. Lookky here to ronnie reeferseed from g edward griffith. This incredible book, creature from jekyll island who understands ronnie reeferseed is now my name. Weeks now since I've been banned from speaking here, the climate -- thank you, shade for mentioning jennifer. That's very important. But since the climate gate fiasco has hit the fan, exposing the criminal hoax of global warming, now called climate change to thinking people who can read, just in time to sink the scam conference and to embarrass them all, including our own obama, also known as bs obama. The tv news, so-called news viewers, don't have a clue to what's going on. But online and even on the radio, real information can be found locally here in is to on weekdays and sundays with alex jones or com is a source for alex jones and many hard hitting articles about what's going on. Also online, campaign for liberty.com. Ron paul.org. net and/or subscribe to american free press for weekly updates from ob-gyn doctor ron paul. Dutifully parroting the hog wash from the cheney-bush regime of criminals, bs obama won a nobel peace prize while sending an additional 40,000 u.s. Troops to die protecting those poppy fields for our preferred illegal drug thug war lords. Even the mostly useless now bbc admits our troops are just there to guard the poppies. It's absolute insan tivment support our troops by bringing them home to guard our borders underreported deaths and kidnappings by the way are spilling over from mexico gangs into texas and how do we stop this. To push drugs to our kids. No profit equals less crime. Think. Eliminate the profit motive from organized crime thugs to push drugs on kids with freedom from farmers here. That means less drugs for kids, less violent crime overall, but by golly bs obama can't help himself from sending yet another troops to die protecting those afghan, poppy and marijuana fields while expanding the quagmire into pakistan. Now the pakistani government is dissolving like the iraqi government has because the peasants over there are sick and tired of being killed. Just like the zionists israeli collective punishment of palestinians

like Jesus. Jesus was a Palestinian. [Buzzer sounds] so just think about that, people. Wake up. Obama is a war criminal like Cheney and Bush. Thanks heaps. Peace and freedom.

Leffingwell: Thank you. Next speaker is Devin Wood. The topic is Austin First Church promise for moving expenses. Council has voted on it, it has not been paid. Devin Wood. Devin Wood is not in the chamber. Ailana Larson. Topic is noise next to disabled housing.

Hello. Are you ready? Am I on. My name is Ailana Larson. I am the past vice-president at Lake Side Apartments for the aged and disabled residents. Mary Parlien is here if there's time for her to speak. She's a current board member. I've got the 10 points here. What I'd like to have you look at first is your sheet from the notes from last October when I was here and you were talking about promising to sit down with us. And perhaps go back and revisit the elements of the ordinance and the hours of the day because we are still getting disrupted. This morning they woke me up 20 and 12, the trucks, the beeping, the construction from the four seasons. Yesterday it was before 00 and it went until 9:00 p.m. It's supposed to stop at 7:00, stop at 5:30. So there's still that going on. We've got all night pours that were supposed to be over May 26, '09 after all nights. A couple of weeks ago they were still digging up the street after, I don't know, 12, 14 hours of digging and building all day long, then we had about a 20 minute respite before the night crew came on and started that. So can't you -- will you have that work go on during the day so we -- we can't 30, 6:00, 7:00, 8:00. When is it going to stop? We're sick and we're human. Councilmember Morrison said in one of her papers that if you weren't frail after three months of this, you would be. And we started frail and it's been two years and they've just extended it to the end of June. So just hang on while they bang some more. It doesn't work for me or the people I represent. We have a petition, as you know, from the residents. We're elderly and we're valuable and we're voters. We work with the A.D.A. folks and the AARP folks. And in the beginning we had some weekends, and now it's a seven-day a week working. Everybody else who said enjoy your four-day weekend for Thanksgiving, we went, we don't have any four-day weekend. We never know when we're going to get any rest. I was in a car accident a couple of days ago and the prescription was get some sleep. And I went not at my house. Okay? The middle of the night dumping, port-a-potties, trucks unloading. Can't they do that during the noisy time of the day? Do we have to wake us up everyday? What about the decibel level? There's safety in place for the workers, but not the people in store, your frail, valuable population. I know there's a limit for -- for do not exceed decibel limit for music, but not for the horns. [Buzzer sounds] thank you. And seasons greetings. Peace for us too and goodwill.

Leffingwell: Happy holidays to you, Ms. Larson.

Morrison: Mayor, I just wanted to make a comment and to Ms. Larson. I recommend you coming down before and I believe the Mayor's office was going to be working with you? That's what you've got here is the transcript. If that didn't happen, sorry about that. I'll see if we can try and get some of our staff to work on that. Clearly the ordinance might need some reworking as you can see in the transcript, that was suggested from the dais last time. So I'll see if we can make that happen.

That was over a year ago. Thank you. It's impacting our health. Thank you.

Leffingwell: Next speaker is carmen llanes. Carmen? Carmen is not in the chamber. The last speaker is mary parlien. Mary parlien. Is she in the chamber? Mary's topic is lake side apartment building damage from surrounding construction. Welcome. You have three minutes.

Good morning. My name is mary parlien. I have lived at lake side apartments for five years. I have lived in austin most of my adult life. My children have attended your schools and graduated and are now gainfully employed in your city. I have a list of questions i want to ask you right now. Is there not -- is there a knot to exceed decibel level for beeping indicating reverse on construction vehicles? What is that decibel level? What is the status of injury due to prolonged high decibel level and sleep deprivation? Do you adjust for ba list ticks variance when a construction site area has been moved closer to a residence from when additional -- initial monitoring established levels? That's referring to -- i think they did a one-hour decibel level survey about noontime, one time. There has never been a 24-hour noise level study of this construction site. Do you take into consideration prolonged noise impact on the disabled and elderly? How do you address this specific and fragile population? Is there a penalty in place for violation of noise permits? And repeated noise violations. As residents under duress, we would like to know how you discern and decide when to issue all night permits. 24 Hours a day is unconscionable, especially after years of noise and your promise to us on october second, 2008. Do you have any plans in the near future to refrain from construction on weekends so that your elderly and disabled constituents have some relief? Seven days a week is too disheartening with no hope in sight. Can't you hang on until june is the question they ask us? It's not a viable request at this point. Middle of the night dumping, port-a-potty trucks unloading, falling debris wake us up several hours , which is the time they're supposed to start. [Buzzer sounds] is there a window solution that could be put in place? To minimize the noise?

Leffingwell: That beeping sound signaled the three minutes.

Thank you very much for your attention.

Leffingwell: Thank you. [One moment, please, for change in captioners]

Mayor Leffingwell: Is there any objection to going into executive session on the item announced? Hearing none, the council will now go into executive session.

Good afternoon, we're out of recess. We are out of closed session. In closed session we took and discussed legal issues related to item 101 and no action was taken, now we'll 90, i believe it was, that we had already asked some questions of staff. And we're down to the point taking public testimony. So we have five citizens signed up to speak. The first is debbie russell. Is debbie russell in the chamber? I see she is. Linda green, is linda green from the chamber?

She's coming.

Linda green, okay, debbie, you have three minutes.

Thank you. We had -- we had been working with council on trying to improve this language for some time now. And we had hoped that this was -- this interim time between when we passed this in october and when we visited here today, the last meeting before the enactment, would be a time in which -- that we could really clarify what this ordinance is about. I've -- I truly believe that the public saw that the intent of this was really to address only texting, iming, instant messaging and e-mail, actually punching letters on your hand-held device while driving. Apparently, there's some agreement about whether or not the intent was to be more broad and today we see that there is a proposal to, in fact, broaden it out. What we're concerned about is that it's going to ban a variety of potentially safe and reasonable uses of wireless devices such as using your hand-held for online n assistance. On this public safety side of this, this is a public safety measure, but we contend that without money to back up a public education campaign, we are not going to change behavior. So we really -- don't think 's marketing, which is an unfunded marketing task, is really going to be able to reach people, substantially, in order to really make that change happen. The -- the other problem is that, just to go back, i know that you are tired of hearing this, but to go back to the idea that we don't need this law at all. We have a variety of violations that one could be pulled over for that are the very ones that occur when somebody is texting and driving. I'm holding up a list right here, today, just on today's municipal court docket, this is how many violations there are that address speeding in urban district and improper right turn exit, unsafe movement left to right, failure of signal to change lanes, posted sign no right on left red, failure to control speed, unsafe lane change, psing a school bus, improper start to stop position, failure to maintain a single lane and failure to control speed. All of these, in talking to lawyers and judges recently, come with it -- with a clause that the -- from case law that -- that the prosecution needs to show that there was indeed a hazard at the time of the offense, that there was actually another car around that could have been hit. All of those things. That's still going to have to play out under this ordinance. But as it stands right now, we don't have it written that way. So -- so we don't see things lasting very long [buzzer sounding] I -- I want to make sure that we understand that there are many other distractions here that we're not addressing bylaw, but we do have the laws on the books that are necessary to pull people over and to prosecute them, let's just go back to square one and revisit those, thank you.

Thank you, debbie. Next speaker is matt simpson, signed up against. Welcome, you have three minutes.

Thank you, I'm math simpson. I'm [indiscernible] I would definitely reiterate most of what debbie said. This feels like a law in search of a purpose. It feels like we got the cart a little bit before the horse on this one. Our concern is public safety, but our enforcement could, until we clarify otherwise, may include pulling people over simply for texting, not for being any [indiscernible] that being said, I think that you are pretty well versed in other concerns of you. I would just like to say let's come back to this fresh in six months, see what's happening. We have a nice opportunity to see how this works, to see if enforcement is something -- if it becomes a or does work out -- I feel there's more opportunity to make this ordinance clear something we are expecting for the drivers who both live in austin and come to our city, not only could the city council clarify, but could create policies that are very clear and that could help as well, as we are going to have to see some sort of safety problem before we start pulling people over for texting. There's a couple of ways to get at this. I would like to come back to it in six months, improve on what

we've got.

Thank you. Councilmember morrison?

Morrison: Thank you, mr. simpson. One of the things that we talked about this morning was coming back in six months and doing a report and having that revisited and not only just a report, briefing, but opportunity for public discussion. Can you suggest or maybe just get back with me sometime the kinds of things that we might want to ask the police to report on? In terms of -- I mean, obviously number of citations, but other kinds of things that might help us really assess what's going on?

Absolutely. Yeah, we would be glad to get that back to you.

Morrison: Okay, thank you.

Mayor Leffingwell: Next speaker is chuck thomas. Chuck thomas. Next speaker is ross smith. Ross smith signed up for. Welcome, you have three minutes.

Thank you, mayor and council. I would like to suggest that you expand your consideration of this issue to also include lap tops and mobile reading devices. I have on many occasions seen people driving down the road with the laptop open next to them typing madly away. Possibly working on a spreadsheet for their next business meeting, sending an e-mail, whatever it might be. It's a mobile device using wireless software. If -- I don't know if that's common in cell phones, but it's definitely a hazard. The other is kindles. They are brand new, but they are no different from the woman that I saw driving up i-35 with a paperback novel propped up on her steering wheel. To my knowledge, doing that does not violate any of the ordinances that the young woman ahead of me cited, but I can't imagine any circumstance that it's not hazardous. So -- so there's a lot of new stuff coming up and the public safety commission should take a look at that. Thank you. .

Mayor Leffingwell: Thank you, ross. Those are all of the speakers that we have signed up to speak. And the floor is open for a motion and discussion on item 90. Mayor pro tem?

Martinez: Thank you, mayor. I'm going to move that we approve this item. With some additional comments that -- that we certainly do appreciate the concern and the participation. This -- like any other piece of legislation, it's evolved. In fact, so much so that -- that before it's actually going into effect, we've already amended it. I think the public safety commission is the perfect vehicle to bring this item back for the emerging technology council subcommittee is another one. It truly is about you doing everything that you can to do -- [indiscernible] driving your car, whether it's -- whether it's going through your i-touch song list, you know, there's just some points being made that I can't believe folks are actually arguing that point that want the right to look through their I pod song list while driving. If you need to be scrolling through a song list, you need to be pulled over or not doing it. So I will continue to support anything that will help us improve our roadway safety. [Indiscernible] but the conversation I don't think is done and I think the council is open to all of the suggestions that continue to come in within

reason. So I will move approval.

Mayor Leffingwell: Mayor pro tem moves approval of item 90. Seconded by councilmember morrison. I'll just say I intend to support item 90, also. And we all k that there are many ways to be distracted while driving. This ordinance does not address all of them, but addresses some of them. And as mayor pro tem said, this is an evolving situation. I think it does [indiscernible] directly in safety. All of us can see what happens almost every day of erratic driving behavior that's directly attributable to someone distracted on the cell phone or some other electronic device. Electronic devices are not the only, but there are other broader city ordinances that will maybe [indiscernible] enforcement for any method of distraction like that. [Indiscernible] [audio problems, please stand by]

it really is an opportunity to improve the safety on our roads. I will certainly look forward to revisiting it in six months, but also continuing conversations about the enforcement guidelines and watching the marketing and outreach and i would certainly be happy to help with any of that.

Mayor Leffingwell: Thank you, any further discussion. All in favor of the motion say aye.

Aye.

Mayor Leffingwell: Any opposed in passes on a vote of 7-0. That brings us to item no. 82. 82 was pulled by councilmember riley. Would you like to make a few comments, councilmember? We have several people signed up to speak.

Riley: We have had a lot of input on this, mayor, I think it would be helpful to get -- hear from the public as well as staff before we discuss it.

Mayor Leffingwell: Okay. Then we will go directly though those folks who signed up to speak. First is robin schnieder, who has signed up against. Robin snyder. You have three minutes.

Thank you, mayor and council, my name is robin schnieder. I'm the executive director of texas campaign for the environment. First I want to congratulate the city and note city manager marc ott and assistant city manager robert good for hiring bob geddert to be our next solid waste services director. This is an excellent choice, I look forward to working with him and the rest of the department. On this particular matter, though, I think that we need to put aside one myth, which is the myth problem gated yet again in the pages of the statesman today that the economic down turn caused our situation. It is ridiculous. Because the economic situation affected dallas and san antonio in the same way. Yet they are making money off their recyclables. The reason why we are not making money is because we have a bad contract and we are -- paying to ship or going to have to pay to ship our materials. But the shipping is only about 41% of the losses. The majority of the losses are due to a very poorly written contract that charges austin too much for processing, but is way too vague in what we get for the value of our recyclables. And the proposal before you today does not fix that second problem. Does not address it. And so I urge you to reject it and at the very least separate negotiation and execution. But really, I think that what we need to -- to look at is the very real possibility that we will have our own

sorting facility ready to operate on OCTOBER 1st, 2010. That gets rid of the transportation costs. If we negotiate a good contract, we start making MONEY ON OCTOBER 1st, 2010. We're not going to lose more money as we are month by month because of this lousy contract. So the prudent course, the environmentally responsible course, is to not extend this contract any longer than we must do so. Once these proposals are in, on february 9th and the staff has a chance to review them, we will have our -- our new director, bob geddert here who has dealt with setting up numerous murfs, has expertise that none of our city staff as i remember aware has in this regard. We can, if necessary, expedite the review of those proposals and the approval of those -- of those proposals. And pick a contractor that we can work with and make money at. We have leverage. Green star cannot get any money from the city until the end of the contract. They want you to sign this extension because part of the extension is giving them their money now. Soe have leverage. We should continue to use that leverage. And we should look forward to processing our materials as quickly as possible.

Mayor Leffingwell: Thank you, robin.

I would be happy to take any questions.

Councilmember spelman and then councilmember shade?

You mentioned a few moments ago at a minimum we should authorize staff to negotiate. Did I hear you correctly?

Yes. But I think that really you should -- you should -- you know, just reject this and direct staff to audit the recyclables, the composition of the recyclables, how much aluminum versus how many paper, also audited the market price. There is some indication that what we're getting for our recyclables are not what other cities that green star contracts with are getting for theirs. That would blow open potentially your ability to get out of this contract. Which might would be the best thing.

Spelman: Let me return to my question, if I could. Supposing that we decided to do that. What would be the value in only authorizing staff to negotiate but not to execute? How would that be helpful to us?

Well, it will give you more time. But because we'll have these proposals for the new sorting facility into the city offices on february 9th. And we -- although because of the no contact rules between people making proposals, they cannot contact you directly -- things could come out publicly about what's available if the people submitting proposals want to go public with what they are submitting.

Spelman: Okay. So we would have full information by february 9th. So your -- your suggestion to us is predicated on our not actually getting to the execution phase until after we've had a chance to see what these proposals look like?

Right, I think you should negotiate, actually, STARTING FEBRUARY 9th, Because then you know what you're dealing with.

Spelman: Thank you.

Mbyor Leffingwell: Councilmember shade? Shade?

My question was could you tell me about the other cities, the terms of the contracts?

Well, san antonio and dallas have long-term contracts. But the assertion that green star is -- which is -- just come up recently in november, that we are paying more because of their depreciation, that they bought more equipment because of austin, I find that absurd. And when this whole -- whole issue of the bad contract was exposed in april, that argument did not get raised at that time. I think they cooked that up sometime in the last six months, it's absurd.

Shade: One of the things that you mentioned before is there's a lot of misconceptions that occur based on little snippets here and there. I really do want to let the public know in striking these kinds of deals and clearly there are some problems, clearly there are some problems with the current contract, but i don't think it's fair to compare apples -- this is not apples to apples when you are talking about long-term contracts and short-term contracts. The analogy that I heard somebody give recently. If I have a 30 year mortgage, my interest rate is going to be better than somebody with a 10 year loan. That's understandable. I think the public needs to hear that is a big piece of this. That's the reason why the contract that we are about to negotiate, the r.f.p. That we have out there right now getting submissions, gives us the opportunity to enter a long-term agreement so that we can achieve some of the benefits of some of our peer cities by doing a long-term contract. Clearly we are paying a price for the short term and not having the partnership that some of our peer cities -- I wanted to make sure that got out there.

I think it's important also that the city if there aren't good option that's might start in september, you have the option to put for short term --

Mayor Leffingwell: There was not a question in there, was there? Okay. Thank you. Next speaker is carol keaton strayhorn, signed up against, also. We will change you in the record to be signed up for. You have three minutes.

Yes, sir, thank you, mayor I'm carol key ton strayhorn here to represent green star. Green star would like to thank you for the opportunity to launch its single stream recycling program together over a year ago. Green star is the largest recycler in texas and the fastest growing recycler the nation because they provide good service and are deeply committed to helping its clients reduce emissions and landfill waste. Green star applauds the city of austin for its commitment to recycling. Single stream has been overwhelming saved by austin residents with recycling increasing by 50 to 60%. Green star urges the city to carefully consider extending the green star proposal as it would sure austinites of continued excellent service for our successful recycling program while the city considers and implements its own local solution. At the city's request, green star has proposed three options to lower its processing fees. Green star encourages the city to maximize the cost reductions available by accepting the three year extension of the contract. If you should vote for this today, reduced pricing could go into effect january 1st and the citizens of austin 75 million over the next three years. That's three and three-quarters

millions dollars savings over the next three years. The second and third options would save the city \$250,000 and \$175,000 respectfully on a one year contract extension. Whatever the city decides, green star is committed to helping the city meet its zero waste goals and will continue to provide recycling services to the city for the life of the contract and beyond. John raven, who is green star's southwest region recycling manager is here today. And will be delighted to answer any questions that the mayor and council might have. And certainly we'll address and would appreciate the opportunity to respond to any misinformation or inaccuracy that's may have been presented -- that may have been presented. Let me simply say in close thank we appreciate your most thoughtful consideration and action to make austin a fiscally responsible environmental leader. Thank you very much, mayor.

Mayor Leffingwell: Thank you, carol. Coincidentally the next speaker is john ramon raven. You can correct me when you get up there. You are signed up for. And three minutes.

John raven, with green star. Thank you for having me here today. I really signed up just to answer any questions that you guys may have regarding the options that we have offered the city. In response to the request by city staff to help lower the processing costs. But I do want to take a few minutes to just respond to some of the misinformation that seems to be flowing here today. There seems to be a -- a belief by some against -- that we are not sharing the correct market prices and we are. We -- we do this all the time with large cities such as austin. And we go through audit processes with these other cities and they do not find any problem with our market prices and our revenue sharing and processing fees. It's what we do. You know, I just want to emphasize that we did pay more for the equipment. This is a large program. You guys have a very successful program. The city of austin should be applauded. And it did take more of an investment. We were in the process of building a facility for the city of san antonio when we were approached by the staff of the city of austin. And we had to invest more money. We're talking about over 4,000-tons per month of recyclables that you have. With our experience, you know, currently you were at 2600 when we were approached and with our experience we knew it was going to grow and grow significantly when you converted the single stream. So we did have to add quite a bit of capacity. And, yes, it does -- it does -- it does affect what we can offer you in rebates when we're talking about a two-year agreement versus 10 year-agreements that we have with other cities. We are an active participant in the r.f.p. We do not want to get in the way of austin having its own murf. We have only responded and tried to help the city launch what they felt was important. With that, if you have any questions --

any questions for mr. Raven? Thank you, thank you, john. Next speaker is helen gilbert, signed up against. Welcome, you have three minutes. mayor, councilmembers, I'm helen gilbert. I have been an environmental attorney for 16 years, specializing in municipal solid waste and recycling matters. In particular I'm here today as an austinite and a supportedder of green jobs. Let me be -- supporter of green jobs, green local jobs, not so much as an attorney, but I did want to focus your attention quickly on the current contract, 3 in particular. Require green star to comply fully with applicable federal, state and local regulations, including environmental regulations. According to the records of the tceq, and their staff, green star applied for its authorization in mayf 2009. That's well over a year after they negotiated the contract with you and after commencement of the operation. I don't know about their garland operation, I don't know whether they actually submitted and obtained authorize from tceq for

those recycling facilities. But that I think warrants your attention. Even now, after the submittal of their most recent notification of intent to operate a recycling facility in may, it's not clear whether they have storm water permit. It's not clear whether they have financial assurance. It's not clear whether they comply with the air requirements or can assert any exemption to those requirements like all other recycling facilities in texas have to comply with under state law. As a matter of public policy and good common sense, i question why the city could even consider renegotiating or extending a contract if -- if garland -- green star has in fact not been compliant with the explicit terms of their current contract. T even a future to be determined contract. Before this council votes to extend that contract or renegotiate it, I would submit that you need to thoroughly look into that. More fundamentally, I would ask why the city would partner with an out of town foreign company in the first place. Almost two years ago when it could have supported local green recycling businesses here in austin. We hear from the solid waste services and media almost daily that those businesses and those facilities don't exist in austin. Today in the paper we heard from green star it will take at least two years for those businesses to be erected. That's a fiction. The city needs to be turning to its home grown, tax paying, existing on the ground facilities that exist in austin today. To take our recyclable materials. I would be happy to answer any questions that you might have.

Mayor Leffingwell: Me questions for ms. gilbert? Thank you. Next speaker is j.d. porter. porter is signed up against. , you have three minutes. [01:41:12]

> Councilmembers, I'm j.d. Porter a member of the zero waste alliance and solid waste advisory commission, I'm here for myself, not representing those organizations. 28, I would urge you to continue the discussion, examine the that is going to be turned in on FEBRUARY 9th. It is very likely, emphasize very likely, that one or more of those responses will indicate that the capacity to process the city's single stream recyclables will be online by september 2010 the ending date of the current green star contract. Signing on to any of the options offered by green star will require the city to commit all or most of the recyclables to green star until at least september 201 this would make no sense if the city has access to local processing services. To my knowledge, there's no deadline on green star's options, they will be available in february if you need them. The penalty for doing this is to continue losing money at the current rate of about \$175,000 a month or so until february. But based on what green star is proposing, the city would be losing millions in potential revenue by committing to option 3. We were promised significant revenue from the current contract because we have 5 million to date. If we continue the current contract from september 2010 and incur the same monthly losses the city would lose an additional 1.7 million. But with payments and processing charges offered by green star under option three, the city's total losses could reach an additional 4 million, not a go deal. Additionally, taking this issue up in february, would offer bob gedder the opportunity to be part of the decision making process. Regardless of your decision to the contract, I recommend that you implement two additional actions proposed by swac concerning the kinks contract. One, direct staff to to audit a representative sample of our single stream recyclables to determine the percentages of each material that are in that mix. That is what should be the basis for payments that the city receives from green star not been done to date. Two, direct staff to initiate a sales price audit to make sure the city is receiving an appropriate payment, that also has not been done. I would like to address this issue of the extra equipment and such. Accelerate depreciation rules if you are going to designate specific equipment for a specific client, that

equipment has to come out of service at the end of that particular contract. I doubt seriously, I have been in the 20 years, I have never seen a mrf put in equipment that they took out and use that to justify an extended contract. That is just not the way this is done. Are there any questions n.f.l. one actually. You said that the mrf would be on line when, 2010. [01:44:06]

2010.

Mayor Leffingwell: I have a piece of paper here from the staff they are estimating for the t that -- the mrf would be operational is sometime between january and august of december -- do you dispute that?

I agree with it if it's talking about a mrf that is starting up after the contract has been signed. However, I have been involved in recycling here in austin for a couple of decades. I keep track of a lot of what is going on, I know what people are doing. I know that there are approximately half a dozen projects already in the works to build mrf processing capacity in this area. One or two of them will be likely from the date of SEPTEMBER 10th, SEPTEMBER 2010. I have seen the plans. I have seen the sites, these things are already in the works. I think that's the information that's going to 's that you will receive on february he which -- february 9th which makes it logical to --

these are going to be independent of the r.f.p. Process?

Oh, yes, this is an important issue to the city. But also has the city has agreed to become the first zero waste city in the state. That attracts the attention of a lot of private sector entities. They know this is going to be a big deal regardless of the curb side recyclables we're talking about today. I think it should be taken into account that there are going to be other programs that can be available. To the city. That ought to be considered.

Mayor Leffingwell: Okay. Thank you mr. porter.

Yes, sir, thank you.

Mayor Leffingwell: You're the last speaker. I would like for staff to respond to that.

Assistant city manager. Our response on the time that the mrf could be operational there could be proposal. We don't know that. There could be proposals that hey be operational by september 2010, there could be proposals that are operational by september 2011. We don't know that and we also don't know what you all are selected at the end of the day on which vendor to select. At some point there are proposals available by september 2010, those might not be the vendor that you all -- vendor that you selected at the end of the day. We don't know what's going to be available. It really is a risk and reward options in fronts of you today on on what you think and what we think is going to be the appropriate time line. We expect that you won't award a contract for this vendor until june or july of 2010. What we are -- if you go the existing contract with no extensions, that would mean in about three months afghanistan a contract is awarded the mrf would be operational. From staff's standpoint that would be -- all of our

single stream taken to a new mrf three months after the contract is awarded. [01:47:11]

Mayor Leffingwell: Your time table says, estimates that the council would authorize the contract [indiscernible]

the existing contract would end in september, a few months after that. If a new mrf would be operational in that time. It's absolutely true it would be better than existing because of the long terminator of that contract. What we're trying to determine is the likely that you would select a vendor that will have that mrf operational, the likelihood there will be no glitches as well --

Mayor Leffingwell: Just for my own information and clarification, the -- the closes on february 9th.

FEBRUARY 9th.

Mayor Leffingwell: The information -- when will information about what's in 's be available to council and the public?

We expect to be back in front of council in the april time frame to have the short listed vendors present a briefing on their proposals to our people, to be available to the public -- some details of their proposal there will likely be proprietary information that won't be available to the public. But I except when the mrf would be --

Mayor Leffingwell: But not before april.

That's correct.

Mayor Leffingwell: Even then not likely complete information. Any more questions? Councilmember morrison.

Morrison: I have a question for you, mr. good. So we are trying to weigh these risks. I wonder what would happen if in ft we decided to count on a mrf being operational that could handle all of our materials in september, if in fact it wasn't available. So what's the scenario in the city, our contract -- our contract with green star is over. We don't have anywhere to process our staff. What would we -- to process our stuff. What would we do?

Let me -- can you restate your question. You are saying the existing contract -- we do have two six-month options with the existing contract. If the mrf is not available september 2010, council i assume would choose, recommend to extend our -- one six-month option, we would again come back after that if the mrf still isn't available and extend another option. There are two six-month options available for this current contract. We can take that all the way to september 2011, the current contract with those two six month extensions.

Morrison: All right, thanks.

Mayor Leffingwell: Looks to me like the difference is without amending using the existing contract, versus say just for example option 3 where the -- where the -- where the extension calls for 50, a ton, if we chose to stay with the existing contract as opposed to say option 3, it would cost us a little bit over \$40,000 a month until a mrf was online as opposed to option 3. [01:50:19]

We have done some very preliminary estimates and they really are guestimates because we don't know what these proposals will look like and what those current long-term contracts will be. Here's where I think it comes down to. If we have the existing contract and it truly is the new mrf is operational by the end of september 2010, we will likely, compared to option 3, we will likely make a million dollars more than we would over the existing contract. Flip side, if it's not available and we have to stay with the existing contract for those two month extensions, that a million dollars more than option 3 if we would have chosen that option. So that's -- that's the risk and reward assessment that i mentioned earlier.

Mayor Leffingwell: Thank you.

Councilmember cole.

I know what the --

Riley: I know what the answer is going to be. Ideally the contract would allow for the processing of our recyclables for some term that would also allow for flexibility for early termination in the event that -- that -- that a local mrf is online sometime in say -- in a shorter term, generation of the contract, than if we had the flexibility to shift gears in event that a facility becomes online locally that could -- that could handle some or all of our recycling stream. Is that a realistic possible. Negotiate and get better rates and still maintain flexibility to shift to -- to a local mrf, about it becomes -- if it becomes available.

When we began the discussions with green star, they were correct in saying that we approached them, they need some certainty to give you that price, they need some certainty in the amount of material that's coming into their facilities, so that's the options that you see in front of us. If we could stop it in months, the prices would certainly change. They gave us those options on the certainty of their -- coming to the facilities in the time frames of these options, the complete flexibility would cost us, of course.

Okay.

Another timing question. Once we get those -- the responses back in february, that we ought to -- to we ought to accelerate the usual review process and move as quickly as possible. did include a call for bridge provisions, a request -- a request to see what people could suggest that would allow us to get through the -- the interim until the mrf becomes available. So it's conceivable some suggestions could become apparent as of that time. Is there any way that staff could bring those to us and -- in an

expedited manner and we could go down that road sometime in february or march? [01:53:24]

That's a -- that's a very difficult question. Because we're still in the no contact period. Staff can't talk about what's in those proposals in february. We're evaluating those proposals internally and then be bringing those to council with a short list of vendors, by as I mentioned earlier, april. So we can't take that information and share it publicly and say here are all of the proposals, here is who wants to build it when. We can't share that information during that no-contact period. As I mentioned earlier, even with that information there are a lot of things involved evaluation other than schedule. Including schedule. So there's a lot of community value that we will be looking at. Even if someone had a schedule that says we're going to be online september 2010, that may not be the staff recommended vendor and the vendor that you all eventually choose. So to rely on just that piece of information, even if that was available, i would caution against that.

Riley: My last question is, none of the folks have suggested that we call for an -- a number of folks have suggested that we call for an audit, of the current recycling stream and the prices, reasonable market prices for those materials. I guess the questions that i have are -- are number one, to what extent is that information requirednd our current contract; and number two what additional measures could we undertake to get that information?

Quickly, from [indiscernible] staff, i think that's in our current contract provision and we plan based on the conversation that we've had, launching that audit. So that can be done.

Riley: That will be happening?

[Indiscernible]

mayor?

Mayor Leffingwell: Councilmember spelman.

Spelman: Robert, I hate to ask you what will sound like speculative questions, but we are speculating a little bit on what's going to happen in the future. My apologies in advance. First the question I know you can nail down, it's probably come up in debate, but somewhere it slid past me. What is the cost of our existing contract with green star per month right now?

It's \$90 a ton for the processing fee and then we pay the transportation costs to get it to their standard.

So the arage month, how much are we paying green star to dispossess of our recyclables dispose of our recyclables? I'm sorry, tammie williams, approximately after processing and transportation, it is about 200,000 per month. [01:56:26]

About 200,000 per month is our net cost.

Yes. If we got out of the green star contract for whatever reason for whatever time, our savings would be a minimum of 200,000, presuming someone else would pay us to take our recyclables from us.

That's correct.

Now we start getting speculative, thank you. Now, let me get a little bit speculative with you. What is, in your expectation, the earliest date that we could reasonably expect the preferred firm in the , the mrf that you would otherwise recommend to begin taking our recyclables?

That is a difficult question. We have estimating anywhere from january to august of 2011.

January to august of 2011.

Across the country, we have seen anywhere from implementation when contracts are signed from nine months to a year and a half. So we're -- it is a big estimate. But that's what we're assuming tt most of the contract, the proposals, will be able to be available somewhere in that time, january to august of 2011.

Spelman: On what basis will your recommendation to us over which of these firms to choose, on what basis will that be made, just cost or --

, there are a lot of criteria from schedules to cost to community values, environmental stewardship, there is a multitude of criteria that are involved in this valuation of this r.f.p.

The low cost provider will not necessarily be the winner from your point of view?

True. It's a factor, but not the only factor that we look at.

Spelman: Okay. What is -- this is extremely speculative, I can't possibly hold you to these numbers, I just want what is your best guess as to how much a successful mrf provider would be paying us a monthly basis for the average amount of recyclables.

Again, very difficult. As I mention would earlier, we have done preliminary estimates, we think the difference between the existing contract and option 3 or option c would be about a million dollars to our benefit if there's a mrf available and operational september 2010. If we have the existing contract, and we have to use those two six-month options because the mrf isn't available, we have lost a million dollars compared to option 3.

Spelman: Okay. Well, let me break that down because -- because it's too bundled up the way that I'm thinking about this. On a monthly basis, how much -- [01:59:03]

million dollars for 12 months.

Spelman: 12 Months, okay. Something like \$08,000 a month.

Compared to option 3, yes.

Spelman: Compared to option 3 where we would be paying \$200,000 a month for six months, and then \$100,000 a month for another six months after that.

Option 3 is a better deal than we have today. Right now we're paying 200,000. So it's less than 200,000.

Spelman: I see. Okay. Okay. Thanks. I think that's all that i need.

I just want to make sure that I understand the -- the need to act right now. We are in the process of getting a new solid waste services director.

Uh-huh.

FEBRUARY 1st.

He's going to be here FEBRUARY 1st. If we were to ask on this today and instruct staff to negotiate a contract and bring it back to us for execution, that would be sometime in january, i presume.

[Indiscernible]

Riley: If -- if we decided to hold off and allow the new director to weigh in and also to -- to take a look at the -- at the , i hear what you are saying that it would really be a matter of -- that wouldn't be early february, that would be april. But if we waited -- so let's say we're talking about the difference about -- between january and april. That if we waited -- suppose we were to wait until april to make this decision. Just maintain the current contract in place until april. Ideally sooner if there were any way to accelerate that review process. But let's assume it's going to be april. The benefit being that we would have those responses on the table, including the -- including the bridge provisions, we would have the input of the -- of the new director, we could make a decision then at april that could still include some of the options that are on the available now. Something like those options. So that would be a difference of an additional three months. Is that -- help me understand what we would be losing by waiting those three months to have all of that -- all of that additional opportunity to -- to review additional information in april.

Number one, the options that we negotiate with green star were for this time frame and this amount of material. So if you would then say we're not going to look at this until april, we would have to go back to the table to green star to verify that these options are still available because the material has changed. And the other thing is just we're trying to save money. So these existing, these options save us money every month. So the longer you delay in that decision, it is costing us some money. Those are the two things, ramifications.

But on the other hand if -- if waiting that long opened up some new option that's could save us more

money, then it could actually prove to be worth the wait?

Sure, that's the risk, reward gamble that we are in right now.

Riley: Thanks.

Mayor Leffingwell:.

That's the other potential upside that there might be some other competitors or other options that are out there for short term solutions.

I think your short term -- I think your solution is a local mrf. We explored informally the community, there's -- we have not found any other short-term solutions. There just isn't local mrf's that can take our single stream, everything mixed today. The permanent option finding a local mrf and building a local mrf, that's what we are waiting for. I don't think there's any other options from this transition period from what's in front of us today.

I'm trying to reconcile with what you just said with what we heard from mr. Porter. In fact that there are folks locally who though they may not have a mrf today, they expect to have the capability by the end of 2010. Has staff looked at that, porter, explored those options and those possibilities.

Those will be the proposers that we are looking at. I assume that everybody who is building a mrf, this they are building it now it's on our long term solution.

Riley: Do you think that there is a possibly that some folks locally could have some mrf capacity by the end of 2010.

I don't know. If people are gambling for 4,000-tons a month and assuming they are going to get our material that's a pretty big gamble. I don't know if they are gambling on that kind of quantity or not. We will know when we get the proposals in and be able to to evaluate those if that's indeed the case or not.

Riley: Thanks.

Sorry I can't give you any more. We just don't know what's out there at this moment, what the proposals are going to be.

Mayor Leffingwell: Anything else? Council?

[Indiscernible]

Mayor Leffingwell: strayhorn, please come up, I'll ask you the question. What do you want to correct? What is it that you wanted to correct?

The question was how much was the city paying currently. Right now.

Mayor Leffingwell: There was that question, yeah.

Well, I have the november numbers. If that's relevant. To you. The most recent month completed, you paid about 22 per ton, \$21,283 in november for the commodity. The transportation was 76,608 or \$18.79 a ton. The total being \$97,891. Which is \$24.01 per ton.

Mayor Leffingwell: So the total cost last month was about \$100,000?

Yeah, just under 100,000. We have seen a trend upward in the market. It's -- it's been continuing to lower that amount. So you are real close to break even on the commodity portion of it.

Mayor Leffingwell: Thank you. Council, further discussion or a motion on item 90? 82, Excuse me. [Laughter] item 82.

Spelman: Sorry, I'm a little distracted.

Move that we close the public hearing.

Mayor Leffingwell: Councilmember riley?

Riley: Mayor, I'm going to move that we move the public -- close -- that we close the public hearing and instruct staff to continue its efforts with the audit. To provide information related to the audit of our recycling stream and market prices and continue efforts to identify local providers who could have some -- see how soon local providers could have capacity to process our recyclables locally, ideally report back to us and report back to us as soon as possible in 2010 with the understanding that we may be waiting until we have the -- the -- the , our , currently outstanding before we have a -- have a -- are able to take up further action on this.

Mayor Leffingwell: Clarification, there is no public hearing. So the most is to postpone indefinitely, is that your motion?

Riley: That's right. And with the additional instructions to staff.

Mayor Leffingwell: With additional instructions to staff. Understood. Is there a second? Second. Motion dies for lack of a second. Is there another motion? Councilmember spelman?

Spelman: We need to discussion the motion, so let me put on the table the solid waste advisory committee's recommendation. Let me make a change to that. Except that it would authorize staff to both negotiate and execute, as long as the execution would include the recommendations included in the southwest -- in the southwest advisory commission to us, that would be negotiate option 3, utilizing current contract audit procedures, requesting green star to specify definition of market prices and

obligating green star to recycle all material [indiscernible]

Mayor Leffingwell: So councilmember spelman moves adopt the swac recommendation, with the .. [Indiscernible] is there a second to that motion, seconded by the mayor pro tem. Is there any further discussion?

Martinez: Mayor, I want to make a point of clarification. Councilmember spelman said it would authorize negotiation and execution, but swac's recommendation for option 3 is to negotiate but not execute until it comes back to council.

Mayor Leffingwell: That's what he said.

Martinez: Okay, thank you. Councilmember cole.

Spelman: I can try it again if you would like.

Cole: I'm not sure if this is a question for staff or councilmember spelman. But you said -- well, maybe this is a question for robert. I wanted to make sure that we were clear on what audit procedures we were giving you direction to do, because I wasn't clear on that from the swac recommendation. Do you know what swac had in mind? Can you explain it to me?

I think we're clear on just the market pricing, make sure that the materials that we're giving them, what the mixture is, how they are resourcing that material and the price that we're being paid to make sure that they are recycling all of the material. We will work with swac as well and make sure that we have all of those items checked over, what that audit entails.

Spelman: Robert, while you are up there. Do you anticipate if you had to utilize current audit procedures, green star had to specify market prices and had he this to obligate to recycle all of the materials, that would have an appreciable on the effect of the contract that you preliminary negotiated.

No.

Spelman: Price would probably be about the same?

[Indiscernible]

Mayor Leffingwell: Councilmember morrison and then councilmember shade.

Morrison: If I could just get clarification on the motion. Does it include instruction to negotiate and execute --

Mayor Leffingwell: Yes.

Morrison: Or just --

Mayor Leffingwell: Yes. Okay. I guess that I would like to good, how much time would it add to the process if we asked you to come back before execution of the contract?

We thought it would be a month at least because of your council agenda. We would be back perhaps in JANUARY 28th, SO IT MAY BE A month, may be more than that with -- with the -- with the process.

I guess my question is what the --

we we thinking -- [multiple voices] we were thinking it would be from a month to two months later on the negotiate and execute separately. Where we would hope to have a negotiate and execute done within at least a few weeks because we have been dealing with green star already on these issues. And -- but at that point then to bring it back to council would add again, you know, about a month. It could be a month to two.

Morrison: What impact would that have on things?

Same thing we talked b. The sooner you get a -- talked about. The sooner you get it in place, the sooner we accrue -- we are thinking between 20 to \$40,000 a month difference in the existing contract, option 3.

It could cost us about 20,000 or \$40,000 to put it into two --

right.

Morrison: [Indiscernible]

Mayor Leffingwell: Councilmember shade?

Shade:.

Martinez: Mayor? I was trying to clarify that swac's recommendation was to authorize negotiations with specific instructions but not execute.

Spelman: That's not the motion, however.

Martinez: I realize that, but your motion was stated as swac recommendation. Option 3. That --

Spelman: With the change.

Mayor Leffingwell: But he did say with the exception that it would also include execution.

Martinez: Then, I will withdraw my second because that's not -- not what i understood. I didn't hear the

clarification. Thank you.

Mayor Leffingwell: Second is withdrawn. If there's no objection. Around is there another second?

Second.

Mayor Leffingwell: Councilmember cole seconds the motion. Now councilmember shade would like to offer I assume a friendly amendment?

Shade: I will offer a friendly amendment that you go back to the swac recommendation. [Laughter] with -
- that's my amendment. Without the exception.

Spelman: Whether it's friendly or not, the primary reason I offered the motion as it is, because I wanted to put a motion on the table to chew on. Perhaps it would make sense for us rather than to offer friendly amendment, to vote on amendments -- [multiple voices]

Mayor Leffingwell: Hold on just a second. Friendly amendment has been offered. You have to accept it and councilmember cole has to accept it. If you don't, it can then be offered as an ordinary amendment, which would have to be voted on.

Spelman: I'm giving you way too much context. I should have just said yes or no. No.

Mayor Leffingwell: You don't accept it. Okay. Councilmember shade.

Shade: I make it as an unfriendly amendment and would ask that my colleagues vote on the idea of separation of --

Mayor Leffingwell: Councilmember shade moves to amend the motion to --

second.

Mayor Leffingwell: Make it the pure swac recommendation.

Shade: Yes, without I will just explain why --

Mayor Leffingwell: Seconded by mayor pro tem. Councilmember, you have the floor now.

Shade: The issue for me is this risk reward. I think the reason why I'm interested in option 3 is because of the -- I think the quote from Rick Cofer with swac, it's a dog with fleas, it would have less fleas. But at the same time we're talking, I'm feeling pretty unclear as to whether or not there may be other options out there. So I would like for you to follow their direction and separate the two. So we have a better risk reward.

Mayor Leffingwell: We have a motion with an amendment and a second. Is there any discussion on the amendment? All in favor of the amendment to the -- to . -- mr. good?

I would also ask council to consider the other part of the [indiscernible] authorizing payment for services rendered, that was part of that, too, so i wanted to make sure that --

you know. I --

Shade: I believe that was in the swac recommendation. It was not? Well, I would like to --

Mayor Leffingwell: Would you like to amend your amendment to include that. That recommendation? We can do it later. That would probably be better to do it later.

Shade: Do it as two separate things or it gets confusing.

Mayor Leffingwell: Now we will vote on the amendment to the main motion. All in favor of the amendment say aye.

Aye.

Mayor Leffingwell: Any opposed? All right. The motion is amended. We're back to discussing the main motion as amended. Are there any other proposed friendly amendments? No? Any further discussion? Councilmember morrison?

Morrison: good, could you speak to the payment request that you are making? Which I understand is not part of this motion. So --

correct. The current contract calls for payment, if there is a payment to be made at the end of the contract. As we all know, the recycling market has dramatically changed and green star has been carrying for some time expense that's we owe them. So we need authorization from council to change that payment for the end of the contract to now to pay them what costs that we owe them for services that they rendered due in the contract. Legal can provide you any more information. You know, I'm about beyond my level of legal advice there. But that's what I've been told is we need authorization to pay them for services rendered.

Morrison: Just to be clear, the contract calls for us to pay them at the end of the contract, but you are asking that we move it up?

It was -- it was intended to do that because we didn't think there would be any costs. It was intended to be a revenue contract to begin with. So in the unlikely case that we would owe them money, it was to be settled up at the end of the contract but it was always intended that we would actually be making money on this contract and there would never be that instance would occur. They have incurred quite a bit of expenses because of the transportation costs, which we knew about. But the recycling costs changed

so dramatically we are not making money, we are actually owing on the contract. [One moment please for change in captioners]

the contract as amended included provisions where if the net revenue was not sufficient enough to pay for the transportation or processing cost, then green star agreed to carry those in the future until the contract was either terminated or the contract was expired. And then there were provisions where the city would either make -- it in the form of recyclables. There were provisions in the contract that require for monthly payments in the form of a rebate to the city in the event that net revenue exceeded transportation and processing costs. But as you know, that has not occurred.

Cole: So you keep saying there were provisions in the contract, but that contract is still in force and effect, right?

Yes.

Cole: There's no question that we signed it. There's no question -- I'm waiting for you to tell me to answer this. There's no question in your mind that under the contract we owe this money.

Yes, councilmember. The city has received services for almost 12 months, and there are amounts due and owing, that's correct.

Cole: I would move that for a friendly amendment that we include in the motion to pay greenstar the expenditures that we owe them, which I understand from the staff's recommendation is approximately 2,640,000, \$319. Is that correct?

Yes.

Cole: Okay.

Leffingwell: Councilmember shade.

Shade: This is a new motion for a new council action, is that correct? It's not amending --

Cole: No, it's an amendment. We haven't vote odd it. It's just an amendment to include the payment. Ef.

Leffingwell: She's offering a friendly amendment to include that payment that is due.

Shade: Of my motion. Sorry, I got confused. Now it's mine because of -- I accept that as a friendly amendment and believe that we should be paying what's paid now.

Leffingwell: No, that's not true. It's actually councilmember spelman's, the maker of the motion.

Spelman: I'll accept it.

Leffingwell: And councilmember cole is the second, and she obviously accepts it. Councilmember morrison.

Morrison: A question for staff. So we're talking about making a payment earlier than the contractually requires. Can you -- could somebody give us an estimate of the option would be that we save that money in the bank and make interest on it, i guess, until the end of the contract and then make the payment. So I'm just trying to get my hands around like what this might cost the city to make an early payment. Let me make this brief statement because I think it's going to bear. The crux of this it seems to me is that the end of the contract time is being changed by this action, is that right?

It is true with option 3 it is being changed, so we can make sure this is part of the new contract, but we also -- on a go forward basis we need to pay the funds that we owe them now for services rendered. That's why we brought it up in rca. In option three we made sure to clarify that those payments would be due on a monthly basis. I don't know if I can answer your question if we put that two million in the bank.

Morrison: I'm trying to get my hands around what the rationale is for doing this. What is the benefit to the city to do this?

From my perspective the benefit is it was never intended by either party when this contract was signed that the market would do what it did, so they're essentially banking on our single stream operation and continue to incur costs that we owe them. Pay them later or pay them now. That's the question.

Leffingwell: Councilmember shade. Shade is next.

Shade: My understanding is we have option 3 in front of us along with the other options in return for that -- making that payment. So option 3 is offered to us, which is why we have the opportunity to have the discount because of the fact that we would be changing the deadline. That's part of what option 3 is, and therefore in return for that we also pay what we owe, which I think is reasonable.

Morrison: So it's a part of option 3.

Shade: It is a part of option 3. That's why I was confused when it was asked because i think it's the reason -- the reason why we have option 3 in front of us. That's why I got confused.

Morrison: So it is part of option 3.

That was part of the offer from greenstar.

Morrison: So we just need the technical authorization.

Yes.

Morrison: Thank you.

Shade: I think I have a question for ms. strayhorn.

With all due respect in answering your question, councilmember morrison and mine -- I am not a lawyer. I've got my law bios now sis, not by degree. I believe and I'll ask legal staff this too, that the amended contract clearly lays out that transportation costs should be paid monthly. And that is a part answer to your question. And that is as it stands right now, transportation costs should be being paid monthly. None of them have been paid.

Leffingwell: Okay. So where we stand now is we have a main motion to approve the swac recommendation, the swac recommendation, with no amendments.

Spelman: That's correct.

Cole: Wait, you took the amendment.

Spelman: The amendment was imbedded in option 3 to begin with, either way.

Mayor Leffingwell: Any further discussion? All in favor say aye? Any opposed? It passes on a vote of seven to zero. Council, the only remaining item on the consent agenda is item number 92, which we will plan on taking up after we hear item number 141. So that brings us to our zoning items. Mr. guernsey.

Thank you, mayor and council. 00 zoning ordinances and restrictive covenants items where the public hearings have been closed. What I'd like to do, mayor and council, is to take all the historic items separate after I go through our consent agenda because i know there will be some discussion and my zoning manager, rusthoven is eager to present you some information. Item number 103 is case c-14-2009-0077, this is the property located at 5011 balcones drive. This is to zone the property multi-family residence medium density conditional overlay combined district zoning. The valid petition is removed. There's agreement between the property owners that have been reached. These are private agreements. Also there's a document that is incidental document regarding access that I will most likely sign tomorrow, but we can offer this as a consent approval for second and third reading in balcones condos with the acknowledgment that the valid petition has been withdrawn. I believe there are parties here if you would like to ask them any questions regarding that. They'll be happy to come forward. Next item I'm going to jump all the way over to item number 118, although ns an historic case, the owner has requested a postponement of item number 118, case c-12009-047 to your FEBRUARY 11th, 2010 Agenda. So it a postponement on number 118 to FEBRUARY 11th. Item number 126 is not an historic case, but it will that is the south shore p.u.d. And that concludes the items I can offer for consent that are not historic at this time.

Mayor Leffingwell: So the consent agenda for the zoning cases where the public hearing has been

closed is item '10 3 for consent on second and third readings and item 118 postponed until FEBRUARY 11th, 2010.

Correct.

Mayor Leffingwell: Is there a motion it to approve the consent agenda? Motion by councilmember morrison, seconded by the mayor pro tem. All in favor say aye? Any opposed? It passes on a vote of seven to zero.

Thank you, mayor and council. Let me move on to our zoning and neighborhood plan amendments. These are where the public hearings are open and there's possible action --

Mayor Leffingwell: guernsey, explain to me the rationale for not dealing with these other cases as -- is there anticipation that they will all be discussion cases?

I think staff would like to present you some information that was discussed at your last meeting last week regarding the cases.

Mayor Leffingwell: Go ahead.

There are three of those that are also historic zoning. Item 1 twine and 130. The first item I would like to present is case 131, crown-2008-0242. This is the mueller austin energy substation. Our austin energy department has requested postponement of this case to your january 28th agenda. This is item number 131. Item number 132 is case c-14--2009-0098 for the property located at 9704 swanson's ranch road. The zoning and platting commission recommendation was to grant the no-mu combining district zoning. This is ready for consent approval on all three readings. Item number 133 is case c-14--2009-0106 in the rosewood neighborhood planning area. This is a vertical mixed use or vmu zoning opt in, opt out process. Staff is requesting a postponement of this item to your january 28th, 2010 agenda. Item number 134 is case c-14-2009-0110 for the property located at 13505 north fm 620 road. We have a neighborhood postponement to the 14th, however, they have agreed, both the applicant and the neighborhood have agreed to a postponement to january 28th. The applicant just asked that this item be sent back to the zoning and platting commission because there are some new information that the zoning and platting commission was not aware of when they made their decision. We could keep this on a consent if you postpone it to the 28th, and with acknowledgment that this would go back to our zoning and platting commission. Item number 135 is case c-14-2009-0125. The property located at 1509 dessau ridge lane. This is to zone the property neighborhood commercial or lr district zoning. The zoning and platting commission recommendation was to grant limited office, conditional overlay or lo-co combined district zoning. This is ready for consent approval on all three readings. Item number 136 is case c-14-2009-0127 for the property located at 7685 northcross drive. Staff is requesting a postponement of this item to your february 4th, 2010 agenda. And this could be offered as a consent item. Item 137 is case c-14-2009-0136 for the property located at 13216 pond springs road. This is a zoning change request to general commercial services district zoning. The zoning and platting commission recommendation was to grant cs-co combined district zoning. This is ready for consent

approval on all three readings. That concludes the items i can offer on consent for this portion of your agenda.

Mayor Leffingwell: Consent agenda for those items where we have yet to hold a public hearing would be postponed to january 28, 2010 item 131, close the public hearing and approve on all three readings item 132. To postpone until january 28, 2010 item 133 and 134. To close the public hearing and approve on all three readings item 135. To postpone until february 4th item 136 and to close the public hearing and approve on all three readings item 137. That is the consent agenda.

As noted, 134, I will assume that the council --

Mayor Leffingwell: Feel free to take it back to zap.

Thank you very much.

Mayor Leffingwell: Is there a motion to approve the consent agenda? Motion by councilmember spelman. Second by councilmember cole. Any discussion? All in favor of the consent agenda say aye? Any opposed? It passes on a vote of seven to zero.

Thank you. At this time I would like to introduce jerry rusthoven, zoning manager and planning department.

Mayor Leffingwell: So we're going to take up all historic zoning cases at once and you will make some preliminary remarks.

Councilmembers, I'm jerry rusthoven with planning development and review. I'm here to offer cases 102, which is case c-14-2009-032 for the property located at 1511 preston avenue on first reading the council approved family residence historic combining district zoning. Case 104, which is c-14-h-2009-0028, which is at nine miles road. On first reading the council approved family residence h or family residence historic combined district zoning. Item number 105, c-14-h-2009-0029 located at 1600 gaston gaffe. Item 106, case c-14-h-2009-0030. Case 107, which is case c-14-h-2009-0034 located at 1403 hard win avenue. On first reading the council approved historic zoning. Item 108, c-14--h-2009-0035. Item 109, case c-14-h-2009-37. On first reading the council approved family residence historic combined district zoning. Item tennessee, 2009-h--- item 111 case c-14-h-2009-38 located on 1515 pees road. Item 112, c-14-h-2009-39 located at 2410 jarrett avenue. On first reading the council approved sf 3 h. Item 113 c-14-h-2009-40. Case 114, c-14-h-2009-0041 located at 1613 pees road. On first reading the council approved sf-3. Item 115, c-14-h-2009-0042. On first reading the council approved sf-2-h or single-family residence single lot historic district zoning. Item 116, c-14-h-2009-45. Item 117, c 14 h-2009-46 low located at 1508 hard win avenue. On first reading the council approved sf-3-h. Item 119 located at 12 miles road. On first reading count approved sf-3-h. Item 120, c-14--2009-50 located at 2418 harris road. On first reading the council approved family residence sf-3 h. Item 121, c-14-h-2009-51. On first reading the council approved sf 2-h historic combining district zoning. Item 122,

c-14-h-2009-53. On first reading the council approved sf-3-h.

123, C-14-h-2009-56. Item 124, c-14-h-2009-57 located at 1603 pees road. Item 125, c-14--2009-87, the first reading count approved sf-3-h. Item 127, c-14-h-2009, 43. And finally case twun, c-14-h-2009, 44, on first reading the council approved family residence, historic zoning. On first reading the council requested that the staff go back and contact the owners of all the properties in which an agent was used to submit the application to confirm that those property owners are aware of the responsibility that they have if they were to get historic zoning to maintain the structure in accordance with the guidelines as laid out by the historic landmark commission. We called and spoke directly with those owners or left them a message for every one of them. They were all the ones that we spoke to that were aware of the requirement for the city inspection of the property and that the -- that they're required to maintain the structure up to our standards. A few of them we did have to leave a message. We left a message describing the program and asked us to call back if they had an issue with that. Two of them called back and said they were aware of the requirements and the others have not returned the message. So that is one of the things that we did to address the -- what was brought up at the last meeting. Thing that was brought up at the meeting last week was that there were several of the cases that appeared to have gone to the wrong land use commission. We have confirmed that that is correct for seven of the cases that were approved on first reading last week. What happened was these cases are on what's called the olden field neighborhood. When the city council was approving the kickoff for the west austin combined neighborhood plan that was on the way, at the request of a citizen within the olden field neighborhood, olden field was left out of the area to be included in the neighborhood plan. For that reason those cases should have gone to the zoning and platting commission rather than going to the planning commission and staff apologizes for the error. However, they have gone to the planning commission and did receive their recommendation. The staff has -- would request that the council in approving items number 104, 106, 111, 113, 114, 119 and 124, the staff would request the council include in its motion a determination that section 25-1-46 of the city code is waived with the approval of those cases. That section of the code is a section of the code that says where a zoning case should go, whether it should go to the zoning and platting commission or whether it should go to the planning commission. The staff would request that because it's scheduled to go to the planning commission that this section is waived. That would cure any default in those cases. Finally, --

Mayor Leffingwell: rusthoven, that was 104, 106, 111, 113, 119 and 124?

And 114 as well.

Mayor Leffingwell: And 114. You're going pretty fast there. And that was section what?

Section 25-1-46 of the austin code. And finally, there were some ideas that were discussed at the last meeting to avoid a situation like the one we had at the last meeting when we had so many cases on a single agenda and the volume of cases for this year. We heard three ideas being discuss by the council. One would be to a limitation on the number of owner initiated cases that would come before the landmark commission at any given meeting. The second one was an idea to include a dollar amount, a cap on the dollar amount that the city exempts per year with historic zoning. And finally, a third idea to

have a cap based upon geographic distribution so that we would not have all the historic cases and come from one particular neighborhood. Or if we did have a cap in the number of cases per agenda, which naturally would be a cap on the number of cases we could have per year, that we include a geographic distribution of those so that we don't get all of them from one neighborhood and then somebody from another neighborhood cannot apply. Staff feels that all these ideas have some merit. We would like with the council's permission to go ahead and allow us to do some research on these issues and come back at a future council meeting with a request for a possible code amendment. We don't think these three ideas are mutually exclusive of each other. We think it would be a good idea to include all three of them. We would like some time to go out, research it and we would come back and be requesting the council initiated code amendment. So I'm telling you we will not do anything with the rule making process and we will not take anything to the planning commission, but what we would do is come back to the city council and ask you if you would like us to initiate a code amendment with the proposal that we had. You could of course take us up on that offer or not or suggest something different. But we thought that all three of those ideas were good ones. And we would like some time to look into those. And that would be my presentation on those cases for second and third readings.

Mayor Leffingwell: Okay. So I'll entertain a motion to approve on second and third reading item 102, item 104, 105, 106, 107, 108, 109, 101, 111, 112, 113, 114, 115, 116, 117, 119, 120, 121, 123, 124, 125, 127, 128 with the additional provision that we grant a 46 of the code. For items 1104, 106, 11, 113, 114, 119 and 124 with additional instructions for the staff to come ba with a proposal for restrictions and limitations on the number and the dollar amount with regard to both overall cap and geographical limitations for historic zoning cases.

We understand. I believe item 122 was also included in that.

Mayor Leffingwell: 122 also waiver under section 25.1.46.

I'm sorry, mayor. I wasn't clear. Actually just I did not hear item 122 on the consent. Does not require the waiver, it is just an item up for consent on second and third.

Mayor Leffingwell: If i didn't say it, I'll say it now, add item 122 to that list of agenda items that we're going to consider en masse. Councilmember morrison.

Morrison: I would like to make that motion with one small addition. And that is that while you're doing research to come up with your recommendation that you engage folks on the historic landmark commission as well as the hysterical -- [laughter]

Morrison: I meant the heritage society. [Laughter] because I know that when there were process issues before, it was important to get everybody's perspective. So I would like to make the motion that you do the research, but include them in the conversations.

Mayor Leffingwell: We'll add that in the motion, the direction to include the heritage society in your

discussion of these options.

Spelman: Mayor?

Mayor Leffingwell: --

Martinez: Mayor?

Mayor Leffingwell: Mayor pro tem.

Martinez: I assume this will take place, but I want to go on the record as saying that adding to your component of research that you look at what other cities have been able to come up with and accomplish in regards specifically to lower income and minority neighborhoods, where we historically don't see a lot of preservation taking place. And maybe opportunities are missed. Thanks.

Mayor Leffingwell: Additional comment by the mayor pro tem. Okay. All in favor of the motion? Did we have a second to that motion? Yeah, councilmember spelman was the second. All in favor say aye? Any opposed? It passes on a vote of seven to zero.

Thank you, mayor. If I could, I would like to offer for consent approval on all three readings case number 129, which is case c-14-h-2009-0060, located at 1608 woodlawn boulevard. The request is to sf-3-h or family residence combined district zoning. The staff, planning commission and landmark commission all recommend approval. Item number 130, c-14-h-2009-0061, located at 11 miles rd. Qut is to sf-3 h. The staff, planning commission all recommend approval. Finally, case 138, c-14-h-2009-0058 located at 1506 enfield road. The request is to mf-3-h or multi-family medium density historic zoning. The staff, landmark commission, planning commission all recommend approval. And again, mayor, on all three of these cases we have the same issue with regard to the planning commission versus the zap. All three of these are in the olden field neighborhood, therefore the staff would request if you approve these a all three readings, you include a statement waiving section 25-1-46 of the austin code.

Mayor Leffingwell: Council, I'll entertain a motion to close the public hearing and approve on all three readings items number 129, 130 and 138. With the additional provision that a waiver on all three of these items of 46 of the code be a part of the motion. And motion by mayor pro tem to approve that collective motion. Seconded by councilmember morrison. Any discussion? All in favor say aye. Any opposed? It passes on a vote of seven to zero.

Thank you.

Mayor Leffingwell: So council, I believe that brings us to item number 126. Mr. guernsey.

Thank you, mayor and council. Item number 126 is case c 814-2008-0087 known as the south shore district p.u.d. For the property located at 1701, 1801 south lakeshore. 1414 Arena drive, 1333 arena drive, 1200 continue anyone ford and 1201 town creek. This is a zoning change request to a planned

unit development or pud mp combining district zoning. Since second reading there have been some changes to the ordinance and I want to speak to the changes that are different than the version that is online because I think there have been changes made to the ordinances right up to today. So I just want to make sure that people that may have been viewing a copy of the ordinance online or that may be in the audience can understand some of the changes that may have occurred. That differ from the version in yellow that you have on the dais. Under part 3 there's an exhibit d that's referred to that speaks to the austin energy green building program for the commercial rating packet and the multi-family rating packet as of the date of this ordinance. Under part 4 to clarify uses, under part 4-a specifically that other uses allowed within the multi-family residence highest density agreement six district a use not shown on the land use plan as a permitter additionally used is permitted in the p.u.d. Again, part 4, paragraph b, which is to clarify that the maximum heights of 60 feet in areas 1 and 7 on part 4, paragraph f, part 3 that speaks to the planned unit development shall comply with requirements of the austin energy green building program for multi-family or commercial rating. And again, that's in accordance with the austin energy green building program rating packets that are part of exhibit d i mentioned earlier. On part 4, paragraph f, part 5 b, and under 5-b it speaks to a building shall have a baseline not less than 40 feet high and any part of the structure that is 40 feet or more shall fit in the envelope by a 40-degree angle starting 40 feet above the property boundary line of lakeshore boulevard with the base of the angle being a horizontal angle parallel and away to a surface of lady bird lake. This is to clarify language that would be more similar to what we already have in the waterfront overlay. Under part 4, paragraph f, part 6 d, we clarified that language to speak to the maximum height of a parking structure with a courtyard. On top should be 32 feet. Under part 4, paragraph f, part number 10, we clarified that with the construction of a 400-unit, the -- or the residential commercial shall include facilities of at least a thousand square feet for fire protection, police department or community amenity of at least one thousand feet usable for community meetings, day care facilities, nonprofit organization or similar uses. And that the owners shall provide the space rent free for at least 25 years. So this is to speak to the timing to make sure when that type of facility comes available. Clarify on part 4, paragraph f, part 12 that the owner shall place art of a total value not to exceed \$20,000 in five public locations on the site. Under part 4, paragraph g, we clarified some of the dates relating to the traffic impact analysis. Under that part 4, paragraphg, part 2, it speaks to the public dedication or access easements. And for -- to construct on-site vehicle route sidewalks, bike lanes and trails located on site and are zone on the land plan. This clarifies the dedications and that there would be construction of those dedicated facilities. Under part 4, paragraph g, also to clarify under part 2 that the public access may be restricted to individual buildings, garages or private recreational amenities. Under part 4, paragraph g-4, that when we spoke to the trail on the land use plan between lakeshore boulevard and arena drive adjacent to the storm water pond that it shall be designed and constructed as a multi-use trail. Under part 4, paragraph g, part 10, this would be something that would align with our current pud ordinance as far as language that state that gates shall be prohibited in all roadways, access easements and any driveways that are dedicated for public use. Under part 4, paragraph g, under i-3, this is to clarify which trees are to be protected except for those that require access to lakeshore or approved for removal by the city arborist. This is under paragraph 3 of that section. I'm going to stop there pause I think when we get to part 5, there are probably some changes with blanks that are provided to you and the version you have on the dais. Previously they may have given alternatives to the public to see what was suggested at second reading

that deal with the affordable housing issues. And I think I'll pause there because I think you might be filling in those blanks. I believe Margaret Sw is here if you have some questions. And the applicant also is available to answer any questions with regard to that. Just prior to coming up I think some of the councilmembers asked about clarification on part 4, paragraph f. And I'll read what the language says now. It says that the total square footage of cocktail lounges or liquor sales in the pud may not exceed one-third of the total square feet of commercial uses in the pud. Cocktail lounges or liquor sales may be divided among no more than five sites, not exceeding 5,000 square foot each. And I understand there may be a desire to add an additional condition that the total square footage of these cocktail lounges or liquor sale uses not exceed either in combination or individually on the property a total of 20,000 square feet. And if that is true, if one of you mentions that, we can easily add that and I can work with the law department and make sure that language gets in before it's signed and presented to the city clerk. With that I'll pause. If you have any questions I'll be happy to answer them. There are also representatives, I believe, of the neighborhood organizations of EROC that are present if you have questions of them as well.

Mayor Leffingwell: Council, the public hearing has been closed, and the floor is open for discussion leading to a motion to approve on third reading the with numerous additional conditions added since second reading as outlined by Mr. Guernsey. And other additional amendments that may be added now. Councilmember Cole.

Cole: First I would like to thank staff for its very hard work on this issue that we've been addressing for some time now. And I would also recognize that one of our remaining issues is the affordable housing component. And my position is that when we talk about affordable housing, first and foremost we need to think about the number of units that we are getting. And that we have to make that decision from a city-wide perspective. I fully realize that the EROC neighborhood has been very vocal in this discussion, and I totally respect that. And they should. But I also recognize that there are many areas in the city that need affordable housing and that the lake is a community benefit and it is a benefit not just for the neighborhoods that are adjacent to the lake, but for the entire city. And that many neighborhoods throughout this city would welcome this type of development and a chance to have this type of contribution to affordable housing. With that being said, I also recognize that it is a balancing act between the neighborhoods that actually are on the lake or have affordable housing displaced and the needs of the entire city. So I instructed staff last time to draft an ordinance that potentially set forth a division of the affordable housing sum between on-site development and of the areas within the EROC development and also potential contributions to the affordable housing funds with a potential priority to senior housing, but just to the affordable housing fund. And I did that because I thought that that was equitable. I thought that recognized the need for affordable housing on site. It recognized the need for affordable housing within the neighborhood, but it also recognized the need for affordable housing throughout the city. And I just feel that we have to make that commitment to our entire city and that we should not make a vote with the precedent that community benefits -- especially those that derive from the lake or citywide asset have to only be spent in the one neighborhood that it benefits. So with that I move to approve on third reading and include the following in the zoning ordinance to address affordable housing. The total package in the amount of \$3,148,000. This package includes a fee for affordable units on site of 3,580,000, and a displacement program in the amount of 90,000. Now we

start dealing with the split. Roughly 33% of the amount, which is approximately 33 be dedicated to on-site housing at 60% of mfi. And two-thirds of the remaining amount, which is \$2,038,666 to be paid as a fee to the austin housing finance association with half of that sum, 50%, a million dollars, and -- \$1,019,333 to be used to provide affordable housing in the area defined as the east riverside oltorf combined neighborhood plan. I also recognize that there are different areas in the amount that has been provided to us that will be developed first and that the payment plans will be set forth out over time. And I understand that staff have to be challenged about that if anyone wants to talk about those details. So that is the motion.

Mayor Leffingwell: Thank you. The motion it to approve on third reading -- let's see if I can recap it. Dividing the total amount, which was --

Cole: Mayor, just understand that I wasn't sure if I made the statement that the division is a combination of the total fee of approximately \$3 million and approximately one million dollars is going on site and approximately one million dollars in the area and one million dollars off site, but it's a combination of the fees.

Mayor Leffingwell: So the amendment basically is of the approximately 3-million-dollar amount devoted to affordable housing, one-third would be on site. One-third would be in the neighborhood plan and one-third would be administered elsewhere by the austin housing finance corporation. Is that correct?

Cole: That's correct.

Mayor Leffingwell: Seconded by councilmember shade. Mr. guernsey.

Mayor, the law department just gave me one more clarification that deals with part 5, paragraph f. I might ask that tom knuckles come up to clarify a slight change on that particular section of the ordinance.

Spelman: guernsey, could you specify the page number?

Sure. Yes, councilmember. Part 5, the page in question is page 12 of 12.

Tom nuckolls with the law department. As y'all are aware, we've been working hard to make sure that the affordable housing component of this will pass muster under state statute. We have literally been providing belt and suspenders at every opportunity to make sure this thing will stand up if it has to, even as early -- as late as this morning we were adding belt and suspenders. This is one more belt or one more suspender, however you want to classify it. At the end of part 5-f, add the language, add to the ordinances zoning the property in effect when this ordinance is adopted shall remain in effect for that purpose. And what we're doing there, as you know, density bonuses are allowed under the baxter bill, and the way we are structuring this ordinance, the landowner will literally have a choice to develop on the condition that he provides affordable housing or to develop under his existing entitlements without the affordable housing. So that's why we need to keep the existing zoning ordinances in effect. If you've

got any questions I will be happy to try to answer them.

Mayor Leffingwell: I understand your proposal is to add a section 5-f, which basically requires that the zoning ordinances in effect at the time the zoning remain in effect. Is there any councilmember that wants to offer that as a friendly amendment to councilmember cole's motion? Councilmember spelman.

Spelman: I believe that's in addition to section f on page 12, is that correct?

Yeah. That language would just be added to the end of section -- part 5-f.

Mayor Leffingwell: Councilmember riley.

Riley: I want to join councilmember cole in thanking staff for all the hard work that's gone into this. And I appreciate her comments with respect to the difficult challenges we're facing and trying to figure out how to allocate the affordable housing fees that are on the table here. I agree with the need to focus a significant part of those fees on-site, and i also agree with the need to keep -- to devote some to the neighborhood. And in fact, I would offer a motion that we limit the division of the housing fees to those two purposes. And I just want to address that briefly.

Mayor Leffingwell: Are you offering a friendly amendment?

Riley: Yes -- no, this is not a friendly amendment. This is an actual amendment to the motion, if I could. I doubt -- we've already talked about this. It is not a friendly amendment. It is not a friendly amendment. [Laughter] offered in a friendly manner.

Mayor Leffingwell: Councilmember, why don't you just make a substitute motion?

Riley: I would rather offer it as an amendment to vote up and down so we can all vote on that and then vote on the main motion. The motion, I'll state is briefly. I'll say instead of dividing the proceeds a third, third, third, that we devote it 50/50 with half staying on site and half going to affordable housing in the east riverside oltorf combined neighborhood with priorities to be given to home ownership. And my basis for that, although I respect the comments councilmember cole made about the need for affordable housing citywide, and I believe strongly in the goal recommended by our affordable housing taskforce that we achieve geographic distribution of affordable housing, what we're dealing with here is a housing project that is near a transit stop. The rationale for the project is based in part on the project's proximity to a future transit line. We have -- when we're in that position, we face a real challenge in terms of the need to ensure that we have a significant amount of affordable housing near the transit stop. And so I think it would -- it's incumbent upon us to reach that goal.

How do we take some of the value from the additional density near that transit stop and ensure that that value translates into some amount of affordable housing so that folks will have affordable homes near a transit line. I think we all know that the neighborhood has expressed concerns about having home ownership possibilities available in the area in addition to rental. So I think it's appropriate that half of

these funds be made available for that purpose within the neighborhood. Then the other half I think it's important that the her half remain on site. I do have one quick question. My understanding is that we're both working from essentially the same script with respect to the description of the funding -- the language before us would actually specify the -- that these would tie the payment of fees or the provision of housing to particular lots on the tract. Was that part of the motion?

Cole: Yes.

Riley: That's part of my motion too. It follows the same rationale in terms of time and fees and the on-site housing with the lot. The only thing we're talking about here is

Morrison: With that i will be voting for it.

Mayor Leffingwell: Councilmember shade.

Shade: I appreciate that comment and recognize that being a very important thing to encourage home ownership, particularly in that neighborhood as part of the neighborhood plan. But I also think that the also is that it's recognizing that lady bird lake is a full blown community asset that belongs to the entire community, not just one neighborhood over another. So I've really been struggling as I've heard colleagues talking about this and watching and i believe that the -- what councilmember cole is offering does a little bit for everybody. I think we addressed issue of having some on-site. It suggests the value that we have that lady bird lake belongs not just to eroc, but to the entire community and that the assets being generated by this development support the entire community's goals. And at the same time by allocating a little over a million dollars, which is a significant help, we can also support the neighborhood plan, which is called up specifically to support home ownership efforts in. Eroc. So I'm trying to support all three of those ideas and i believe that councilmember cole's amendment -- councilmember cole's amendment does a better job of that than the offer of councilmember riley.

Mayor Leffingwell: Councilmember spelman.

Spelman: I would like a question for whoever can answer it. Our ordinance actually specifies units on site in the p.u.d. Wonder if you can give me a sense of how many units would be available at one million dollars on-site at at 60% of median family income?

Steve drenner on behalf of the applicant. Yes, sir, it -- the answer is at a million bucks or right at that-million-dollar number, the 1,019,000, it's 13 units. If you split the units, eight units, one bedroom and five units two bedroom. If you want the mix to be different, then you can add more total units if you want more one bedroom units or you can reduce the number if you want to have more two bedroom units.

Spelman: How is it that you came up with eight one bedroom and five two bedroom? Why the ratio?

That's generally the ratio of one bedrooms to two bedrooms through the project. The first -- the motion on first reading was for us to try to match generally the proportion of one bedrooms and two bedrooms

within the project, and that's what that does.

Spelman: So both of the motions before us would get us 13 units on-site, eight one's, five two's.

No, sir. If you do the 50/50 you have more on-site units. So that number would be 20 on-site units with 13 one bedroom units and seven two bedroom units.

Spelman: Thank you. So the addition of that half a million dollars is going to get us another five one bedroom units and another 10?

Yes, sir.

I would like to ask ms. shaw a question.

Margaret shaw, neighborhood housing.

Spelman: Councilmember cole's proposal was to put a million dollars into -- of affordable housing cash into the eroc plan with a focus on home ownership. How many units would that million dollars get us?

The calculation that we shared with council three days ago was that using area sales figures for single-family homes would get us approximately -- if we go up to 80% of median family income, so that's about 40,000 for a single person. It would be about 12 homes. And the way we calculated that was that the average purchase price was 200,000 for the 78741 zip code. And our typical buyers can only afford about 115,000-dollar mortgage, so we would have subsidize that with the 85,000 for each of those homes.

Spelman: The cheapest way from our point of view of providing home ownership to people of median family income --

actually, it's the most expensive way that we provide home ownership opportunities.

Spelman: Okay. If we wanted that million dollars to go further, is there a way we could do that?

For home ownership? We could probably put it into down payment assistance. That is where we see most of our funds go, especially now that the 8,000-dollar federal tax credit is open through the spring, but we're not necessarily seeing those homes just in the east riverside, oltorf area.

If we wanted to restrict that million dollars only for use in the east riverside oltorf combined area, could we do that? Is there a legal or administrative reason why we could not.

I can speak to the administrative. We would probably want something as easy as a zip code so that we could administer it more easily, but I'll turn over the legal issues to mr. nuckolls.

If that's council's desire or limitation on how you want staff to spend it, you can just specify that in the ordinance.

Spelman: There's no legal limitation? So long as it's specified in the ordinance.

You're talking about is there a legal limitation, an outside legal limitation on constituent on how they spend that money.

Spelman: Yeah.

I would say, you know, generally when you're talking about when government exacts money from a developer, it's to solve a problem related to that particular development. And the farther away geographically you spend that money, the more attenuated that next step is. It's not a bright line test, but I would say if you spend that money in close vicinity to the development project, you're on good legal ground. The farther away you get, the shakier the legal ground is.

Spelman: We specified a zip code. For administrative convenience as suggested, that would not be attenuated.

I would be pretty comfortable with that legally.

Spelman: Working off of the average of our payment assistance program, approximately how many people would we assist in getting into houses at 80 percent of median family income, assuming the demographics and the housing prices in the eroc neighborhood?

Let me do a little math here. Our average, we have two down payment assistance programs. One goes up to \$10,000 and another one goes up to 40,000. We see about two-thirds, one-third. Two-thirds in the 40,000. So if we did math -- that's why we have calculators. So actually, you could do it off of -- if we're seeing 12 with an 85,000-dollar subsidy, I would say you are at least doubling. The purchase price in this area, in this zip code is a little higher than we see some of where our down payment assistance purchases. So my guess mathematically would be somewhere between 25, 30 homes.

Spelman: Last question. Are you going to verify that for me?

It was 30, so we're going to go with 25.

Spelman: Fair enough. I had penciled in 24 already. Okay. Last question. And if we went to 5 million, which is councilmember Riley's proposal, that would be something like 37 or 38.

I'm sorry, say again, if we went to a million five?

Spelman: It would be somewhere between 37 or 38?

38.

Spelman: Last question. Councilmember cole's suggestion is we put a million dollars that could be spent in the housing assistance fund that could be spent elsewhere. Presuming we were spending that -- how did you frame that, councilmember?

Cole: Priorities of senior housing.

Spelman: If we spent a million dollars then with priorities to senior housing through the housing assistance fund, how many units could we reasonably expect to get for that?

I'm looking at -- we probably have about a 30,000-dollar per unit for our rental. I'm going to go with the senior rental property, which is our highest need for seniors is very low income rental. And so conservatively, if you divided the million -- it would be about 29-30.

So if I was just looking at where our million dollars is most valuable, the million dollars on-site is getting us 13 units. A million dollars is buy-down the purchase is giving us down payment -- it's giving us about twice that money. And a million dollars for senior rental assistance for very low income is getting us about 29 units. So in this context I'm surprised by the difference, but I was expecting that the difference between the million dollars and elsewhere for senior housing would be more units than the million dollars for the best use of home ownership rental -- home ownership assistance in the eroc neighborhood. They're basically about the same.

And what we see in the charts that we gave you for some examples is that's with just a very low income, so just the 30%. If we're rising to 50% you're seeing where we can be one of the leveraged subsidy items where for two million dollars we're getting 150 units. So if you sneak up to the 50% of median family income, which is probably about \$25,000 for a single person, we would see a much higher number, close to 100.

Spelman: Gotcha. Okay.

And I'm with you -- councilmember, I'm with you too. Let me calculate that. That came out wrong for me too. I think that that didn't make sense on seniors either.

Spelman: A little bit high.

The number of low for folks. The seniors at 30%, I just want to check my math.

Spelman: I would appreciate that. Thanks.

That does seem low. I would have expected it to be closer to 50 units.

Mayor Leffingwell: Anything further? So we have an amendment to change the affordable housing mix

to 50% on site, and 50% be in neighborhood plan area. And if you specify a percentage of mfi?

No. With the latter -- the expectation that it would be priority for home ownership without any (indiscernible). I would just add to that i know we talked about a couple of ways of supporting home ownership. We've had another option, which we've -- we've worked on for a long time, which is a community land trust. I know there have been some difficulties in reaching our goals with respect to community land trusts, but there is -- there are ongoing conversations about that, both internally and with others across the state. I know there are some issues with respect to the availability of financing. I remain hopeful that we'll be able to revolve those and we will one day have a thriving community land trust. And my hope would be that funds like this would be available to support a land trust, which was really to me an ideal way of supporting home ownership in the area because it would offer the possibility of permanent affordability as opposed it down payment assistance, which would be kind of a one shot deal with the land trusts you would have -- that would be -- those funds would -- once the property is in the land trust, it would go on serving the affordability function indefinitely. So my hope would be that either independently -- either the city on its own or partnering with the private sector entity, we would find some way of -- i don't think we need to settle this today. I think as long as we -- that's why the language is general because is based on the premise that there are a number of different ways of supporting home ownership. And I'm hopeful that we'll arrive at a mechanism to stretch our dollars as far as possible.

Everyone in favor of the amendment, all in favor say aye? All opposed say no. The amendment fails. Back to the main motion. Councilmember spelman.

Spelman: Tell me the results of your calculation. I think I voted correctly, but I may not have.

Actually, I had to think that one through. When we're talking about down payment assistance, roughly down payment assistance is the more efficient way to use -- it's equivalent to our rental. If we're looking at somewhere around 25 to \$30,000 a unit, which is typically ha what we see on rental side for those locations, you are going to get about the same number. That's why they were coming out closely. But when we look at our new construction or when we're helping folks purchase existing homes where we're seeing purchase prices of 180 to 200, for instance, with our nonprofit, the chod doughs, we're usually putting in another 80,000-dollar second mortgage that is enabling that to come down. So that would explain why those numbers were so close.

Spelman: Okay. That seconds the numbers we'll gave you with respect to the -- probably didn't apply to the substens of councilmember riley's motion.

The difference is with our down payment assistance that is our subsidy, up to 40,000. So if we were limiting it just to our standard dpa of 10,000, you would see more units. But typically a higher income person too.

Mayor Leffingwell: We're back to the main motion. Councilmember cole.

Cole: I just want to say that I look forward to continuing to work with my colleagues on affordable housing. I know it is an area that is important to all of us and that that commitment is strong and that we will make progress. With that I call the question.

Mayor Leffingwell: I would like to ask does anyone want to include a friendly amendment.

Cole: Yes, I would like to add that as an amendment.

Mayor Leffingwell: That's accepted by both the maker and the second? Any discussion? All in favor of the motion? Mr. guernsey?

I had mentioned that there may be in addition to some language regarding cocktail lounge and liquor store use --

Mayor Leffingwell: I heard you say that, but i didn't hear --

I didn't hear any. The language would be on six of 12, part 4, paragraph f, paragraph 9, it would basically include some language saying that the combination of liquor stores and cocktail lounges either individually or in total would not exceed 20,000 square feet. And I can work with the law department --

Mayor Leffingwell: Other additional restrictions?

Yes.

Spelman: Friendly amendment.

Mayor Leffingwell: So councilmember spelman offers a friendly amendment with regard to restrictions on cocktail lounges.

Mayor Leffingwell: It's incorporated into the main motion. Anything further?

Spelman: I would like to offer another friendly amendment that on page 11 of 12 on line 11 of this page, that we set aside 13 residential units in the for occupancy and so on, and also under section -- page -- line 21 of that page, 11. Affordable units should be located -- you will have to help me with, but shall comprise eight one bedroom units and five two bedroom units.

Mayor Leffingwell: Councilmember cole, do you understand the friendly amendment?

Cole: I do and it is acceptable.

Mayor Leffingwell: Staff, do you understand the friendly amendment?

We're clarifying with y'all too that that's at 60% of mfi.

Cole: Yes.

Mayor Leffingwell: And I believe councilmember cole said that in her original motion, that it was 60%.

Yes, sir. We just wanted to clarify.

Spelman: What it says in the original. Mayor, let me offer an additional friendly amendment that on line 15 of this page that they pay the city a total of -- this total be the two-thirds of the three-million-dollar and change figure that councilmember cole suggested. I don't remember what the exact member was. I'm sure that councilmember cole knows that. Two-thirds of that three million dollars be inserted into this blank here. That on line 24 half of whatever that number is, approximately one million dollars. And again, I don't know the exact --

it's \$1,019,033.

This is why I didn't remember it. \$1,019,333 Be inserted in the first blank of line 24 and in the blank in line 26 we insert the same number, 1,019,333. I'll dispense with the 33 33 cents and I'll buy you a soda afterwards.

Mayor Leffingwell: With councilmember cole, do you accept that friendly amendment?

Yes, especially the 33 cents.

Mayor Leffingwell: Anything further?

Mayor, might we offer one other possible friendly amendment. And it deals with how that two-thirds is paid and both the applicant and the staff think it's a good idea to say it's basically paid in thirds. One-third when area two develops, one-third when area three develops and one-third when area four develops.

Mayor Leffingwell: Suggested friendly amendment to have a scheduling of payment for affordable housing. Is that acceptable to the maker.

Cole: That is acceptable.

Mayor Leffingwell: And to the sec, councilmember second? Councilmember spelman.

Spelman: Second.

Mayor Leffingwell: Okay. So that is accepted. The language will be incorporated into the ordinance. Anything further? All in favor of the motion say aye. All opposed say no. It passes on a vote of five to two with councilmember morrison and yours truly voting no.

mayor leffingwell: okay. Time for live music at city hall. Joining us today is singer and songwriter, have
nes a vanessa [00:34:01] lively. Vanessa has traveled throughout the world performing her own brand
of indy folk music and found much of her musical inspiration through foreign cultures. After traveling
through latin McAmerica in 2007, she released her first album, let me rise. A year later she traveled in
england where she collaborated with several musicians and errorred her sophomore al -- record ready
her sophomore album, chain unbroken. She's currently working on a latin album which will be a tribute
to latin song writers and will be released in 2010. You can see her perform tonight at bobo's a sixth
street. We'll all be there. Please welcome her.

We're going to do a song " [?? singing ??] migo [00:36:01] [?? singing ??] [music playing] vitucci [??
singing ??] [00:38:03] [applause]

thank you. Enjoyed that. And we know where we can see you perform live tonight at mo mo's. Anything
else you want to tell us about upcoming?

Well, yes, the latin ep that you spoke about, it's called. [In spanish] and we actually just got the first
hundred releases in our hands so tonight we'll be selling them so it's a special prerelease that we'll only
give to those who come to mo mo's club tonight and we'll have the official release in march of 2010.

Great. We'll look forward to that. Do you have a web site you want to tell everybody about?

Yes, it's vanessa com, v-a-n-e-s-s-a-l-i-v-e-l-y.

Great, thank you. I have a proclamation I want to read in your honor. Be it known that whereas the city
of austin, texas, is blessed with many creative musicians whose talent extends to virtually every musical
genre, and whereas our music scene thrives because austin audiences support good music produced
by legends, our local favorites and newcomers alike and whereas we're pleased to showcase and
support our local artists, like you. Now, therefore, i, lee leffingwell, mayor of the city of austin, texas, the
live music capital of the world, do hereby proclaim december 17, 2009 as vanessa lively day in austin,
texas. Congratulations. [Applause and cheering] now just back from the national championships, we
have the texecutioners, the [00:40:07] all-star team of the texas rollergirls. [Applause] wow, I didn't know
you could state on carpet. No problem at all. Oh, wow. These are the texecutioners behind me. Let's
give them a hand. [Applause] okay. We have a proclamation to read in honor of these texecutioners and
it probably says this in the proc, but I want to remind you that roller derby started here in austin, texas,
and these folks started in 2003 and now there are over 400 leagues nationwide, so it's really caught on.
[Applause] so the proclamation reads, be it known that whereas the texas rollergirls rock 'n' roller derby
became the flat track roller derby league in 2003, starting a movement that now includes more than 300
leagues. I think it's 400 is the correct number worldwide, and whereas the texas rollergirls, a born and
bred, is 100% skater oandz and imposed and managed, the hail maries, the hard rock honeys, the
hungry tonic heart breakers and the rustlers, and the texecutioners made up of the all starls of the home
team, closed up the season as the women's flat track derby south central regional champions and
placed second in the wffda national tournament. Now, therefore, i, lee leffingwell, mayor of the city of
austin, texas, do join in their [00:42:04] enthusiastic bands congratulating the rollergirls on their winning

season and hereby proclaim december 18, 2009, as texas rollergirls day in austin, texas.
Congratulations. [Cheers and. [Applause] now, each of you gets to introduce yourself. There's a microphone right there. Pass it around.

Tricksy.

Desy craition.

Rice rocket.

Cat --

radioactive.

Bell star with two r's.

Olivia shooting john.

All right. mayor, I'm bloody mary. We're proud to represent the city of austin, in the flat track derby association and we brought you a gift. We'd like to take this opportunity to encourage you to come and blow the opening whistle at the start of our home season on february 27 next year.

I'll be privileged and honored if you promise not to -- honored if you promise not to run me down.

I'll put some blockers on.

Okay. Congratulations. Thank you so much. [Applause] [00:44:08]

okay. It's my privilege now to talk about what is now, i believe, our second -- second award ceremony for neighborhoods who have participated and actually won -- won, placed and show, one, two, three, in our neighborhood habitat program that we established here in austin about three years ago. So we have three neighborhood groups, and after I read this proclamation I'm going to ask them to come up. There are actually three proclamations. I'm only going to -- they're all the same so I'm going to read it just once, if that's okay with you. And -- but then I'll ask all three neighborhood representatives to come up in order, place 1, 2 and 3, and say a few words about the program in their neighborhood. I know the winning neighborhood was windsor park. [Ch and applause] and I happened to be out there at their annual christmas party last saturday morning, and we announced this at that christmas party and we also held a drawing, and the city of austin parks department donated free signs to about -- I think it was 15 folks. Excuse me. Well, I'm corrected. The city didn't spring for this. The neighborhood did. And these are very valuable signs. I know, because I have one in my backyard too. They cost about 15 bucks apiece and they're very decorative, you can put them up in your backyard and your friends can come over and say, wow, look at that. Look at all those plants over in your backyard and those wild animals. Here's the proclamation. [00:46:00] Be it known that whereas the city of austin strives to create

habitat suitable for wildlife within back yards, school yards, public areas and places of business and worship, and whereas the parks and recreation department's wildlife program recently concluded its neighborhood habitat challenge, winners work to remove invasive plant species and certified the most individual residences within the wildlife habitation providing butterflies, song birds, humming birds, frogs, lizards and other creatures with food, water, cover and places to raise their young, and whereas the windsor park neighborhood placed first with 43 new certified habitats. The crestview neighborhood placed second with nine, and the copperfield neighborhood came in third with three new habitats. Now, therefore, I, Lee Leffingwell, mayor of the city of Austin, Texas, do hereby proclaim windsor park, crestview and copperfield neighborhood associations as winners of the 2009 neighborhood habitat challenge in Austin, Texas. So congratulations. [Applause] so if I could ask you to come up one at a time as representatives of your neighborhood and say just a couple of words.

I'm Janette Swanson and I'm the contact person for the windsor park habitat challenge, and I have to say this has been one of the most fun enterprises that I've ever undertaken. The response from the neighborhood was phenomenal, from the unanimous agreement [00:48:00] at our neighborhood meeting to participate, through people's wanting to know, certifying their yards, participating in invasive plant cleanup. We had an awesome response. The bar was set very high by the Jester neighborhood, which has 36 habitats, and that was last year, and we set our sights on that goal and our neighborhood far exceeded that goal. I would like to thank the mayor, who was then city council -- on city council, who started this project two years ago. About two years ago.

About two years ago. And Austin is the largest urban wildlife habitat, and I think it's a marvelous thing not only for the wildlife but it is an incredible program for the community development and building of community in our neighborhood. It certainly has been that experience for our neighborhood, and I really thank you for that. And thank you, also, for coming to our neighborhood party. We appreciated it.

Before she steps away, I do want to say a couple words on behalf of your director, Sarah Hensley, who has joined us this evening, and on behalf of our trail blazer, Alice Mans, who has done a tremendous job. The parks and recreation would like to present this to you, certificate of recognition, first place winner in neighborhood habitat challenge, windsor park neighborhood association, the parks and recreation department acknowledges your contribution to making the city of Austin a beneficial, and I might add, a livable place for wildlife. Congratulations.

Thank you. [Applause] and correct me if I'm wrong, I believe that makes windsor park the all-time world champion neighborhood, with the record yet to be broken. So next we'll bring up the [00:50:00] second place winner, which is crestview. Representative from crestview? Oh, behind me.

Hi.

I would just like to thank the city for promoting such an important project as this. I think for all of us our home refuge, and it's a refuge for the animals as well. And after the summer we had this year, a lot of things weren't thriving very well, but, you know, some of the natives actually pulled through. So anyway, we're very pleased and happy and proud of crestview neighborhood and thank you very much.

[Applause]

congratulations.

I want to also congratulate, also, the crestview neighborhood association for such a fantastic job. Congratulations on behalf of the parks department. [Applause] and, you know, I heard your comment about the dry conditions that we had this summer and the way things look, but the nice thing about these native habitats is they can look stone-cold dead and we get a little rain and they come right back. They look just like brand-new. We have one more, the copperfield neighborhood association. We have a representative from copperfield.

I just -- this was a great opportunity, but these ladies just expressed it very well. It was very fun to try to rally the neighbors, and we've started cleaning up our nature trails in our [00:52:02] neighborhood. It was very fun. Thank you. thank you. [Applause]

I can see the emotion on your face. I want you to know that the parks and recreation department is extremely proud of the copperfield neighborhood, and we appreciate your environmental stewardship and thank you so much for leading the way. give them all a hand. [Applause]

well, the mayor has had to step away, had some business outside, so I get the privilege of doing the next proclamation, which I'm honored to do, and it relates to our municipal court. You know, for many folks the one important way that they interact with the city is [00:54:00] through our municipal court, and we rely on our municipal court judges to carry out their business fairly and efficiently. It is very challenging work, under difficult circumstances, and we greatly appreciate the work that they do. We're deeply indebted, and we're especially indebted to one of those judges in particular, and it's judge kenneth vitucci. [Applause] and he has served the city for so long and in such an honorable manner, I have a proclamation here to read and let me just read it. This is a city of austin distinguished service award, and this is for his untiring service and commitment to our citizens during his 15-year tenure as a municipal court judge. Judge kenneth vitucci is deserving of public acclaim and recognition. After serving in the u.s. Marine corps and recovering from life-threatening injuries from the offensive, he attended ut law school and graduated in 1972. He was a member of the texas state guard for ten years attaining the rank of colonel. During his service in the municipal court the judge signed a number of record offices, causing the judge's office at the central facility to be known forevermore as the submarine. I'm sure there's a story in there somewhere. This certificate is presented in acknowledgment and appreciation of judge vitucci's distinguished public service, this 17th day of december in the year 2009. This is on behalf of the city council of austin, texas and signed by mayor lee leffingwell. Judge vitucci, thank you so much. [Applause]

thank you, folks. Council member riley, thank you so much for those words and for the -- and to the [00:56:02] entire council and the mayor for the proclamation and the honor. It is indeed an honor, and at this point I'm about ready to have one of those sally field moments, but I'm going to try to stifle and to let you guys know that i really appreciate every moment of service that I've been able to give to the city of austin. I appreciate the mayors and council folks who in the past have either considered me or

appointed me to serve as a municipal court judge, either full-time or as a substitute judge. I'm honored that in the future, even though I am retiring from the full-time service, that I'll be able to serve as a substitute judge. That is at this time in my life a very high honor. I want to thank the -- i want to tell you right now, I'm going to do this without mentioning many names, because all the folks know who they are, and if I start mentioning names I will invariably leave someone out and hurt somebody. I'm not into that. I do, as I said, thank the present mayor and council, for their consideration and their appointment as a part-time substitute judge. Our presiding judges, including this young lady here, who have guided us through these things, who have taken the brunt of the political stuff that comes the way of judges and have deflected most of what they could from each of us, the associate judges and the substitute judges, wonderful. The folks with whom we work at municipal court, [00:58:02] prosecutors, the staff, both our staff, who are more like family than anything else, in the judge's office, and some of your hardest working city employees, the employees of the clerk's office. When I left there once before I missed all of those people terribly because they are so darn fine. My colleagues, I'll miss most of them. [Laughter] and I will always appreciate the fact that we were able to discuss things. We might agree, we might disagree, but generally we've been able to operate without anybody going behind anybody else. I don't think a whole lot of other organizations can say the same. That is to the honor of each one of them. My family and friends, folks who have put up for me from the beginning of this thing and will be putting up with me for some time to come, thank you, and to all of you, I love you. Thank you. [Applause]

Mayor Leffingwell: We will now take up item 139.

Good afternoon, mayor and council. My name is greg guernsey with the development and review -- planning, development and review department. Item number 139 has been withdrawn by the applicant's agent. And there's no further action required on item 139. It was withdrawn earlier today after approval of a managed growth agreement regarding this south park meadows property. So there's no action required on 139.

Mayor Leffingwell: 139 is withdrawn. 140 I understand we have a request for a postponement.

We do. On item On item Number 140, this is an appeal filed by houston-tillotson and the blackshear prospect hill neighborhood association of a building and fire code board of appeals' decision for the property located at 1900 east seventh street. And we do have an agreement for a postponement of this item. It would be to next year on april 8th of 2010.

Mayor Leffingwell: Do i hear a motion to postpone item number 140 to april 8, 2010. Moved by the mayor pro tem, seconded by councilmember cole. Any discussion? All in favor say aye? It passes on a vote of seven to zero, postponed until april 8th. Excuse me, the vote was six to zero with councilmember spelman off the dais. And before we take up item number 141, we have a request to take up item number 92 first. Councilmember shade.

Shade: Thank you. To all of those who have been following this, I want to start out by saying that actually we just had the privilege of lighting the menorah because this is the first time we've done that

here at city hall. It's hanakkuh which means that we're celebrating miracles and I'm proud to say that this is a miracle, but we have reached an agreement --

Mayor Leffingwell: I was looking for that segue.

Shade: It's a miracle. We got the developer of the condominium complex, the residents of the condominium complex in an agreement with the billboard company, reagan, and they've executed an agreement. It was signed so that we are now able to withdraw this item. But for all the people who are watching this, please understand that there are a lot of moving parts. This was not so simple as anybody might think. This job is a lot harder than it looks on tv. And anybody that wants to know more needs to understand that at first when the residents came to speak to us, i, like many people watching this process, would have assumed this should be a matter specifically between the developer and the condominium owners and the billboard company. But the city did have a role to bring the parties to the table, to encourage and facilitate an agreement which has now been executed. That's the purpose of putting that item on the agenda. Now to prevent that specific situation, which has only happened once, from happening again, we are going to move to the next item, which is related to an ordinance that will prevent us from having a distinction between residences that are in commercially zoned locations and residences that are in -- that are zoned residential. So it's a real complicated thing, but I know that mayor pro tem had followed this closely. He was involved when we did the billboard relocation way back when. And I think he's pleased that the council has now added new members who understand the importance of fixing that problem so that that doesn't happen again. So with that -- mary mayor this was a council-initiated item, number 92. So your request is to withdraw the item. Is there objection? Hearing no objection, item number 92 is withdrawn.

Shade: Thank you and thanks to everybody for working on it.

Mayor Leffingwell: Now we'll take up item number 141. Do we have a staff presentation?

Yes. Before we go on to item 141, I want to mention too that reagan national advertising has submit add request to relocate the billboard at 22 one and a half south lamar to a location on i-35. We just received the application this afternoon. It appears to be zoned appropriately s since we just got the application we haven't finished our review, but it looks like the site will work. It's not zoned historic, it's not on a scenic roadway, and it's not located in the easements and we'll work with reagan national advertising regarding that. I want everyone to know that we have an application now that's been submitted today to relocate that board as well. Item 141 is to conduct a public hearing and consider an ordinance amending city code section 25-10-152 to prohibit the relocation of billboards within 500 feet of a residential use. This item was initiated by council previously, and it is now coming before you this evening. If you have any questions, I'll be more than happy to answer them at this time. I understand council may want to offer some amendments or changes to the ordinance as proposed.

Mayor Leffingwell: We do have one speaker signed up. Gerard kinney signed up in favor, and he's going to come up here and talk us out of approving this ordinance. You have three minutes, gerard,

welcome.

Thank you. Gerard kinney. I won't take my three minute. I wanted to basically thank the council for taking this opportunity to strengthen the ordinance and particularly councilmember riley and councilmember shade who have worked with scenic austin on the wording. And as you know, we hope in the future to be able to further deal with some of the problems we have with this ordinance. But for now we appreciate the work that you've done on it. Thank you.

Mayor Leffingwell: Thank you, gerard. Those are all the speakers we have signed up, so councilmember riley?

Riley: Mayor, I want to start by just thanking everybody who has been working so hard on both this and the related item that we just did involving the billboard down there on south lamar. It's been a lot of work by a lot of folks, both on the part of city staff and scenic austin and others interested in this billboard. I really appreciate all the effort that's gone into this. I think what we're seeing is a successful resolution with respect to that billboard. And now I'm very pleased that we're -- that we now have before us an opportunity to ensure that we never get into that sort of situation again. I do have a few suggestions with respect to the -- the amendment, and in fact you have before you some proposed language. This is for signs not to be relocated within 500 feet after residential dwelling unit and that focuses on habitable structures and units. But it also changes the preamble language to -- from the tract to which the sign is relocated to the relocated sign. It covers tracts that are zoned to allow single-family, multi-family, mixed use development. And this protects vacant lots that are zoned to allow these uses, but don't currently have a residential dwelling unit on them. And then finally it includes language to protect residential lots in residential subdivisions in the extraterritorial jurisdiction. There isn't zoning in these areas, so the rest of the provisions that I just read wouldn't cover those areas without this addition. So now we're protecting not only lots in the city that are currently residential, we're protecting lots that are zoned residential, but don't have a residential structure on them. We're also protecting residential lots and subdivisions in the e.t.j. So I think we've covered the bases there to make sure we won't have this problem again, having a billboard be located next to somebody's home. And this is the product of an awful lot of work on the part of all parties, both the ones that I mentioned -- and I should add including representatives from reagan advertising who have been very cooperative in this effort. And I really appreciate all the efforts that have gone into it. With that, mayor, I would move approval with those modifications to the proposed language.

Mayor Leffingwell: Councilmember riley moves approval of item 141 with the modifications contained in the sheet that was passed out to us. Seconded by councilmember shade. Is there any further discussion?

Martinez: Mayor? I want to briefly say congratulations and thank you to all the work councilmember morrison, shade and riley. It wasn't an easy week. It was a difficult negotiation, but as councilmember shade said, we're a team up here and we all play our parts. And I think we did it very well in this case. It's a very difficult issue. It always has been and it always will be, but i congratulate my colleagues for

their efforts this week. Thank you.

Mayor Leffingwell: Okay. Councilmember, your motion also closings the public hearing.

Riley: That's right.

Mayor Leffingwell: All in favor say aye. Any opposed? It passes on a vote of six to zero with councilmember spelman off the dais. I believe, city clerk, those are all the items on our agenda. Without objection we stand adjourned. Happy holidays.

End of Council Session Closed Caption Log